

Petroleum Amendment Act (No. 2) 1980

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An Act to amend the Petroleum Act 1937

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and application

(1) This Act may be cited as the Petroleum Amendment Act (No. 2) 1980, and shall be read together with and deemed part of the Petroleum Act 1937 (hereafter referred to as the principal Act).

(2) Sections 2 to 6 of this Act—

- (a) Shall not apply to any mining licence issued before the commencement of this Act or affect any formal agreement entered into by any Minister of the Crown and the licensee in relation thereto;
- (b) Shall not apply to any mining licence issued on or after the commencement of this Act in respect of a prospecting licence issued to any person in accordance with any written agreement entered into before the 1st day of April 1980, or any other written agreement entered into, whether before or after that date, in substitution for or modification of any such first-mentioned agreement, by any Minister of the Crown and that person—

and the principal Act shall apply to those licences as if those sections had not been enacted.

2 Term of prospecting licence and extension

Section 6(3)(a) of the principal Act (as substituted by section 3 of the Petroleum Amendment Act 1975) is hereby amended by omitting the words “at the time it was granted”.

3 Term of mining licence

The principal Act is hereby amended by repealing section 13 (as so substituted), and substituting the following section:

“13

- “(1) Subject to this Act, every mining licence shall remain in force for such period, consisting of an initial term and a specified term, as may be fixed by the Minister.
- “(2) The initial term of a mining licence shall be fixed by the Minister on or before the grant of the mining licence and shall be stated in the mining licence, and—
 - “(a) Shall not, subject to paragraphs (c) and (d) of this subsection, exceed a period of 4 years from the date on which the mining licence was granted;
 - “(b) Shall expire on the commencement of the specified term of the mining licence;

“(c) Shall, where a work programme or a modified work programme has been submitted by the licensee and it has not yet been approved by the Minister under section 14a of this Act, be extended by the Minister for a reasonable period to enable the matter to be finally determined under that section;

“(d) May, where the licensee is, in the opinion of the Minister, using all reasonable endeavours to prepare a work programme or a modified work programme and the remaining period of the initial term is insufficient for that purpose, be extended by the Minister for a reasonable period to enable the matter to be finally determined under section 14a of this Act.

“(3) The specified term of a mining licence shall be fixed by the Minister on or before the end of the initial term and shall be notified by the Minister to the licensee in writing and shall thereupon be deemed to be specified in that mining licence, and—

“(a) Shall not, subject to paragraphs (b) and (c) of this subsection, exceed a period of 40 years from the date on which the work programme is approved by the Minister;

“(b) Shall, where the licensee—

“(i) Satisfies the Minister that the petroleum discovery to which the licence applies cannot be economically depleted during the remainder of the specified term; and

“(ii) Satisfies the Minister that the inability of the licensee to deplete the petroleum discovery during the specified term is due to causes or reasons beyond his control; and

“(iii) Submits a work programme which is approved by the Minister in the same manner, with any necessary modifications, as a work programme is approved by the Minister under subsections (1) to (12) of section 14a of this Act,—
be extended by the Minister for such period as the Minister considers reasonable to enable the licensee to complete the work programme;

“(c) May, where the licensee—

“(i) Satisfies the Minister that the petroleum discovery to which the licence applies cannot be economically depleted during the remainder of the specified term; and

“(ii) Submits a work programme which is approved by the Minister in the same manner, with any necessary modifications, as a work

programme is approved by the Minister under subsections (1) to (12) of section 14a of this Act,—

be extended by the Minister, in his discretion, for such period as the Minister considers reasonable to enable the licensee to complete the work programme.

“(4) Every reference in a prospecting licence granted before the commencement of this Act to the term of a mining licence that may be granted in exchange for the prospecting licence shall be deemed to be a reference to the specified term of the mining licence.”

4 New sections inserted

(1) The principal Act is hereby further amended by inserting, after section 14 (as so substituted), the following sections:

“14a Work programmes to be approved by Minister

“(1) For the purposes of this section the expression ‘works’ means permanent works or structures (including production facilities, pipelines, and treatment, processing, and storage facilities) not capable of being moved without substantial dismantling.

“(2) The licensee under a mining licence for an initial term shall not commence the construction of any works for the development of any petroleum discovery within the limits of the land comprised in the licence until—

“(a) He has obtained the approval of the Minister to a work programme or a modified work programme in relation to that discovery under this section; and

“(b) He has had his mining licence extended to a specified term.

“(3) The licensee shall, within a reasonable period after the grant of the mining licence for an initial term, submit to the Minister a proposed work programme for the development of that petroleum discovery in accordance with recognised good oilfield practice, which shall comprise—

“(a) A description of the proposed works; and

“(b) The location and use of those works; and

“(c) A construction schedule of those works, and the date of the commencement of production; and

“(d) The types and quantities of petroleum to be produced, including particulars of the production programme,—

together with a costs estimate of the work programme and a plan for the financing of the work programme and such other information relating to the work programme as the Minister may require.

“(4) Within a reasonable period after receiving the proposed work programme, the Minister shall either—

“(a) Approve the programme; or

“(b) Withhold approval of the programme if he is satisfied that to develop the discovery in the manner proposed in the programme would be contrary to recognised good oilfield practice; or

“(c) Withhold approval of the programme if he is satisfied that to produce petroleum in the types or quantities in accordance with the production programme proposed in the work programme would be contrary to the national interest,—

and shall notify the licensee accordingly.

“(5) If the Minister withholds approval of the proposed work programme under subsection (4)(b) or subsection (4)(c) of this section, the licensee shall be entitled to submit a modified work programme to the Minister within a reasonable period, as specified by the Minister when withholding approval of the proposed work programme, and the Minister shall then, within a reasonable period, either—

“(a) Approve the programme as modified; or

“(b) Withhold approval of the modified programme if he is satisfied that to develop the discovery in the manner proposed in the modified programme would be contrary to recognised good oilfield

“(c) Withhold approval of the modified programme if he is satisfied that to produce petroleum in the types or quantities in accordance with the production programme proposed in the modified programme would be contrary to the national interest,—

and shall notify the licensee accordingly.

“(6) The Minister shall not withhold approval of any work programme—

“(a) Under subsection (4)(b) or subsection (5)(b) of this section without first advising the licensee of the reasons for his proposed withholding of approval; or

“(b) Under subsection (4)(c) or subsection (5)(c) of this section without first advising the licensee of the changes to the work programme necessary to meet the requirements of the national interest,—

and affording the licensee a reasonable opportunity to make representations to him regarding the work programme.

“(7) If the Minister withholds approval of a work programme under subsection (4)(b) or subsection (5)(b) of this section, the licensee may refer the matter to arbitration pursuant to section 47j of this Act.

“(8) If it is determined pursuant to section 47j of this Act, that it would be contrary to recognised good oilfield practice to carry out the work programme in dis-

pute, the Minister shall give notice to the licensee of his intention to revoke the licence unless—

- “(a) A modified work programme is submitted to the Minister within 3 months after the date of the notice or within such longer period as the Minister may, in his discretion, determine in the notice; and
- “(b) The modified work programme is approved by the Minister.

“(9) The Minister shall have the sole and exclusive right to determine that the work programme is contrary to the national interest and a decision to withhold approval of a work programme on that ground shall be final and binding on the licensee and shall not be capable of review or be set aside in proceedings by way of declaration or certiorari or prohibition, nor shall the licensee bring proceedings against the Minister by way of mandamus in respect of any matter or thing done or omitted concerning the exercise of that power in relation to that determination.

“(10) Where it is determined pursuant to section 47j of this Act that it would not be contrary to recognised good oilfield practice to carry out the work programme or modified work programme submitted by the licensee, the Minister shall forthwith approve that programme.

“(11) Upon the approval of a work programme or modified work programme in relation to any mining licence—

- “(a) The Minister shall extend the mining licence for the specified term; and
- “(b) The work programme or modified work programme, as approved by the Minister, shall, subject to this Act, constitute the working obligation of the licensee under the licence for the specified term of the licence and the licensee shall be required to carry out the works and undertake the production of petroleum and comply with all other terms of the approved work programme.

“(12) Where—

- “(a) No work programme is approved by the Minister within the initial term of the mining licence; or
- “(b) No modified work programme is approved by the Minister under subsection (8) of this section,—

the Minister shall revoke the licence.

“(13) Where—

- “(a) During the initial term of a mining licence the Minister has withheld approval of the work programme and all modified work programmes in relation to a petroleum discovery within the limits of the land comprised in the licence on the grounds that the programmes are contrary to the national interest; and

“(b) As a direct consequence thereof the Minister revokes the mining licence in relation to that petroleum discovery under subsection (12) of this section,—

the Minister shall reimburse the person who was the licensee under the revoked mining licence for—

“(c) The necessary actual costs of the geological and geophysical review, evaluation work, and exploration work (including appraisal wells) carried out during the period of the prospecting licence for which the mining licence was exchanged and the initial term of that mining licence; and

“(d) The reasonable evaluation and exploration costs in respect of the preparation of the work programme,—

expended directly on that petroleum discovery in respect of the area comprised in the mining licence, together with payment of interest on all such costs from the time the costs were expended to the time of payment of the costs at the rate of interest payable on Government stock issued under section 74 of the Public Finance Act 1977 for a term of 5 years at the time or times the costs were expended.

“(14) In the event of the amount of the costs referred to in paragraphs (c) or (d) of subsection (13) of this section being disputed, either party may refer the dispute for arbitration pursuant to section 47j of this Act.

“14b Power to postpone the development of petroleum discovery

“(1) Notwithstanding anything in this Act, the Minister shall have the specific power to refuse to extend a mining licence to a specified term where he is satisfied that the rate at which it is proposed to produce petroleum from any particular petroleum discovery to which the licence relates would be contrary to the national interest.

“(2) If the Minister is so satisfied he shall, by notice to the licensee,—

“(a) Specify the period during which the development is to be postponed; and

“(b) Require the licensee or, where there is more than one holder of the licence, each holder to elect within a reasonable period, as specified by the Minister, either—

“(i) To have deferred, for the period specified by the Minister under paragraph (a) of this subsection, the rights to an extension of the mining licence for a specified term; or

“(ii) To surrender the rights under the mining licence in exchange for reimbursement by the Minister of—

“(A) The necessary actual cost of the geological and geophysical review, evaluation work, and exploration work (including appraisal wells) carried out during the period of the

prospecting licence for which the mining licence was exchanged and the initial term of the mining licence; and

“(B) The reasonable evaluation and exploration costs (if any) in respect of the preparation of the work programme,—

expended directly on that petroleum discovery in respect of the area comprised in the mining licence together with payment of interest on all such costs from the time the costs were expended to the time of payment of the costs at the rate of interest payable on Government stock issued under section 74 of the Public Finance Act 1977 for a term of 5 years at the time or times the costs were expended.

“(3) Where the licensee or, where there is more than one holder of the licence, all the holders elect under subsection (2)(b)(ii) of this section to surrender the rights under the licence in exchange for the reimbursement of the costs specified therein, the Minister shall revoke the licence and reimburse those costs to the licensee.

“(4) Where there is more than one holder of the licence and not all the holders elect under subsection (2)(b)(ii) of this section to surrender the rights under the licence in exchange for the reimbursement of the costs specified therein, the Minister shall require each holder who so elects—

“(a) To transfer his interest in the licence to any person—

“(i) Who is approved by the Minister and the other holders of the licence; and

“(ii) Who elects to defer his rights under the licence under subsection (2)(b)(i) of this section; or

“(b) To transfer his interest in the licence to the Minister in exchange for an amount equal to that holder’s share of the reimbursement of the costs that he would have received under subsection (3) of this section if all the holders had surrendered their rights under the licence.

“(5) Where the licensee’s rights are deferred pursuant to subsection (2)(b)(i) of this section for the period specified by the Minister, those rights shall apply in the same manner and for the same duration on the day immediately succeeding the last day of that period as they applied on the day immediately preceding the first day of that period and no prospecting licence or mining licence shall be granted to any other person, including the Crown, in relation to the area of that petroleum discovery during the period so specified and the licensee’s obligations in respect of the annual fee and the provision of a deposit or bond shall be suspended during the period so specified.

“(6) The Minister shall not give the notice specified in subsection (2) of this section without first advising the licensee of the changes to the work programme necessary to meet the national interest, and affording the licensee a reasonable opportunity to make representations to him regarding the work programme.

“(7) In the event of the amount of the costs referred to in subsection (2)(b)(ii) of this section being disputed, either party may refer the dispute for arbitration pursuant to section 47j of this Act.

“(8) The Minister shall have the sole and exclusive right to determine if the rate at which it is proposed by the licensee to produce petroleum from any particular petroleum discovery to which the licence relates is contrary to the national interest and such determination shall be final and binding on the licensee and shall not be capable of review or be set aside in proceedings by way of declaration or certiorari or prohibition, nor shall the applicant bring proceedings against the Minister by way of mandamus in respect of any matter or thing done or omitted concerning the exercise of that power in relation to that determination.

“14c Power to reduce area comprised in prospecting licence or revoke licence for failure to develop petroleum discovery

“(1) Notwithstanding anything in this Act, where the Minister is satisfied that—

- “(a) The licensee under a prospecting licence has made a petroleum discovery within the land comprised in the licence; and
- “(b) The licensee under the prospecting licence is not carrying out appraisal work and has not applied for a mining licence in respect of that petroleum discovery; and
- “(c) Failure to develop that petroleum discovery would be contrary to the national interest,—

the Minister may give 6 months' notice to the licensee that, unless he complies with subsection (2) of this section, the Minister—

- “(d) Will reduce the land comprised in the licence to exclude the area of the petroleum discovery, as determined by the Minister; or
- “(e) Where the area of land comprised in the licence, after the exclusion, would not, in the opinion of the Minister, be adequate to enable prospecting operations to be carried out, revoke the prospecting licence:

“Provided that where subsection (4) of this section applies, the Minister shall extend the period of the notice for such further period (not exceeding 3 months) as he considers reasonable to enable the holders of the licence to comply with subsection (2) of this section.

“(2) Where, during the term of the notice specified in subsection (1) of this section, the licensee under the prospecting licence—

- “(a) Applies for a mining licence in respect of that petroleum discovery; and

“(b) Satisfies the Minister that he is making every endeavour to complete a work programme in respect of the development of that petroleum discovery within a reasonable period,—
the Minister shall not revoke the prospecting licence or reduce the land comprised in the licence pursuant to that notice.

“(3) Where the licensee under the prospecting licence does not comply with subsection (2) of this section in accordance with the notice given to the licensee under subsection (1) of this section, the Minister shall notify the licensee of the area of the petroleum discovery excluded from the land comprised in the licence, or, as the case may be, the revocation of the licence.

“(4) Where there is more than one holder of the prospecting licence and the Minister is satisfied that some but not all of the holders are prepared to comply with subsection (2) of this section, the Minister shall require each holder who is not prepared to comply with that subsection—
“(a) To transfer his interest in the licence to any person—
“(i) Who is approved by the Minister and the other holders of the licence; and
“(ii) Who is prepared to comply with subsection (2) of this section; or
“(b) To transfer his interest in the licence to the Minister in exchange for an amount equal to that holder’s share of the reimbursement of the costs that that holder would have received under subsection (6) of this section if the licence had been revoked.

“(5) The Minister shall not give the notice specified in subsection (1) of this section without first advising the licensee of the general areas of concern which give rise to the proposed giving of that notice and affording the licensee a reasonable opportunity to make representations to him.

“(6) Where the prospecting licence is revoked or the land comprised in the prospecting licence is reduced under this section the Minister shall reimburse the licensee for such necessary actual costs of the geological and geophysical review, evaluation work, and exploration work (including appraisal wells) as have been expended directly on the area, as determined by the Minister, of that petroleum discovery during the period of that prospecting licence, together with payment of interest on all such costs from the time the costs were expended to the time of payment of the costs at the rate of interest payable on Government stock issued under section 74 of the Public Finance Act 1977 for a term of 5 years at the time or times the costs were expended.

“(7) In the event of the amount of the costs referred to in subsection (6) of this section being disputed, either party may refer the dispute for arbitration pursuant to section 47j of this Act.

“(8) The Minister shall have the sole and exclusive right to determine if failure to develop a petroleum discovery would be contrary to the national interest and

such determination shall be final and binding on the licensee and shall not be capable of review or be set aside in proceedings by way of declaration or certiorari or prohibition, nor shall the applicant bring proceedings against the Minister by way of mandamus in respect of any matter or thing done or omitted concerning the exercise of that power in relation to that determination.”

- (2) Section 11(1) of the principal Act (as so substituted) is hereby consequentially amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:
 - “(a) He has discovered, within the limits of the land comprised in the licence, a deposit of petroleum; and
 - “(b) If a mining licence is granted to him, he will comply with the conditions of the mining licence,—”
- (3) Section 11(3) of the principal Act (as so substituted) is hereby consequentially amended by omitting the words “subsection (1)(a) or”.
- (4) The principal Act is hereby further amended by repealing section 12(3).
- (5) Section 16 of the principal Act (as so substituted) is hereby amended by inserting, after the word “granted”, the words “nor extended for a specified term”.
- (6) Section 47j(1) of the principal Act (as so substituted) is hereby consequentially amended by inserting, after the expression “section 11(3)”, the words “section 14a(7), section 14a(14), section 14b(7), section 14c(7)”.
- (7) The principal Act is hereby further amended by repealing section 15, and substituting the following section:

“15

The Minister may, in his discretion, on application by the holder of a mining licence, modify the approved work programme or modify, suspend, or waive any obligation of the licensee under the licence, for such period or periods and upon such terms and conditions as the Minister thinks fit.”

5 Royalties payable

- (1) The principal Act is hereby further amended by repealing section 18 (as so substituted), and substituting the following section:

“18

- “(1) For the purposes of this section—

“Approved price”, in relation to crude oil and condensate which is not exported from New Zealand, means—

- “(a) In the case of crude oil or condensate delivered to refinery tanks, the approved price for that crude oil or condensate, as the case may be, under section 18a of this Act:

“(b) In the case of crude oil or condensate not delivered to refinery tanks, the price that, in the opinion of the Minister, would have been the approved price for that crude oil or condensate, as the case may be, under section 18a of this Act if it had been delivered to the refinery:

“‘Further processing’ means further treatment of crude oil, condensate, or natural gas (after the well-stream has been separated and stabilised into these substances) by way of liquefaction or compression or for the extraction of constituents or the production of derivative products; but does not include treatment at the production facilities:

“‘Natural gas’ means the gaseous mixtures of hydrocarbons which remain after the separation of crude oil or condensate, as the case may be, from the wellstream in the production facilities and which have not been subject to further processing:

“‘Petroleum’ means crude oil, condensate, and natural gas:

“‘Production facilities’ means the equipment, wherever situated, used to produce hydrocarbons from the land comprised in the licence and to separate the wellstream into separate stabilised streams of crude oil, condensate, and natural gas, as the case may be, which, in the case of crude oil or condensate, would be suitable for despatch to a refinery by tanker and, in the case of natural gas, would be suitable for despatch to a buyer, user, consumer, or processor or for further processing.

“(2) Subject to any agreement entered into between the licensee and any Minister of the Crown before the mining licence is extended to a specified term, the licensee under a mining licence or a prospecting licence shall pay to the Secretary a royalty in respect of all petroleum that is produced from the land comprised in the licence, computed in accordance with this section at the rate specified in the licence on the selling value of that petroleum at such point of valuation as may be fixed by the Minister pursuant to this section.

“(3) The rate at which royalty is to be computed shall be determined by the Minister and specified in the prospecting licence and in the mining licence. The rate of royalty to be specified in a mining licence issued in exchange for a prospecting licence shall be the rate specified in that prospecting licence. Different rates of royalty may be specified in respect of different parts of the land comprised in the licence.

“(4) The Minister, in his discretion, may, at any time and for any specified period,—

- “(a) Waive any payment of royalty; or
- “(b) Reduce the rate of royalty payable under a licence.

“(5) Where the specified term of a mining licence has been extended pursuant to section 13(3) of this Act, the Minister may, in his discretion, increase the rate of royalty payable under the licence for the period of the extension.

“(6) No royalty shall be payable in respect of—

“(a) Any petroleum that, in the opinion of the Secretary, has been unavoidably lost; or

“(b) Any petroleum that, with the approval of the Secretary, is used by the licensee for the purposes of production or for incidental purposes; or

“(c) Any petroleum which has been mined or otherwise recovered from its natural condition, but which has been returned to a natural reservoir.

“(7) The selling value of any petroleum shall be determined at such point of valuation as the Minister shall fix, being a point in the production facilities, and that point of valuation shall be specified in the licence under which the royalty is payable—

“(a) In the case of a prospecting licence, by written notice given by the Minister to the licensee within 14 days after the time when production of petroleum under the licence commences; and

“(b) In the case of a mining licence, by written notice given by the Minister to the licensee at the earliest possible time, but in any case not later than the time when the mining licence is extended to a specified term,— and different points of valuation may be specified in respect of crude oil, condensate, and natural gas.

“(8) The selling value of any petroleum, being crude oil or condensate which is exported from New Zealand or natural gas, shall be determined by the Minister and shall be—

“(a) Where that petroleum is sold at an armslength price at the point at which it is to be valued for the purposes of this section, the revenue obtained on the sale of that petroleum;

“(b) Where that petroleum is sold at an armslength price at a point downstream of the point at which it is to be valued for the purposes of this section, the revenue obtained on the sale of that petroleum reduced by an appropriate allowance for costs incurred in respect of that petroleum between the point at which that petroleum is to be valued for the purposes of this section and the point of sale of that petroleum;

“(c) Where that petroleum is not sold on an armslength basis prior to further processing by the licensee, the revenue which, in the opinion of the Minister, would have been obtained on the sale of that petroleum if it had been sold as a raw feedstock for further processing, at an armslength price at the point at which it is to be valued for the purposes of this section;

“(d) In all other cases, the revenue which, in the opinion of the Minister, would have been obtained on the sale of that petroleum if it had been sold at an armslength price at the point at which it is to be valued for the purposes of this section.

“(9) The selling value of any petroleum, being crude oil or condensate which is not exported from New Zealand, shall be determined by the Minister and shall be the approved price for that petroleum reduced by an appropriate allowance for costs in respect of that petroleum between the point at which that petroleum is to be valued for the purposes of this section and the refinery tanks.

“(10) If there is a dispute between the Minister and the licensee as to—

- “(a) The selling value of any natural gas; or
- “(b) The allowance for costs referred to in subsection (8)(b) or subsection (9) of this section,—

either party may refer the dispute to arbitration in accordance with section 47j of this Act.

“(11) All royalties payable under this section shall be payable for each half-year ending with the 30th day of June and the 31st day of December in each and every year, and the royalty for any half-year shall, within one month after the expiration of that half-year, be payable to the Secretary.

“(12) Notwithstanding the provisions of this section the royalty payable under any licence in respect of any half-year shall be reduced by the part of the annual fee paid under the licence in respect of that half-year, and if the amount so paid exceeds the royalty no royalty shall be payable for the half-year.

“(13) For the purposes of enabling the royalty payable under any licence to be computed, the licensee shall furnish to the Secretary a monthly statement in the prescribed form showing the quantity of petroleum produced and sold during the preceding month, and giving such other information in relation thereto as may be prescribed, or as may be required by the Secretary.

“(14) All books, accounts, and other records of the licensee in relation to the licence shall, for the purposes of this section, be open at all reasonable times to inspection by the Secretary or by any person authorised by him in that behalf.”

(2) Section 47j(1) of the principal Act (as so substituted) is hereby consequentially amended by omitting the words “section 18(2), section 18(3)” and substituting the expression “section 18(10)”.

6 Price of crude oil and condensate sold for refining in New Zealand

The principal Act is hereby further amended by inserting, after clause 18 (as substituted by section 5(1) of this Act), the following clause:

“18a

“(1) For the purposes of this section—

“Approved price”, in relation to crude oil or condensate, means—

- “(a) In the case of crude oil or condensate produced under a prospecting licence or a mining licence in a calendar quarter during which not less than 20 percent of that crude oil or condensate, as the case may be, is

exported from New Zealand, the export parity price as at the date of delivery of that crude oil or condensate to refinery tanks:

“(b) In the case of crude oil or condensate produced under a prospecting licence or a mining licence in a calendar quarter during which less than 20 percent of that crude oil or condensate, as the case may be, is exported from New Zealand, the deemed export price as at the date of delivery of that crude oil or condensate to refinery tanks:

“‘Calendar quarter’ means a quarterly period ending on the last day of March, June, September, or December in each year”:

“‘Deemed export price’, in relation to crude oil or condensate, means the aggregate of—

“(a) The weighted average free on board arms-length world price of imported refinery feedstocks, as approved by the Minister, or, in the event of no refinery feedstocks being imported, the price deemed by the Minister to be the weighted average free on board armslength world price of imported refinery feedstocks, in either case with appropriate adjustments for quality; and

“(b) The actual freight and landing charges on that crude oil or condensate from the New Zealand loading facility to New Zealand refinery tanks (such freight being based on the current Average Freight Rate Assessment) as approved by the Minister:

“‘Export parity price’, in relation to crude oil or condensate, means the aggregate of—

“(a) The free on board armslength world price, as approved by the Minister, of that crude oil or condensate, as the case may be, at the New Zealand loading facility; and

“(b) The actual freight and landing charges on that crude oil or condensate from the New Zealand loading facility to New Zealand refinery tanks, as approved by the Minister, or, in the event of none of that crude oil or condensate being refined in New Zealand, the charges deemed by the Minister to be the freight and landing charges, in either case such freight being based on the current Average Freight Rate Assessment.

“(2) In respect of crude oil or condensate which is produced under a prospecting licence or a mining licence and which is not exported from New Zealand, the vendor of that crude oil or condensate shall be entitled to recover from the buyer of that crude oil or condensate—

“(a) Where the sale takes place at the refinery tanks, the approved price for that crude oil or condensate; and

“(b) Where the sale takes place at any other point, the approved price for that crude oil or condensate, or petroleum products derived therefrom,

adjusted by an appropriate allowance for the reduced or additional costs by reason of the point of sale not being at the refinery tanks."

7 New Part II substituted

(1) The principal Act is hereby further amended by repealing Part II (as substituted by section 3 of the Petroleum Amendment Act 1962), and substituting the following Part:

Part "PART II "Pipelines

"48 Application of this Part

"(1) Except as otherwise expressly provided in this Part of this Act, nothing in the foregoing provisions of this Act shall apply with respect to any pipeline constructed or intended to be constructed pursuant to a pipeline authorisation.

"(2) Nothing in this Part of this Act shall be construed to limit or affect any right or power conferred on any licensee by or under any of the foregoing provisions of this Act.

"(3) Sections 41 to 47c of this Act shall apply in respect of the construction and operation of a pipeline as if such construction and operation were mining operations.

"49 Interpretation

"(1) In this Part of this Act, unless the context otherwise requires,—

“Authorisation” means a pipeline authorisation under this Part of this Act:

“Authorised pipeline” means a pipeline in the process of construction, or constructed, or operated, pursuant to an authorisation:

“Dangerous goods” means dangerous goods as defined in section 2 of the Dangerous Goods Act 1974:

“Deputy Secretary” means the Deputy Secretary of Energy, Mines Division, Ministry of Energy:

“Holder” in relation to a pipeline, means the holder for the time being of an authorisation issued in respect of the pipeline:

“Natural gas” means any gaseous hydrocarbon or other gaseous substance produced by mining operations:

“Oil” means petroleum or any other hydrocarbon or alcohol in liquid form of whatever gravity:

“Pipeline” means a pipeline used or intended to be used for the conveyance of natural gas where the pressure exceeds 1170 kilopascals, oil, or dangerous

goods, and includes all fittings, pumps, tanks, appurtenances, or appliances used in connection with a pipeline; but does not include—

- “(a) Any pipeline used for the conveyance or reticulation of natural gas, oil, or dangerous goods wholly within the same plant property; or
- “(b) Any pipeline used for the conveyance of natural gas, oil, or dangerous goods between any bulk installation and any facility used to transfer the material conveyed to another transport system, unless the Minister of Energy, after consultations with the Minister of Labour, otherwise directs in any particular case; or
- “(c) Any pipeline forming part of mining operations (as defined in section 2(1) of this Act):

“Road reserve” includes the full dedicated width of any road or motorway or any other place to which the public have access, whether as of right or not, and also includes all bridges, culverts, and fords forming part of any road, or other place as aforesaid under the control of a Minister or local authority.

- “(2) Except as otherwise provided by this section, terms and expressions defined in section 2 of this Act shall, when used in this Part, have the meanings so defined.

“Pipeline Authorisations

“50 Authority to construct pipeline

- “(1) Except so far as may be authorised by or under any licence under this Act held by him, no person shall construct or operate a pipeline otherwise than pursuant to the authority and in conformity with the terms and conditions of a pipeline authorisation granted by the Minister under this Part of this Act.
- “(2) Every person who, contrary to this section, commences to construct, constructs, or operates a pipeline commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000 for each day or part of a day the offence continues.

“51 Application for pipeline authorisation

- “(1) Every application for a pipeline authorisation shall be in the prescribed form and shall be forwarded to the Deputy Secretary at Wellington, who shall transmit it to the Minister.
- “(2) Every such application shall contain the following particulars:
 - “(a) The size, length, and maximum working pressure of the proposed pipeline;
 - “(b) The proposed location of pumping and compressor stations, terminal facilities, and other permanent appurtenances of a substantial nature intended to be used in connection with the operation of the proposed pipeline;

- “(c) Sufficient details to describe the extent the application relates to any land to which section 29 of this Act applies;
- “(d) Such other particulars as may be prescribed by regulations under this Act.

“(3) Every such application shall be accompanied by a plan in the prescribed form showing—

- “(a) The surveyed and pegged route proposed for the pipeline;
- “(b) The roads, railways, and navigable waters along, over, or under which it is proposed the pipeline shall pass;
- “(c) Such other particulars as may be prescribed by regulations under this Act.

“(4) Every such application shall be accompanied by a report setting out the effects the construction and the subsequent operation of the proposed pipeline may have on the physical and social environment through which it passes.

“(5) Every applicant for a pipeline authorisation shall, on request from the Minister, furnish such other information and plans relating to the pipeline and its construction as the Minister may require for the purpose of considering the application and making a determination in respect thereof.

“52 Notice of application

“(1) The Minister shall on receipt of an application for a pipeline authorisation, direct the applicant to give notice to such persons and in such manner as he considers necessary in the circumstances.

“(2) Where the application relates to any land to which section 29 of this Act applies, the Minister shall seek the approval of the appropriate Minister or, in the case of a reserve or road reserve, the appropriate local authority, together with any special conditions to be included in any authorisation issued, governing the construction or operation of such pipeline through the affected land, and such approval shall not be unreasonably withheld.

“53 Consideration of applications

“(1) The Minister, in considering any application for a pipeline authorisation, shall take into account all matters, circumstances, and representations which he considers relevant to the subject-matter of the application.

“(2) In considering any such application the Minister shall generally have regard to—

- “(a) The public interest;
- “(b) The financial ability of the applicant to construct, operate, and maintain the proposed pipeline;
- “(c) Any effect which the construction or operation of the pipeline may have on any land to which section 29 of this Act applies.

“54 Appointment of Commission of Inquiry

“(1) Before granting any application for a pipeline authorisation the Minister may, in his discretion, refer the application, or such portion of the application as the Minister may direct in that behalf, to a Commission of Inquiry appointed in that behalf by the Governor-General in Council:

“Provided that the Minister shall, on the request of an applicant for a pipeline authorisation, refer the application to a Commission of Inquiry under this section.

“(2) The functions of any such Commission of Inquiry shall be to consider any application referred to it and to advise the Minister as to whether or not, in its opinion, he should grant the application.

“(3) In the exercise of its functions the Commission of Inquiry may hold such public hearings and make such inquiries and investigations as it thinks necessary or expedient.

“(4) For the purposes of any hearing, inquiry, or investigation under this section any such Commission of Inquiry shall be deemed to be a commission under the Commissions of Inquiry Act 1908, and the provisions of that Act shall apply accordingly.

“(5) Where an application is referred to a Commission of Inquiry on the request of an applicant, the Commission may make an order for the payment of the costs or of any specified portion of the costs of the inquiry by the applicant.

“55 Grant or refusal of authorisation

After duly considering any application for a pipeline authorisation, and after having regard to any recommendation of any Commission of Inquiry to which the application may have been referred, the Minister, whose decision shall be final, may grant or refuse an authorisation:

“Provided that the Minister shall not grant any application for a pipeline authorisation relating to land to which section 29 of this Act applies without having first obtained the consent of the appropriate Minister, or in the case of a reserve or a road reserve, the local authority, to whom a request is required to be made under section 52(2) of this Act.

“56 Conditions of authorisation

“(1) Every pipeline authorisation shall set out—

- “(a) The route of the pipeline, and its terminal points;
- “(b) The size, and maximum working pressure of the pipeline;
- “(c) The extent to which the pipeline may be placed on, over, or under any reserve, road reserve, railway, or navigable water;

“(d) Such other matters and conditions as may be necessary or desirable in the interests of public safety or otherwise in the public interest or as may be prescribed in regulation under this Act.

“(2) It shall be a condition of the authorisation that the holder shall not limit or cease, except for a cause beyond the control of the holder, to use the pipeline for the conveyance of natural gas, oil, or dangerous goods as provided by the authorisation, without the consent of the Minister.

“(3) Without limiting the provisions of subsection (1)(c) of this section, it shall be a condition of every pipeline authorisation that the holder shall, in the construction and operation of the pipeline, comply with the Forest and Rural Fires Act 1977, the Dangerous Goods Act 1974, and the Explosives Act 1957.

“(4) The provisions of section 6 of the Public Works Amendment Act 1947 and of sections 55 and 56 of the Government Railways Act 1949 shall apply with respect to the construction and operation of an authorised pipeline:

“Provided that in the event of a dispute in respect of any grant of an easement by the Minister of Railways under section 55 of the Government Railways Act 1955 or the grant of a consent by the National Roads Board under section 6 of the Public Works Act 1947, the dispute shall be determined by the Minister of Energy and the Minister of Railways or, as the case may require, the Minister of Energy and the Minister of Works and Development.

“57 The authorisation and its effect

“(1) Every pipeline authorisation shall be in such form as may be prescribed in regulations under this Act, and shall be signed by the Minister, and, subject to the provisions of this Part of this Act, shall take effect, notwithstanding the provisions of any other enactment, according to its tenor, to authorise the holder to carry out such operations as may be authorised by the authorisation or by this Part of this Act during the currency of the authorisation.

“(2) Any holder of a pipeline authorisation who fails to comply with any of the terms or conditions of his authorisation commits an offence against this Act and shall be liable, on summary conviction, to a fine not exceeding \$500 for each day or part of a day that the offence continues.

“58 Duration of authorisation

Subject to this Act every pipeline authorisation shall remain in force until it is revoked in accordance with the terms of section 67 of this Act.

“59 Deviation, change, extension, or reduction to pipeline

“(1) No deviation, change, extension, or reduction shall be made to a pipeline as shown on the plan attached to an authorisation, except a deviation or change that does not extend beyond the boundaries of any easement granted or to be granted pursuant to the terms of section 69 or section 70 of this Act, without the written approval of the Minister.

“(2) Where any application is made for an approval under this section, the provisions of this Part of this Act relating to applications for pipeline authorisations shall, with the necessary modifications, apply:

“Provided that where, in the opinion of the Deputy Secretary, the deviation, change, extension, or reduction is not of a significant nature, he may dispense with such of the requirements of this Part of this Act relating to applications for pipeline authorisations as he thinks fit.

“(3) Upon the grant of any approval under this section, the Minister may amend such documents and give such certificates as may be required to give effect to the approval.

“(4) Notwithstanding the foregoing provisions of this section, where there is imminent danger to the public or to any authorised pipeline arising from any unusual circumstances, the holder may change the line of the pipeline without an approval under this section:

“Provided that if any such change is intended to be permanent, the holder shall, as soon as practicable, notify the Minister and comply with any requirement of the Minister in respect of any such change.

“(5) Nothing in this section shall apply to any deviation, change, extension, or reduction in the line of a pipeline made pursuant to a direction under section 60 of this Act or to any deviation or change made pursuant to section 61 of this Act.

“60 Direction to change line of pipeline in interests of safety

“(1) At any time after granting a pipeline authorisation the Minister, after having regard to any representations of the holder and of other interested parties, may, if in his opinion the change is in the interest of public safety, direct the holder to divert the line of the pipeline or make other alterations to the pipeline in accordance with the terms of the direction.

“(2) Any holder who fails to comply with any direction of the Minister under this section in accordance with the terms of the direction commits an offence, and shall be liable on summary conviction to a fine not exceeding \$5,000.

“(3) Where any diversion or alteration directed under this section is necessary because of the construction of any work subsequent to the construction of the pipeline, the holder and any other person lawfully using the pipeline shall be entitled to compensation from the person responsible for the construction of the work in respect of any loss suffered as a result of the direction.

“(4) The amount of compensation payable in such case shall be determined by arbitration in accordance with section 47j of this Act, and the provisions of that section, as far as they are applicable and with the necessary modifications, shall apply accordingly.

“61 Change in line of pipeline pursuant to request

- “(1) The Minister may from time to time request the holder to change the line of an authorised pipeline.
- “(2) In the absence of agreement between the Minister and the holder in respect of any request under subsection (1) of this section, the holder shall, within 28 days after the date of receiving the request, refer the matter to arbitration in accordance with section 47j of this Act, and the provisions of that section, as far as they are applicable and with the necessary modifications, shall apply accordingly.
- “(3) In determining any arbitration under this section, the arbitrators shall have regard to the public interest and to all matters and circumstances which they consider relevant, and shall make such decision as they consider just and equitable in the circumstances.
- “(4) Any decision of the arbitrators under this section may provide for the payment of compensation by such persons as the arbitrators determine to the holder and any other person lawfully using the pipeline in respect of any loss suffered by him as a result of the decision.

“62 Use of pipeline by consent

- “(1) Any person other than the holder may use an authorised pipeline with the consent of the holder, and subject to such terms and conditions not inconsistent with this Part of this Act or the authorisation as may be agreed upon between the holder and that other person.
- “(2) The holder shall notify the Minister of any agreement entered into under this section.

“63 Application for permission to use pipeline

- “(1) Any person other than the holder may apply to the Minister for the right to use an authorised pipeline.
- “(2) Where an application is made to the Minister under subsection (1) of this section, he shall give the holder of the authorisation and the applicant not less than 21 days' notice of the time at which the question of conferring on the applicant the right sought by him will be considered by the Minister, and the holder and the applicant shall be entitled to be heard when the question is so considered.
- “(3) If, after having regard to any representations by the applicant and the holder and to any other matters which he considers relevant, the Minister is satisfied that the pipeline—
 - “(a) Can convey the natural gas, oil, or dangerous goods which it is designed to convey on behalf of the holder or any other person lawfully using the pipeline in the quantities required by the holder and the other person; and

“(b) Is also capable of conveying on behalf of the applicant the natural gas, oil, or dangerous goods to which the application relates,—

the Minister shall serve a notice in the prescribed form on the holder.

“64 Use of pipeline by persons other than holder

“(1) Any notice referred to in section 63 of this Act served by the Minister may impose such requirements as he thinks necessary or expedient for all or any of the following purposes:

“(a) Securing to persons other than the holder of the authorisation the right to have conveyed by the pipeline or, as the case may be, by any length of the pipeline specified in the notice, natural gas, oil, or dangerous goods:

“(b) Regulating the changes to be made for the conveyance by the pipeline or, as the case may be, by that length thereof, on behalf of persons other than the holder of the authorisation, of natural gas, oil, or dangerous goods.

“(2) A notice served under subsection (1) of this section on the holder of an authorisation may authorise him to recover, from persons to whom a right is secured by the notice by virtue of paragraph (a) of that subsection, payments of such amounts as may be determined in accordance with provisions in that behalf in the notice.

“(3) If no agreement can be reached between the holder of an authorisation and any person intending to use the pipeline pursuant to a notice under this section as to the amount of the charges to be paid in respect of the use of the pipeline, the Minister, instead of fixing the charges under subsection (1)(b) of this section, may refer the matter to arbitration, and if the Minister does not fix the charges or refer the matter to arbitration as aforesaid, or if any party does not agree with the charges fixed by the Minister, either party may refer the matter to arbitration. Where any matter is referred to arbitration under this subsection, the provisions of section 47j of this Act shall, as far as they are applicable and with the necessary modifications, apply.

“(4) If the holder of an authorisation fails to comply with a requirement imposed by a notice served on him under subsection (1) of this section, he commits an offence and shall be liable on Summary conviction to a fine not exceeding \$1,000.

“(5) The holder may at any time apply to the Minister for a variation of the terms of any such notice and the Minister, in his discretion, and after having regard to all relevant considerations, may make such variations as he considers just and equitable in the circumstances:

“Provided that if the Minister is satisfied that additional use of the pipeline or any part of the pipeline is required by the holder or by any person using the pipeline with the consent of the holder under section 62 of this Act, he shall, on the application of the holder or any other user, amend the notice by reducing

the extent to which the pipeline may be used by any person permitted to use the pipeline pursuant to the notice by such amount as will enable the applicant to use the pipeline to the extent required by him, or the Minister may cancel the notice.

“65 Rights and obligations of holder not to be affected because of use of pipeline by other persons

“(1) The rights and obligations conferred or imposed on the holder by his authorisation or under this Part of this Act shall not be affected in any way by reason of the fact that any other person is using or is permitted to use the pipeline pursuant to section 62 or section 63 of this Act, except so far as the use of the pipeline by the holder may be limited by the use of the pipeline by that other person:

“Provided that nothing in this section shall be construed to impose any liability on the holder in respect of any act or default of any other person using the pipeline as aforesaid.

“(2) Any person other than the holder entitled under the terms of section 62 or section 63 of this Act shall, during his own use of such pipeline, be subject to the terms of this Part of this Act and shall comply with the terms and conditions of the authorisation issued in respect of such pipeline.

“(3) Any such person who fails to so comply with subsection (2) of this section commits an offence against this Act and shall be liable, on summary conviction, to a fine not exceeding \$500 for each day or part of a day that the offence continues.

“66 Amendment or revocation of terms and conditions of authorisation

“(1) The Minister, during the currency of a pipeline authorisation, may, on the application of the holder, amend or revoke any of the terms or conditions of the authorisation or add any new terms or conditions, if, in the opinion of the Minister, any such amendment, revocation, or addition is not contrary to the public interest.

“(2) The Minister shall give to every person who, in the opinion of the Minister, is likely to be affected 7 days' notice of his intention to exercise any power conferred by this section.

“(3) Every such amendment, revocation, or addition made pursuant to this section shall be noted on the appropriate authorisation.

“67 Revocation or suspension of authorisation

“(1) The Minister, if he is of the opinion that the holder of an authorisation has not complied with the terms and conditions of his authorisation or with any provision of this Part of this Act or of regulations under this Part of this Act, may give the holder written notice specifying the nature of the default and requiring him to remedy the default within the time specified in the notice.

“(2) On receipt of a notice under subsection (1) of this section the holder shall either—

- “(a) Remedy the default within the time limited in the notice; or
- “(b) Refer the matter to arbitration under section 47j of this Act within 28 days after receiving the notice, in which case the provisions of subsections (1) and (2) of that section, as far as they are applicable and with the necessary modifications, shall apply.

“(3) The arbitrators in any arbitration under this section shall, after having regard to any evidence and representations which they consider relevant, advise the Minister—

- “(a) Whether or not a default has been committed as alleged in the notice; and
- “(b) If such default has occurred, whether or not the authorisation should be suspended or revoked.

“(4) The Minister, after having regard to any recommendation of any arbitrators appointed pursuant to this section, may revoke the authorisation or suspend it for a stated period or until he is satisfied that the default has been remedied or he may decide to take no further action in the matter:

“Provided that no suspension or revocation of an authorisation shall be made contrary to a recommendation of the arbitrators.

“(5) Any suspension of a pipeline authorisation may be subject to such terms and conditions as the Minister thinks fit.

“(6) The Minister may revoke a pipeline authorisation on the application of the holder.

“(7) Every revocation or suspension of a pipeline authorisation shall be noted on the authorisation.

“(8) If any person unlawfully uses any pipeline for the conveyance of natural gas, oil, or dangerous goods during any period when the authorisation issued in respect of the pipeline is suspended or revoked, he commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,000 for each day or part of a day the offence continues.

“68 Powers of holders

Notwithstanding the provisions of any other Act, regulation, bylaw, certificate of title, or other authority, any pipeline authorisation issued under this Part of this Act shall, subject to the provisions of this Part of this Act and of the authorisation, confer on the holder, while the authorisation remains in force, an absolute right—

- “(a) To construct and lay pipelines on, over, or under any land referred to in the authorisation:

- “(b) To construct and lay pipelines along, on, over, or under any road, railway, tramway, bridge, navigable waters, river, or stream referred to in the authorisation;
- “(c) To alter, remove, repair, operate, inspect, renew, and maintain any pipeline constructed under the authority of the authorisation;
- “(d) To do such other things as are necessarily incidental to the exercise of the powers and authorities of the holder under this Part of this Act.

Pipeline Easements

“69 Authority to make arrangements and agreements for easements

- “(1) For the purpose of exercising his powers and functions under this Part of this Act, the holder of a pipeline authorisation may—
 - “(a) Make such arrangements and enter into such contracts, not inconsistent with this Part of this Act or with the authorisation, as he considers necessary;
 - “(b) Agree with the owner of any estate or interest in any land for the purchase or other acquisition of any right, interest, or easement in or upon the land, and the terms upon which any such right or interest may be used or exercised or any such easement enjoyed.
- “(2) Notwithstanding any enactment or rule of law to the contrary any company, body, or authority shall have full power to enter into and carry out any arrangement, contract, or agreement referred to in subsection (1) of this section.
- “(3) Any approval, together with any special conditions issued by an appropriate Minister or a local authority under section 52(2) of this Act and accepted by the Minister shall be deemed to be an agreement for the purpose of subsection (1) of this section.

“70 Pipeline easement certificates

- “(1) If the Minister is satisfied that the holder of a pipeline authorisation, after making reasonable attempts to do so, has been unable to reach an agreement under section 69 of this Act to purchase or acquire an easement in respect of the land affected, the Minister shall, on the application of the holder, issue to the holder a pipeline easement certificate in the prescribed form under the hand of the Minister specifying, with respect to the land to which the certificate relates,—
 - “(a) The land on, over, or through which the pipeline is authorised to pass;
 - “(b) Such matters as may be prescribed by regulations under this Act.
- “(2) Every such certificate shall be accompanied by a diagram showing the actual line of the pipeline on the land to which the certificate relates.

“(3) Every such certificate shall apply to a strip of land over, upon, or under which the pipeline is laid, not exceeding 20 metres in width:

“Provided that:

- “(a) In no place shall the actual line of the pipeline be closer than 2 metres to an easement boundary as shown on any plan attached to an easement certificate;
- “(b) In the case of a pipeline laid in a road reserve, the easement certificate shall show the position of the centreline of the pipeline.

“(4) Every such certificate shall be prepared at the cost of the holder of the authorisation and shall be authenticated in such manner as the Minister may require.

“(5) A copy of every such certificate shall be forwarded by the holder to the owner and to the occupier of any land to which the certificate relates.

“(6) The effect of every pipeline easement certificate shall be to give the holder of the authorisation or his authorised agent a right of entry on the land to which the certificate relates for the purpose of exercising the rights conferred on him by this Part of this Act and by his authorisation.

“71 Middle line Proclamations for pipelines of national importance

“(1) Notwithstanding anything in this Act, if the Governor-General on the advice of the Minister is satisfied that the construction of any pipeline in respect of which an authorisation has been granted is of national importance, the Governor-General may issue a Proclamation defining the middle line of that pipeline, or any part thereof, and in any such case the provisions of section 216 of the Public Works Act 1928 shall, as far as they are applicable and with the necessary modifications and except so far as they may be inconsistent with the provisions of this section, apply in respect of the construction of the pipeline in the same manner as if a railway were to be constructed, and as if references in that section to the Minister of Works and Development were references to the holder of the pipeline authorisation in respect of which the Proclamation was issued.

“(2) Every Proclamation under this section shall define, by reference either to the distance on each side of the middle line or to the more distant section boundaries, or by reference to both, such land within 100 metres from the middle line upon or in respect of which it is intended to exercise the powers conferred by this Act, or any other Act in respect of the construction, maintenance, and use of the pipeline:

“Provided that, in placing the pipeline in its final position, construction work (including the provision of access for vehicles and plant) shall be confined to a strip of land—

- “(a) Not more than 30 metres wide; or

“(b) Of such greater width as the Deputy Secretary (after consultation, if possible, with the occupier of the land) may allow in any particular case owing to special circumstances—
within the strip of land defined in the Proclamation.

“(3) The Minister shall cause a copy of every Proclamation under this section, and of every map and plan prepared in connection therewith, to be deposited without fee in the District Land Registry Office for each district in which is situated any land affected by the Proclamation.

“(4) The District Land Registrar shall register against the title of any such land a memorial of the Proclamation and of the accompanying maps and plans.

“(5) As soon as practicable after the publication of any such Proclamation, the Minister shall notify every owner and registered lessee of the land affected by the Proclamation so far as they can be ascertained, that it is intended to take any part of the land for the pipeline, or that it is intended to construct the pipeline over, upon, under, or close to the land, or that the land will not be affected, as the case may be.

“(6) If any land is to be taken, the time for claiming compensation shall run from the date of the Proclamation taking the land; and, if the pipeline is to pass over, upon, under, or close to the land without any part of the land being taken, the time for claiming compensation for any injurious effect thereto shall run as if the claim were a claim for damage under section 45 of the Public Works Act 1928.

“(7) At any time after a pipeline has been completed or after the construction of a proposed pipeline has been abandoned, or after the Minister is satisfied that any pipeline referred to in a Proclamation under this section does not, or will not, pass over, upon, under, or injuriously affect the land against which the Proclamation has been registered, or if for any other reason the Minister deems it expedient to do so, he may require the holder of the authorisation to deposit with him plans of and a description of or reference to all land in respect of which cancellation of the registration is desired.

“(8) The Minister, after being satisfied that such cancellation is in order, may cause to be deposited, without fee, in the appropriate District Land Registry Office, a certificate signed by him or on his behalf authorising the cancellation of the registration of the Proclamation and setting forth a description of or reference to all land for which cancellation is required.

“(9) On the deposit of any certificate under subsection (8) of this section, the District Land Registrar shall take all necessary steps to discharge or cancel the memorials or entries made under this section in respect of all land referred to in the certificate.

“(10) The holder shall cause plans to be prepared in terms of section 72 of this Act and shall prepare and present to the Minister easement certificates, within

6 months of the completion of construction of the pipeline, for all the land affected thereby for signing by him or on his behalf.

“(11) Every pipeline easement certificate issued under subsection (10) of this section shall for the purposes of this Act be deemed to have been issued under section 70 of this Act.

“72 Preparation of plans

“(1) Within 6 months of the completion of construction of a pipeline, the holder of the authorisation shall cause a survey in accordance with the Survey Regulations 1972 of the actual position of the pipeline to be completed and shall cause plans to be prepared and lodged in the office of the Chief Surveyor of the land district affected, showing that route and the strip of land not exceeding 20 metres forming the easement width, under, upon, or over which the pipeline passes:

“Provided that—

- “(a) In no place shall the actual line of the pipeline be closer than 2 metres from an easement boundary; and
- “(b) Where a pipeline is laid within a road reserve, the plan prepared shall only be required to show the actual position of the pipeline.

“(2) The holder shall forward to the Deputy Secretary 3 copies of such plans as cover the authorised pipeline not later than 6 months after the completion of construction of such pipeline.

“(3) A copy of such plans as cover the land under the control of each territorial local authority affected by the pipeline shall be forwarded to that authority by the holder not later than 6 months after the completion of construction.

“(4) The holder shall cause a revision to be made of all easement certificates issued under section 69 or section 70 of this Act, and where the plans prepared under the terms of this section vary with the plans attached to any easement certificate issued, the holder shall take steps, not later than 6 months after the completion of construction of the pipeline, to amend the easement certificates so affected by registering with the District Land Registrar or Registrar of Deeds an amending certificate in the prescribed form and to forward a copy of the amending certificate so registered to the owner and to the occupier of any land to which that certificate relates.

“(5) If, on the application of the holder, the Deputy Secretary is satisfied that any delay in supplying plans or registering amending easement certificates is beyond the control of the holder, the Deputy Secretary may extend the time allowed by not more than 3 months.

“(6) If the holder of an authorisation fails to comply with the terms of this section he commits an offence against this Act.

“73 Registration of easement certificates

- “(1) The holder of an authorisation shall, where possible, register all easement certificates issued under the terms of section 69 and section 70 of this Act and all amending certificates issued under section 72 of this Act against the title to all land in the certificates affected by the route of the pipeline, and the District Land Registrar or the Registrar of Deeds shall register such certificates without production of the duplicate certificate of title or other document of title relating to the land, if the holder of the authorisation is unable to produce the same.
- “(2) Any such easement certificate may be registered as aforesaid notwithstanding that Her Majesty the Queen is the registered proprietor of any land indicated as affected thereby.
- “(3) Any easement certificate issued under section 70 of this Act may from time to time, with the consent of the holder, be varied, or may be cancelled in respect of all or any of the land indicated in the certificate as affected thereby by the issue by the Minister of a further similar certificate specifying the manner in which the easement certificate is to be varied or the extent to which the certificate is to be cancelled.
- “(4) Any certificate to which subsection (3) of this section relates shall, upon presentation for registration, be registered by the Registrar as if it were a pipeline easement certificate.
- “(5) Notwithstanding any enactment or rule of law, any pipeline easement certificate registered under this section shall be deemed to be binding on any prior or subsequent mortgagee of any of the land or of any interest in any of the land affected by the certificate, and no consent under the Local Government Act 1974 or otherwise shall be necessary to the issue or registration thereof.
- “(6) Any person in possession of the certificate of title or other document of title to land affected by any certificate issued under this section shall, upon receiving notice from the Registrar in that behalf, deliver up to him that certificate of title or other document for the entering thereon of an appropriate memorial; and every person who refuses or neglects so to deliver up any such instrument commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding \$200.
- “(7) The Registrar shall not be concerned to inquire as to the truth of any statement contained in any certificate presented for registration under this section, and no action shall lie against the Crown or the Registrar or any other person on behalf of the Crown in respect of any such registration.
- “(8) No person shall have any claim against the Crown under Part XI of the Land Transfer Act 1952 by reason of any omission, mistake, or misfeasance of any person other than the Registrar or his officers or clerks in relation to the registration of a certificate under this section.

“Rights of Entry on Land

“74 Entry on land for preliminary investigation

- “(1) Any person authorised in writing either specially or generally by the Minister in that behalf may, from time to time during the daytime, enter upon any land within an area referred to in the authority, with such assistants and such equipment and materials as he thinks fit for the purpose of making surveys and preliminary investigations in respect of the construction of a pipeline.
- “(2) Any person authorised as aforesaid may do all things which he considers necessary for the purpose of the survey and investigation, including the drilling or digging of holes and the affixing and setting up of such pegs, marks, or poles as may be required.
- “(3) Before entry on any land is made for the purpose of this section, any person authorised in that behalf by or pursuant to this section, shall, where possible, give 7 days' notice to the owner or occupier of the land of his intention to enter thereon, and shall, if required by the owner or occupier of the land, produce the authority under which he claims to enter or has entered on the land.
- “(4) Before entering on any National Park under the National Parks Act 1952 or any public reserve under the Reserves and Domains Act 1953 or any State forest land under the Forests Act 1949 or any railway land under the Government Railways Act 1949 for the purposes of this section, any person authorised as aforesaid to enter the land shall give notice to the Minister of Lands or the Minister of Forests or the Minister of Railways, as the case may require, of his intention to do so.
- “(5) Any damage to the land caused by any such person shall be repaired as soon as practicable and the land restored as far as possible to its former condition.
- “(6) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$500 who—
 - “(a) Without lawful authority wilfully removes, destroys, or alters any peg, mark, pole, or other thing used for the purpose of any survey or investigation made or in the course of being made under this section; or
 - “(b) Wilfully damages or destroys or otherwise interferes with any peg, mark, pole, or other thing as aforesaid; or
 - “(c) Wilfully obstructs or interferes with any person lawfully engaged in connection with any survey or investigation under this section.
- “(7) Every person having any estate or interest in land entered upon under the authority of this section and injuriously affected or suffering any damage thereby shall be entitled to full compensation, the amount of the compensation to be as agreed upon between the person making the entry and the person claiming compensation or, failing agreement, to be determined by a District Court Judge.

“75 Entry on land for purpose of exercising rights in authorisation

“(1) For the purpose of exercising any right conferred on him by his authorisation or by this Part of this Act, the holder of the authorisation may enter upon such land as may be necessary for the exercise of any such right, with right of access to and egress from any such land with his servants, workmen, and agents, from time to time and at all times, with or without any suitable or available means of conveyance, and with all such equipment, articles, and materials as may be necessary for the carrying out of any works authorised by the authorisation or authorised by this Part of this Act to be carried out by the holder, and may also deposit and store from time to time upon any land adjoining any such works all such machinery and material of any kind as may be used in carrying out any such works.

“(2) Entry shall not be made on any land under this section unless—

- “(a) A Proclamation has been issued under section 71 of this Act in respect of the land; or
- “(b) The holder of the authorisation has in respect of the land either—
 - “(i) Entered into an agreement under section 69(1)(b) of this Act; or
 - “(ii) Obtained a pipeline easement certificate under section 70 of this Act.

“(3) Before entry under this section is made on any land to which subsection (2) of this section does not apply, the holder shall where possible give 21 days' notice to the owner or occupier of the land, and to any local authority having the control or management of the land, of his intention to enter thereon.

“(4) Any holder of an authorisation who enters upon land for the purpose of exercising the rights conferred on him by his authorisation or this Part of this Act, without complying with the terms of subsection (2) or subsection (3) of this section, commits an offence, and shall be liable on summary conviction to a fine not exceeding \$1,000 for each day or part of a day the offence continues.

“76 Duties of holders of authorisations

Where it is found necessary in the exercise of the powers conferred on holders of authorisations under this Part of this Act to alter or interfere with any road, railway, tramway, public work, watercourse, sewer, drain, or gas or water pipe, under the control of the Crown or any authority having control of the work by virtue of any enactment, the alteration or interference shall be made in such manner as to interfere as little as possible with the work so altered, and so as to afford to the public and to every person entitled to use the same an equal use and convenience as before the alteration or interference.

“77 Compensation

“(1) Subject to section 74(7) of this Act, every person having any right, title, estate, or interest in any land or property injuriously affected by the exercise

from time to time of any powers conferred by this Part of this Act or by any authorisation shall be entitled to full compensation for all loss, injury, or damage suffered by him.

- “(2) The provisions of subsections (2), (3), and (4) of section 39 of this Act shall, as far as they are applicable and with the necessary modifications, apply to claims for compensation under this section.
- “(3) This section shall apply to claims on behalf of the Crown, as well as to claims by or on behalf of other persons.
- “(4) Notwithstanding any enactment or rule of law, the exercise of any power conferred on the holder of an authorisation shall not be curtailed, suspended, or delayed by reason of the fact that any claim for compensation under this section has been made but not determined.

“78 Taking land for purposes of or incidental to construction or operation of pipeline

- “(1) For the purpose of carrying out any function authorised by a pipeline authorisation or any other function necessary for the efficient operation of the pipeline or necessarily incidental to the operation of the pipeline, the Governor-General may, on the application of the holder of an authorisation and at his expense in all things, take under the Public Works Act 1928, as if for a public work within the meaning of that Act, any land or any particular estate or interest in any land (whether for the time being subsisting separately or not) or any easement or *profit a prendre* over any land (whether for the time being subsisting or not):

“Provided that this subsection shall not apply unless the Minister is satisfied that the holder is not able to purchase or otherwise acquire the land or interest in land at a reasonable price from the owner thereof and the Minister recommends the Governor-General accordingly.

- “(2) The provisions of section 35(2) of this Act shall, with the necessary modifications, apply to the taking of any land or interest in land under this section in all respects as if the holder of the authorisation were a licensee referred to under the said section 35.

“79 Right to minerals

Nothing in this Part of this Act shall be construed to confer on any person any rights to any minerals on or under any land in respect of which he has any rights by virtue of any power conferred on him under or pursuant to this Part of this Act.

“80 Prohibition on works likely to damage pipeline

- “(1) Subject to this Act no person shall plant any tree or shrub, erect any building or construction, dig or break up the land, or carry out any work within the area of land described by any pipeline easement certificate, or, if the said certificate is in respect of a pipeline laid within a road reserve, plant any tree or shrub, dig or

break up the land, or carry out any work or construction within 2 metres of the said pipeline without the written consent of the holder of the authorisation and the road controlling authority, as the case may be:

“Provided that where the land is used for agricultural or horticultural purposes, the owner or occupier of the land affected by such pipeline easement may till or work the soil of the said land to such depth and in such manner as may be specified by the easement certificate or prescribed by regulations under this Act.

- “(2) Any person who damages any pipeline laid under the provisions of this Act shall be liable, in addition to any fine imposed under subsection (3) of this section, to pay for the cost of any repair, reinstatement, or other loss suffered by the holder of the authorisation or by other persons.
- “(3) If any person knowingly contravenes any provision of this section he commits an offence and shall be liable on summary conviction to a fine not exceeding \$5,000.

“Miscellaneous Provisions

“81 Pipelines to remain the property of the holder

- “(1) For the purposes of this Act, the holder for the time being of an authorisation issued under this Part of this Act shall be deemed to be the owner of the pipeline to which the said authorisation relates.
- “(2) Notwithstanding the provisions of any enactment or rule of law, any pipeline constructed under the authority of this Part of this Act shall remain the property of the holder, whether or not the pipeline is affixed to any land or whether or not the pipeline authorisation granted in respect of the pipeline has been suspended or revoked.
- “(3) The holder of an authorisation in respect of which the authorisation has been revoked may remove the pipeline and, if directed by the Minister, shall do so in accordance with such terms and conditions as may be contained in the direction.
- “(4) The holder shall have such rights of entry on land as may be necessary for the purposes of any such removal and of complying with the directions of the Minister.
- “(5) The holder entering on land under this section shall, on completion of the removal of the pipeline, restore the land, as far as practicable, to its former condition.

“82 Assignment of authorisation

No pipeline authorisation shall be transferred or assigned to any person without the consent in writing of the Minister.

“83 Abandonment of pipeline

- “(1) If a holder abandons the use of a pipeline or any length of pipeline, he shall give notice to that effect to the Minister.
- “(2) The holder shall comply with any written direction issued by the Deputy Secretary relating to abandoning the pipeline, or any length of any pipeline, in a safe condition.

“84 Application of certain provisions

Sections 34 to 36 of this Act shall, with the necessary modifications, apply with respect to authorised pipelines.

“85 Address for service

Every holder of a pipeline authorisation shall forward to the Minister an address for service of any notice, order, or direction under this Part of this Act.

“86 Offences

- “(1) Every person who wilfully obstructs any person in the exercise of any power or the performance of any duty under this Part of this Act commits an offence against this Act.
- “(2) The provisions of section 47l of this Act shall apply to any offence under this Part of this Act.

“87 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- “(a) Providing for the inspection of pipelines and for the cost of any such inspection;
- “(b) Providing for the giving of security by the holder of a pipeline authorisation for the payment of compensation for injury caused by his operation;
- “(c) Providing for safety measures to be taken in respect of the construction, repair, operation, or maintenance of pipelines;
- “(d) Providing for the marking of the location of pipelines;
- “(e) Prescribing conditions to be observed by holders of authorisations in respect of the restoration and repair of land on which a pipeline is situated;
- “(f) Prescribing standards to be observed in respect of the construction, and the materials to be used in the construction, of authorised pipelines;
- “(g) Protecting any authorised pipeline from damage or injury;

- “(h) Prescribing the rights of persons having any estate or interest in land in respect of which a pipeline easement under this Part of this Act has been registered;
- “(i) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Part of this Act and for the due administration thereof.

“88 Transitional provisions

- “(1) When a pipeline, not previously required to be authorised under this Part of this Act, is capable of being used to convey natural gas, oil, or dangerous goods and will now require authorisation under section 50 of this Act the operator of such line shall, within 3 months of the coming into force of this Part, make application for authorisation in the prescribed form.
- “(2) Every application made under this section shall contain the following particulars:
 - “(a) The size and maximum working pressure of the pipeline accompanied by evidence of the latest hydrostatic test of the pipeline;
 - “(b) Three copies of plans showing the actual location of pipeline, pumping and compressor stations, terminal facilities, valves, and other permanent appurtenances of a substantial nature used in connection with the operation of the pipeline;
 - “(c) Details to describe and locate the crossing of any road, railway, navigable waterway, bridge, or public land to which section 29 of this Act applies;
 - “(d) Such other plans and information as the Minister may request relating to the construction and operation of the pipeline.
- “(3) After duly considering the application and any additional information sought from the applicant, the Minister shall grant an authorisation where he is satisfied the pipeline is being operated in a safe condition.
- “(4) The Minister, in granting the authorisation, shall not be required to seek the consent of the appropriate Minister or any local authority where any land to which section 29 of this Act applies is affected by the said pipeline.
- “(5) Pipeline authorisations under this section shall be subject to this Part of this Act as if they were issued under section 55 of this Act.”

(2) The National Development Act 1979 is hereby consequentially amended by omitting from the item in the Schedule relating to the Petroleum Act 1937 the expression “85”, and substituting the expression “87”.

(3) The following enactments are hereby consequentially repealed:

- (a) The Petroleum Amendment Act 1962;
- (b) Sections 4 and 5 of the Petroleum Amendment Act 1975;

(c) The Petroleum Amendment Act 1980.

This Act is administered in the Ministry of Energy.