



Australian Capital Territory

# **National Gas (ACT) Act 2008**

**A2008-15**

**Republication No 2**

**Effective: 2 July 2009 – 30 June 2012**

Republication date: 2 July 2009

Act not amended  
(republication for commenced expiry)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *National Gas (ACT) Act 2008* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 July 2009. It also includes any amendment, repeal or expiry affecting the republished law.

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

### Kinds of republications

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

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

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

### Editorial changes

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

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

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

### Modifications

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

### Penalties

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

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



Australian Capital Territory

# National Gas (ACT) Act 2008

## Contents

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	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
3	Dictionary 2
4	Terms used in National Gas (ACT) Law 2
5	Notes 2
6	Crown to be bound 2
7	Extra-territorial operation 3
<b>Part 2</b>	<b>National Gas (ACT) Law and National Gas (ACT) Regulation</b>
8	Application in the ACT of National Gas Law 3
9	Application in the ACT of regulations under National Gas Law 4

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R2  
02/07/09

National Gas (ACT) Act 2008  
Effective: 02/07/09-30/06/12

contents 1

## Contents

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	Page
10 Interpretation of some terms in National Gas (ACT) Law and National Gas (ACT) Regulation	4
<b>Part 3 Cross-vesting of powers</b>	
11 Conferral of powers on Commonwealth Minister and Commonwealth bodies to act in the ACT	6
12 Conferral of powers on Ministers of other participating States to act in the ACT	6
13 Conferral of functions on Minister	7
<b>Part 4 Miscellaneous</b>	
14 Exemption from taxes	8
15 Declaration of exempt matter	8
16 Actions in relation to cross boundary pipelines	9
17 Conferral of functions on Commonwealth entities	10
18 Regulation-making power	10
<b>Dictionary</b>	11
<b>Endnotes</b>	
1 About the endnotes	12
2 Abbreviation key	12
3 Legislation history	13
4 Amendment history	13
5 Earlier republications	14



Australian Capital Territory

## National Gas (ACT) Act 2008

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An Act to establish a framework to enable third parties to gain access to certain natural gas pipeline services, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *National Gas (ACT) Act 2008*.

### 3 Dictionary

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

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act.

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

### 4 Terms used in National Gas (ACT) Law

A term used in the *National Gas (ACT) Law* has the same meaning in this Act.

*Note* A definition in an Act applies except so far as the contrary intention appears (see Legislation Act, s 155).

### 5 Notes

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

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

### 6 Crown to be bound

The Legislation Act, section 121 (Binding effects of Acts) applies to the *National Gas (ACT) Law* and the *National Gas (ACT) Regulation* as if—

- (a) the *National Gas (ACT) Law* were an Act; and

- (b) the *National Gas (ACT) Regulation* were a regulation made or in force under the *National Gas (ACT) Law*.

*Note 1* The Legislation Act, s 121 provides that an Act binds all governments, including the Territory, the Commonwealth, a State and another Territory. However, the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 27 provides that, except as provided by the regulations under that Act, an ACT enactment does not bind the Crown in right of the Commonwealth.

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see s 8 (2) and Legislation Act, s 104).

## 7 Extra-territorial operation

The Legislative Assembly intends that this Act, the *National Gas (ACT) Law* and the *National Gas (ACT) Regulation* should, so far as possible, operate to the full extent of the extra-territorial legislative power of the Territory.

# Part 2 National Gas (ACT) Law and National Gas (ACT) Regulation

## 8 Application in the ACT of National Gas Law

- (1) The National Gas Law set out in the schedule to the South Australian Act, as in force from time to time—
- (a) applies as a territory law; and
  - (b) as so applying may be referred to as the *National Gas (ACT) Law*.

*Note* The South Australian Act is accessible at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

- (2) The Legislation Act, section 104 (References to laws include references to instruments under laws) applies to the *National Gas (ACT) Law* as if the *National Gas (ACT) Law* were an Act.

*Note* The Legislation Act, s 104 provides that a reference to an Act includes a reference to the statutory instruments made or in force under the Act. The statutory instruments under the National Gas Law include the National Gas Rules.

## 9 Application in the ACT of regulations under National Gas Law

The regulations in force from time to time under the South Australian Act, part 3 (Making of regulations and rules under National Gas Law)—

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

*Note* The South Australian Act is accessible at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

## 10 Interpretation of some terms in National Gas (ACT) Law and National Gas (ACT) Regulation

- (1) In the *National Gas (ACT) Law* and the *National Gas (ACT) Regulation*:

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

*Note* ***State*** includes the Northern Territory (see Legislation Act, dict, pt 1, def *State*).

***court*** means the Supreme Court.

***designated Minister*** means the Commonwealth Minister.

***legislature of this jurisdiction*** means the Legislative Assembly.



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

*this jurisdiction* means the Territory.

- (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 territory law; or
  - (b) regulations in force from time to time under the South Australian Act, part 3 (Making of regulations and rules under National Gas Law) in their application as regulations in force for the purposes of the *National Gas (ACT) Law*.

## Part 3 Cross-vesting of powers

### 11 Conferral of powers on Commonwealth Minister and Commonwealth bodies to act in the ACT

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

*Note* **Exercise** a function includes perform the function (see Legislation Act, dict, pt 1, def **exercise**), and **function** includes power (see Legislation Act, dict, pt 1, def **function**).

- (2) In this section:

**Commonwealth bodies** means any of the following:

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

### 12 Conferral of powers on Ministers of other participating States to act in the ACT

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

*Note 1* **State** includes the Northern Territory (see Legislation Act, dict, pt 1, def **State**).

*Note 2* **Exercise** a function includes perform the function (see Legislation Act, dict, pt 1, def **exercise**), and **function** includes power (see Legislation Act, dict, pt 1, def **function**).

**13 Conferral of functions on Minister**

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

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

*Note* **Exercise** a function includes perform the function (see Legislation Act, dict, pt 1, def **exercise**), and **function** includes power (see Legislation Act, dict, pt 1, def **function**).

## Part 4 Miscellaneous

### 14 Exemption from taxes

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

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) In this section:

***exempt matter*** means a transfer of assets or liabilities—

- (a) 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; and
- (b) that the Treasurer declares to be an exempt matter under section 15.

### 15 Declaration of exempt matter

- (1) The Treasurer may declare that a transfer of assets or liabilities is an exempt matter for section 14.
- (2) A declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**16 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 under the *National Gas (ACT) Law* 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.

**17 Conferral of functions on Commonwealth entities**

- (1) The *National Gas (ACT) Law*, schedule 2, clause 2 (Law to be construed not to exceed legislative power of Legislature) has effect in relation to the operation of any provision of this Act, or any provision forming part of the *National Gas (ACT) Regulation*, as if the provision formed part of the *National Gas (ACT) Law*.
- (2) Subsection (1) does not limit the effect that a provision would validly have apart from the subsection.

**18 Regulation-making power**

The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

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## Dictionary

(see s 3)

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

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- Commonwealth
- exercise
- function
- Legislation Act
- Legislative Assembly
- Minister (see s 162)
- State
- Supreme Court
- territory law
- the Territory
- Treasurer.

***National Gas (ACT) Law*** means the provisions applying because of section 8.

***National Gas (ACT) Regulation*** means the provisions applying because of section 9.

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

*Note* A reference to a law (including a SA Act) includes a reference to the Act as originally made and as amended (see Legislation Act, s 102).

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

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

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

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

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

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

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



### 3 Legislation history

#### National Gas (ACT) Act 2008 A2008-15

notified LR 30 June 2008

s 1, s 2 commenced 30 June 2008 (LA s 75 (1))

s 19 (1), sch 1 commenced 1 July 2008 (s 2 (2): Offshore Petroleum Act 2006 (Cwlth), s 7 and this Act, s 10 both commenced 1 July 2008)

remainder commenced 1 July 2008 (s 2 (1) and see National Gas (South Australia) Act 2008 (SA), s 7)

### 4 Amendment history

#### Commencement

s 2 om LA s 89 (4)

#### Interpretation of some terms in National Gas (ACT) Law and National Gas (ACT) Regulation

s 10 def *adjacent area of another participating jurisdiction* sub A2008-15 amdt 1.1

#### Regulation-making power

s 18 (2), (3) exp 1 July 2009 (s 18 (3))

#### Legislation amended— schs 1 and 2

s 19 om LA s 89 (3)

#### Repeal of Gas Pipelines Access Act 1998

s 20 om LA s 89 (3)

#### Amendment of this Act—Offshore Petroleum Act 2006 (Cwlth)

sch 1 om LA s 89 (3)

#### Consequential amendments

sch 2 om LA s 89 (3)

## Endnotes

5 Earlier republications

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### 5 Earlier republications

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

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

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 1 July 2008	1 July 2008– 1 July 2009	not amended	new Act

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