



Australian Capital Territory

National Gas (ACT) Act 2008

A2008-15

Republication No 3

Effective: 1 July 2012 – 9 June 2014

Republication date: 1 July 2012

Last amendment made by [A2012-32](#)

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 1 July 2012. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 July 2012.

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

Kinds of republications

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

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

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

Editorial changes

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

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

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

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 the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

National Gas (ACT) Act 2008

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R3
01/07/12

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Australian Capital Territory

National Gas (ACT) Act 2008

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

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.

- (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.

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 that the *National Gas (ACT) Law* contemplates be made under this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (c) in a case in which the making of the instrument or decision would be so authorised subject to the satisfaction of any conditions or other requirements (for example, consultation or other publication requirements)—the AER has done anything that would, if the amendments had started so to apply, be required under the authorising law for the instrument or decision to be so authorised.

Example—instrument

guidelines

Examples—decisions

- 1 appointments
- 2 determinations
- 3 approvals

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) For the authorising law, the instrument or decision—
- (a) is taken to be valid; and
 - (b) has effect from the application time—
 - (i) as varied, and unless revoked, by any other instrument or decision to which this section applies; and
 - (ii) subject to that law as so applying.

20 AER—authorisation of preparatory steps

- (1) This section applies if—
- (a) the AER is required to do something (a *preparatory step*) before making a decision or instrument under 1 of the following laws (the *authorising law*):
 - (i) the *National Gas (ACT) Law*;
 - (ii) the [National Gas \(ACT\) Regulation](#);

(iii) this Act; and

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.

(b) the preparatory step would have been required under the authorising law if the amendments of the [National Gas \(South Australia\) Act 2008](#) (SA) made by the [Statutes Amendment \(National Energy Retail Law\) Act 2011](#) (SA) had started to apply under this Act as a territory law; and

(c) the AER takes the preparatory step—

(i) at or after the time that the amendments were enacted; but

(ii) before the time that the amendments started to apply under this Act as a territory law.

(2) For the authorising law, the AER is taken to have complied with the requirement to take the preparatory step.

21 Access arrangements to pipelines in ACT

(1) If a regulation under section 22 or the [National Energy Retail Law \(ACT\) Act 2012](#), section 24 (1) (Local instruments for National Energy Retail Law (ACT)) so provides, an applicable consumer law has effect despite the provisions of an access arrangement in relation to a pipeline located in the ACT that was in force under the [National Gas \(ACT\) Law](#) immediately before the commencement of this section.

(2) In this section:

applicable consumer law means—

(a) a regulation mentioned in subsection (1); or

- (b) the *National Gas (ACT) Law*; or

Note A reference to the *National Gas (ACT) Law* includes a reference to the statutory instruments made or in force under that Law, including the *National Gas (ACT) Regulation* and the *National Gas Rules* (see *National Gas (ACT) Act 2008*, s 8 (2) and *Legislation Act*, s 104).

- (c) the *National Energy Retail Law (ACT)*.

Note A reference to the *National Energy Retail Law (ACT)* includes a reference to the statutory instruments made or in force under that Law, including the *National Energy Retail Regulation (ACT)* and the *National Energy Retail Rules* (see *National Energy Retail Law (ACT) Act 2012*, s 9 (2) and *Legislation Act*, s 104).

22 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of—
- (a) the amendments of this Act made by the *National Energy Retail Law (Consequential Amendments) Act 2012*; or
 - (b) the amendments of the *National Gas (South Australia) Act 2008* (SA) made by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA); or
 - (c) the enactment of the *National Energy Retail Law (ACT) Act 2012*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

23 Expiry—pt 5

This part expires 5 years after the day it commences.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

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

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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

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

Endnotes

3 Legislation history

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)

as amended by

[National Energy Retail Law \(Consequential Amendments\) Act 2012 A2012-32 pt 12](#)

notified LR 14 June 2012

s 1, s 2 commenced 14 June 2012 (LA s 75 (1))

pt 12 commenced 1 July 2012 (s 2 (1) and see [National Energy Retail Law \(ACT\) Act 2012 A2012-31](#), s 2 (1) and [CN2012-12](#))

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))
sub A2012-32 s 65

Transitional—National Energy Retail Law

pt 5 hdg ins A2012-32 s 66
exp 1 July 2017 (s 23)

Validation of instruments and decisions made by AER

s 19 om LA s 89 (3)
ins A2012-32 s 66
exp 1 July 2017 (s 23)

AER—authorisation of preparatory steps

s 20 om LA s 89 (3)
ins A2012-32 s 66
exp 1 July 2017 (s 23)

Access arrangements to pipelines in ACT

s 21 ins A2012-32 s 66
exp 1 July 2017 (s 23)

Transitional regulations

s 22 ins A2012-32 s 66
exp 1 July 2017 (s 23)

Expiry—pt 5

s 23 ins A2012-32 s 66
exp 1 July 2017 (s 23)

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

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.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 July 2008	1 July 2008– 1 July 2009	not amended	new Act
R2 2 July 2009	2 July 2009– 30 June 2012	not amended	commenced expiry

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