

2008

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for the Environment, Water and Climate Change)

## National Gas (ACT) Bill 2008

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

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### **A Bill for**

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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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

4 **2 Commencement**

5 (1) This Act (other than section 19 (1) and schedule 1) commences on a  
6 day fixed by the Minister by written notice.

7 (2) Section 19 (1) and schedule 1 commence on the later of—

8 (a) the commencement of the *Offshore Petroleum Act 2006*  
9 (Cwlth), section 7; and

10 (b) the day section 10 commences.

11 (3) The Legislation Act, section 79 (Automatic commencement of  
12 postponed law) does not apply to this Act.

13 *Note 1* The naming and commencement provisions automatically commence on  
14 the notification day (see Legislation Act, s 75 (1)).

15 *Note 2* A single day or time may be fixed, or different days or times may be  
16 fixed, for the commencement of different provisions (see Legislation  
17 Act, s 77 (1)).

18 **3 Dictionary**

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

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

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

1     **4           Terms used in National Gas (ACT) Law**

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

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

6     **5           Notes**

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

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

10    **6           Crown to be bound**

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

- 14           (a) the *National Gas (ACT) Law* were an Act; and  
15           (b) the *National Gas (ACT) Regulation* were a regulation made or  
16           in force under the *National Gas (ACT) Law*.

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

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

26    **7           Extra-territorial operation**

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

1 **Part 2** **National Gas (ACT) Law and**  
2 **National Gas (ACT) Regulation**

3 **8 Application in the ACT of National Gas Law**

4 (1) The National Gas Law set out in the schedule to the South  
5 Australian Act, as in force from time to time—

6 (a) applies as a territory law; and

7 (b) as so applying may be referred to as the *National Gas*  
8 *(ACT) Law*.

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

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

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

17 **9 Application in the ACT of regulations under National Gas**  
18 **Law**

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

22 (a) apply as regulations in force for the purposes of the *National*  
23 *Gas (ACT) Law*; and

24 (b) as so applying may be referred to as the *National Gas*  
25 *(ACT) Regulation*.

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

- 1     **10**           **Interpretation of some terms in National Gas (ACT) Law**  
2                   **and National Gas (ACT) Regulation**
- 3           (1) In the *National Gas (ACT) Law* and the *National Gas*  
4           *(ACT) Regulation*:
- 5                   ***adjacent area of another participating jurisdiction*** means the area  
6                   that is identified in the *Petroleum (Submerged Lands) Act 1967*  
7                   (Cwlth), section 5A (Adjacent areas) as being the adjacent area in  
8                   respect of a State.
- 9                   ***Note***     ***State*** includes the Northern Territory (see Legislation Act, dict, pt 1, def  
10                   ***State***).
- 11                   ***court*** means the Supreme Court.
- 12                   ***designated Minister*** means the Commonwealth Minister.
- 13                   ***legislature of this jurisdiction*** means the Legislative Assembly.
- 14                   ***National Gas Law*** or ***this Law*** means the *National Gas (ACT) Law*.
- 15                   ***this jurisdiction*** means the Territory.
- 16           (2) The *Acts Interpretation Act 1915* (SA) and other Acts of South  
17           Australia do not apply to—
- 18                   (a) the National Gas Law set out in the schedule to the South  
19                   Australian Act in its application as a territory law; or
- 20                   (b) regulations in force from time to time under the South  
21                   Australian Act, part 3 (Making of regulations and rules under  
22                   National Gas Law) in their application as regulations in force  
23                   for the purposes of the *National Gas (ACT) Law*.

1 **Part 3 Cross-vesting of powers**

2 **11 Conferral of powers on Commonwealth Minister and**  
3 **Commonwealth bodies to act in the ACT**

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

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

- 11 (2) In this section:

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

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

16 **12 Conferral of powers on Ministers of other participating**  
17 **States to act in the ACT**

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

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

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



1   **13           Conferral of functions on Minister**

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

4           (a) may exercise the function; and

5           (b) may do all things necessary or convenient to be done in  
6           connection with the exercise of the function.

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

1 **Part 4 Miscellaneous**

2 **14 Exemption from taxes**

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

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

- 12 (2) In this section:

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

- 14 (a) that is made for the purpose of ensuring that a person does not  
15 carry on a business of producing, purchasing or selling natural  
16 gas or processable gas in breach of any ring fencing  
17 requirements of the national gas legislation or for the purpose  
18 of the separation of certain businesses or business activities  
19 from other businesses or business activities of a person as  
20 required by an AER ring fencing determination; and
- 21 (b) that the Treasurer declares to be an exempt matter under  
22 section 15.

23 **15 Declaration of exempt matter**

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

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

- 1     **16           Actions in relation to cross boundary pipelines**
- 2           (1) If a pipeline is a cross boundary pipeline, any action taken under the  
3           national gas legislation of a participating jurisdiction in whose  
4           jurisdictional area a part of the pipeline is situated—
- 5               (a) by, or in relation to, a relevant Minister; or
- 6               (b) by the court within the meaning of that legislation in relation to  
7               action taken by, or in relation to, a relevant Minister;
- 8           is taken also to be taken under the national gas legislation of each  
9           participating jurisdiction in whose jurisdictional area a part of the  
10          pipeline is situated (*that other legislation*)—
- 11          (c) by, or in relation to, a relevant Minister within the meaning of  
12          that other legislation; or
- 13          (d) by the court within the meaning of that other legislation;  
14          as the case requires.
- 15          (2) Despite subsection (1), no proceeding for judicial review or for a  
16          declaration, injunction, writ, order or remedy may be brought before  
17          the court to challenge or question any action, or purported action, of  
18          a relevant Minister taken, or purportedly taken, in relation to a cross  
19          boundary distribution pipeline unless this jurisdiction has been  
20          determined under the *National Gas (ACT) Law* to be the  
21          participating jurisdiction with which the cross boundary distribution  
22          pipeline is most closely connected.
- 23          (3) A reference in this section—
- 24               (a) to an action that is taken includes a reference to—
- 25                   (i) a decision or determination that is made; or
- 26                   (ii) an omission that is made; and
- 27               (b) to a purported action that is purportedly taken includes a  
28               reference to a purported decision or determination that is  
29               purportedly made.

- 1 (4) In this section:  
2 *cross boundary pipeline* means—  
3 (a) a cross boundary transmission pipeline; or  
4 (b) a cross boundary distribution pipeline.

5 **17 Conferral of functions on Commonwealth entities**

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

13 **18 Regulation-making power**

- 14 (1) The Executive may make regulations for this Act.  
15 *Note* A regulation must be notified, and presented to the Legislative  
16 Assembly, under the Legislation Act.  
17 (2) A regulation may also prescribe transitional matters necessary or  
18 convenient to be prescribed because of the enactment of this Act.  
19 (3) Subsection (2) and this subsection expire 1 year after the day this  
20 section commences.

21 **19 Legislation amended—schs 1 and 2**

- 22 (1) This Act amends the legislation mentioned in schedule 1.  
23 (2) This Act amends the legislation mentioned in schedule 2.

24 **20 Repeal of Gas Pipelines Access Act 1998**

25 The *Gas Pipelines Access Act 1998* (A1998-15) is repealed.



1 **Schedule 2 Consequential amendments**

2 (see s 19 (2))

3 **Part 2.1 Gas Safety Act 2000**

4 **[2.1] Dictionary, note 2, new dot point**

5 *insert*

- 6 • National Gas (ACT) Law

7 **[2.2] Dictionary, definition of *gas* and note**

8 *substitute*

9 ***gas*** means—

- 10 (a) natural gas; or
- 11 (b) a gas (***LPG***) in its vapour phase composed predominantly of
- 12 1 or more of the following hydrocarbons:
- 13 (i) propane;
- 14 (ii) propene (propylene);
- 15 (iii) butane;
- 16 (iv) butene (butylene).

17 **[2.3] Dictionary, new definition of *natural gas***

18 *insert*

19 ***natural gas***—see the *National Gas (ACT) Law*, section 2.

1 **Part 2.2** **Independent Competition and**  
2 **Regulatory Commission Act 1997**

3 **[2.4] Section 2, note 1**

4 *substitute*

5 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
6 Act, and includes references (*signpost definitions*) to other terms  
7 defined elsewhere.

8 For example, the signpost definition '*utility*—see the *Utilities Act 2000*,  
9 dictionary.' means that the term '*utility*' is defined in that dictionary and  
10 the definition applies to this Act.

11 **[2.5] Section 4B (3)**

12 *substitute*

13 (3) In this section:

14 *ACT gas distribution service* means a distribution service provided  
15 by means of a natural gas distribution pipeline.

16 *ACT gas transmission service* means a transmission service  
17 provided by means of a natural gas transmission pipeline.

18 *distribution pipeline*—see the *National Gas (ACT) Law*, section 2.

19 *transmission pipeline*—see the *National Gas (ACT) Law*, section 2.

20 **[2.6] Section 8 (1) (g) (v) to (vii)**

21 *substitute*

22 (v) the *National Gas (ACT) Law*;

23 (vi) the *National Gas (ACT) Regulation*;

1 **[2.7] Dictionary, note 2, new dot points**

2 *insert*

- 3 • National Gas (ACT) Law  
4 • National Gas (ACT) Regulation

5 **[2.8] Dictionary, definitions of *Gas Pipelines Access (A.C.T.)*  
6 *Law* and *Gas Pipelines Access (A.C.T.) Regulations***

7 *omit*

8 **[2.9] Dictionary, definition of *law of the Territory*, paragraphs  
9 (d) to (f)**

10 *substitute*

11 (d) the *National Gas (ACT) Law*; and

12 (e) the *National Gas (ACT) Regulation*.

13 **[2.10] Dictionary, definition of *national gas code* and note**

14 *omit*

15 **Part 2.3 Legislation Act 2001**

16 **[2.11] Dictionary, part 1, new definitions**

17 *insert*

18 *National Gas (ACT) Law* means the provisions applying because of  
19 the *National Gas (ACT) Act 2008*, section 8 (Application in the  
20 ACT of National Gas Law).

21 *National Gas (ACT) Regulation* means the provisions applying  
22 because of the *National Gas (ACT) Act 2008*, section 9 (Application  
23 in the ACT of regulations under National Gas Law).



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## 1 Part 2.4 Utilities Act 2000

### 2 [2.12] Section 8

3 *substitute*

#### 4 8 Gas—terminology

5 (1) In this Act:

6 *gas* means natural gas.

7 (2) A term used in any of the following has the same meaning in this  
8 Act:

9 (a) *National Gas (ACT) Act 2008*;

10 (b) *National Gas (ACT) Law*;

11 (c) *National Gas (ACT) Regulation*.

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

14 (3) In this section:

15 *natural gas*—see the *National Gas (ACT) Law*, section 2.

### 16 [2.13] Section 10

17 *substitute*

#### 18 10 Gas networks

19 (1) For this Act, a *gas transmission network* consists of infrastructure  
20 used, or for use, in relation to the transmission of gas by a person  
21 through a transmission pipeline to a gas distribution network owned  
22 or operated by another person.

23 (2) For this Act, a *gas distribution network* consists of infrastructure  
24 used, or for use, in relation to the distribution of gas by a person  
25 through a distribution pipeline for supply to premises of another  
26 person.

- 1           (3) In this section:
- 2                 *distribution pipeline*—see the *National Gas (ACT) Law*, section 2.
- 3                 *infrastructure* means—
- 4                     (a) pipelines; or
- 5                     (b) meters; or
- 6                     (c) any equipment (including pressure control devices, excess flow
- 7                         valves, control valves, actuators, electrical equipment,
- 8                         telemetry equipment, cathodic protection installations,
- 9                         compounds, pits, buildings, signs and fences); or
- 10                  (d) any other thing ancillary to any other part of the infrastructure.
- 11                 *transmission pipeline*—see the *National Gas (ACT) Law*, section 2.
- 12           (4) A *gas network* does not include infrastructure that is outside the
- 13                 network boundary.

14   **[2.14] Section 20 (2) (f) to (h)**

15                 *substitute*

- 16                     (f) the *National Gas (ACT) Act 2008*;
- 17                     (g) the *National Gas (ACT) Law*;
- 18                     (h) the *National Gas (ACT) Regulation*;

19   **[2.15] Sections 29 and 30**

20                 *omit*

21   **[2.16] Section 45 (2), examples**

22                 *omit*

1 **[2.17] Dictionary, note 2, new dot points**

2 *insert*

- 3 • National Gas (ACT) Law  
4 • National Gas (ACT) Regulation

## 1 Dictionary

2 (see s 3)

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

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

- 6 • ACT
- 7 • Commonwealth
- 8 • exercise
- 9 • function
- 10 • Legislation Act
- 11 • Legislative Assembly
- 12 • Minister (see s 162)
- 13 • State
- 14 • Supreme Court
- 15 • territory law
- 16 • the Territory
- 17 • Treasurer.

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

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

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

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

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2008.

**2 Notification**

Notified under the Legislation Act on 2008.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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