

Pipeline Authority Amendment Act 1980

No. 109 of 1980

An Act to amend the *Pipeline Authority Act 1973*

[Assented to 6 June 1980]

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Pipeline Authority Amendment Act* 1980.

(2) The *Pipeline Authority Act 1973*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

Interpretation

3. Section 3 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “approved bank” and substituting the following definition:

“ ‘approved bank’ means a trading bank as defined by sub-section 5 (1) of the *Banking Act* 1959 or another bank approved by the Treasurer;”;

(b) by inserting after the definition of “Convention” in sub-section (1) the following definition:

“ ‘Deputy Chairman’ means the Deputy Chairman of the Authority;”;

(c) by omitting “, and includes a person acting as the Executive Member of the Authority” from the definition of “Executive Member” in sub-section (1);

(d) by omitting “, and includes a person acting as a member of the Authority” from the definition of “member” in sub-section (1);

- (e) by omitting “, and includes a person acting as a part-time member of the Authority” from the definition of “part-time member” in sub-section (1);
- (f) by omitting from sub-section (1) the definition of “Secretary” and substituting the following definition:
 - “ ‘securities’ includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents;”; and
- (g) by omitting sub-section (2) and substituting the following sub-section:
 - “(2) In this Act, a reference to dealing with securities shall be read as including a reference to—
 - (a) creating, executing, entering into, drawing, making, accepting, indorsing, issuing, discounting, selling, purchasing or reselling securities;
 - (b) creating, selling, purchasing or reselling rights or options in respect of securities; and
 - (c) entering into agreements or other arrangements relating to securities.”.

Membership of Authority

4. (1) Section 6 of the Principal Act is amended—

- (a) by omitting paragraph (b) of sub-section (1) and substituting the following paragraph:
 - “(b) the Deputy Chairman;”; and
- (b) by omitting sub-sections (2) and (3) and substituting the following sub-sections:
 - “(2) The members shall be appointed by the Governor-General, the Executive Member being appointed as a full-time member and the other members being appointed as part-time members.
 - “(3) Subject to sub-section (3A), a member shall be appointed for such period, not exceeding 7 years, as the Governor-General specifies in the instrument of his appointment, but is eligible for re-appointment.
 - “(3A) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Executive Member, and a person shall not be appointed or re-appointed as the Executive Member for a period that extends beyond the date on which he will attain the age of 65 years.”.

(2) A person who, immediately before the commencement of this Act, held office as a member of the Authority (being a person who was appointed by the Governor-General) continues to hold office, subject to the Principal Act as amended by this Act, for the remainder of his term of office.

5. Section 7 of the Principal Act is repealed and the following section substituted:

Remuneration and allowances

“7. (1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

“(2) A member shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.”.

Leave of absence

6. Section 8 of the Principal Act is amended by omitting “other than the Secretary”.

Termination of appointment

7. Section 9 of the Principal Act is amended—

(a) by omitting from sub-section (1) “the Executive Member or a part-time member” and substituting “a member”; and

(b) by adding at the end thereof the following sub-section:

“(6) A reference in sub-section (4) or (5) to a part-time member shall be read as including a reference to a person who is an acting part-time member by virtue of an appointment under section 11.”.

8. Section 11 of the Principal Act is repealed and the following section substituted:

Acting appointments

“11. (1) The Minister may appoint a person to act as the Executive Member during a period, or during all periods, when—

(a) there is a vacancy in the office of Executive Member; or

(b) the Executive Member is absent from duty or from Australia or, for any other reason, is unable to perform the functions of his office,

but a person so appointed to act during a vacancy in the office shall not continue so to act for more than 12 months.

“(2) Where a person is acting as the Executive Member in pursuance of an appointment under sub-section (1) otherwise than during a vacancy in the office of Executive Member and the office becomes vacant while the person is so acting, the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

“(3) While a person is acting as Executive Member in pursuance of an appointment under sub-section (1), he has and may exercise all the powers of, and shall perform all the functions of, the Executive Member.

“(4) The Minister may appoint a person to act as a part-time member during a period, or during all periods, when—

- (a) there is a vacancy in the office of a part-time member (including the Chairman and the Deputy Chairman);
- (b) a part-time member (including the Chairman and the Deputy Chairman) is absent from duty or from Australia or, for any other reason, is unable to perform the functions of his office; or
- (c) a person appointed under this section to act as a part-time member is acting as Chairman in pursuance of an appointment under sub-section (6) or is acting as Executive Member in pursuance of an appointment under sub-section (1),

and, while a person is so acting in pursuance of an appointment under this sub-section, by virtue of the appointment, he has and may exercise all the powers of, and shall perform all the functions of, a part-time member other than the Chairman or the Deputy Chairman.

“(5) Where the Chairman is absent from duty or from Australia or, for any other reason, is unable to perform the functions of his office, or there is a vacancy in the office of Chairman, the Deputy Chairman shall act as Chairman during the absence or inability or until the filling of the vacancy, as the case may be, and, while he is so acting, he has and may exercise all the powers of, and shall perform all the functions of, the Chairman.

“(6) The Minister may appoint a member (other than the Chairman or the Deputy Chairman), or an acting member, to act as Chairman during a period, or during all periods, when—

- (a) the Chairman is absent from duty or from Australia or, for any other reason, is unable to perform the functions of his office, or there is a vacancy in the office of Chairman; and
- (b) the Deputy Chairman is absent from duty or from Australia or, for any other reason, is unable to perform the functions of his office, or there is a vacancy in the office of Deputy Chairman,

and the member or acting member, while he is so acting, has and may exercise all the powers of, and shall perform all the functions of, the Chairman.

“(7) The Minister may—

- (a) determine the terms and conditions of appointment of a person appointed under this section; and
- (b) at any time terminate such an appointment.

“(8) Sections 8 and 10 apply in relation to a person appointed under this section in like manner as they apply in relation to a member.

“(9) The validity of a decision of the Authority shall not be questioned in any proceedings on a ground arising from the fact that the occasion for the appointment of a person purporting to be appointed under this section had not arisen or that an appointment under this section had ceased to have effect.”.

Meetings of Authority

9. Section 12 of the Principal Act is amended—

- (a) by omitting from sub-section (5) “the Secretary” and substituting “the Deputy Chairman”;
- (b) by omitting from sub-section (6) “the Secretary” and substituting “the Deputy Chairman”; and
- (c) by adding at the end thereof the following sub-section:
 - “(9) In this section—
 - (a) a reference to the Chairman shall be read as including a reference to a member who is acting as Chairman by virtue of an appointment under section 11; and
 - (b) a reference to a member shall be read as including a reference to a person who is acting as a member by virtue of an appointment under section 11.”.

Functions of Authority

10. Section 13 of the Principal Act is amended—

- (a) by omitting from paragraph (b) of sub-section (1) “pipes” and substituting “pipelines”; and
- (b) by omitting paragraphs (c), (d), (e), (f) and (g) of sub-section (1) and substituting the following paragraphs:
 - “(c) to buy petroleum that is to be, is being or has been conveyed by the Authority and is in, or is to come into, the possession of the Authority for that purpose, and to sell petroleum so purchased; and
 - “(d) to furnish advice, with respect to the conveyance, or distribution, of petroleum within Australia by means of pipelines—
 - (i) to the Minister; or
 - (ii) to any body or person approved by the Minister as a body to which, or a person to whom, such advice may be furnished.”.

General powers of Authority

11. Section 15 of the Principal Act is amended—

- (a) by omitting “The Authority” and substituting “Subject to sub-section (2), the Authority”; and
- (b) by adding at the end thereof the following sub-sections:
 - “(2) The Authority shall not construct a pipeline in Australia or on the Australian continental shelf or the continental shelf of the Territory of Ashmore and Cartier Islands unless the Parliament has, by an Act of the Parliament, authorized the construction of the pipeline.
 - “(3) A Bill to authorize the construction of a pipeline by the Authority shall contain provisions relating to the following matters:
 - (a) a detailed description of the route of the proposed pipeline;
 - (b) the limit of deviation; and
 - (c) the estimated cost of the proposed pipeline.”.

Particular powers of Authority

12. Section 16 of the Principal Act is amended by inserting “but otherwise subject to this Act” after “section 15”.

Power to enter and occupy land

13. Section 18 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) the Authority may construct a pipeline—

- (a) on, over or under land that is owned by the Authority;
- (b) on, over or under land in respect of which there is vested in the Authority the right to construct a pipeline; or
- (c) with the permission of the owner of land, on, over or under that land,

but not otherwise.”.

Staff of Authority

14. (1) Section 19 of the Principal Act is amended by omitting from sub-section (2) “as determined by the Authority” and substituting “such as are determined by the Authority with the approval of the Public Service Board”.

(2) A determination made before the date of commencement of this section by the Authority under section 19 of the Principal Act, being a determination that had not been revoked before that date, has effect on and after that date as if it had been duly made under section 19 of the Principal Act as amended by this Act, but may be varied or revoked by a determination made under that section as so amended.

15. After section 19 of the Principal Act the following section is inserted:

Consultants

“19A. (1) The Authority may engage persons having suitable qualifications and experience as consultants to the Authority.

“(2) The terms and conditions of engagement of a person under sub-section (1) are such as are determined by the Authority with the approval of the Public Service Board.”.

Power of Authority to provide benefits for officers and employees

16. (1) Section 22 of the Principal Act is amended—

- (a) by inserting “, with the approval of the Public Service Board,” after “Authority may”; and
- (b) by omitting “, insurance or superannuation” and substituting “or insurance”.

(2) Any allowances payable under section 22 of the Principal Act and any benefits provided under that section immediately before the commencement of this section may continue to be paid or provided after the commencement of this section as if the Public Service Board had given approval for the payments of the allowances or the provision of the benefits, as the case may be, but may,

with the approval of the Public Service Board, be varied or revoked by the Authority at any time.

Officers' Rights Declaration Act

17. Section 24 of the Principal Act is amended by omitting "an officer or employee" and substituting "a full-time officer or employee".

18. Section 25 of the Principal Act is repealed and the following sections are substituted:

Borrowing from Commonwealth

"25. The Minister for Finance may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend moneys to the Authority on such terms and conditions as the Minister for Finance determines.

Borrowing otherwise than from Commonwealth

"25A. (1) The Authority may, with the approval of the Treasurer but not otherwise, from time to time, borrow moneys (otherwise than from the Commonwealth) on such terms and conditions as the Treasurer approves.

"(2) Approvals for the purposes of sub-section (1) may be in respect of particular borrowings or in respect of borrowings included within specified classes of borrowings.

"(3) The Treasurer may, on behalf of the Commonwealth, guarantee the repayment by the Authority of amounts borrowed under this section and the payment of interest on amounts so borrowed.

Dealings with securities

"25B. (1) The Authority may, with the approval of the Treasurer but not otherwise, deal with securities.

"(2) Where the Authority borrows or otherwise raises moneys by dealing with securities, the Treasurer may determine that the repayment by the Authority of the amount borrowed or raised, and the payment by the Authority of interest (if any) on those amounts, are, by force of this sub-section, guaranteed by the Commonwealth.

"(3) The power of the Treasurer to make a determination for the purposes of sub-section (2) extends to the making of a determination in respect of—

- (a) securities included in a specified class, or specified classes, of securities; and
- (b) transactions included in a specified class, or specified classes, of transactions.

Authority may give security

"25C. The Authority may give security over the whole or any part of its assets—

- (a) for the repayment of moneys borrowed under section 25A and the payment of any moneys that the Authority is otherwise liable to pay in respect of those borrowings; and
 - (b) for the payment of any moneys that the Authority is liable to pay in respect of dealings with securities in accordance with section 25B,
- including, but without limiting the generality of the foregoing, the payment of interest (if any) on moneys borrowed or otherwise raised by the Authority.

Borrowings not otherwise permitted

“25D. The Authority shall not borrow, or otherwise raise, moneys except in accordance with sections 25, 25A and 25B.”.

Application of moneys

19. Section 27 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:
 - “(1) The moneys of the Authority may be applied by the Authority—
 - (a) in payment or discharge of the costs, expenses and other obligations of the Authority under this Act; and
 - (b) in payment of remuneration and allowances payable to any person under this Act,
- but not otherwise.”; and
- (b) by omitting from paragraph (a) of sub-section (2) “fixed”.

20. Section 28 of the Principal Act is repealed and the following sections are substituted:

Financial policy

“28. In conducting the business of the Authority, the Authority shall act in accordance with sound commercial principles and shall pursue a policy directed towards securing revenue sufficient to meet all its expenditure, and provision for expenditure, properly chargeable to revenue.

Estimates

“28A. The Authority shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and, if so directed by the Minister, for any other period, and shall submit those estimates to the Minister not later than such date as the Minister directs.”.

Liability to taxation

21. Section 33 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “The Authority” and substituting “Subject to sub-section (2A), the Authority”;
- (b) by inserting after sub-section (2) the following sub-section:
 - “(2A) Where the Treasurer so determines by notice published in the *Gazette*, stamp duty, or any similar tax, is not payable by the

Authority or any other person under a law of the Commonwealth or of a State or Territory in respect of—

- (a) a security dealt with by the Authority;
- (b) the issue, redemption, transfer, sale, purchase, re-sale, acquisition or discounting of such a security by the Authority or any other person, not including a transaction done without consideration or for an inadequate consideration;
- (c) any other transaction done for the purposes of a borrowing or other raising of moneys by the Authority; or
- (d) any other document executed by or on behalf of the Authority for the purposes of a borrowing or other raising of moneys by the Authority.

“(2B) The power conferred on the Treasurer by sub-section (2A) to make a determination extends to the making of a determination in respect of securities included in a specified class or specified classes of securities and in respect of documents or transactions included in a specified class or specified classes of documents or transactions.”; and

- (c) by omitting from sub-section (3) “The regulations” and substituting “Subject to sub-section (2A), the regulations”.

Marking of route of pipeline

22. Section 38 of the Principal Act is amended by omitting the words “as provided in the regulations” and substituting the words “in such reasonable manner as the Authority deems fit”.

Penalties

23. Section 43 of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (3) “Two hundred dollars” and substituting “\$1,000”; and
- (b) by omitting from paragraph (a) of sub-section (4) “One thousand dollars” and substituting “\$2,000”.

Jurisdiction of courts

24. Section 44 of the Principal Act is repealed.

Regulations

25. Section 46 of the Principal Act is amended by omitting from paragraph (d) “Two hundred dollars or imprisonment for a period not exceeding six months” and substituting “\$500 or imprisonment for a period not exceeding 3 months”.

Formal amendments

26. The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 26

FORMAL AMENDMENTS

Provision	Amendment
Section 29	Omit "Five hundred thousand dollars", substitute "\$500,000".
Section 32 (7)	Omit "Two hundred dollars", substitute "\$200".
Section 43 (3) (a)	Omit "six months", substitute "6 months".
Section 43 (3) (b)	(a) Omit "Two thousand dollars", substitute "\$2,000". (b) Omit "two years", substitute "2 years".
Section 43 (4) (a)	Omit "one year", substitute "1 year".
Section 43 (4) (b)	Omit "five years", substitute "5 years".

NOTE

1. No. 42, 1973, as amended. For previous amendments, see No. 216, 1973 (as amended by No. 20, 1974); No. 91, 1976; and No. 36, 1978.