

South Australia

# Natural Gas Authority (Notice of Works) Amendment Act 2015

An Act to amend the *Natural Gas Authority Act 1967*.

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**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Natural Gas Authority (Notice of Works) Amendment Act 2015*.

### 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *Natural Gas Authority Act 1967*

### 4—Amendment of section 11—Rights conferred by statutory easement

- (1) Section 11(1)(d)—delete "and to carry out" and substitute:  
    , to carry out

- (2) Section 11(1)(d)—after "equipment" second occurring insert:  
    , and to carry out work on outlying land related to the installation,  
    maintenance, repair or replacement of a pipeline across the servient land
- (3) Section 11—after subsection (1) insert:  
    (1a) Any associated equipment installed on or under the servient or  
    outlying land for the purposes of this section remains the property of  
    the owner of the pipeline.
- (4) Section 11(3), definition of *associated equipment*—after paragraph (d) insert:  
    and  
    (e) telecommunications equipment.

## **5—Insertion of section 15A**

After section 15 insert:

### **15A—Notice of prescribed works on land subject to statutory easement**

- (1) An owner or occupier of servient land must not carry out or permit the carrying out of prescribed works on or under the servient land without the prior written consent of the owner of the pipeline on the land.  
Maximum penalty: \$60 000.
- (2) If an owner or occupier of servient land proposes to carry out or permit the carrying out of prescribed works on or under the servient land, the owner or occupier must, at least 21 days before the date on which proposed prescribed works are to be carried out, by notice in writing to the owner of the pipeline—  
    (a) advise of the owner or occupier's intent to carry out prescribed works; and  
    (b) specify the nature of the prescribed works to be carried out.
- (3) Subject to subsection (5), the owner of the pipeline must, by notice in writing to the owner or occupier of servient land (as the case requires), within 14 days after receiving a notice under subsection (2) (or such longer time as agreed between the parties), consent or object to the proposed prescribed works.
- (4) The owner of the pipeline may consent to the proposed prescribed works on conditions as agreed between the parties and set out in a notice under subsection (3).
- (5) The owner of the pipeline must not object to the prescribed works unless the owner is of the opinion that the prescribed works would interfere with the safety or operation of the pipeline or associated equipment (within the meaning of section 11(3)).
- (6) The owner of the pipeline must set out the reasons for the objection in a notice under subsection (3).

- (7) If the owner of the pipeline gives notice of an objection, the owner of the pipeline must notify the Minister of the objection.
- (8) If notice of an objection to the prescribed works is given, the Minister may attempt to mediate between the parties in order to arrive at mutually satisfactory terms under which the owner or occupier of servient land may carry out the prescribed works.
- (9) If the Minister decides to attempt to mediate between the parties under subsection (8), the Minister must give the parties notice of his or her decision to do so within 21 days of receipt of the notice relating to the dispute under subsection (7), (and, for the purposes of subsection (10), if the Minister does not give the parties a notice within the 21 day period, it will be taken that the Minister has decided against attempting to reach a settlement of the dispute by mediation).
- (10) If—
- (a) the Minister decides against attempting to reach a settlement of the dispute by mediation; or
  - (b) an attempt is made but the dispute is not resolved within a period specified by the Minister,
- either the owner or occupier of servient land or the owner of the pipeline may apply to the court for a resolution of the dispute.
- (11) The court may, on an application under this section—
- (a) confirm the notice of objection; or
  - (b) revoke the notice of objection and determine terms under which the owner or occupier of servient land may carry out the prescribed works; or
  - (c) remit the matter to the parties to the dispute for further consideration; or
  - (d) make any consequential or ancillary order or direction, or impose any condition, that the court considers necessary or expedient on account of an application under this section.
- (12) The Minister may, by instrument in writing, delegate to a person (including a person for the time being holding or acting in a particular position) a function or power of the Minister under this section.
- (13) A delegation under subsection (12)—
- (a) may be absolute or conditional; and
  - (b) does not derogate from the power of the Minister to act in a matter; and
  - (c) is revocable at will by the Minister; and
  - (d) may not be further delegated.

(14) In this section—

***court*** means the Warden's Court;

***occupier*** includes a person with a right to occupy the servient land, or a licensee or any holder of a right to use or carry on operations or activities on the servient land, but does not include a mortgagee in possession unless the mortgagee assumes active management of the servient land;

***owner***, in relation to servient land, means—

- (a) if the land is unalienated from the Crown—the Crown; or
- (b) if the land is alienated from the Crown by grant in fee simple—the owner (at law or in equity) of the estate in fee simple; or
- (c) if the land is held from the Crown by lease or licence—the lessee or licensee; or
- (d) if the land is held from the Crown under an agreement to purchase—the person who has the right to purchase;

***prescribed works*** means—

- (a) excavating, drilling, installing or erecting any pit, well, foundation, pavement or other structure; or
- (b) disturbing or altering the grades and contours of the servient land; or
- (c) planting of trees or shrubs; or
- (d) storing plant, machinery, equipment or materials; or
- (e) using explosives.