



New South Wales

National Gas (New South Wales) Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to apply, as a law of New South Wales, the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia, and
- (b) to apply, as regulations for the purposes of that Law, the regulations under Part 3 of that Act.

A copy of the National Gas Law is set out in a note at the end of this Bill.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 provides that the *National Gas (NSW) Law* and the *National Gas (NSW) Regulations* bind the Crown.

Clause 5 provides that the *National Gas (NSW) Law* and the *National Gas (NSW) Regulations* apply in the coastal waters of this State.

Clause 6 provides for the extra-territorial operation of the *National Gas (NSW) Law* and the *National Gas (NSW) Regulations*.

Part 2 National Gas (NSW) Law and National Gas (NSW) Regulations

Clause 7 applies, as a law of New South Wales, the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia. The applied Law is to be referred to as the *National Gas (NSW) Law*.

Clause 8 applies, as regulations for the purposes of the *National Gas (NSW) Law*, the regulations in force under Part 3 of the *National Gas (South Australia) Act 2008* of South Australia. The applied regulations are to be referred to as the *National Gas (NSW) Regulations*.

Clause 9 defines certain expressions that occur in the *National Gas (NSW) Law* and the *National Gas (NSW) Regulations*, being expressions whose meaning necessarily varies according to the jurisdiction within which they are being applied, for the purposes of their application within New South Wales.

Part 3 Cross vesting of powers

Clause 10 provides for the Minister of the Commonwealth administering the *Australian Energy Market Act 2004* of the Commonwealth (*the Commonwealth Minister*), the Australian Energy Regulator, the National Competition Council and the Australian Competition Tribunal to do acts in, or in relation to, this State in the performance or exercise of a function or power conferred by the national gas legislation of another participating State or Territory.

Clause 11 provides for the Minister of another participating State or Territory to do acts in, or in relation to, this State in the performance or exercise of a function or power conferred by the national gas legislation of another participating State or Territory.

Clause 12 provides that if the national gas legislation of another participating State or Territory confers a function or power on the Minister for Energy, the Minister may perform that function or exercise that power.

Part 4 Miscellaneous

Clause 13 provides for an exemption from State duties or taxes in relation to certain transfers of assets or liabilities that are made for the purposes 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 as required by an Australian Energy Regulator ring fencing determination.

Clause 14 provides that if any action is taken under the national gas legislation of a participating jurisdiction with respect to a cross boundary pipeline by a relevant Minister or a Supreme Court of the jurisdiction each other relevant Minister or Supreme Court in any other participating jurisdiction in which the pipeline is situated is also taken to have taken that action. No grounds for appeal is permitted against any such action by a relevant Minister except in the jurisdiction with which the pipeline is most closely connected.

Clause 15 provides that a provision of the proposed Act or the *National Gas (NSW) Regulations* is to be construed so as not to exceed the legislative power of the Parliament, in particular with respect to a provision that appears to impose a duty on the Commonwealth Minister, the Australian Energy Regulator, the National Competition Council or the Australian Competition Tribunal.

Clause 16 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 17 provides for the repeal of the *Gas Pipelines Access (New South Wales) Act 1998*.

Clause 18 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 1.

Clause 19 provides for the substitution of the definitions of *adjacent area of another participating jurisdiction* and *adjacent area of this jurisdiction* in proposed section 9 (1) on the commencement of section 7 of the *Offshore Petroleum Act 2006* of the Commonwealth.

Clause 20 provides for the review of the proposed Act in 5 years.

Schedule 1 Amendment of Acts

Schedule 1 contains amendments to a number of Acts that are consequential on the commencement of the proposed Act.