

**1998**

## **CHAPTER P-12.1**

### **An Act respecting Pipelines**

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(Assented to June 11, 1998)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

#### **PART I**

##### **Preliminary Matters**

###### **Short title**

**1** This Act may be cited as *The Pipelines Act, 1998*.

###### **Interpretation**

**2** In this Act:

(a) **“board”** means the Oil and Gas Conservation Board established pursuant to *The Oil and Gas Conservation Act*;

(b) **“common carrier”** means a licence holder declared to be a common carrier pursuant to section 19;

- (c) “**department**” means the department over which the minister presides;
- (d) “**flowline**” means a pipeline connecting a wellhead with an oil battery facility, a fluid injection facility or a gas compression or processing facility, and includes a pipe or system of pipes for the transportation of fluids within any of those facilities;
- (e) “**ground disturbance**” means any work, operation or activity that results in a disturbance of the earth, including excavating, digging, trenching, plowing, drilling, tunnelling, augering, backfilling, blasting, topsoil stripping, land levelling, peat removing, quarrying, clearing and grading, but does not include:
- (i) a disturbance of the earth above a pipeline to a depth of less than 30 centimetres that does not result in a reduction of the earth cover over the pipeline to a depth that is less than the cover provided when the pipeline was installed;
  - (ii) cultivation to a depth of less than 45 centimetres below the surface of the ground; or
  - (iii) any prescribed work, operation or activity;
- (f) “**licence**” means a licence issued pursuant to Part II;
- (g) “**licence holder**” includes a person to whom a licence has been transferred in accordance with section 10;
- (h) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (i) “**natural gas**” means any mixture composed primarily of hydrocarbons that exists as a gas at normal pipeline pressures and temperatures, whether or not it contains impurities such as nitrogen, carbon dioxide, water vapour or hydrogen sulfide;
- (j) “**pipeline**”:
- (i) means a pipe or system of pipes for the transportation of:
    - (A) liquid hydrocarbons, including crude oil, multiphase fluids containing hydrocarbons, oil and water emulsions, condensate, liquid petroleum products, natural gas liquids and liquefied petroleum gas;
    - (B) gaseous hydrocarbons, including natural gas, manufactured gas and synthetic gas; or
    - (C) water, steam, carbon dioxide or any other substance where the water, steam, carbon dioxide or other substance is incidental to or used in the production of crude oil or natural gas; and
  - (ii) includes any of the following that are incidental to or used in connection with the pipeline:
    - (A) tanks, tank batteries, pumps, compressors and racks;
    - (B) storage facilities, loading facilities, terminal facilities and other similar facilities;

- (k) “**prescribed**” means prescribed in the regulations;
- (l) “**provincial highway**” means a provincial highway as defined in *The Highways and Transportation Act, 1997*;
- (m) “**road**” means a public highway as defined in *The Highways and Transportation Act, 1997*.

#### **Application of Act**

**3(1)** The Crown is bound by this Act.

(2) Subject to subsection 6(2), this Act does not apply to:

- (a) a pipeline that is being constructed, altered, operated or abandoned pursuant to the *National Energy Board Act* (Canada) or the operation of which is being discontinued pursuant to that Act;
- (b) a pipeline for the distribution of gas that is being constructed, altered, operated or abandoned pursuant to *The SaskEnergy Act* or the operation of which is being discontinued pursuant to that Act;
- (c) a refining or marketing pipeline that is situated wholly within plant property; or
- (d) a pipeline or portion of a pipeline that is exempted by:
  - (i) the regulations; or
  - (ii) an order made pursuant to subsection 26(3) of *The Pipe Lines Act* and continued pursuant to subsection 32(6) of this Act.

## PART II

### **Licences**

#### **Application of Part**

**4** This Part does not apply to flowlines.

#### **Licence**

**5** No person shall construct, alter, operate or abandon a pipeline or discontinue the operation of a pipeline unless that person holds a licence authorizing the construction, alteration, operation, abandonment or discontinuation.

#### **Licences for exempt pipelines**

**6(1)** A person who intends to construct or operate a pipeline mentioned in subsection 3(2), other than a flowline, and who desires to have the authority to expropriate interests in land pursuant to section 15 for the purpose of constructing or operating the pipeline may apply for a licence.

(2) Where a person applies for a licence pursuant to this section, this Part automatically applies to the pipeline with respect to which the application is made.

#### **Applications**

**7** An applicant for a licence must:

- (a) apply to the department in the prescribed form;
- (b) include with the application the prescribed information and material and any other information and material that the minister may require; and
- (c) submit the prescribed fee to the department.

**Issuance of licence**

**8(1)** Where an applicant has made an application in accordance with section 7, the minister may, subject to the regulations, do any of the following:

- (a) give notice, or direct the applicant to give notice, of the application to any person and in any manner that the minister considers appropriate;
  - (b) receive and consider submissions from persons mentioned in clause (a) or from any other person;
  - (c) order the board to conduct a hearing, investigation or inquiry respecting the application and to make recommendations to the minister.
- (2) The minister may:
- (a) issue a licence if the minister is satisfied that the applicant has complied with this Act and the regulations and it is in the public interest to do so; or
  - (b) refuse to issue the licence.
- (3) The minister may include as a provision of the licence any term or condition that the minister considers appropriate.
- (4) Where the minister refuses to issue a licence pursuant to subclause (2)(b), the minister shall provide the applicant with written reasons for the refusal.
- (5) Where the minister refuses to issue a licence without having ordered the board to conduct a hearing, investigation or inquiry pursuant to clause (1)(c):
- (a) the applicant may request the minister to order the board to conduct a hearing, investigation or inquiry pursuant to clause (1)(c); and
  - (b) after a hearing, investigation or inquiry has been held, the minister shall, on receiving the board's report containing its recommendations, reconsider the minister's decision with respect to the refusal to issue a licence.

**Compliance with licence required**

**9** Every licence holder shall comply with the terms and conditions contained in the licence.

**Transfer of licence restricted**

**10** A licence is not transferable unless the written approval of the minister is first obtained.

**Notice of contravention**

**11** Where a licence holder contravenes any provision of this Act or the regulations or any term or condition in the licence, the minister may give written notice of the contravention to the holder, requiring the holder to remedy the contravention within a specified time.

**Amendment, suspension, cancellation of licences**

**12(1)** The minister may amend or suspend a licence where the amendment or suspension is necessary for the purposes of public safety or the safety of any person or for the protection of property or the environment.

(2) The minister may amend a licence where the amendment is necessary to require the pipeline to be diverted or relocated to facilitate the construction, reconstruction or relocation of a road or any other work affecting the public interest.

- (3) The minister may amend, suspend or cancel a licence where:
- (a) the amendment, suspension or cancellation is agreed to by the licence holder;
  - (b) the licence holder fails to remedy a contravention within the time specified in a notice given pursuant to section 11; or
  - (c) the licence holder repeatedly contravenes one or more provisions in this Act or the regulations or terms or conditions in the licence.
- (4) Unless, in the minister's opinion, action is urgently required, the minister shall not amend, suspend or cancel a licence pursuant to clause (3)(b) or (c) unless the licence holder has been given a reasonable opportunity to make representations to the minister or an official chosen by the minister, in a form determined by the minister, concerning the proposed amendment, suspension or cancellation.
- (5) Where the minister amends, suspends or cancels a licence without giving the licence holder an opportunity to make representations to the minister or an official chosen by the minister in accordance with subsection (4), the minister shall notify the licence holder as soon as possible that the licence has been amended, suspended or cancelled and shall give the licence holder an opportunity to make representations within 15 days after the date of the amendment, suspension or cancellation.
- (6) For the purposes of section 5, a licence that is suspended pursuant to this section is, for the period of the suspension, deemed not to have been issued.

### PART III

#### Taking and Using Land

##### Entry on lands for certain purposes

**13(1)** Subject to subsection (2) and the regulations, an applicant who has made an application in accordance with section 7 may, with the prior written consent of the minister and without the consent of the owner or any other person:

- (a) enter any Crown lands or other lands lying in the intended route of the pipeline;
- (b) make surveys, examinations and other necessary arrangements for the purpose of fixing the site of the pipeline right of way and works; and
- (c) ascertain and set out the parts of the lands that are necessary and proper for the pipeline.

(2) The minister shall not grant consent pursuant to subsection (1) unless the minister is satisfied that the applicant has made a reasonable effort to obtain the consent of the owner and any other person whose consent would be required, in the absence of the minister's consent, to authorize the applicant to enter on the lands and do the things described in subsection (1).

##### Location of pipeline in relation to roads

**14(1)** Notwithstanding anything in *The Rural Municipality Act, 1989*, a licence holder, with the prior written consent of the Minister of Highways and Transportation but subject to any terms specified by that minister, may construct, maintain and operate the pipeline authorized by the licence on, across, over or under any road.

(2) Notwithstanding anything in this Act or in a licence, no pipeline shall be constructed on, across, over or under a road or within a prescribed distance from a provincial highway or a road other than a provincial highway without the prior written consent of the Minister of Highways and Transportation.

**Expropriation**

**15(1)** In this section, “**easement**” means an easement within the meaning of *The Public Utilities Easements Act*.

(2) A licence holder may, without the consent of the owner or any interested person, expropriate any interest in land, including an easement, that is required for the purposes of constructing or operating the pipeline authorized by the licence.

(3) *The Expropriation Procedure Act* applies to an expropriation pursuant to this section, and a licence holder who expropriates an interest in land pursuant to this section is an expropriating authority within the meaning of that Act.

(4) *The Public Utilities Easements Act* applies, with any necessary modification, to an easement expropriated pursuant to this section.

**No entitlement to minerals**

**16** A licence holder who expropriates an interest in land pursuant to section 15 is not entitled to the mines and minerals in or under land that is expropriated, except the portions that it is necessary to dig, carry away or use in the construction of the pipeline.

PART IV

**Operation of Pipelines**

**Operating standards**

**17** Every person who operates a pipeline shall operate the pipeline so as not to endanger the public health or safety or the environment.

**Damage by licence holder**

**18** A licence holder must:

- (a) do as little damage to property as is practicable in the exercise of a power conferred by this Act; and
- (b) make full compensation for all damage to property caused by or arising out of the exercise of a power conferred by this Act.

**Common carrier**

**19(1)** This section does not apply to pipelines for the transportation of natural gas.

(2) The minister may, on the minister’s own motion or on the application of any person, order the board to hold a hearing, investigation or inquiry and to make recommendations to the minister as to whether a licence holder should be declared to be a common carrier.

- (3) After a hearing, investigation or inquiry has been held pursuant to subsection (2), the minister may, on receiving the board's report containing its recommendations:
- (a) make a declaration that the licence holder is a common carrier and, in the declaration, impose any conditions that the minister considers appropriate; or
  - (b) refuse to make a declaration.
- (4) A common carrier must, for remuneration, provide transportation or delivery of any fluids that are ordinarily carried by the pipeline for which the common carrier's licence was issued or storage used in the normal course of providing that transportation:
- (a) on demand when capacity is available; and
  - (b) at rates that are comparable to the rates that the common carrier charges to other customers for similar services.
- (5) Where the minister is satisfied that a common carrier may be contravening subsection (4), the minister may order the board to conduct a further hearing, investigation or inquiry and to make recommendations to the minister with respect to the alleged contravention.
- (6) On receiving the board's report with respect to the matter referred to it pursuant to subsection (5), the minister may:
- (a) order the common carrier to do any thing that the minister considers necessary to bring about compliance with subsection (4); and
  - (b) specify in the order a day on and from which compliance with the order is required.
- (7) The minister may, on the minister's own motion or on the application of any person, order the board to hold a hearing, investigation or inquiry to make recommendations to the minister as to whether a licence holder who has been declared to be a common carrier should be declared to no longer be a common carrier.
- (8) On receiving the board's report with respect to the matter referred to it pursuant to subsection (7), the minister may:
- (a) make a declaration that the licence holder is no longer a common carrier;
  - (b) affirm the declaration that the licence holder is a common carrier;
  - (c) where the minister affirms the declaration that the licence holder is a common carrier, vary the conditions set out in the declaration.

**Ground disturbances**

- 20(1)** No person shall undertake a ground disturbance within 30 metres of a pipeline without giving prior notice to the operator of the pipeline.
- (2) An operator who receives notice pursuant to subsection (1) must provide the person who gives the notice with all information that the operator possesses that is relevant to the proposed ground disturbance, including, if requested, a plan and profile of the portion of the pipeline to be affected.

- (3) No person shall undertake a ground disturbance within the right of way of a pipeline, or within five metres of the pipeline where no right of way exists, without the consent of the operator of the pipeline or, where that consent cannot reasonably be obtained, without the approval of the minister.
- (4) An applicant seeking approval from the minister pursuant to subsection (3) must:
- (a) submit an application containing:
    - (i) a plan and profile of the portion of the pipeline to be affected and of the proposed ground disturbance; and
    - (ii) any other information and material that the minister may request; and
  - (b) serve a copy of the application on the operator of the pipeline at the time of making the application or before the application is made.
- (5) The minister may:
- (a) grant approval on any terms that the minister considers necessary for the protection and safety of the public and the environment and the protection of the pipeline; or
  - (b) refuse to grant approval.

## PART V

### General

#### Service of documents

**21** Every notice given or order made pursuant to this Act or the regulations may be served:

- (a) in the case of a corporation, in any manner in which a notice or document may be served on a corporation pursuant to *The Business Corporations Act*; and
- (b) in the case of an individual, by personal service or by registered mail or certified mail.

#### Information required by the department

**22(1)** Every licence holder, and every person who constructs or operates a pipeline for which a licence is not required, must provide the department with any information that, in the minister's opinion, is required for the administration of this Act or the regulations.

(2) The information required by this section is to be provided in the form and at the times specified by the minister.

#### Hearing, investigation or inquiry by board

**23(1)** The minister may, on the minister's own motion or on the application of any person, order the board to hold a hearing, investigation or inquiry with respect to any matter related to this Act or the regulations and make recommendations to the minister.



(2) The power to conduct a hearing, investigation or inquiry pursuant to this section is in addition to the board's authority to conduct a hearing, investigation or inquiry pursuant to any other provision in this Act.

(3) Sections 7.11, 7.2 and 7.3 to 7.9 of *The Oil and Gas Conservation Act* apply, with any necessary modification, to the board in exercising any of its powers or carrying out any of its duties pursuant to this Act.

**Delegation**

**24** The minister may authorize any officer of the department to perform any of the duties imposed, or to exercise any of the powers conferred, on the minister by this Act or any regulations made pursuant to this Act, other than the powers conferred by clauses 8(1)(c) and 8(2)(b) and sections 19 and 23.

**Regulations**

**25(1)** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) exempting any person, any pipeline or any portion of a pipeline from this Act or any provision of this Act;
- (c) prescribing works, operations and activities for the purpose of sub-clause 2(e)(iii);
- (d) prescribing the terms on which a person may enter lands pursuant to section 13;
- (e) for the purposes of subsection 14(2), prescribing a distance from a provincial highway or from a road other than a provincial highway within which no pipeline shall be constructed;
- (f) prescribing the persons or classes of persons to be served with notice of application for a licence, the form of the notice and the method of service;
- (g) prescribing the specifications and standards for the construction, alteration, operation and abandonment of pipelines and the discontinuation of the operation of pipelines;
- (h) prescribing measures for the protection of life, property or the environment to be taken in the construction, alteration, operation and abandonment of pipelines and the discontinuation of the operation of pipelines;
- (i) providing for the inspection of pipelines, prescribing and governing the circumstances in which the minister or a representative of the minister may enter lands or premises for the purpose of inspecting pipelines or any buildings, installations, structures or lands that are ancillary to pipelines and governing the costs of the inspections and the persons by whom the costs are to be borne;
- (j) requiring and governing the testing and surveying of pipelines;
- (k) prescribing the maximum pressure to which any pipeline may be subjected;

- (l) prescribing the measures to be taken to mark, identify, locate and protect from public access any pipeline or installation used in connection with the pipeline;
  - (m) prescribing and governing the methods and equipment to be used for the measurement of any substance transmitted in any pipeline, the methods of recording the measurement and prescribing the standard conditions at which the measurements are to be made;
  - (n) requiring the reporting of pipeline ruptures, spills and fires and governing the reporting procedures;
  - (o) requiring the upgrading, removal or abandonment of pipelines, portions of pipelines or any works, fittings, machinery or plant associated with a pipeline and prescribing and governing standards for upgrading, removal or abandonment;
  - (p) prescribing the form and content of applications, plans and profiles to be submitted;
  - (q) prescribing fees for:
    - (i) applications for licences and for any other applications and for orders and any other things made, required or done pursuant to this Act; and
    - (ii) any other service or information provided pursuant to this Act or the regulations;
  - (r) requiring the keeping of records by licence holders or any other persons engaged in an activity governed by this Act or the regulations, and governing the form and content of those records;
  - (s) prescribing the conditions under which a common carrier must provide service;
  - (t) requiring the submission of records and other information to the minister and governing the manner of submission;
  - (u) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
  - (v) respecting any matter or thing that the Lieutenant Governor in Council considers necessary for carrying out the intent of this Act.
- (2) Any regulation made pursuant to this section may adopt by reference, in whole or in part, as amended from time to time or otherwise, with any changes that the Lieutenant Governor in Council considers necessary, any relevant code, standard or law, and may require compliance with any code, standard or law so adopted.

**Minister's orders**

- 26(1)** This section applies only to pipelines that are not authorized by a licence.
- (2) Notwithstanding anything contained in the regulations, the minister may make orders:
- (a) requiring a person who operates a pipeline to file the plans and specifications of the pipeline with the department;

- (b) requiring a person who is constructing or operating a pipeline to construct or operate the pipeline in the manner specified in the order;
  - (c) prohibiting the operation of a pipeline at a pressure in excess of the pressure specified in the order;
  - (d) requiring a pipeline to be tested, upgraded or repaired in the manner specified in the order;
  - (e) requiring a pipeline to be diverted or relocated to facilitate the construction, reconstruction or relocation of a road or any other work affecting the public interest.
- (3) Every order made pursuant to subsection (2):
- (a) must be served on the person to whom it is directed or published in the Gazette; and
  - (b) comes into force on the date specified in the order.

**Offences re disturbance of soil, damage to or obstruction of construction, etc., of pipeline**

**27** Every person who:

- (a) contravenes any provision of section 20; or
- (b) wilfully does any damage to, or obstructs or hinders the construction, operation or maintenance of, any pipeline for which a licence has been issued;

is guilty of an offence and is liable on summary conviction to a fine not exceeding \$5,000 and in the case of a continuing offence to a further fine not exceeding \$5,000 for each day or part of a day during which the offence continues.

**Contraventions of Act, regulations or orders**

**28** Every person who contravenes any provision of this Act, for which no other penalty is provided, or of any regulation or order made pursuant to this Act is guilty of an offence and is liable on summary conviction to a fine not exceeding \$50,000 and in the case of a continuing offence to a further fine not exceeding \$50,000 for each day or part of a day during which the offence continues.

**Obstruction of minister, etc., in exercise of powers**

**29** Every person who:

- (a) obstructs, hinders or interferes with the minister or any person authorized by the minister in the exercise of any of the powers conferred by or pursuant to this Act; or
- (b) without reasonable excuse fails, when called on, to assist the minister or any other person authorized by the minister in the exercise of a power mentioned in clause (a);

is guilty of an offence and is liable on summary conviction to a fine not exceeding \$5,000 and in the case of a continuing offence to a further fine not exceeding \$5,000 for each day or part of a day during which the offence continues.

**Parties to offences**

**30(1)** Every person who:

- (a) either alone or in conjunction with others, causes a person to commit an offence mentioned in section 27, 28 or 29; or

(b) instructs, orders or directs any person to commit an offence mentioned in section 27, 28 or 29;

is also guilty of the offence and is liable on summary conviction to the penalties for the offence that are set out in the applicable section, whether or not the other person has been prosecuted.

(2) Where a corporation is guilty of an offence mentioned in section 27, 28 or 29, every officer, director, manager or agent of the corporation who directed, authorized or participated in the commission of the offence is also guilty of the offence and is liable on summary conviction to the penalties for the offence that are set out in the applicable section, whether or not the corporation has been prosecuted.

**R.S.S. 1978, c.P-12 repealed**

**31** *The Pipe Lines Act* is repealed.

**Transitional**

**32(1)** Notwithstanding the repeal of *The Pipe Lines Act*, any expropriation proceedings commenced pursuant to that Act are continued and may be completed as though that Act were still in force.

(2) An operating permit issued pursuant to section 22 of *The Pipe Lines Act* that is in force immediately before the coming into force of this Act is deemed to be a licence issued pursuant to this Act and may be dealt with as if it had been issued pursuant to this Act.

(3) An interim operating permit issued pursuant to section 24 of *The Pipe Lines Act* that is in force immediately before the coming into force of this Act is deemed to be a licence issued pursuant to this Act and may be dealt with as if it had been issued pursuant to this Act, but the licence expires six months after the day on which this Act comes into force unless the term of the licence is extended pursuant to this Act.

(4) On the coming into force of this Act, the minister:

(a) will promptly issue a licence authorizing the construction of a pipeline to a person who, immediately before the coming into force of this Act, holds a permit to construct that pipeline that was issued pursuant to section 13 of *The Pipe Lines Act*; and

(b) may include as a provision of the licence any term or condition that the minister considers appropriate.

(5) A licence issued pursuant to clause (4)(a) is deemed to have been issued pursuant to section 8.

(6) Notwithstanding the repeal of *The Pipe Lines Act*, an order issued pursuant to subsection 26(3) of that Act that is in force immediately before the coming into force of this Act is continued until it is rescinded by the minister.

**Consequential amendments**

**33(1)** Subsection 11(5) of *The Expropriation Procedure Act* is amended by adding “or *The Pipelines Act, 1998*” after “*The Pipe Lines Act*”.

- (2) ***The Land Titles Act* is amended:**
- (a) **in section 70:**
- (i) **by striking out “*The Pipe Lines Act*” and substituting “*The Pipelines Act, 1998*”; and**
- (ii) **by striking out “*The Pipe Lines Act, 1954*” and substituting “any former *Pipe Lines Act*”;**
- (b) **in clause 124.3(1)(c) by adding “, *The Pipelines Act, 1998*” after “*The Pipe Lines Act*”; and**
- (c) **in subsection 125(1.1) by adding “, *The Pipelines Act, 1998*” after “*The Pipe Lines Act*”.**
- (3) **Clause 3(1)(k) of *The Real Estate Act* is amended by striking out “*The Pipe Lines Act*” and substituting “*The Pipelines Act, 1998*”.**
- (4) ***The SaskEnergy Act* is amended by striking out “*The Pipe Lines Act*”:**
- (a) **in subsection 26(1); and**
- (b) **in subsection 27(1);**
- and in each case substituting “*The Pipelines Act, 1998*”.**
- (5) **Section 5 of *The Surface Rights Acquisition and Compensation Act* is amended by striking out “*The Pipe Lines Act*” and substituting “*The Pipelines Act, 1998*”.**

**Coming into force**

- 34** This Act comes into force on proclamation.

