

# CHAPTER 13:08

## PIPELINES ACT

*Acts 45/1970, 80/1971 (s. 33), 41/1972 (s. 47), 48/1976 (s. 82), 15/1979, 20/1982, 21/1985, 3/1992, 22/2001 (s. 4).*

### ARRANGEMENT OF SECTIONS

#### *Section*

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**AN ACT to authorize the Minister to grant authority for the construction and operation of pipelines for the conveyance of goods within Zimbabwe; to confer and impose certain rights, powers and obligations upon the person to whom authority for the construction and operation of such a pipeline is granted; and to provide for matters connected with or incidental to the foregoing.**

[Date of commencement: 23rd October, 1970.]

#### **1 Short title**

This Act may be cited as the Pipelines Act [*Chapter 13:08*].

#### **2 Interpretation**

(1) In this Act—

“goods” means any goods, whether solids, liquids or gases;

“grantee” means a person to whom authority is granted under section *three* for the construction of a pipeline;

“Minister” means the Minister of Transport and Energy or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“pipeline” means a pipeline the construction of which is authorized under this Act;

“pipeline reserve”, in relation to a pipeline, means a strip of land along the pipeline extending for a distance of twenty-five metres from the pipeline on either side of the pipeline.

(2) Where, after the construction of a pipeline, the grantee, with the approval of the Minister, cedes the operation of the pipeline to another person, that person shall thereafter be regarded as the grantee for the purposes of this Act.

#### **3 Authority to construct pipelines**

(1) The Minister is hereby authorized to grant to any person authority to construct one or more pipelines for the conveyance of goods within Zimbabwe.

(2) An authority in terms of subsection (1) for the construction of a pipeline— (a) shall specify the places between which the pipeline shall be constructed; and

(b) may be granted subject to such terms and conditions as the Minister may determine which, without derogation from the generality of the foregoing, may include terms and conditions relating to—

- (i) the laying, construction, erection, improvement, ownership, operation and maintenance of the pipeline and all ancillary works and installations;
- (ii) the manner in which the rate charged by the grantee for the conveyance of the goods by pipeline shall be determined and may be varied;
- (iii) the transfer by the grantee to the State of the pipeline and all structures, equipment, erections and works appertaining thereto or to the construction thereof and any land upon or under which the pipeline or any of its structures, equipment, erections or works are constructed and all servitudes, leases and other rights incidental or ancillary to the pipeline and the circumstances in which and the terms and conditions upon which such transfer shall be made.

(3) Where authority for the construction of a pipeline has been granted in terms of subsection (1), the Minister shall cause notice of such authority to be published in the *Gazette*.

#### **4 Requisition of land for purposes connected with pipeline**

(1) The Minister may, if he is satisfied after consideration of a report by the grantee that it is necessary that the grantee acquire any land or interest in land required—

- (a) for the purposes of or in connection with the laying, construction and maintenance of any pipeline or for the construction and maintenance of any pump station or other ancillary works or installations connected with the operation of a pipeline or any storage tanks or other ancillary works or installations for goods conveyed or to be conveyed by means of the pipeline; or
- (b) for an access road to a site referred to in paragraph (a) or for a wayleave for the construction, maintenance and use of such road and any right in or over land for the erection of power lines and the necessary wayleave for the erection, inspection and maintenance of such power lines; and that the grantee is unable to acquire such land or right upon reasonable terms by agreement with the owner, issue an order authorizing the grantee to acquire such land or right by expropriation subject to subsection (2).

(2) Parts III, V and VIII of the Land Acquisition Act [*Chapter 20:10*] shall apply, *mutatis mutandis*, to the acquisition of any land or right under an authority in terms of subsection (1).

#### **5 Alteration of route of pipeline**

(1) If, in the opinion of the Minister, it becomes necessary or desirable that the route of any pipeline which has been constructed should be altered, he may grant to the grantee authority to relay the pipeline along such route as the Minister may specify.

(2) Subsections (2) and (3) of section *three* shall apply, *mutatis mutandis*, in relation to an authority granted in terms of subsection (1).

(3) Where an authority has been granted in terms of subsection (1), this Act shall apply in relation to the relaying of the pipeline as they apply in relation to the construction of a pipeline:

Provided that, after the lodging with the Registrar of Deeds of the documents referred to in subsection (1) of section 10 of the Land Acquisition Act [*Chapter 20:10*], or the notification of the Registrar of Deeds in terms of subsection (2) of that section, the Registrar of Deeds shall cancel all entries, endorsements and title deeds referred to in subsections (2) and (3) of that section in relation to those pieces of land which are no longer part of the pipeline reserve, and subsection (4) of that section shall apply, *mutatis mutandis*, in respect of such cancellation.

#### **6 Protection of land used for pipeline**

(1) No person shall, without the consent in writing of the grantee—

- (a) erect any building or structure or plant any tree within the pipeline reserve; or
- (b) sink any well or borehole, dig any trench more than three hundred and seventy-five millimetres in depth or lay any pipe within the pipeline reserve; and in granting such consent the grantee may impose such terms and conditions as he considers to be necessary or desirable.

(2) Any person who is aggrieved by the refusal of the grantee to give any consent required by subsection (1) or by the terms and conditions imposed by the grantee in terms of subsection (1) may appeal in writing to the Minister, and if the Minister directs the grantee to give its consent or to vary the terms and conditions, the grantee shall forthwith comply with the direction of the Minister.

(3) Any person who contravenes subsection (1) or fails to comply with any terms and conditions fixed in terms of that subsection shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment, and on convicting any person of such offence the court may, in addition to imposing any penalty, order the removal of the building, structure, plant or pipe or the filling in of the well, borehole or trench, as the case may be.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(4) Any person who causes or attempts to cause damage to—

- (a) any pipeline or any pumping station or other ancillary works or installations; or
- (b) any storage tanks or other ancillary works or installations connected with a pipeline for goods conveyed or to be conveyed by means of the pipeline;

shall be guilty of an offence and liable to a fine not exceeding level nine or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

#### **7 Acquisition of Communal Land or right or interest therein**

Notwithstanding anything to the contrary contained in this Act, a grantee shall not have power to acquire, whether compulsorily or by agreement, any Communal Land or any right over or interest in Communal Land, otherwise than in accordance with the Communal Land Act [*Chapter 20:04*].

#### **8 Saving of right of resumption**

Nothing in this Act contained shall be deemed to affect such rights as may be held by the President to resume the ownership of any land.

## 9 Application of section 6 to existing pipeline

(1) The Minister may, by statutory instrument, declare that section *six* shall apply to a pipeline constructed before the 23rd October, 1970, for the conveyance of goods other than water, in which case— (a) the person operating the pipeline shall—

(i) lodge with the Registrar of Deeds a diagram signed by a land surveyor showing the pipeline reserve; and

(ii) be regarded as the grantee for the purposes of section *six*; and

(b) section *six* shall apply, *mutatis mutandis*, in relation to that pipeline with effect from the date of publication of the statutory instrument.

(2) On receipt of a diagram lodged in terms of subsection (2), the Registrar of Deeds shall cause a note of the extent of the pipeline reserve to be made in his register against the land affected and an endorsement on the office copy of the title deed and if at any time the original of the title deed is lodged in his registry for any purpose he shall cause a similar endorsement to be made thereon.

(3) The existence of an endorsement in terms of subsection (2) shall not debar the registered owner of the land from transferring or otherwise dealing with the land on the title deed whereof the endorsement appears.