

CHAPTER 13:07

MOZAMBIQUE-FERUKA PIPELINE ACT

Acts 41/1962, 22/1976, 48/1976, 4/1983; R.G.N. 553/1964.

AN ACT to authorize the Minister to grant authority for the construction and operation of one or more pipelines for the transportation of crude oil into Zimbabwe from the border between Zimbabwe and Mozambique; to confer and impose certain rights, powers and obligations upon the person, persons or body corporate to whom or to which such authority is granted; and to provide for other matters connected with or incidental to the foregoing.

[Date of commencement: 28th September, 1962.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Mozambique-Feruka Pipeline Act [*Chapter 13:07*].

2 Interpretation

In this Act—

“grantee” means a person or persons or a body corporate to whom or which an authority is granted under section *three*;

“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 the pipeline which is the subject of an authority granted under section *three*.

PART II

AUTHORITY TO CONSTRUCT PIPELINE

3 Minister may grant authority for construction of pipeline

(1) The Minister is hereby authorized to grant to any person, persons or body corporate authority to construct one or more pipelines for the transportation of crude oil from the border between Zimbabwe and Mozambique to the site of the oil refinery which is proposed to be constructed at or near Feruka in the district of Mutare.

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

- (a) the laying, construction, erection, improvement, ownership, operation and maintenance of the pipeline and all ancillary works and installations;
- (b) the manner in which the rate charged by the grantee for the transportation of the crude oil shall be determined and may be varied;
- (c) 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 terms and conditions upon which such transfer shall be made.

PART III

RIGHTS, POWERS AND OBLIGATIONS OF GRANTEE

4 Powers of grantee

(1) Subject to this Act, a grantee may, for the purpose of exercising the authority granted to him under section *three*—

- (a) in order to make surveys, tests or other examinations on any land, including inspections of the pipeline or any road after the construction thereof, exercise all the powers conferred upon a land surveyor by subsection (1) of section 50 of the Land Survey Act [*Chapter 20:12*], subject to the provisos thereto, subsection (2) of that section shall apply accordingly;

- (b) during a period commencing on the date of the grant of the authority under section *three* and ending twelve months after the date of completion of the construction of the pipeline, enter upon, take possession of, hold and retain so much land not exceeding a width throughout the length of the pipeline of fifty yards as may be necessary for the laying and construction of the pipeline;
- (c) from the date of the grant of the authority under section *three* and during the whole of the period of the authority, enter upon, take possession of, hold and retain such land for pumping stations, works, approaches, roads and bridges as may be necessary for or in connection with the construction, maintenance and operation of the pipeline;
- (d) from the end of the period mentioned in paragraph (b)—
 - (i) enter upon, take possession of, hold and retain such land not exceeding a width throughout the length of the pipeline of five yards;
 - (ii) for the purposes of repair or reconstruction, enter upon, take possession of, hold and retain so much land, not exceeding fifty yards in width along the whole or any portion of the length of the pipeline, for such period or periods as may be necessary for or in connection with such repair or reconstruction;
- (e) notwithstanding anything to the contrary contained in—
 - (i) the Urban Council Act [*Chapter 29:15*]; or
 - (ii) any scheme, master plan or local plan as defined in the Regional, Town and Country Planning Act [*Chapter 29:12*]; construct, erect and maintain buildings, houses, stations and other structures on or near the route of the pipeline.
- (f) have reasonable access to any land for the purposes of exercising any of the powers conferred by this Act

(2) No power may be exercised under paragraph (b), (c), (d) or (e) of subsection (1) without the written consent of the Minister.

5 Rights of way over land

(1) In lieu of taking possession of, holding and retaining any land under paragraph (b), (c) or (d) of subsection (1) of section *four*, a grantee may, subject to this Act, lay or construct the pipeline below the ground into, out of or across any land other than land covered by buildings.

(2) Before exercising the powers conferred upon it by subsection (1), the grantee shall serve on the owner of the land and any person lawfully occupying it or, in the case of a road, on the road authority concerned, notice of his intention, together with a plan showing the proposed route of the pipeline.

(3) If within twenty-eight days after the service of the notice the person to whom such notice has been given objects or fails to object or attaches to his consent any terms or conditions to which the grantee objects, the grantee shall refer the matter to the Minister for decision, and the Minister may make such order as he thinks fit: Provided that—

- (i) the Minister shall, before making any decision or order in terms of this subsection, give to all parties concerned an opportunity of making representations, either in person or in writing;
- (ii) any question as to an amount of compensation shall be decided as provided in section *six*.

(4) It shall not be necessary, before the exercise of the powers conferred by this section, that any proceedings shall be taken to settle the amount of compensation to be paid for or in respect of anything done in the exercise of such powers, but it shall be lawful for the grantee to exercise such powers leaving all questions as to the compensation to be paid therefor or in respect thereof to be settled afterwards in the manner provided by this Act.

(5) For the purposes of this section, the terms “road” and “road authority” have the meanings respectively assigned to them in the Roads Act [*Chapter 13:12*].

6 Compensation

The grantee shall pay compensation for any land or materials taken or used and any loss or damage incidentally caused in the exercise of the powers conferred by subsection (1) of section *four* or subsection (1) of section *five* and—

- (a) compensation payable in respect of the exercise of any of the powers conferred by paragraphs (a), (e) and (f) of subsection (1) of section *four* or subsection (1) of section *five* shall, in default of agreement, be determined by arbitration under the Arbitration Act [*Chapter 7:02*];
- (b) Parts III, V and VIII of the Land Acquisition Act [*Chapter 20:10*] shall apply, *mutatis mutandis*, in respect of the exercise of any of the powers conferred by paragraphs (b), (c) and (d) of subsection (1) of section *four*.

PART IV

GENERAL

7 Protection against mining

Subject to section 2 of the Mines and Minerals Act [*Chapter 21:05*], no person shall, notwithstanding the other provisions of that Act, exercise any mining rights whatsoever acquired on or after the 28th September, 1962, in

respect of any land which is owned, held or used by a grantee for the purpose of exercising the authority granted to him under section *three*.

8 Saving of President's right of resumption

Nothing in section *four* contained shall be deemed to affect such rights as may be held by the President to resume the ownership of any land referred to therein.