

BILL

No. 43

An Act to amend *The Pipelines Act, 1998*

(Assented to)

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

Short title

1 This Act may be cited as *The Pipelines Amendment Act, 2016*.

SS 1998 c P-12.1 amended

2 *The Pipelines Act, 1998* is amended in the manner set forth in this Act.

Section 2 amended

3 **Section 2 is amended:**

(a) **by repealing clause (a) and substituting the following:**

“(a) **‘approved’** means approved by the minister;

“(a.1) **‘board’** means the Oil and Gas Conservation Board established pursuant to *The Oil and Gas Conservation Act*”;

(b) **by adding the following clauses after clause (b):**

“(b.1) **‘directive’** means a directive approved pursuant to section 25.2 with respect to the licensing, construction, alteration, operation or abandonment of a pipeline, or the discontinuation of the operation of a pipeline;

“(b.2) **‘document’** means a notice, record, report or other document and includes a notice, record, report or other document in electronic form”; **and**

(c) **in subclause (j)(i):**

(i) **by striking out “or” after paragraph (C);**

(ii) **by adding “or” after paragraph (D); and**

(iii) **by adding the following paragraph after paragraph (D):**

“(E) any other prescribed substance”.

Section 3 amended

4 **Subsection 3(2) is amended:**

(a) **in the portion preceding clause (a) by striking out “Subject to subsection 6(2), this” and substituting “This”; and**

(b) **by repealing clause (d) and substituting the following:**

“(d) a prescribed pipeline or class of pipelines”.

Section 4 repealed

5 Section 4 is repealed.

New section 5

6 Section 5 is repealed and the following substituted:

“Licence

5(1) In this section, ‘**previously exempt pipeline**’ means a pipeline to which this Act applies:

- (a) that was previously exempted by regulation or by an order made pursuant to *The Pipe Lines Act* or this Act; and
- (b) the exemption for which is not continued in accordance with clause 3(2)(d).

(2) Subject to subsection (3), 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.

(3) On and after a prescribed date, all previously exempt pipelines must be the subject of a licence issued in accordance with this Act”.

Section 6 repealed

7 Section 6 is repealed.

New section 7

8 Section 7 is repealed and the following substituted:

“Application for licence

7 An applicant for a licence must:

- (a) apply to the minister in the approved form and manner;
- (b) provide the minister with any other information or material that the minister may reasonably require; and
- (c) provide evidence satisfactory to the minister that the applicant meets the prescribed eligibility requirements”.

Section 8 amended

9(1) Subsection 8(1) is amended:

(a) in the portion preceding clause (a) by striking out “Where” and substituting “If”; and

(b) in clause (a) by striking out “any manner that the minister considers appropriate” and substituting “the approved form and manner”.

(2) Subsection 8(2) is repealed and the following substituted:

“(2) The minister may:

- (a) issue a licence if the minister is satisfied that:
 - (i) the applicant has complied with this Act, the regulations and any applicable directives; and
 - (ii) it is in the public interest to do so; or
- (b) refuse to issue the licence”.

(3) Subsection 8(4) is amended by striking out “Where” and substituting “If”.

(4) Subsection 8(5) is amended in the portion preceding clause (a) by striking out “Where” and substituting “If”.

New section 10

10 Section 10 is repealed and the following substituted:

“Transfer of licence restricted

- 10(1)** No licence shall be transferred unless the transfer is approved.
- (2) A licence holder who intends to transfer a licence to another person shall:
- (a) apply to the minister in the approved form and manner; and
 - (b) provide the minister with any other information or material that the minister may reasonably require.
- (3) The minister may:
- (a) approve the transfer of the licence if the minister is satisfied that:
 - (i) the licence holder and the person to whom the licence is to be transferred have complied with this Act, the regulations and any applicable directive;
 - (ii) the person to whom the licence is to be transferred meets the prescribed eligibility requirements for an applicant for a licence; and
 - (iii) it is in the public interest to do so; or
 - (b) refuse to approve the transfer of the licence.
- (4) If the minister approves the transfer of the licence, the minister may amend the licence to include any terms and conditions that the minister considers appropriate.
- (5) If the minister refuses to approve the transfer of a licence pursuant to clause (3)(b), the minister shall provide the licence holder with written reasons for the refusal.
- (6) The minister shall not unreasonably withhold approval for the transfer of a licence.
- (7) On the transfer of a licence that is approved pursuant to clause (3)(a), the licence holder shall promptly transfer all prescribed records to the person to whom the licence is being transferred”.

New section 11

11 Section 11 is repealed and the following substituted:

“Notice of contravention

- 11** If a licence holder contravenes any provision of this Act, the regulations, a directive or any term or condition of the licence, the minister may serve written notice of the contravention on the licence holder, requiring the licence holder to remedy the contravention to the satisfaction of the minister within the period specified in the written notice”.

Section 12 amended

12(1) Subsection 12(1) is amended by striking out “where” and substituting “if”.

(2) Subsection 12(2) is amended by striking out “where” and substituting “if”.

(3) Subsection 12(3) is amended:

(a) in the portion preceding clause (a) by striking out “where” and substituting “if”;

(b) in clause (b) by striking out “time” and substituting “period”; and

(c) by repealing clause (c) and substituting the following:

“(c) the licence holder repeatedly contravenes one or more provisions of this Act, the regulations, a directive or a term or condition of the licence”.

(4) Subsection 12(5) is amended by striking out “Where” and substituting “If”.

Section 13 amended

13 Subsection 13(1) is amended in the portion preceding clause (a) by adding “for a licence for a pipeline other than a flowline” after “section 7”.

Section 15 amended

14 Subsection 15(2) is amended by striking out “A licence holder” and substituting “A holder of a licence for a pipeline other than a flowline”.

New section 20.1

15 The following section is added before section 21:

“Address for service

20.1(1) Every person who is the owner of a pipeline or who is a licence holder shall provide the minister with an address in Saskatchewan and an email address for service on that person of any document given or served pursuant to this Act, the regulations or a directive.

(2) Every person mentioned in subsection (1) who is not a resident of Saskatchewan shall have an agent in Saskatchewan and shall provide the minister with the agent’s name, address in Saskatchewan and email address for service on that person of any document given or served pursuant to this Act, the regulations or a directive”.

New section 21

16 Section 21 is repealed and the following substituted:

“Service

21(1) In this section, ‘business day’ means a day other than a Saturday, Sunday or holiday.

(2) Any document required by this Act, the regulations or a directive to be given or served may be given or served:

(a) by personal service;

(b) by ordinary or registered mail to the last known address of the person being served;

(c) by electronic means; or

(d) by any other prescribed means.

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- (3) A document served by ordinary mail or registered mail is deemed to have been received on the fifth business day following the day of its mailing, unless the person to whom it is mailed establishes that, through no fault of the person, the person did not receive it or that the person received it at a later date.
- (4) A document served by electronic means is deemed to have been received on the second business day after it is sent.
- (5) Service of a document to be sent by any other prescribed means is to be proved in the prescribed manner”.

Section 22 amended

17(1) Subsection 22(1) is amended by striking out “or the regulations” and substituting “, the regulations or a directive”.

(2) Subsection 22(2) is amended by striking out “form and at the times” and substituting “approved form and manner at the time”.

Section 23 amended

18 Subsection 23(1) is amended by striking out “or the regulations” and substituting “, the regulations or a directive”.

New sections 24.1 to 24.3

19 The following sections are added after section 24:

“Inspections and audits

24.1(1) In this section:

- (a) **‘property’** includes computer software;
- (b) **‘record’** includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media.
- (2) The minister may designate any person as an inspector for any or all of the following purposes:
- (a) determining whether a licence holder is in compliance with this Act, the regulations, a directive or the terms or conditions of a licence;
- (b) conducting a compliance audit of the practices of the licence holder in relation to the construction, alteration, operation or abandonment of pipelines, or the discontinuation of the operation of pipelines, owned by the licence holder that are subject to this Act;
- (c) determining the cause of any incident required to be reported to the minister pursuant to this Act, the regulations, a directive or the terms or conditions of a licence.
- (3) In carrying out the duties specified in subsection (2), an inspector may do all or any of the following:
- (a) enter any land or site where a pipeline is or was located, or any lands or sites affected by the pipeline;
- (b) enter at any reasonable time premises containing any records or property related to the design, construction, alteration, operation or abandonment of a pipeline, or the discontinuation of the operation of a pipeline, and inspect those records or that property;

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- (c) require any person and any agent, representative, partner, director, officer or employee of the person to:
 - (i) answer any questions that may be relevant to the inspection or audit; and
 - (ii) provide the inspector with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;
 - (d) take any samples or carry out any tests or examinations that the inspector considers necessary while at any of the places or premises mentioned in clause (a) or (b);
 - (e) use any machinery, equipment, appliance or thing that the inspector considers necessary while at any of the places or premises mentioned in clause (a) or (b);
 - (f) in order to produce information, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used in connection with the business or activities of any person governed by this Act, the regulations, a directive or the terms or conditions of a licence;
 - (g) remove for examination and copying anything that may be relevant to the inspection or audit, including removing any computer hardware or software or any other data storage, processing or retrieval device or system in order to produce information.

“Immunity

24.2 No action or proceeding lies or shall be commenced against the Crown in right of Saskatchewan, the minister or any officer, employee or agent of the Crown in right of Saskatchewan where that person is acting pursuant to the authority of this Act, the regulations or a directive, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act, the regulations or a directive or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act, the regulations or a directive.

“Continuing liability

24.3 The abandonment of a pipeline does not relieve the licence holder from the responsibility for further abandonment or other work with respect to the pipeline that the minister determines to be necessary to protect the public health or safety or the environment”.

Section 25 amended

20(1) Subsection 25(1) is amended:

- (a) in clause (b) by striking out “person, any pipeline or any portion of a” and substituting “pipeline or class of”;**
- (b) by adding the following clause after clause (f):**
 - “(f.1) requiring financial assurance in the form and manner acceptable to the minister”;

(c) by adding the following clause after clause (h):

“(h.1) requiring plans for responding to the release of oil or any other substance that is transmitted in a pipeline from the pipeline, including establishing standards for the preparation of those plans”; **and**

(d) in clause (r) by striking out “or the regulations” and substituting “, the regulations or a directive”.

(2) Subsection 25(2) is amended by striking out “code, standard or law, and may require compliance with any code, standard or law so adopted” and substituting “rule, guideline, requirement, code or standard, and may require compliance with the adopted rule, guideline, requirement, code or standard”.

New section 25.2

21 The following section is added after section 25.1:

“Directives

25.2(1) Subject to the approval of the Lieutenant Governor in Council, the minister may approve directives with respect to any of the matters mentioned in clauses 25(1)(e), (g), (h), (h.1), (j) to (p), (r), (t) and (v).

(2) A directive approved in accordance with subsection (1) may adopt by reference, in whole or in part, as amended from time to time or otherwise, any relevant rule, guideline, requirement, code or standard, and may require compliance with the adopted directive.

(3) A directive approved pursuant to subsection (1):

- (a) must be published on the ministry’s website; and
- (b) is effective on the date of publication.

(4) A directive prevails if there is any conflict between a directive made pursuant to this section and a regulation made pursuant to section 25”.

Section 26 amended

22 Clause 26(3)(a) is amended by striking out “or published in the Gazette” and substituting “and published on the ministry’s website”.

New sections 27 to 29

23 Sections 27 to 29 are repealed and the following substituted:

“Offences

27(1) In this section and sections 28, 29 and 30.1, ‘Act’ means this Act, the regulations, a directive, the terms or conditions of a licence, a notice served pursuant to section 11 or an order made pursuant to this Act.

(2) No person shall:

- (a) make or cause to be made a false statement or provide false information to the minister or any person acting on behalf of the minister in any document or other form of communication required pursuant to this Act;
- (b) omit or cause to be omitted full, true and correct information in any document or other form of communication required pursuant to this Act;
- (c) omit to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the minister or any person acting on behalf of the minister;

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- (d) destroy, mutilate, alter, falsify or remove from Saskatchewan any document or other form of communication required by this Act or cause any information to be destroyed, mutilated, altered, falsified or removed from Saskatchewan;
- (e) obstruct or interfere with the minister or any person acting on behalf of the minister in the exercise of any of the powers conferred by this Act;
- (f) wilfully do any damage to, or obstruct or hinder the construction, alteration, operation or maintenance of, any pipeline; or
- (g) contravene any other provision of this Act.
- (3) Every person who contravenes any provision of subsection (2) is guilty of an offence and liable on summary conviction:
- (a) in the case of an individual, to a fine of not more than \$500,000 for each day or part of a day during which the offence continues, to imprisonment for a term of not more than one year or to both; and
- (b) in the case of a corporation, to a fine of not more than \$500,000 for each day or part of a day during which the offence continues.
- (4) If a person is convicted of an offence pursuant to subsection (3) and the convicting court is satisfied that as a result of the commission of the offence monetary benefits accrued to the convicted person, the convicting court may order the convicted person to pay, in addition to a fine pursuant to subsection (3), a fine in an amount equal to that court's estimation of the amount of those monetary benefits.
- (5) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for that offence whether or not the corporation has been prosecuted or convicted.

“Vicarious liability

28 In any prosecution of a person for a contravention of this Act, it is sufficient proof of the offence to establish, in the absence of any evidence that the offence was committed without the person's knowledge, that it was committed by an employee, helper or agent of the person, whether or not the employee, helper or agent:

- (a) is identified; or
- (b) has been prosecuted or convicted for the offence.

“Limitation on prosecution

29 No prosecution for an alleged contravention of this Act shall be commenced more than three years after the facts on which the alleged contravention is based first came to the knowledge of the minister”.

Section 30 repealed

24 Section 30 is repealed.

New sections 30.1 and 30.2**25 The following sections are added before section 31:****“Administrative penalty**

30.1(1) The minister may assess a penalty in the prescribed amount against any person for prescribed contraventions of this Act.

- (2) Before assessing a penalty, the minister shall provide notice to the person:
 - (a) setting out the facts and circumstances that, in the minister’s opinion, render the person liable to a penalty;
 - (b) specifying the amount of the penalty that the minister considers appropriate in the circumstances; and
 - (c) informing the person of the person’s right to make representations to the minister.
- (3) No penalty is to be assessed by the minister more than three years after the day on which the act or omission that renders the person liable to a penalty first came to the knowledge of the minister.
- (4) A person to whom notice is sent pursuant to subsection (2) may make representations to the minister respecting whether or not a penalty should be assessed and the amount of any penalty.
- (5) Representations pursuant to subsection (4) must be made within 30 days after the person received the notice pursuant to subsection (2).
- (6) After considering any representations, the minister may:
 - (a) assess a penalty and set a date by which the penalty is to be paid in full; or
 - (b) determine that no penalty should be assessed.
- (7) The minister shall serve a copy of his or her decision pursuant to subsection (6) on the person who made the representations.
- (8) The minister may file in the Court of Queen’s Bench a certificate signed by the minister and setting out:
 - (a) the amount of the penalty assessed pursuant to subsection (6); and
 - (b) the person from whom the penalty is to be recovered.
- (9) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen’s Bench for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.
- (10) The minister may assess a penalty pursuant to this section notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, helper, contractor or agent of the person required to pay the penalty.

“Appeal to Court of Queen’s Bench re administrative penalty

30.2(1) Any person aggrieved by a decision of the minister to impose a penalty pursuant to section 30.1 may appeal that decision on a question of law to a judge of the Court of Queen’s Bench within 30 days after the date of service of the minister’s decision.

(2) The record of an appeal pursuant to subsection (1) consists of:

- (a) the minister’s decision;
- (b) any written representations made to the minister by the person named in the decision;
- (c) the notice of appeal commencing the appeal;
- (d) any other prescribed documents or material; and
- (e) any other material that the Court of Queen’s Bench may require.

(3) On hearing an appeal pursuant to this section, the judge of the Court of Queen’s Bench may issue an order:

- (a) confirming the penalty;
- (b) amending the amount of the penalty; or
- (c) quashing the minister’s decision to assess a penalty.

(4) In an order pursuant to subsection (3), the judge of the Court of Queen’s Bench may specify the period within which the order must be complied with”.

Coming into force

26 This Act comes into force on proclamation.

FIRST SESSION
Twenty-eighth Legislature
SASKATCHEWAN

B I L L

No. 43

An Act to amend *The Pipelines Act, 1998*

Received and read the

First time

Second time

Third time

And passed

Honourable Dustin Duncan
