

South Australia

# **Petroleum Products Regulation Act 1995**

An Act to regulate the sale of petroleum products; and for other purposes.

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## Legislative history

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### **The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Petroleum Products Regulation Act 1995*.

### **4—Interpretation**

- (1) In this Act, unless the contrary intention appears—

*authorised officer* means an authorised officer under Part 8;

*Commissioner* means the person for the time being holding or acting in the position of the Commissioner of State Taxation or a position of Deputy Commissioner of State Taxation and any other person performing any of the duties or functions of the Commissioner of State Taxation or a Deputy Commissioner of State Taxation;

**Commonwealth customs duty** means customs duty on petroleum products payable under the *Customs Tariff Act 1995* of the Commonwealth, or other legislation of the Commonwealth prescribed under this Act;

**Commonwealth excise duty** means excise duty on petroleum products payable under the *Excise Tariff Act 1921* of the Commonwealth, or other legislation of the Commonwealth prescribed under this Act;

**condition**, in relation to a licence or permit, includes a limitation or restriction;

**contravention** includes failure to comply with a requirement;

**corresponding law** means a law of another State, or of a Territory, of the Commonwealth declared by regulation to be a corresponding law for the purposes of this Act;

**diesel fuel** means a petroleum or shale product used or capable of being used in propelling a diesel engined road vehicle, but does not include a prescribed substance;

**eligible petroleum products** means petroleum products on which Commonwealth customs or excise duty has been paid or is payable but does not include petroleum products prepared by mixture of a petroleum product on which such duty has been paid or is payable with a petroleum product on which such duty has not been paid nor is payable;

**licence** means a licence under Part 2;

**licensee** means the holder of a licence under Part 2;

**liquefied petroleum gas** means a hydrocarbon fluid composed predominantly of any of the following hydrocarbons or mixtures of all or any of them:

- (a) propane (C<sub>3</sub>H<sub>8</sub>);
- (b) propylene (C<sub>3</sub>H<sub>6</sub>);
- (c) butane (C<sub>4</sub>H<sub>10</sub>);
- (d) butylene (C<sub>4</sub>H<sub>8</sub>);

**motor spirit** means petrol or other petroleum or shale spirit having a closed-cup flash point of less than 23° Celsius when tested by the Abel method as set out in Part 1 of Australian Standard 2106 "Determination of the Flash Point of Flammable Liquids (Closed Cup)", but does not include—

- (a) solvents; or
- (b) special boiling point spirits; or
- (c) liquefied petroleum gas; or
- (d) any prescribed substance;

**period of restriction** means a period declared by proclamation under Part 5 to be a period of restriction (whether or not it is also a rationing period);

**permit** means a permit under Part 5;

**permit holder** means a person to whom a permit is issued under Part 5;

**petroleum product** means—

- (a) motor spirit; or

- (b) diesel fuel; or
- (c) liquefied petroleum gas; or
- (d) any other substance declared by regulation to be a petroleum product;

*premises* includes any place or vehicle;

*rationed petroleum product* means a petroleum product of a kind declared by proclamation under Part 5 to be rationed petroleum products;

*rationing period* means a period of restriction declared by proclamation under Part 5 to be a rationing period;

*record* includes any book, document or writing and any other source of information compiled, recorded or stored by computer, microfilm or other process, or in any other manner or by any other means;

*retail licence* means a licence under Part 2 that authorises retail sales of petroleum products;

*retail sale* means a sale in a retail quantity for the purposes of use or consumption, and its correlatives and derivatives have corresponding meanings;

*unleaded petrol* means petrol that—

- (a) does not contain more than 0.013 grams of lead; and
- (b) does not contain more than 0.0013 grams of phosphorus,

per litre;

*vehicle* includes any kind of aircraft or vessel;

*venting machine* means a machine constructed to dispense petroleum products on the insertion into the machine of money or a token, card, disk or other object;

*wholesale* means a sale other than a retail sale;

*wholesale licence* means a licence under Part 2 that authorises the sale of petroleum products by wholesale.

- (2) In this Act, a reference to a Commonwealth Act includes a reference to—
  - (a) that Commonwealth Act as amended and in force for the time being; and
  - (b) an Act enacted in substitution for that Act.

#### **4A—Retail quantity**

- (1) Subject to this section, for the purposes of this Act *retail quantity* in relation to petroleum products means a quantity not exceeding 3 000 litres or, if some other quantity is prescribed by regulation, that quantity.
- (2) However, a quantity of petroleum products is not a retail quantity unless it is delivered at a fixed site by a metered pump into—
  - (a) a running tank of a vehicle; or
  - (b) a container that has a capacity of less than 250 litres.
- (3) The regulations may prescribe different quantities for different types of petroleum products.

#### **4D—Notional sale and purchase**

The regulations may declare that, for the purposes of a specified provision of this Act, a sale and purchase of petroleum products is to be taken to occur in specified circumstances where petroleum products are delivered or allocated for sale or consumption.

#### **6—Application of Act**

- (1) The Minister may, by notice published in the Gazette—
  - (a) exempt a class of persons or petroleum products from the application of this Act or a specified provision of this Act unconditionally or subject to specified conditions; and
  - (b) vary or revoke a notice under this subsection.
- (2) The Minister may, by notice in writing to a person—
  - (a) exempt the person from the application of this Act or a specified provision of this Act unconditionally or subject to specified conditions; and
  - (b) vary or revoke a notice under this subsection.

#### **7—Non-derogation**

- (1) The provisions of this Act are in addition to and do not derogate from the provisions of any other Act.

### **Part 2—Licences**

#### **8—Requirement for licence**

A person must not sell petroleum products by retail sale or wholesale unless authorised to do so under a licence.

Maximum penalty: \$10 000.

#### **9—Issue or renewal of licence**

- (1) The Minister may, on application by a person, issue or renew, or refuse to issue or renew, a licence under this Act.
- (3) The Minister may, if he or she thinks fit, renew a licence despite the fact that application for renewal of the licence was made after the end of the previous term of the licence.

#### **10—Licence term etc**

- (2) Subject to this Act, a licence expires on the second anniversary of the date of its issue and may be renewed on application for successive terms of 2 years.
- (3) A licence has effect, on issue or renewal, from the date specified in the licence for that purpose which may be earlier than the date of application for the issue or renewal of the licence.
- (4) The holder of a licence may, at any time, by notice in writing to the Minister, surrender the licence, at which time the licence ceases to have effect.

- (5) A licence is not transferable except by way of variation of the licence under section 12.

### **11—Conditions of licence**

- (1) The Minister may fix conditions of a licence.
- (2) Without limiting subsection (1), licence conditions may include the following:
- (f) conditions limiting the premises that may be used under the licence;
  - (g) conditions limiting sales of petroleum products that may be authorised by the licence;
  - (gb) conditions as to the terms that any contract for the sale of eligible petroleum products entered into between a licensee who is a manufacturer or importer of petroleum products and any purchaser must contain in relation to the time of payment for that component of the sale price of the petroleum products that is referable to the Commonwealth excise or customs duty paid or payable by the manufacturer or importer, as the case may be;
  - (h) conditions requiring the keeping of records and the provision of information;
  - (i) conditions authorised or fixed by Part 5 or the regulations.

### **12—Variation of licence**

- (1) The Minister may, on application or at the Minister's own initiative, substitute, add, remove or vary a condition of a licence or otherwise vary a licence.
- (2) Without limiting subsection (1)—
- (a) the Minister may vary a licence by substituting another person as the licensee;
  - (b) the Minister may vary a licence on the Minister's own initiative if satisfied that the licensee has contravened or failed to comply with this Act or that other sufficient cause exists.
- (3) A licence may be varied—
- (a) by endorsement of the licence; or
  - (b) by notice in writing to the licensee; or
  - (c) by a notice published under Part 5.

### **13—Form of application and licence fee**

- (1) An application for the issue, renewal or variation of a licence must be made to the Minister in a manner and form approved by the Minister and contain the information required by the Minister.
- (2) An applicant must provide any further information that the Minister reasonably requires for the purposes of determining the application.
- (3) An application may not be granted except on payment of the appropriate fee under the regulations.

## 17—Offence relating to licence conditions

A licensee must not contravene or fail to comply with a condition of the licence.

Maximum penalty: \$10 000.

## 18—Cancellation or suspension of licence

The Minister may, if satisfied that a licensee has contravened or failed to comply with this Act or that other sufficient cause exists, suspend or cancel the licence.

# Part 5—Periods of restriction and rationing

## Division 1—Interpretation

### 32—Interpretation

In this Part, unless the contrary intention appears—

*sale* includes—

- (a) barter or exchange;
- (b) offer or agreement to sell, barter or exchange;
- (c) delivery in pursuance of sale, barter or exchange,

and *sell* and *purchase* have corresponding meanings.

## Division 2—Declaration of periods of restriction and rationing

### 33—Declaration of periods of restriction and rationing

- (1) If, in the opinion of the Governor, circumstances have arisen, or are likely to arise, that have caused, or are likely to cause, shortages of petroleum products in the State, the Governor may—
  - (a) by proclamation, declare a period (commencing on the date of the proclamation, or some specified later date, and extending for not more than seven days) to be a period of restriction; and
  - (b) if the Governor thinks fit, by the same or a subsequent proclamation—
    - (i) declare that the period of restriction will, as from its commencement, or some specified later date, be a rationing period; and
    - (ii) declare petroleum products of specified kinds to be rationed petroleum products.
- (2) The Governor may, by proclamation—
  - (a) extend a period of restriction for successive periods (each not to exceed seven days) but not so that the total period exceeds 28 days; or
  - (b) extend a period of restriction by such other period or periods as may be authorised by a resolution of both Houses of Parliament; or
  - (c) vary or revoke a declaration under subsection (1)(b); or
  - (d) revoke a proclamation under this section.

- (3) A period of restriction that has been declared to be a rationing period continues to be a rationing period during any extension of the period of restriction unless the declaration by virtue of which it became a rationing period is revoked.
- (4) Where a period of restriction expires, no subsequent period may be declared to be a period of restriction unless—
  - (a) that subsequent period commences 14 days or more after the expiration of the former period of restriction; or
  - (b) the declaration is authorised by a resolution of both Houses of Parliament.

### **Division 3—Controls during periods of restriction**

#### **34—Controls during periods of restriction**

- (1) The Minister may, if of the opinion that it is in the public interest to do so—
  - (a) fix conditions of licences; and
  - (b) issue directions,that apply during a period of restriction in relation to petroleum products.
- (2) Without limiting the effect of subsection (1), licence conditions or directions may—
  - (a) fix maximum prices in relation to classes of sales of petroleum products; or
  - (b) prohibit sales of petroleum products.
- (3) Licence conditions or directions under this section may relate to petroleum products generally, or to petroleum products of a specified kind.
- (4) Licence conditions under this section—
  - (a) may apply to—
    - (i) a particular licence; or
    - (ii) a particular class of licences; and
  - (b) if applying to a class of licences—may be fixed by notice published in the Gazette or in a newspaper circulating generally throughout the State.
- (5) Directions under this section—
  - (a) may apply to—
    - (i) a particular person; or
    - (ii) a particular class of persons; or
    - (iii) the public generally; and
  - (b) if applying to—
    - (i) a particular person—may be issued by notice in writing to the person; or
    - (ii) a particular class of persons or the public generally—may be issued by notice published in the Gazette or in a newspaper circulating generally throughout the State.

- (6) A person to whom a direction is issued under this section must not contravene or fail to comply with the direction.
- Maximum penalty:
- (a) in the case of a body corporate—\$250 000;
  - (b) in the case of a natural person—\$10 000.
- (7) A licence condition or direction under this section—
- (a) does not operate after the end of the period of restriction in relation to which it was fixed or issued; and
  - (b) may be varied or revoked by the Minister in the manner in which it was fixed or issued.
- (8) The Minister may, if of the opinion that it is just to do so, compensate a licensee or person who has incurred expenses in complying with a condition or direction under this section.

## **Division 4—Controls during rationing periods**

### **35—Controls during rationing periods**

- (1) During a rationing period a person must not sell rationed petroleum products except to a permit holder.
- Maximum penalty:
- (a) in the case of a body corporate—\$250 000;
  - (b) in the case of a natural person—\$10 000.
- (2) During a rationing period a person must not purchase rationed petroleum products unless the person is a permit holder.
- Maximum penalty:
- (a) in the case of a body corporate—\$250 000;
  - (b) in the case of a natural person—\$10 000.
- (3) This section does not apply to the sale of rationed petroleum products to, or the purchase of rationed petroleum products by, a person in the ordinary course of carrying on a business of selling petroleum products.

### **36—Permits**

- (1) The Minister may, if satisfied that it is in the public interest to do so, issue a permit to any person.
- (2) The Minister may fix conditions of a permit as the Minister thinks fit.
- (3) Without limiting the effect of subsection (2), permit conditions may limit the quantity or value of rationed petroleum products that may be purchased under the permit—
- (a) by reference to stipulated maxima; or
  - (b) by reference to coupons to be given by the permit holder on purchasing rationed petroleum products; or
  - (c) by any other means of limitation.

- (4) It is a condition of a permit that the permit holder must carry the permit at all times when driving a motor vehicle to which petroleum products have been supplied under the permit.
- (5) A permit holder must not contravene or fail to comply with a condition of the permit.  
Maximum penalty:
  - (a) in the case of a body corporate—\$250 000;
  - (b) in the case of a natural person—\$10 000.
- (6) The Minister may by notice in writing served on a permit holder cancel the permit.
- (7) On cancellation of a permit, the former permit holder must return the permit to the Minister or a person nominated by the Minister.  
Maximum penalty:
  - (a) in the case of a body corporate—\$250 000;
  - (b) in the case of a natural person—\$10 000.
- (8) A permit is not transferable.

## **Division 5—Limit on proceedings against Minister**

### **37—Limit on proceedings against Minister**

Except as provided by Part 9, no proceedings can be instituted against the Minister to compel the Minister to take, or to refrain from taking, any action under this Part.

## **Division 6—Conservation of petroleum products**

### **38—Publication of desirable principles for conserving petroleum**

- (1) The Minister may publish, by notice in the Gazette and in a newspaper circulating generally throughout the State, principles that the public should, in the Minister's opinion, be encouraged to observe in relation to the conservation of petroleum products during a period of restriction.
- (2) If, during a period of restriction, a person, by conforming with principles published under subsection (1), commits a breach of a policy of insurance, that breach is, for the purpose of determining the rights of that person under the policy, to be disregarded.

### **39—Special consideration to be given to those living in country areas**

In exercising powers under this Part, the Minister must give special consideration to the needs of those living in country areas of this State.

## **Part 8—Authorised officers**

### **42—Appointment of authorised officers**

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) An appointment may be made subject to conditions specified in the instrument of appointment.

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- (3) The Minister may, at any time, revoke an appointment or vary, revoke or add a condition of an appointment.
  - (4) All members of the police force and authorised officers under the *Taxation Administration Act 1996* are authorised officers for the purposes of this Act.

#### **43—Identification of authorised officers**

- (1) An authorised officer, other than a member of the police force, must be issued with an identity card—
  - (a) containing the person's name and a photograph of the person; and
  - (b) stating that the person is an authorised officer for the purposes of this Act.
- (2) Where the powers of an authorised officer have been limited by conditions under this Part, the identity card issued to the authorised officer must contain a statement of the limitation on the officer's powers.
- (3) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for the inspection of the person—
  - (a) in the case of an authorised officer who is a member of the police force and is not in uniform—his or her certificate of authority; or
  - (b) in the case of an authorised officer who is not a member of the police force—his or her identity card.

#### **44—Powers of authorised officers**

- (1) Subject to this Part, an authorised officer may—
  - (a) enter and remain on premises and inspect premises for any reasonable purpose connected with the administration or enforcement of this Act;
  - (b) with the authority of a warrant issued under this Part or in circumstances in which the authorised officer reasonably believes that immediate action is required, use reasonable force to break into or open any part of, or anything in or on premises;
  - (d) require a person to produce a record, including a written record that reproduces in an understandable form information stored by computer, microfilm or other process, as reasonably required in connection with the administration or enforcement of this Act;
  - (e) examine, copy or take extracts from a record, or require a person to provide a copy of a record, as reasonably required in connection with the administration or enforcement of this Act;
  - (f) remove and retain a record for so long as is reasonably necessary for the purpose of making a copy of the record;
  - (g) take photographs, films, audio, video or other recordings as reasonably required in connection with the administration or enforcement of this Act;
  - (j) require a person who the authorised officer reasonably suspects has committed, is committing or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity;

- (k) require a person who the authorised officer reasonably suspects has knowledge of matters in respect of which information is reasonably required for the administration or enforcement of this Act to answer questions in relation to those matters;
  - (l) require a person holding or required to hold a licence or permit to produce it for inspection;
  - (m) give directions reasonably required in connection with the exercise of a power conferred by this subsection or otherwise in connection with the administration or enforcement of this Act.
- (2) A magistrate may issue a warrant for the purposes of subsection (1) if satisfied that the warrant is reasonably required for the administration or enforcement of this Act.
- (3) In the exercise of powers under this Act an authorised officer may be assisted by such persons as he or she considers necessary in the circumstances.
- (4) An authorised officer may require an occupier of any place to give to the authorised officer or a person assisting the authorised officer such assistance as is reasonably required by the authorised officer for the effective exercise of powers conferred by this Act.

#### **45—Offence to hinder etc authorised officers**

A person who—

- (a) hinders or obstructs an authorised officer, or a person assisting an authorised officer, in the exercise of powers conferred by this Act; or
  - (b) uses abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer; or
  - (c) refuses or fails to comply with a requirement or direction of an authorised officer under this Part; or
  - (d) when required by an authorised officer under this Part to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information and belief; or
  - (e) falsely represents, by words or conduct, that he or she is an authorised officer,
- is guilty of an offence.

Maximum penalty: \$5 000.

#### **46—Self-incrimination**

- (1) It is not an excuse for a person to refuse or fail to answer a question or to produce, or provide a copy of, a record or information as required under this Part on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

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- (2) If compliance by a person with a requirement to answer a question or to produce, or provide a copy of, a record or information might tend to incriminate the person or make the person liable to a penalty, then—
- (a) in the case of a person who is required to produce, or provide a copy of, a record or information—the fact of production, or provision of a copy of, the record or the information (as distinct from the contents of the record or the information); or
  - (b) in any other case—the answer given in compliance with the requirement, is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings under this Act).

## Part 9—Appeals

### 47—Appeals

- (1) An appeal to the Administrative and Disciplinary Division of the District Court may be made—
- (a) by an applicant for the issue, renewal or variation of a licence against a decision by the Minister to refuse to issue, renew or vary the licence; or
  - (b) by an applicant for the issue of a permit against a decision by the Minister to refuse to issue the permit; or
  - (c) by a licensee against a decision by the Minister to vary, suspend or cancel the licence; or
  - (d) by a permit holder against a decision by the Minister to cancel the permit.
- (3) If the Minister or Commissioner does not give reasons in writing for a decision of the Minister or Commissioner referred to in subsection (1) when the decision is made, the Minister or Commissioner must do so on request made by the applicant, licensee or permit holder within one month of the making of the decision.
- (5) An appeal must be instituted—
- (a) in the case of an appeal against a decision of the Minister or a decision of the Commissioner (other than a decision of a kind referred to in subsection (4))—
    - (i) within one month of the making of the decision being appealed against; or
    - (ii) if a request for reasons in writing for the decision has been made under subsection (3)—within one month of the receipt of the reasons in writing; or
  - (b) in the case of an appeal against a decision of the Commissioner of a kind referred to in subsection (4)—
    - (i) within one month of receipt of notice of determination of the objection; or
    - (ii) if the Commissioner has not given a determination as referred to in subsection (4)—within two months of the lodging of the objection.

- (7) A decision to—
- (a) vary, suspend or cancel a licence; or
  - (c) cancel a permit,
- is suspended pending determination of an appeal against the decision.

## **Part 11—Miscellaneous**

### **49—Delegation**

- (1) The Minister may delegate any of the Minister's powers or functions under this Act to—
- (a) another Minister; or
  - (b) the Commissioner; or
  - (c) any person or body.
- (2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (3) A delegation under this section—
- (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the delegator to act in any matter; and
  - (d) is revocable at will by the delegator.

### **50—Register**

- (1) The Minister must cause a register to be kept of licensees under Part 2.
- (2) The register must be kept available for public inspection at a place approved by the Minister during ordinary office hours.

### **51—Particulars of dealings with petroleum products**

- (1) The Minister or the Commissioner may, by notice in writing, require—
- (a) a person who is carrying on, or has carried on, or is or was concerned in, a business involving or related to petroleum products;
  - (b) a person who, as agent or employee of a person referred to in paragraph (a), has or has had duties or provides or has provided services in connection with a business so referred to,
- to furnish in writing, within the period specified in the notice or such further period as the Minister or Commissioner may allow, such information with respect to those petroleum products as is specified in the notice, not being information relating to any period after the date of the requirement.
- (2) A person who fails to comply with a requirement under subsection (1) is guilty of an offence.
- Maximum penalty: \$5 000.

## 52—Records to be kept of bulk transport of petroleum products

Where a quantity of petroleum products other than a retail quantity is being transported in the State by road in a vehicle (whether with or without any other goods), the person transporting the petroleum products must, while so transporting them, carry in the vehicle at all times a record containing the prescribed particulars.

Maximum penalty: \$2 500.

Expiation fee: \$200.

## 53—Records to be kept

- (1) A person who carries on a business involving or related to petroleum products must keep accounts, invoices, receipts, records, books and documents as required by the Minister from time to time by notice published in the Gazette for a period of five years after the last entry is made in any of the accounts, invoices, receipts, records, books or documents.

Maximum penalty: \$2 500.

Expiation fee: \$200.

- (2) This section does not apply so as to require the preservation of any accounts, invoices, receipts, records, books or documents—
- (a) in respect of which the Minister has notified the person carrying on the business that preservation is not required; or
  - (b) of a body corporate that has gone into liquidation and been finally dissolved.

- (3) A person who purchases petroleum products pursuant to a certificate must keep invoices, receipts, records, books and documents as required by the Minister from time to time by notice published in the Gazette for a period of five years after the last entry is made in any of the records, receipts, books or documents.

Maximum penalty: \$2 500.

Expiation fee: \$200.

- (4) In subsection (3)—

*certificate* means a bulk end user certificate issued by the Commissioner under Part 2A of this Act before the repeal of that Part by the *Statutes Amendment (Budget 2010) Act 2010*.

## 53A—Falsely claiming to hold licence or permit etc

A person must not falsely claim or purport to be the holder of a licence or permit.

Maximum penalty: \$10 000.

## 54—False or misleading information

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information furnished, or record kept, under this Act.

Maximum penalty: \$5 000.

## 55—Statutory declarations

Where a person is required by or under this Act to furnish information to the Minister or the Commissioner, the Minister or the Commissioner may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have furnished the information as required unless it has been verified in accordance with the requirements of the Minister or the Commissioner.

## 56—Confidentiality

- (1) A person who is or has been engaged in the administration of this Act must not disclose any information obtained (whether by that person or some other person) under or in relation to the administration of this Act, except as permitted by this section.  
Maximum penalty: \$10 000.
- (2) A person who is or has been engaged in the administration of this Act may disclose information obtained (whether by that person or some other person) under or in relation to the administration of this Act—
  - (a) as authorised by or under this Act; or
  - (b) with the consent of the person from whom the information was obtained or to whom the information relates; or
  - (c) in connection with the administration or enforcement of this Act or a corresponding law; or
  - (d) for the purpose of any legal proceedings arising out of the administration or enforcement of this Act or a corresponding law; or
  - (e) to the holder of a prescribed office or a prescribed body established under a law of this jurisdiction or another Australian jurisdiction; or
  - (f) as authorised under the regulations.
- (3) The Minister or the Commissioner may disclose information obtained under or in relation to the administration of this Act that does not directly or indirectly identify a particular licensee or any particular person to whom a regulatory scheme under this Act applies.
- (4) A person other than a person who is or has been engaged in the administration of this Act must not disclose information that—
  - (a) has been obtained (whether properly or improperly and whether directly or indirectly) from another person who is or has been engaged in the administration of this Act; and
  - (b) the other person obtained under or in relation to the administration of this Act,unless—
  - (c) the disclosure is of a kind that a person who is or has been engaged in the administration of this Act would be permitted to make under this section; or

- 
- (d) if the person is a prescribed office holder or body under a law of this jurisdiction or another Australian jurisdiction—the disclosure is made in connection with the performance of functions conferred or imposed on the person under a law of this jurisdiction or another Australian jurisdiction (including for the purposes of legal proceedings connected with the performance of such functions); or
  - (e) the disclosure is made with the consent of the Minister or the Commissioner.
- Maximum penalty: \$10 000.
- (5) A court does not have power to require a disclosure of information contrary to this section.

### 57—General defence

It is a defence to a charge of an offence against this Act if the defendant proves that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

### 60—Continuing offence

- (1) A person convicted of an offence against a provision of this Act in respect of a continuing act or omission—
  - (a) is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued of not more than one-tenth of the maximum penalty prescribed for that offence; and
  - (b) is, if the act or omission continues after the conviction, guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than one-tenth of the maximum penalty prescribed for the offence.
- (2) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

### 61—Prosecutions

- (1) Proceedings for an offence against this Act must be commenced—
  - (a) in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*;
  - (b) in any other case—within two years after the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within five years after that date.
- (2) A prosecution for an offence against this Act cannot be commenced except with the consent of the Minister.
- (3) In any proceedings, an apparently genuine document purporting to be a certificate of the Minister, certifying authorisation of, or consent to, a prosecution for an offence against this Act will be accepted, in the absence of proof to the contrary, as proof of the authorisation or consent.

## 62—Evidence

- (1) In any proceedings for an offence against this Act, an apparently genuine document purporting to be a certificate of the Minister certifying—
- (a) that a person is an authorised officer or was an authorised officer at a specified date; or
  - (b) that a person was or was not the holder of a licence of a specified kind at a specified date; or
  - (c) that a person was or was not the holder of a permit at a specified date; or
  - (ca) that a person was or was not the holder of a certificate of a specified kind at a specified date; or
  - (d) that a specified period is or was a period of restriction or a rationing period; or
  - (e) that a specified substance—
    - (i) is or was a petroleum product of a specified kind; or
    - (ii) was, on a specified date, a rationed petroleum product,
- constitutes proof of the matters so certified in the absence of proof to the contrary.

- (1a) In subsection (1)(ca)—

*certificate* means a bulk end user certificate issued by the Commissioner under Part 2A of this Act before the repeal of that Part by the *Statutes Amendment (Budget 2010) Act 2010*.

- (2) The presence on any premises of a vending machine from which petroleum products may be obtained is to be taken to constitute conclusive evidence that the occupier of the premises has sold petroleum products by means of the machine unless a licensee is authorised by licence to sell petroleum products by means of the machine.

## 63—Service

- (1) A notice, order or other document to be given to or served on a person under this Act may be given or served—
- (a) by delivering it personally to the person or an agent of the person; or
  - (b) by leaving it for the person at the person's place of residence or business with someone apparently over the age of 16 years; or
  - (c) by posting it to the person or agent of the person at the person's or agent's last known place of residence or business.
- (2) Without limiting the effect of subsection (1), a notice, order or other document required or authorised to be given to or served on a person may—
- (a) if the person is the holder of a licence or a permit under this Act—given to or served on the person—
    - (i) by posting it to the person at the address last provided by the person for that purpose; or
    - (ii) by transmitting it to the person by facsimile transmission to the number last provided by the person for that purpose; or

- 
- (b) if the person is a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth—be served on that company or registered body in accordance with section 109X or 601CX of that Act, as the case requires.

## **64—Regulations**

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), those regulations may—
- (a) prescribe matters required or authorised to be prescribed under this Act;
  - (b) provide for and require the making of returns relating to dealings with petroleum products;
  - (c) provide for the keeping of records under this Act;
  - (d) fix fees (which may vary according to different factors) to be paid in respect of any matter under this Act and regulate the payment, recovery, waiver or reduction of such fees;
  - (e) impose a penalty not exceeding \$2 500 for a breach of a regulation.
- (2a) The Governor may make regulations authorising specified powers conferred by or under this Act to be exercised for the purposes of the administration or enforcement of a corresponding law.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation repealed by principal Act

The *Petroleum Products Regulation Act 1995* repealed the following:

*Business Franchise (Petroleum Products) Act 1979*

*Motor Fuel Distribution Act 1973*

*Petroleum Shortages Act 1980*

### Legislation amended by principal Act

The *Petroleum Products Regulation Act 1995* amended the following:

*Environment Protection Act 1993*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1995	30	<i>Petroleum Products Regulation Act 1995</i>	27.4.1995	1.7.1995 ( <i>Gazette 1.6.1995 p2529</i> )
1998	29	<i>Petroleum Products Regulation (Licence Fees and Subsidies) Amendment Act 1998</i>	16.4.1998	1.5.1998 ( <i>Gazette 23.4.1998 p1926</i> )
2000	4	<i>District Court (Administrative and Disciplinary Division) Amendment Act 2000</i>	20.4.2000	Sch 1 (cl 29)—1.6.2000 ( <i>Gazette 18.5.2000 p2554</i> )
2000	21	<i>National Tax Reform (State Provisions) Act 2000</i>	8.6.2000	8.6.2000
2001	23	<i>Statutes Amendment (Corporations) Act 2001</i>	14.6.2001	Pt 27 (s 97)—15.7.2001 being the day on which the <i>Corporations Act 2001</i> of the Commonwealth came into operation: <i>Commonwealth of Australia Gazette</i> No. S 285, 13 July 2001 ( <i>Gazette 21.6.2001 p2270</i> )

2002	35	<i>Statutes Amendment (Stamp Duties and Other Measures) Act 2002</i>	28.11.2002	Pt 5 (s 14)—28.11.2002: s 2(1)
2007	35	<i>Statutes Amendment (Petroleum Products) Act 2007</i>	20.9.2007	Pt 3 (ss 5—21)—1.7.2008 ( <i>Gazette 13.3.2008 p1006</i> )
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 111 (s 263)—1.2.2010 ( <i>Gazette 28.1.2010 p320</i> )
2010	22	<i>Statutes Amendment (Budget 2010) Act 2010</i>	18.11.2010	Pt 9 (ss 45—58)—1.1.2011: s 2(5)
<b>2011</b>	<b>36</b>	<b><i>Statutes Amendment (Directors' Liability) Act 2011</i></b>	<b>22.9.2011</b>	<b>Pt 14 (ss 16—19)—1.1.2012 (<i>Gazette 15.12.2011 p4988</i>)</b>
2017	51	<i>Statutes Amendment (SACAT No 2) Act 2017</i>	28.11.2017	Pt 35 (ss 195 to 198)—22.2.2018 ( <i>Gazette 30.1.2018 p524</i> )

## Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	
	substituted by 35/2007 s 5	1.7.2008
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3	<i>deleted by 29/1998 s 3</i>	1.5.1998
s 4		
s 4(1)		
<i>annual licence</i>	<i>deleted by 29/1998 s 4(a)</i>	1.5.1998
<i>bulk end user certificate</i>	<i>inserted by 29/1998 s 4(b)</i>	1.5.1998
	<i>deleted by 21/2000 s 14(a)</i>	8.6.2000
<i>certificate</i>	<i>inserted by 29/1998 s 4(b)</i>	1.5.1998
	<i>deleted by 21/2000 s 14(a)</i>	8.6.2000
<i>bulk end user certificate or certificate</i>	<i>inserted by 21/2000 s 14(a)</i>	8.6.2000
	<i>deleted by 22/2010 s 45(1)</i>	1.1.2011
Commissioner	amended by 29/1998 s 4(c)	1.5.1998
Commonwealth customs duty	inserted by 29/1998 s 4(d)	1.5.1998
Commonwealth excise duty	inserted by 29/1998 s 4(d)	1.5.1998
condition	amended by 29/1998 s 4(e)	1.5.1998
	amended by 22/2010 s 45(2)	1.1.2011
<i>Consumer Price Index</i>	<i>deleted by 29/1998 s 4(f)</i>	1.5.1998
<i>conveyance</i>	<i>deleted by 35/2007 s 6</i>	1.7.2008

**Petroleum Products Regulation Act 1995—1.1.2012 to 21.2.2018**

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corresponding law	inserted by 29/1998 s 4(g)	1.5.1998
<i>dangerous situation</i>	<i>deleted by 35/2007 s 6</i>	1.7.2008
<i>development authorisation</i>	<i>deleted by 35/2007 s 6</i>	1.7.2008
eligible petroleum products	inserted by 29/1998 s 4(h)	1.5.1998
<i>Environment Protection Fund</i>	<i>deleted by 29/1998 s 4(i)</i>	1.5.1998
<i>Highways Fund</i>	<i>deleted by 29/1998 s 4(i)</i>	1.5.1998
<i>industrial pump</i>	<i>deleted by 35/2007 s 6</i>	1.7.2008
licence	amended by 29/1998 s 4(j)	1.5.1998
<i>member of a group</i>	<i>deleted by 29/1998 s 4(k)</i>	1.5.1998
<i>monthly licence</i>	<i>deleted by 29/1998 s 4(k)</i>	1.5.1998
<i>off-road diesel fuel user certificate</i>	<i>inserted by 29/1998 s 4(l)</i>	1.5.1998
	<i>deleted by 21/2000 s 14(b)</i>	8.6.2000
<i>plant</i>	<i>deleted by 35/2007 s 6</i>	1.7.2008
<i>prescribed retail sale</i>	<i>deleted by 35/2007 s 6</i>	1.7.2008
<i>relevant period</i>	<i>deleted by 29/1998 s 4(m)</i>	1.5.1998
retail licence	inserted by 29/1998 s 4(m)	1.5.1998
<i>Retail Outlets Board</i>	<i>deleted by 35/2007 s 6</i>	1.7.2008
retail sale	amended by 29/1998 s 4(n)	1.5.1998
<i>voting share</i>	<i>deleted by 29/1998 s 4(o)</i>	1.5.1998
wholesale	inserted by 29/1998 s 4(o)	1.5.1998
wholesale licence	inserted by 29/1998 s 4(o)	1.5.1998
s 4(2)	substituted by 29/1998 s 4(p)	1.5.1998
s 4A	inserted by 29/1998 s 5	1.5.1998
s 4B	<i>inserted by 29/1998 s 5</i>	1.5.1998
	<i>deleted by 22/2010 s 46</i>	1.1.2011
s 4C	<i>inserted by 29/1998 s 5</i>	1.5.1998
	<i>deleted by 21/2000 s 15</i>	8.6.2000
s 4D	inserted by 29/1998 s 5	1.5.1998
s 5	<i>deleted by 22/2010 s 47</i>	1.1.2011
s 7		
s 7(2)	<i>deleted by 35/2007 s 7</i>	1.7.2008
Pt 2		
Pt 2 Div 1	heading deleted by 29/1998 s 6	1.5.1998
<i>s 8 before substitution by 35/2007</i>		
s 8(1)	<i>amended by 29/1998 s 7(a)</i>	1.5.1998
s 8(1a)	<i>inserted by 29/1998 s 7(b)</i>	1.5.1998
s 8(2)	<i>deleted by 29/1998 s 7(c)</i>	1.5.1998
s 8	substituted by 35/2007 s 8	1.7.2008

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	amended by 22/2010 s 48	1.1.2011
s 9		
s 9(2)	<i>deleted by 29/1998 s 8(a)</i>	1.5.1998
s 9(3)	amended by 29/1998 s 8(b)	1.5.1998
s 9(4) and (5)	<i>deleted by 29/1998 s 8(c)</i>	1.5.1998
s 10		
s 10(1)	<i>deleted by 29/1998 s 9(a)</i>	1.5.1998
s 10(2)	amended by 29/1998 s 9(b)	1.5.1998
	substituted by 35/2007 s 9	1.7.2008
s 10(4)	amended by 29/1998 s 9(c)	1.5.1998
s 10(5)	inserted by 29/1998 s 9(d)	1.5.1998
s 11		
s 11(2)	amended by 29/1998 s 10	1.5.1998
	(a)—(e) <i>deleted by 35/2007 s 10(1)</i>	1.7.2008
	amended by 35/2007 s 10(2)	1.7.2008
	(ga) <i>deleted by 22/2010 s 49</i>	1.1.2011
s 11(3)	<i>deleted by 35/2007 s 10(3)</i>	1.7.2008
s 12		
s 12(2)	amended by 35/2007 s 11	1.7.2008
s 13		
s 13(3)	inserted by 29/1998 s 11	1.5.1998
ss 14—16	<i>deleted by 35/2007 s 12</i>	1.7.2008
s 17	amended by 35/2007 s 13	1.7.2008
s 19	<i>deleted by 35/2007 s 14</i>	1.7.2008
Pt 2 Div 2	<i>deleted by 29/1998 s 12</i>	1.5.1998
Pt 2A before deletion by 22/2010	<i>inserted by 29/1998 s 13</i>	1.5.1998
s 20		
s 20(3)	<i>substituted by 21/2000 s 16(a)</i>	8.6.2000
s 20(5)	<i>deleted by 21/2000 s 16(b)</i>	8.6.2000
s 20(7)	<i>deleted by 21/2000 s 16(c)</i>	8.6.2000
s 20(8)	<i>substituted by 21/2000 s 16(d)</i>	8.6.2000
s 20(10)	<i>deleted by 21/2000 s 16(e)</i>	8.6.2000
s 23		
s 23(7)	<i>deleted by 21/2000 s 17(a)</i>	8.6.2000
s 23(12)	<i>deleted by 21/2000 s 17(b)</i>	8.6.2000
ss 23B and 23C	<i>deleted by 21/2000 s 18</i>	8.6.2000
s 23F		
s 23F(1)	amended by 21/2000 s 19	8.6.2000
s 23I		
s 23I(1)	<i>substituted by 21/2000 s 20</i>	8.6.2000
Pt 2A	<i>deleted by 22/2010 s 50</i>	1.1.2011
Pt 3	<i>deleted by 35/2007 s 15</i>	1.7.2008

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<i>Pt 4</i>	<i>deleted by 35/2007 s 15</i>	<i>1.7.2008</i>
<i>Pt 5</i>		
<i>s 34</i>		
<i>s 34(2)</i>	<i>substituted by 35/2007 s 16</i>	<i>1.7.2008</i>
<b><i>s 34(6)</i></b>	<b><i>amended by 36/2011 s 16</i></b>	<b><i>1.1.2012</i></b>
<i>s 35</i>		
<i>s 35(1)</i>	<i>substituted by 29/1998 s 14(a)</i>	<i>1.5.1998</i>
	<b><i>amended by 36/2011 s 17</i></b>	<b><i>1.1.2012</i></b>
<b><i>s 35(2)</i></b>	<b><i>amended by 36/2011 s 17</i></b>	<b><i>1.1.2012</i></b>
<i>s 35(3)</i>	<i>amended by 29/1998 s 14(b)</i>	<i>1.5.1998</i>
<b><i>s 36</i></b>		
<b><i>s 36(5) and (7)</i></b>	<b><i>amended by 36/2011 s 18</i></b>	<b><i>1.1.2012</i></b>
<i>Pt 6</i>	<i>deleted by 35/2007 s 17</i>	<i>1.7.2008</i>
<i>Pt 7</i>	<i>deleted by 35/2007 s 17</i>	<i>1.7.2008</i>
<i>Pt 8</i>		
<i>s 42</i>		
<i>s 42(4)</i>	<i>amended by 29/1998 s 15</i>	<i>1.5.1998</i>
<i>s 44</i>		
<i>s 44(1)</i>	<i>amended by 29/1998 s 16</i>	<i>1.5.1998</i>
	<i>(c), (h), (i) deleted by 35/2007 s 18(1)</i>	<i>1.7.2008</i>
	<i>amended by 22/2010 s 51</i>	<i>1.1.2011</i>
<i>s 44(4)</i>	<i>amended by 35/2007 s 18(2)</i>	<i>1.7.2008</i>
<i>Pt 9</i>		
<i>s 47</i>		
<i>s 47(1)</i>	<i>amended by 29/1998 s 17(a)—(c)</i>	<i>1.5.1998</i>
	<i>(f) deleted by 35/2007 s 19(1)</i>	<i>1.7.2008</i>
	<i>(ab) deleted by 22/2010 s 52(1)</i>	<i>1.1.2011</i>
	<i>(ca) deleted by 22/2010 s 52(2)</i>	<i>1.1.2011</i>
	<i>(e) and (ea) deleted by 22/2010 s 52(3)</i>	<i>1.1.2011</i>
<i>s 47(2)</i>	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 29(a))</i>	<i>1.6.2000</i>
<i>s 47(3)</i>	<i>amended by 29/1998 s 17(d), (e)</i>	<i>1.5.1998</i>
	<i>amended by 22/2010 s 52(4)</i>	<i>1.1.2011</i>
<i>s 47(4)</i>	<i>amended by 29/1998 s 17(f)</i>	<i>1.5.1998</i>
	<i>deleted by 22/2010 s 52(5)</i>	<i>1.1.2011</i>
<i>s 47(5)</i>	<i>amended by 29/1998 s 17(g), (h)</i>	<i>1.5.1998</i>
	<i>(c) deleted by 35/2007 s 19(2)</i>	<i>1.7.2008</i>
<i>s 47(6)</i>	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 29(b))</i>	<i>1.6.2000</i>
<i>s 47(7)</i>	<i>substituted by 29/1998 s 17(i)</i>	<i>1.5.1998</i>
	<i>(e) deleted by 35/2007 s 19(3)</i>	<i>1.7.2008</i>
	<i>(b) deleted by 22/2010 s 52(6)</i>	<i>1.1.2011</i>
	<i>(d) deleted by 22/2010 s 52(7)</i>	<i>1.1.2011</i>
<i>s 47(8)</i>	<i>substituted by 4/2000 s 9(1) (Sch 1 cl 29(c))</i>	<i>1.6.2000</i>
	<i>deleted by 35/2007 s 19(4)</i>	<i>1.7.2008</i>

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s 47(9)	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 29(d))</i>	1.6.2000
s 47(10)	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 29(e))</i>	1.6.2000
s 47(11)	<i>deleted by 4/2000 s 9(1) (Sch 1 cl 29(f))</i>	1.6.2000
Pt 10	<i>deleted by 29/1998 s 18</i>	1.5.1998
Pt 11		
s 50		
s 50(1)	substituted by 29/1998 s 19	1.5.1998
	amended by 21/2000 s 21	8.6.2000
	substituted by 22/2010 s 53	1.1.2011
s 52	substituted by 29/1998 s 20	1.5.1998
s 53		
s 53(1) and (2)	amended by 29/1998 s 21(a)	1.5.1998
s 53(3)	inserted by 29/1998 s 21(b)	1.5.1998
s 53(4)	inserted by 29/1998 s 21(b)	1.5.1998
	substituted by 22/2010 s 54	1.1.2011
s 53A	inserted by 29/1998 s 22	1.5.1998
	amended by 22/2010 s 55	1.1.2011
s 56	amended by 29/1998 s 23	1.5.1998
	substituted by 35/2002 s 14	28.11.2002
s 56(3)	amended by 22/2010 s 56	1.1.2011
s 58	<i>deleted by 84/2009 s 263</i>	1.2.2010
<b>s 59</b>	<b><i>deleted by 36/2011 s 19</i></b>	<b>1.1.2012</b>
s 61		
s 61(1)	substituted by 29/1998 s 24	1.5.1998
s 62		
s 62(1)	amended by 29/1998 s 25	1.5.1998
s 62(1a)	inserted by 22/2010 s 57	1.1.2011
s 63		
s 63(2)	amended by 23/2001 s 97	15.7.2001
s 64		
s 64(2a)	inserted by 29/1998 s 26	1.5.1998
s 64(3) and (4)	<i>deleted by 35/2007 s 20</i>	1.7.2008
<i>Sch 1 before deletion by 35/2007</i>		
cl 3		
cl 3(1)	amended by 29/1998 s 27	1.5.1998
<i>Sch 1</i>	<i>deleted by 35/2007 s 21</i>	1.7.2008
<i>Sch 2</i>	<i>deleted by 29/1998 s 28</i>	1.5.1998
<i>Sch 3 before deletion by 35/2007</i>		
cl 1	<i>omitted under Legislation Revision and Publication Act 2002</i>	
<i>Sch 3</i>	<i>deleted by 35/2007 s 21</i>	1.7.2008

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Sch 4

*omitted under Legislation Revision and  
Publication Act 2002*

## **Transitional etc provisions associated with Act or amendments**

### ***Statutes Amendment (Budget 2010) Act 2010***

#### **58—Transitional provision**

The amendments made by this Act to the *Petroleum Products Regulation Act 1995* (the *principal Act*) do not affect—

- (a) an entitlement to a subsidy that arose under Part 2A of the principal Act in relation to petroleum products sold or purchased before the repeal of that Part by this Act (and a claim for any such subsidy that has not been made or determined before that repeal is to be made or determined (as the case requires) as if Part 2A were still in force); or
- (b) the Commissioner's right to require the payment or repayment of an amount under section 23 of the principal Act (as if that section were still in force); or
- (c) the right of—
  - (i) a claimant for a subsidy under the principal Act to appeal to the Administrative and Disciplinary Division of the District Court against a decision by the Commissioner on the claim; or
  - (ii) a person to whom the Commissioner has given a notice under section 23 of the principal Act requiring the payment or repayment of an amount to appeal to the Administrative and Disciplinary Division of the District Court against the decision to issue the notice,(as if section 47 of the principal Act had not been amended by this Act).

## **Historical versions**

Reprint No 1—1.5.1998

Reprint No 2—8.6.2000

Reprint No 3—15.7.2001

Reprint No 4—28.11.2002

1.7.2008

1.2.2010

1.1.2011