

South Australia

## Petroleum Products Subsidy Act 1965

An Act to subsidise the distribution of certain petroleum products in certain country areas and to provide for matters incidental thereto.

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### Legislative history

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

##### 1—Short title

This Act may be cited as the *Petroleum Products Subsidy Act 1965*.

##### 3—Definitions

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

*authorised officer* means a person appointed to be an authorised officer under section 6 of this Act;

*eligible petroleum product* means motor spirit, power kerosene, automotive distillate, aviation gasoline or aviation turbine fuel;

*registered distributor of eligible petroleum products* means a distributor of eligible petroleum products who is registered in accordance with the scheme;

*the Commonwealth Act* means the *States Grants (Petroleum Products) Act 1965* of the Parliament of the Commonwealth, as amended from time to time, and includes any Act passed in substitution for that Act;

*the Commonwealth Minister* means the Minister of State of the Commonwealth who is for the time being responsible for the administration of the Commonwealth Act and includes any other Minister of State of the Commonwealth or member of the Federal Executive Council who is for the time being acting for and on behalf of that Minister;

*the Minister* means the Treasurer;

*the scheme* means the scheme (as in force from time to time) formulated in pursuance of the Commonwealth Act in relation to this State.

- (2) Where under the scheme any goods are or are not to be treated for the purposes of the scheme as motor spirit, power kerosene, automotive distillate, aviation gasoline, aviation turbine fuel, those goods shall or shall not, as the case may be, be so treated for the purposes of this Act.

#### **4—Calculation of subsidy**

There are payable, in accordance with this Act, to registered distributors of eligible petroleum products, amounts ascertained in accordance with the scheme.

#### **5—Advances on account of subsidy**

The Minister may authorise an advance on account of a payment under this Act to be made in accordance with the scheme to a registered distributor of eligible petroleum products on such terms and conditions (including conditions with respect to the giving to purchasers of those products from the distributor of the benefit of the amount of the advance) as the Minister thinks fit.

#### **6—Authorised officers**

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) A person may be appointed to be an authorised officer notwithstanding that he is an officer of the Commonwealth.
- (3) The authorised officers first appointed after the commencement of the *Petroleum Products Subsidy Act Amendment Act 1978* shall be deemed to have been so appointed on the first day of July, 1978.

#### **7—Claims for payments**

A claim by a registered distributor of eligible petroleum products for a payment under this Act shall be made to an authorised officer and in accordance with the regulations.

#### **8—Certificates**

- (1) An authorised officer shall examine each claim for a payment under this Act made to him and shall, if he is satisfied that an amount is payable to the claimant, give a certificate in writing to that effect.
- (2) An authorised officer who is examining a claim for a payment under this Act may give a certificate in writing that a sale or use of a specified quantity of an eligible petroleum product by a specified person took place at a specified date and place.

- (3) Where an authorised officer is satisfied that an amount paid to a person under this Act (including an amount paid by way of an advance) was not payable to that person or exceeded the amount that was payable to that person, he may give a certificate in writing that the amount paid or the amount of the excess, as the case may be, is repayable by that person to the State.
- (4) A certificate given under this section shall for the purposes of the *Audit Act 1921*, be deemed to be correct in all respects.
- (5) For the purposes of this Act, a document purporting to be a certificate referred to in this section shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

## **9—Payments**

Where a certificate is given under section 8(1) the Minister shall authorise an amount equal to the amount specified in the certificate to be paid to the person in respect of whom the certificate was given.

## **10—Over payments**

Where an authorised officer gives a certificate under section 8(3) of this Act that an amount is repayable by a person to the State, that person is liable to repay that amount to the State and the State may recover that amount in a court of competent jurisdiction as a debt due to the State.

## **11—Preservation of accounts**

- (1) A person who receives a payment under this Act in respect of the sale or use of any eligible petroleum products shall preserve the accounts, books and documents relating to that sale or use until the expiration of twelve months after the date of making of the claim in respect of which the payment was made.
- (2) A person who fails to comply with subsection (1) of this section shall be guilty of an offence against this Act.

Penalty: Four hundred dollars.

## **12—Powers of inspection etc**

- (1) For the purposes of this Act, an authorised officer may, at all reasonable times, enter any premises of a registered distributor of eligible petroleum products or any vehicle used by such a distributor for the carriage of any such products and may—
  - (a) inspect and take stock of any such products; and
  - (b) take samples of any such products; and
  - (c) inspect the accounts, books and documents relating to the sale, use and purchase of any such products; and
  - (d) make copies of or take extracts from any accounts, books or documents and retain those copies or extracts.
- (2) The occupier of any premises or person in charge of any vehicle referred to in subsection (1) shall provide the authorised officer with all reasonable facilities and assistance for the effective exercise of his powers under this section.

- (3) An authorised officer may by notice in writing require a person whom he believes capable of giving information relevant to a claim for a payment under this Act to produce to him such accounts, books and documents in relation to the claim as are referred to in the notice.
- (4) Any person who obstructs, interferes with, or hinders an authorised officer in the exercise of his powers under this section shall be guilty of an offence against this Act.  
Penalty: Two hundred dollars.

### **13—Offences**

- (1) Any person who refuses or fails to produce an account, book or document when so required in pursuance of this Act shall be guilty of an offence against this Act.  
Penalty: Two hundred dollars.
- (2) Any person who—
  - (a) obtains a payment under this Act that, to the knowledge of the person, is not payable; or
  - (b) obtains a payment under this Act by means of a statement that, to the knowledge of the person, is false or misleading in a material particular; or
  - (c) presents to an authorised officer or other person doing duty in relation to this Act an account, book or document, or make to such an officer or person a statement, that, to the knowledge of the person, is false or misleading in a material particular,shall be guilty of an offence against this Act.  
Penalty: Two thousand dollars or imprisonment for twelve months.
- (3) For the purposes of subsection (2) of this section, a matter shall be deemed to be within the knowledge of a person being a body corporate if the matter is within the knowledge of a director or officer of the body corporate.
- (4) Where a person is convicted of an offence against subsection (2) of this section, the court may, in addition to imposing a penalty under that subsection, order the person to refund to the State the amount of any payment under this Act wrongfully obtained by that person.
- (5) Where a court has made an order under subsection (4) of this section, a certificate under the hand of the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

### **14—Delegation**

- (1) The Minister may, either generally or otherwise as provided in the instrument of delegation, by writing under his hand delegate all or any of his powers under this Act (except this power of delegation) to such person as may be specified in the instrument of delegation.
- (2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

- (3) A delegation under this section shall be revocable at will and shall not prevent the exercise of a power by the Minister.

### **15—Appropriation**

- (1) All moneys paid by the Commonwealth to the State pursuant to the Commonwealth Act or pursuant to any other Act, for the purposes of the scheme, and all other moneys received or provided by the Treasurer from any other source whatsoever for and in respect of the scheme, shall be paid into a trust account at the Treasury, and the Treasurer is authorised to pay from such trust account without any other authority than this Act the amounts which are required to be paid in accordance with this Act.
- (2) The Treasurer may, if he considers it expedient so to do pending receipt of grants from the Commonwealth, advance any moneys to the trust account for the purposes of this Act: Provided that the total amount of any moneys so advanced shall not at any time exceed two hundred thousand dollars.

### **16—Summary proceedings**

All proceedings for offences against this Act shall be disposed of summarily.

### **17—Regulations**

The Governor may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, but without limiting the generality of the foregoing, prescribing—

- (a) the manner in which claims for payments under this Act shall be made; and
- (b) the information to be furnished by claimants in connection with claims for payments under this Act; and
- (c) penalties not exceeding two hundred dollars for offences against the regulations.

## Legislative history

### Notes

- 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).

### Repeal of Act

The *Petroleum Products Subsidy Act 1965* was repealed by s 2 of the *Petroleum Products Subsidy Act Repeal Act 2009* on 4.6.2009.

### Principal Act and amendments

Year	No	Title	Assent	Commencement
1965	6	<i>Petroleum Products Subsidy Act 1965</i>	9.9.1965	16.9.1965 ( <i>Gazette 16.9.1965 p1050</i> )
1978	53	<i>Petroleum Products Subsidy Act Amendment Act 1978</i>	27.7.1978	1.7.1978: s 2

### Provisions amended since 3 February 1976

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

Provision	How varied	Commencement
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3		
s 3(1)		
registered distributor of eligible petroleum products	amended by 53/1978 s 3(a)	1.7.1978
the Commonwealth Act	inserted by 53/1978 s 3(b)	1.7.1978
the Commonwealth Minister	substituted by 53/1978 s 3(b)	1.7.1978
the scheme	substituted by 53/1978 s 3(c)	1.7.1978
s 3(2)	amended by 53/1978 s 3(d)	1.7.1978
s 6		
s 6(3)	inserted by 53/1978 s 4	1.7.1978
s 11		
s 11(2)	amended by 53/1978 s 5	1.7.1978
s 12		
s 12(4)	amended by 53/1978 s 6	1.7.1978
s 13		

s 13(1)	amended by 53/1978 s 7(a)	1.7.1978
s 13(2)	amended by 53/1978 s 7(b)	1.7.1978
s 15		
s 15(1)	amended by 53/1978 s 8(a)	1.7.1978
s 15(2)	amended by 53/1978 s 8(b)	1.7.1978
s 17	amended by 53/1978 s 9	1.7.1978