

SOUTH AUSTRALIA

PETROLEUM SHORTAGES ACT, 1980

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being

Petroleum Shortages Act, 1980, No. 94 of 1980
[Assented to 11 December 1980]

2.

An Act to provide for rationing motor fuel, and other means of conserving petroleum, in the event of shortages of petroleum occurring in the State; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Petroleum Shortages Act, 1980*.

Arrangement of Act

2. This Act is arranged as follows:

PART I—PRELIMINARY.

PART II—RESTRICTION UPON SALE AND USE OF RATIONED MOTOR FUEL.

PART III—MINISTERIAL DIRECTIONS.

PART IV—MISCELLANEOUS.

Interpretation

3. In this Act, unless the contrary intention appears—

"condition", in relation to a permit, includes a limitation or restriction:

"exemption" means an exemption under section 6:

"judge" means a person holding judicial office under the *Local and District Criminal Courts Act, 1926-1980*:

"motor fuel" means petroleum used or capable of being used as a fuel for a motor vehicle:

"period of restriction" means a period declared by proclamation to be a period of restriction (whether or not it is also a rationing period):

"permit" means a permit under this Act:

"permit holder" means a person to whom a permit is issued under this Act:

"petroleum" means any substance in solid, liquid or gaseous form that consists wholly or mainly of hydrocarbons and includes any substance that is capable of being used as fuel for a motor vehicle:

"rationed motor fuel" means motor fuel of a kind declared by proclamation under this Act to be rationed motor fuel:

"rationing period" means a period of restriction declared by proclamation under this Act to be a rationing period:

3.

"to sell" includes—

- (a) to barter or exchange;
- (b) to offer or agree to sell, barter or exchange;
- (c) to deliver in pursuance of sale, barter or exchange:

and "sale" has a corresponding meaning.

Delegation by the Minister of powers under this Act

4. (1) The Minister may, by instrument in writing, delegate his powers, or any of his powers, under this Act to any other person or persons.

(2) A delegation under this section is revocable at will and does not derogate from the power of the Minister to act personally in any matter.

Declaration of periods of restriction and rationing periods

5. (1) Where, 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 in the State—

- (a) he may, 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) he may, if he thinks fit, by the same or a subsequent proclamation—
 - (i) declare that the period of restriction shall, as from its commencement, or some specified later date, be a rationing period;

and

- (ii) declare motor fuel of a specified kind or kinds to be rationed motor fuel.

(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 twenty-eight days;
- (b) extend a period of restriction by such other period or periods as may be authorized by a resolution of both Houses of Parliament;
- (c) vary or revoke a declaration under subsection (1)(b);

or

- (d) revoke a proclamation under this section.

4.

(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 shall be declared to be a period of restriction unless—

(a) that subsequent period commences fourteen days or more after the expiration of the former period of restriction;

or

(b) the declaration is authorized by a resolution of both Houses of Parliament.

Exemptions from the provisions of this Act

6. (1) The Minister may, by instrument in writing, grant an exemption from the provisions, or specified provisions, of this Act in respect of—

(a) any specified person or class of persons;

(b) any specified part or parts of the State;

or

(c) any specified class of transactions.

(2) The Minister may, by instrument in writing, vary or revoke an exemption under subsection (1).

(3) An exemption under this section may be granted upon such conditions as the Minister thinks fit and specifies in the instrument of exemption.

(4) A person in whose favour an exemption under this section operates shall not contravene or fail to comply with a condition of the exemption.

Penalty: One thousand dollars.

(5) A copy of an instrument under subsection (1) or (2) shall be published in the *Gazette* as soon as reasonably practicable after execution of the instrument.

Special consideration to be given to those living in country areas

7. In exercising his powers under this Act, the Minister shall give special consideration to the needs of those living in country areas of this State.

PART II

RESTRICTIONS UPON SALE AND USE OF RATIONED MOTOR FUEL

Restrictions upon sale and use of rationed motor fuel

8. (1) Subject to any exemption, a person shall not, during a rationing period, sell rationed motor fuel except to a permit holder.

Penalty: One thousand dollars.

(2) Subject to any exemption, a person (other than a permit holder) shall not, during a rationing period, purchase rationed motor fuel.

Penalty: One thousand dollars.

(3) This section does not apply to the sale of rationed motor fuel to, or the purchase of rationed motor fuel by, a person who carries on the business of trading in motor fuel and purchases the motor fuel in the ordinary course of that business.

Permits

9. (1) The Minister may, if satisfied that it is in the public interest to do so, issue a permit to any person.

(2) A permit under this section shall be subject to such conditions as the Minister thinks fit to include in the permit.

(3) The conditions referred to in subsection (2) may limit the quantity or value of rationed motor fuel that may be purchased in pursuance of the permit—

(a) by reference to stipulated maxima;

(b) by reference to coupons to be delivered up by the permit holder upon purchasing rationed motor fuel;

or

(c) by any other means of limitation.

(4) A permit holder shall not contravene or fail to comply with a condition contained in the permit.

Penalty: One thousand dollars.

(5) The Minister may, in his absolute discretion, by instrument in writing served personally or by post upon a permit holder, cancel the permit.

(6) Upon cancellation of a permit, the former permit holder shall deliver up the permit to the Minister or a person nominated by the Minister.

Penalty: One thousand dollars.

6.

(7) A permit is not transferable.

(8) A person shall, while driving a motor vehicle to which motor fuel has been supplied in pursuance of a permit, carry the permit with him in the vehicle.

Penalty: Twenty dollars.

(9) A permit holder shall, at the request of a member of the police force, produce the permit for inspection by that member of the police force.

Penalty: Five hundred dollars.

(10) A person shall not, in connection with an application for a permit, make a statement or representation that is false or inaccurate in a material particular.

Penalty: One thousand dollars.

(11) It is a defence to a charge of an offence against subsection (10) for the defendant to prove that he did not know, and could not by the exercise of reasonable diligence have ascertained, that the statement or representation was false or inaccurate.

Right of appeal

10. (1) A person who is aggrieved by a decision of the Minister to refuse to grant or to cancel a permit under this Part may appeal against that decision to a judge or a special magistrate.

(2) Upon an appeal under this section the judge or special magistrate may—

(a) confirm or reverse the decision of the Minister;

and

(b) make any necessary consequential directions.

(3) Subject to subsection (4), no appeal lies against the decision of a judge or special magistrate upon an appeal under this section.

(4) If upon an appeal under this section a special magistrate confirms the decision of the Minister, the appellant may apply to a judge for review of the decision of the special magistrate and, upon the review, the judge may confirm or reverse that decision and make any necessary consequential directions.

(5) An appeal or review under this section shall be heard and determined—

(a) as expeditiously as possible;

and

(b) without unnecessary formality.

PART III

MINISTERIAL DIRECTIONS

Directions in relation to petroleum

11. (1) If, during a period of restriction, it is, in the opinion of the Minister, in the public interest to do so, he may give directions in relation to the extraction, production, supply, distribution, sale, purchase, use or consumption of petroleum.

(2) A direction under this section—

(a) may relate to petroleum generally, or to petroleum of a specified kind;

and

(b) may be given—

(i) to a particular person;

(ii) to persons of a particular class;

or

(iii) to members of the public generally.

(3) A direction under this section shall be given—

(a) by instrument in writing served personally or by post upon the person to whom the direction is addressed;

or

(b) by publication of the direction in a newspaper circulating generally throughout the State, or in the *Gazette*.

(4) A person to whom a direction is given under this section shall not contravene or fail to comply with the direction.

Penalty: Where the convicted person is a body corporate—ten thousand dollars; where the convicted person is a natural person—one thousand dollars.

(5) Where a person is convicted of an offence against subsection (4), the court may, by order, forfeit petroleum in relation to which the offence was committed to the Crown.

(6) In any proceedings for an offence against subsection (4), an apparently genuine document purporting to be a copy of a direction given in pursuance of this section shall, in the absence of proof to the contrary, be accepted as proof of the making and contents of the direction.

(7) A direction under this section—

(a) shall not operate after the expiration of the period of restriction in relation to which it was made;

and

(b) may be revoked by the Minister at any time.

(8) Where—

(a) a direction is given under this section to a particular person;

and

(b) that person incurs expenses in complying with the direction,

he may, by action in any court of competent jurisdiction, recover the amount of those expenses by action against the Crown.

Profiteering

12. (1) The Minister may, by notice published in the *Gazette*—

(a) fix maximum prices in relation to the sale of petroleum of a specified kind during a period of restriction;

or

(b) vary or revoke a notice previously published under this section.

(2) A notice under subsection (1)—

(a) may fix differential maximum prices that vary according to factors specified in the notice;

(b) may apply to sales generally, or to specified classes of sales;

and

(c) may apply throughout the State, or in specified parts of the State.

(3) A person who, during a period of restriction, sells petroleum in relation to which a maximum price is in force under subsection (1) at a price in excess of that maximum shall be guilty of an offence and liable to a penalty not exceeding ten thousand dollars, or imprisonment for six months, or both.

Power to require information

13. (1) The Minister may, by notice in writing, require any person, who is, in his opinion, in a position to do so, to furnish information specified in the notice, relating to the extraction, production, storage, supply, distribution, sale, use or consumption of petroleum.

9.

(2) Any information sought under subsection (1) must be relevant to the administration of this Act.

(3) A person required to furnish information under subsection (1) shall, within the time allowed in the notice, furnish the information sought in the notice to the best of his knowledge, information and belief.

Penalty: Where the convicted person is a body corporate—ten thousand dollars; where the convicted person is a natural person—one thousand dollars.

PART IV

MISCELLANEOUS

Actions for injunctions and *mandamus* against Minister

14. Subject to this Act, no action to compel the Minister or a delegate of the Minister to take, or to restrain him from taking, any action in pursuance of this Act shall be entertained by any court.

Publication of desirable principles for conserving petroleum

15. (1) The Minister may publish, in such manner as he thinks fit, principles that the public should, in his opinion, be encouraged to observe in relation to the conservation of petroleum 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 shall, for the purpose of determining the rights of that person under the policy, be disregarded.

Powers of investigation

16. (1) During a period of restriction, a member of the police force—

- (a) may, for the purpose of putting questions to the driver of a motor vehicle under paragraph (b), request the driver to stop the vehicle;
- (b) may ask the driver or person apparently in charge of a vehicle (whether on a road or elsewhere) questions relating to—
 - (i) the name and place of residence or business of that person;
 - (ii) the name and place of residence or business of the owner of the vehicle or of any petroleum in or on the vehicle;
 - (iii) the source from which petroleum on or in the vehicle was obtained and any other matters relating to that petroleum.

(2) A person shall—

- (a) as soon as practicable comply with a request to stop a vehicle under subsection (1);

and

- (b) truly answer to the best of his knowledge, information and belief questions put to him under subsection (1).

Penalty: Two hundred dollars.

(3) A person is not obliged to answer a question put to him under this section if the answer to the question would tend to incriminate him of an offence.

Evidentiary provisions

17. In any proceedings for an offence against this Act, an allegation in the complaint—

- (a) that a period referred to in the complaint is or was a period of restriction or a rationing period;
- (b) that a substance, referred to in the complaint—
 - (i) is, or was, petroleum of a specified kind;
 - or
 - (ii) was, on a specified date, rationed motor fuel;
- (c) that a person was or was not, on a specified date, a permit holder;
- (d) that a person named in the complaint was, on a specified date, entitled to exercise powers referred to in the complaint by virtue of a delegation under this Act,

shall be accepted as proved in the absence of proof to the contrary.

Proceedings for offences against this Act

18. (1) Proceedings for an offence against this Act shall be disposed of summarily.

(2) Proceedings for an offence against this Act shall not be commenced without the authorization of the Attorney-General.

(3) An apparently genuine document purporting to be under the hand of the Attorney-General and to authorize the commencement of proceedings for an offence against this Act shall, in the absence of proof to the contrary, be proof of that authorization.

Regulations

19. (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act.

(2) Any regulation may impose a penalty (recoverable summarily) not exceeding five hundred dollars for contravention of, or failure to comply with, the regulation.