

South Australia

Petroleum Products Regulations 1995

under the *Petroleum Products Regulation Act 1995*

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Legislative history

1—Short title

These regulations may be cited as the *Petroleum Products Regulations 1995*.

2—Revocation

The following regulations are revoked:

Business Franchise (Petroleum Products) Regulations 1991;

Motor Fuel Distribution Regulations 1974.

3—Commencement

These regulations will come into operation on 1 July 1995.

4—Interpretation

In these regulations—

Act means the *Petroleum Products Regulation Act 1995*.

4A—Corresponding laws (section 4(1))

For the purposes of the Act, each of the following laws, as amended or substituted from time to time, is declared to be a corresponding law:

Business Franchise (Petroleum Products) Act 1979 of Victoria

Fuel Subsidy Act 1997 of Queensland

Fuel Suppliers Licensing and Diesel Subsidies Act 1997 of Western Australia.

5—Industrial pumps (section 4(1))

For the purposes of the definition of *industrial pump* in section 4(1) of the Act, the following are prescribed activities:

- (a) activities of municipal or district councils;
- (b) activities of the Surf Life Saving Association on the Association's land at the corner of Trimmer Parade and Sportsman Drive at West Lakes, South Australia;
- (c) activities of the S.A. St John Ambulance Service Incorporated.

6—Prescribed retail sales (section 4(1))

For the purposes of the definition of *prescribed retail sale* in section 4(1) of the Act, all retail sales of petroleum products except the following are declared to be prescribed retail sales:

- (a) a sale of a petroleum product other than motor spirit;
- (b) a sale made by a person to his or her employees;
- (c) a sale—
 - (i) resulting in a single delivery of motor spirit to a single vehicle or a single container; and
 - (ii) where the quantity of motor spirit so delivered to the vehicle or the container is not less than 200 litres;
- (d) a sale in a quantity not exceeding ten litres, made by an organisation that provides emergency assistance to motorists, in circumstances where the purchaser has no other practical means of procuring motor spirit;
- (e) a sale made in the course of a business in which retail sales of motor spirit are made predominantly for marine purposes;
- (f) a sale of motor spirit made at a motor racing circuit to a person who—
 - (i) holds a general licence issued by the Confederation of Australian Motor Sport (an unincorporated association and a registered successory trust under the *Religious Successory and Charitable Trusts Act 1958* of Victoria); and
 - (ii) purchases the motor spirit for use in a motor racing event at that motor racing circuit authorised by the Confederation.

6A—Notional sale and purchase (section 4D)

- (1) If the holder of a wholesale licence or a wholesaler referred to in section 20(4) of the Act delivers petroleum products to premises at which petroleum products are sold by retail pursuant to a retail licence by another person who is the holder of the retail licence, then, for the purposes of Part 2A and section 53 of the Act, the following are to be taken to occur:
 - (a) a sale of the petroleum products by wholesale by the holder of the wholesale licence or wholesaler; and
 - (b) a purchase of the petroleum products by the holder of the retail licence for sale pursuant to the licence.
- (2) If—
 - (a) a person is a manufacturer or importer of eligible petroleum products; and
 - (b) the person holds a wholesale licence and a bulk end user certificate; and
 - (c) eligible petroleum products manufactured or imported by the person or supplied to the person by another manufacturer or importer are delivered or allocated by the person for the person's own use as a bulk end user (but not for sale as a bulk end user),

then, for the purposes of Part 2A and section 53 of the Act, the following are to be taken to occur:

- (d) a sale of the petroleum products by the person pursuant to the wholesale licence to the holder of a bulk end user certificate; and
- (e) a purchase of the petroleum products by the person pursuant to the certificate.

7—Reference of matters to Retail Outlets Board (section 14(3))

Pursuant to section 14(3) of the Act, the following need not be referred by the Minister to the Retail Outlets Board for its recommendation:

- (a) an application for renewal of a licence; or
- (b) variation of a licence involving only the substitution of another person as the licensee.

8—Avoidance of multiple licences (section 16)

Pursuant to section 16 of the Act, a person who holds a licence to keep petroleum products under Part 2 of the Act is not required to hold a licence under Part 3 of the *Dangerous Substances Act 1979* in order to keep those petroleum products.

8A—Entitlement to subsidy—variation of prescribed rate (section 20(9))

- (1) Pursuant to section 20(9) of the Act, subsection (8) of section 20 of the Act is to be read as if there were a prescribed rate of 8.35 cents per litre in respect of eligible petroleum products that are, by virtue of regulation 6A(2), to be taken to be sold by a manufacturer or importer to itself as the holder of a bulk end user certificate.

- (2) Pursuant to section 20(9) of the Act, subsection (8) of section 20 of the Act is to be read as if the prescribed rate were 8.35 cents per litre in respect of diesel fuel sold to the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement for delivery to the holder in zone 1, zone 2 or zone 3.

9—Returns relating to supply of motor spirit

A person who has supplied motor spirit during a calendar year—

- (a) to premises used for the making of prescribed retail sales of motor spirit; or
- (b) to premises at which an industrial pump is installed for further supply by means of the pump,

must, within 30 days after the end of the calendar year, furnish to the Retail Outlets Board a written return listing for each of the premises the aggregate litres of motor spirit that the person has supplied to the premises during that year.

Penalty: \$1 000.

9A—Records to be kept of bulk transport of petroleum products (section 52)

A record referred to in section 52 of the Act must be in writing and contain the following particulars:

- (a) the date on which transportation commenced;
- (b) the type and quantity of petroleum products being transported;
- (c) the name and address of the person (if any) from whom the petroleum products were purchased;
- (d) the name and address of the person who owns the petroleum products;
- (e) the name and address of the person on whose behalf the petroleum products are being transported;
- (f) the name of the person (if any) to whom the petroleum products are being transported;
- (g) the address at which the petroleum products were loaded for transportation;
- (h) the address to which the petroleum products are being transported;
- (i) the name and address of the person (if any) who has agreed to purchase the petroleum products.

9AB—Permitted disclosure of information (section 56)

The following offices are prescribed for the purposes of section 56(2)(e) of the Act:

- (a) Attorney-General;
- (b) Solicitor-General;
- (c) Director of Public Prosecutions;
- (d) offices in the Attorney-General's Department;
- (e) Auditor-General;
- (f) Ombudsman;

- (g) Commissioner for Consumer Affairs;
- (h) Registrar of Motor Vehicles;
- (i) Chief Executive Officer of WorkCover Corporation of South Australia;
- (j) offices in the police force of or above the rank of inspector;
- (k) offices of another State, or of a Territory, or of the Commonwealth, the holders of which are employed in the administration of laws relating to taxation or customs;
- (l) Chairperson of the Australian Securities Commission;
- (m) Australian Statistician;
- (n) Commissioner of the Australian Federal Police;
- (o) Chief Executive Officer of the Australian Crime Commission.

9B—Exercise of certain powers for purposes of administration or enforcement of corresponding laws

Pursuant to section 64(2a) of the Act—

- (a) an authorised officer may exercise the powers conferred by section 44 of the Act for the purposes of the administration or enforcement of a corresponding law;
- (b) a magistrate may exercise the powers conferred by section 44(2) of the Act for the purposes of the administration or enforcement of a corresponding law.

10—Fees

The fees set out in the Schedule are payable as specified in the Schedule.

Schedule—Fees

| | | |
|---|--|----------|
| 1 | (1) For the issue or renewal of a licence to sell petroleum products by retail sales— | |
| | (a) if the licence specifies more than one premises from which petroleum products are authorised to be sold—for each of the premises so specified | \$164.00 |
| | (b) in any other case | \$164.00 |
| | (2) For the issue or renewal of a licence to sell petroleum products by wholesale | no fee |
| 2 | (1) For the issue or renewal of a licence to keep liquefied petroleum gas (<i>LPG</i>)—for each of the premises at which LPG is authorised to be kept under the licence— | |
| | (a) if the aggregate capacity of containers for keeping LPG at the premises exceeds 560 litres (water capacity) but does not exceed 20 kilolitres | \$122.00 |
| | (b) if the aggregate capacity of containers for keeping LPG at the premises exceeds 20 kilolitres (water capacity) but does not exceed 100 kilolitres | \$349.00 |
| | (c) if the aggregate capacity of containers for keeping LPG at the premises exceeds 100 kilolitres (water capacity) | \$562.00 |

- (2) For the issue or renewal of a licence to keep motor spirit—for each of the premises at which motor spirit is authorised to be kept under the licence—
- | | | |
|-----|---|------------|
| (a) | if the aggregate capacity of containers for keeping motor spirit at the premises exceeds 120 litres but does not exceed 1 kilolitre | \$65.00 |
| (b) | if the aggregate capacity of containers for keeping motor spirit at the premises exceeds 1 kilolitre but does not exceed 25 kilolitres | \$122.00 |
| (c) | if the aggregate capacity of containers for keeping motor spirit at the premises exceeds 25 kilolitres but does not exceed 250 kilolitres | \$304.00 |
| (d) | if the aggregate capacity of containers for keeping motor spirit at the premises exceeds 250 kilolitres but does not exceed 2 500 kilolitres | \$1 032.00 |
| (e) | if the aggregate capacity of containers for keeping motor spirit at the premises exceeds 2 500 kilolitres but does not exceed 10 000 kilolitres | \$3 469.00 |
| (f) | if the aggregate capacity of containers for keeping motor spirit at the premises exceeds 10 000 kilolitres | \$5 705.00 |
- 3 (1) For the purpose of calculating fees, the water capacity of a 45 kilogram LPG cylinder must be taken to be 109 litres.
- (2) If a licence authorises the sale of petroleum products by retail sales and the keeping of petroleum products, the fees fixed under clauses 1 and 2 are to be aggregated in respect of the licence.
- (3) If a licence authorises the keeping of LPG and motor spirit, the fees fixed under subclauses (1) and (2) of clause 2 are to be aggregated in respect of the licence.
- 4 No fee is payable for the issue of a licence to, or for the renewal of a licence by, a Minister of the Crown in right of this State.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|------|-----|--------------------------------|----------------|
| 1995 | 115 | <i>Gazette 1.6.1995 p2574</i> | 1.7.1995: r 2 |
| 1996 | 79 | <i>Gazette 30.5.1996 p2639</i> | 1.7.1996: r 2 |
| 1997 | 86 | <i>Gazette 13.5.1997 p1878</i> | 1.7.1997: r 2 |
| 1998 | 32 | <i>Gazette 23.4.1998 p1965</i> | 1.5.1998: r 2 |
| 1998 | 51 | <i>Gazette 28.5.1998 p2294</i> | 1.7.1998: r 2 |
| 1998 | 175 | <i>Gazette 27.8.1998 p652</i> | 1.9.1998: r 2 |
| 1999 | 11 | <i>Gazette 25.2.1999 p1171</i> | 1.3.1999: r 2 |
| 1999 | 50 | <i>Gazette 27.5.1999 p2791</i> | 1.7.1999: r 2 |
| 1999 | 171 | <i>Gazette 26.8.1999 p973</i> | 1.9.1999: r 2 |
| 2000 | 14 | <i>Gazette 24.2.2000 p1184</i> | 1.3.2000: r 2 |
| 2000 | 51 | <i>Gazette 25.5.2000 p2694</i> | 1.7.2000: r 2 |
| 2001 | 101 | <i>Gazette 31.5.2001 p2062</i> | 1.7.2001: r 2 |
| 2002 | 121 | <i>Gazette 20.6.2002 p2665</i> | 1.7.2002: r 2 |
| 2002 | 161 | <i>Gazette 22.8.2002 p3149</i> | 22.8.2002: r 2 |
| 2003 | 3 | <i>Gazette 16.1.2003 p189</i> | 16.1.2003: r 2 |
| 2003 | 57 | <i>Gazette 29.5.2003 p2147</i> | 1.7.2003: r 2 |
| 2004 | 35 | <i>Gazette 27.5.2004 p1406</i> | 1.7.2004: r 2 |

Provisions varied

New entries appear in bold.

| Provision | How varied | Commencement |
|-----------|---|--------------|
| r 4A | inserted by 32/1998 r 3 | 1.5.1998 |
| r 6 | varied by 161/2002 r 3 | 22.8.2002 |
| r 6A | inserted by 32/1998 r 4 | 1.5.1998 |
| r 8A | inserted by 32/1998 r 5 | 1.5.1998 |
| r 8A(1) | r 8A varied and redesignated as r 8A(1) by 175/1998 r 3 | 1.9.1998 |
| | varied by 11/1999 r 3(a) | 1.3.1999 |
| | varied by 171/1999 r 3(a) | 1.9.1999 |
| | varied by 14/2000 r 3(a) | 1.3.2000 |
| r 8A(2) | inserted by 175/1998 r 3(b) | 1.9.1998 |

Petroleum Products Regulations 1995—1.7.2003 to 30.6.2004

Legislative history

| | | |
|-------|----------------------------|-----------|
| | varied by 11/1999 r 3(b) | 1.3.1999 |
| | varied by 171/1999 r 3(b) | 1.9.1999 |
| | varied by 14/2000 r 3(b) | 1.3.2000 |
| r 9A | inserted by 32/1998 r 6 | 1.5.1998 |
| r 9AB | inserted by 3/2003 r 4 | 16.1.2003 |
| r 9B | inserted by 32/1998 r 6 | 1.5.1998 |
| Sch | substituted by 79/1996 r 3 | 1.7.1996 |
| | substituted by 86/1997 r 3 | 1.7.1997 |
| | substituted by 32/1998 r 7 | 1.5.1998 |
| | varied by 51/1998 r 3 | 1.7.1998 |
| | varied by 50/1999 r 3 | 1.7.1999 |
| | varied by 51/2000 r 3 | 1.7.2000 |
| | varied by 101/2001 r 3 | 1.7.2001 |
| | varied by 121/2002 r 3 | 1.7.2002 |
| | varied by 57/2003 r 4 | 1.7.2003 |