

# NORTHERN TERRITORY OF AUSTRALIA

## PETROLEUM PRODUCTS SUBSIDY ACT

As in force at 1 March 2011

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 1 March 2011. Any amendments that commence after that date are not included.

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## PETROLEUM PRODUCTS SUBSIDY ACT

An Act to provide for the carrying out of a scheme relating to the prices of certain petroleum products sold in the Northern Territory formulated under the *State Grants (Petroleum Products) Act 1965* of the Commonwealth

### 1 Short title

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

### 2 Definitions

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

***authorised officer*** means a person appointed to be an authorised officer under section 12.

***Commonwealth Act*** means the *State Grants (Petroleum Products) Act 1965* of the Commonwealth as amended from time to time.

***Commonwealth Minister*** means the Minister of State for the Commonwealth who, for the time being, is responsible for the administration of the Commonwealth Act and includes another Minister of State for the Commonwealth who is, for the time being, acting for and on behalf of that Minister.

***eligible petroleum product*** means motor spirit, 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.

***scheme*** means the scheme formulated in relation to the Territory by the Commonwealth Minister for the purposes of the Commonwealth Act.

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- (2) Where in accordance with the scheme it is directed that goods are or are not to be treated for the purposes of the scheme as motor spirit, automotive distillate, aviation gasoline or aviation turbine fuel, those goods shall or shall not, as the case may be, be so treated for the purposes of this Act.

### **3 Application of act**

This Act extends:

- (a) to acts and things done outside the Territory; and
- (b) to all persons whether residents of the Territory or not.

### **4 Financial provisions**

- (1) The Treasurer shall establish and keep as part of the Trust Fund of the Territory a trust account to be called the "Commonwealth Petroleum Products Subsidies Account".
- (2) There shall be credited to the trust account all monies received by the Territory:
  - (a) from the Commonwealth by way of financial assistance under the Commonwealth Act; and
  - (b) otherwise in pursuance of this Act.
- (3) There shall be debited to the trust account all moneys paid to registered distributors of eligible petroleum products pursuant to this Act and all moneys, if any, repayable by the Territory to the Commonwealth.

### **10 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.

### **11 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.

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**12      Authorised officers**

The Minister may appoint an officer of the Australian Customs Service or other body, service or Department of the Commonwealth for the time being responsible to the Commonwealth Minister for the administration of the Commonwealth Act, to be an authorised officer for the purposes of this Act.

**13      Claim 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 made under this Act.

**14      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 the person or exceeded the amount that was payable to the 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 the person to the Territory.
- (3A) The Auditor-General shall treat a certificate under this section as correct in all respects.
- (4) 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.

**15      Payments**

Where a certificate is given under section 14(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.

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**16 Over-payments**

Where an authorised officer gives a certificate under section 14(3) that an amount is repayable by a person to the Territory, the person is liable to repay that amount to the Territory and the Territory may recover the amount in a court of competent jurisdiction as a debt due and payable to it.

**17 Preservation of accounts, &c.**

- (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 12 months after the date of the making of the claim in respect of which the payment was made.

Penalty: \$1,000.

- (2) An offence of contravening or failing to comply with subsection (1) is a regulatory offence.

**18 Stocktaking and inspection of accounts, &c.**

- (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;
- (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.

- (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) A person shall not obstruct, molest or hinder an authorised officer in the exercise of his powers under this section.

Penalty: \$1,000.

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**19 Power to require person to answer questions and produce documents**

- (1) An authorised officer may, by notice in writing, require a person whom he believes to be capable of giving information relevant to a claim for a payment under this Act to attend before him at a time and place specified in the notice and there to answer questions and to produce to him such accounts, books and documents in relation to the claim as are referred to in the notice.
- (2) The authorised officer may make copies of, or take extracts from, any accounts, books, or documents produced in pursuance of this section and may retain those copies or extracts.
- (3) A person is not excused from answering a question or producing any account, books, or documents when required to do so under this section on the ground that the answer to the question or the production of the accounts, books or documents might tend to incriminate him or make him liable to a penalty, but his answer to any such question is not admissible in evidence against him in proceedings other than proceedings for an offence against section 21(1)(c) or (2)(c).

**20 Power to examine on oath**

An authorised officer may examine on oath a person required under section 19 to attend before the officer.

**21 Offences**

- (1) A person shall not refuse or fail:
  - (a) to attend before an authorised officer; or
  - (b) to take an oath; or
  - (c) to answer a question or produce an account, book or document,

when so required in pursuance of this Act.

Penalty: \$2,000.

- (2) A person shall not:
  - (a) obtain a payment under this Act that, to the knowledge of the person, is not payable; or

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- (b) obtain 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) present 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.

Penalty: \$1,000 or imprisonment for 12 months.

- (3) For the purposes of subsection (2) 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 found guilty of an offence against subsection (2), the court may, in addition to imposing a penalty under that subsection, order the person to refund to the Territory the amount of any payment under this Act wrongfully obtained.
- (5) Where a court has made an order under subsection (4) 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.

## **22 Prosecution of offences in court of summary jurisdiction**

- (1) Subject to this section, a prosecution for an offence against this Act may be instituted in a court of summary jurisdiction.
- (1A) A complaint in relation to an offence against this Act shall not be made later than 2 years from the time when the matter of the complaint arose.
- (2) Where an offence against this Act is committed outside the territorial limits of the Territory, a prosecution for that offence may be instituted in a court of summary jurisdiction having jurisdiction in Darwin or Alice Springs.

## **23 Delegation**

- (1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than:
  - (a) this power of delegation; and
  - (b) the powers conferred on him under sections 4 and 11.

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- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Minister.
  - (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

## **24 Regulations**

The Administrator 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, prescribing:

- (a) the manner in which claims for payments under this Act shall be made;
- (b) the information to be furnished by claimants in connection with claims for payments under this Act; and
- (c) penalties not exceeding \$100 for offences against the regulations.



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**ENDNOTES**

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**KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<i>Gaz</i> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

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**LIST OF LEGISLATION*****Petroleum Products Subsidy Ordinance 1965 (Act No. 25, 1965)***

Assent date	16 August 1965
Commenced	16 August 1965

***Petroleum Products Subsidy Ordinance (No. 2) 1965 (Act No. 62, 1965)***

Assent date	17 December 1965
Commenced	17 December 1965

***Petroleum Products Subsidy Ordinance 1969 (Act No. 49, 1969)***

Assent date	27 November 1969
Commenced	27 November 1969

***Petroleum Products Subsidy Ordinance 1973 (Act No. 70, 1973)***

Assent date	11 December 1973
Commenced	11 December 1973

***Ordinances Revision Ordinance 1973 (Act No. 87, 1973)***

Assent date	11 December 1973
Commenced	11 December 1973 (s 12(2))

**Amending Legislation*****Ordinances Revision Ordinance 1974 (Act No. 34, 1974)***

Assent date	26 August 1974
Commenced	11 December 1973 (s 3(2))

***Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)***

Assent date	24 October 1974
Commenced	11 December 1973 (s 3)

***Ordinances Revision Ordinance 1976 (Act No. 27, 1976)***

Assent date 28 June 1976  
 Commenced ss 1, 2 and 6: 28 June 1976 (s 6(2));  
 ss 3 and 4: 11 December 1973; s 5: 24 October 1974

***Petroleum Products Subsidy Ordinance 1977 (Act No. 32, 1977)***

Assent date 5 July 1977  
 Commenced 5 July 1977

***Petroleum Products Subsidy Ordinance 1978 (Act No. 13, 1978)***

Assent date 5 May 1978  
 Commenced 5 May 1978

***Statute Law Revision Act 1978 (Act No. 95, 1978)***

Assent date 5 September 1978  
 Commenced 5 September 1978

***Statute Law Revision Act (No. 4) 1981 (Act No. 4, 1982)***

Assent date 12 February 1982  
 Commenced 12 February 1982

***Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)***

Assent date 28 November 1983  
 Commenced 1 January 1984 (s 2 s 2 *Criminal Code Act 1983* (Act No. 47, 1983), *Gaz* G46, 18 November 1983, p 11 and *Gaz* G8, 26 February 1986, p 5)

***Petroleum Products Subsidy Amendment Act 1985 (Act No. 41, 1985)***

Assent date 18 September 1985  
 Commenced 6 November 1985 (*Gaz* G44, 6 November 1985, p 12)

***Petroleum Products Subsidy Amendment Act 1989 (Act No. 11, 1989)***

Assent date 5 April 1989  
 Commenced 1 July 1989 (*Gaz* S31, 27 June 1989)

***Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)***

Assent date 19 April 1996  
 Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

***Statute Law Revision Act (No. 2) 2003 (Act No. 44, 2003)***

Assent date 7 July 2003  
 Commenced 7 July 2003

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)***

Assent date 18 November 2010  
 Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

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**3 SAVINGS AND TRANSITIONAL PROVISIONS**

*s 7 Petroleum Products Subsidy Amendment Act 1985 (Act No. 41, 1985)*

**4 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973 (Act No. 87, 1973)* (as amended) to the following provisions: ss 2, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24.

**5 LIST OF AMENDMENTS**

It	amd No. 4, 1982, s 3 sub No. 11, 1989, s 4
s 1	amd No. 4, 1982, s 3
s 2	amd No. 13, 1978, s 3; No. 4, 1982, s 3; No. 41, 1985, s 4; No. 11, 1989, s 5
s 3	amd No. 4, 1982, s 3
s 4	amd No. 13, 1978, s 4; No. 4, 1982, s 3 sub No. 11, 1989, s 6
s 5	amd No. 13, 1978, s 5; No. 4, 1982, s 3; No. 41, 1985, s 5 rep No. 11, 1989, s 6
s 6	amd No. 62, 1965, s 2; No. 49, 1969, s 2 rep No. 70, 1973, s 3
s 7	amd No. 70, 1973, s 4; No. 87, 1973, s 12; No. 32, 1977, s 3 rep No. 11, 1989, s 6
s 8	amd No. 4, 1982, s 3 rep No. 11, 1989, s 6
s 9	amd No. 4, 1982, s 3 rep No. 11, 1989, s 6
ss 10 – 11	amd No. 4, 1982, s 3
s 12 hdg	amd No. 44, 2003
s 12	amd No. 4, 1982, s 3 sub No. 11, 1989, s 7
s 13	amd No. 4, 1982, s 3
s 14	amd No. 4, 1982, s 3; No. 11, 1989, s 8
s 15	amd No. 4, 1982, s 3
s 16	amd No. 4, 1982, s 3; No. 11, 1989 s 9
s 17	amd No. 4, 1982, s 3; No. 68, 1983, s 74; No. 11, 1989, s 10
s 18	amd No. 4, 1982, s 3; No. 11, 1989, s 11
s 19	amd No. 4, 1982, s 3
s 20	sub No. 40, 2010, s 94
s 21	amd No. 4, 1982, s 3; No. 11, 1989, s 12; No. 17, 1996, s 6; No. 40, 2010, s 95
s 22	amd No. 4, 1982, s 3; No. 11, 1989, s 13
s 23	amd No. 70, 1973, s 5; No. 13, 1978, s 6; No. 4, 1982, s 3 sub No. 41, 1985, s 6
s 24	amd No. 95, 1978, s 14; No. 4, 1982, s 3