

NORTHERN TERRITORY OF AUSTRALIA

CONSUMER AFFAIRS AND FAIR TRADING LEGISLATION AMENDMENT
ACT 2017

Act No. 11 of 2017

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 11 of 2017

An Act to amend the *Consumer Affairs and Fair Trading Act* and *Consumer Affairs and Fair Trading (Infringement Notice Offences) Regulations*

[Assented to 31 May 2017]
[Second reading 16 March 2017]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Consumer Affairs and Fair Trading Legislation Amendment Act 2017*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Consumer Affairs and Fair Trading Act

3 Act amended

This Part amends the *Consumer Affairs and Fair Trading Act*.

4 Section 4 amended

Section 4(1)

insert (in alphabetical order)

biodiesel, for Part 11, see section 185.

diesel fuel, for Part 11, see section 185.

discounted fuel price, for Part 11, see section 185.

fuel retailer, for Part 11, see section 185.

liquefied petroleum gas, for Part 11, see section 185.

normal fuel price, for Part 11, see section 185.

petrol, for Part 11, see section 185.

prescribed fuel, for Part 11, see section 185.

price board, for Part 11, see section 185.

service station, for Part 11, see section 185.

5 Part 11 inserted

After section 184

insert

Part 11 Fuel retailers**185 Definitions**

In this Part:

biodiesel means a fuel for compression-ignition internal combustion engines obtained by esterification of oil derived from plants or animals.

diesel fuel means a petroleum-based fuel for compression-ignition internal combustion engines that is sold as diesel fuel or a biodiesel blend.

discounted fuel price, in relation to a prescribed fuel, means the price per litre at which the prescribed fuel is offered for retail sale to consumers after any discount (whether by a voucher, discount rate, reward scheme or any other means) is applied.

fuel retailer, for a service station, means the person who carries on the business of supplying prescribed fuel for retail sale at the service station.

liquefied petroleum gas means a hydrocarbon fluid mainly comprised of any one or more of the following hydrocarbons:

- (a) propane;
- (b) propylene;
- (c) butane;
- (d) butylene.

normal fuel price, in relation to a prescribed fuel, means the price per litre at which the prescribed fuel is offered for retail sale to consumers without any discount (whether by a voucher, discount rate, reward scheme or any other means) applying.

petrol means a petroleum-based fuel for spark-ignition internal combustion engines that is sold as petrol or a petrol-ethanol blend.

prescribed fuel means the following:

- (a) petrol;
- (b) diesel fuel;
- (c) liquefied petroleum gas;
- (d) liquefied natural gas;
- (e) biodiesel;
- (f) compressed gas;
- (g) any fuel specified in paragraphs (a) to (f) that is combined with another such fuel or other substance.

price board means a board, sign or notice at a service station that displays information regarding the price of a prescribed fuel offered for retail sale at the service station.

service station means a building or place where prescribed fuel is offered for retail sale and supplied to motor vehicles, but does not include a building or place used primarily for hiring, leasing or selling motor vehicles.

186 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Part.

Note for section 186

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

187 Scheme for publication of service station fuel prices

- (1) The regulations may provide for a scheme for the publication of normal fuel prices of prescribed fuel offered for retail sale at service stations, on an ongoing and up-to-date basis.
- (2) Without limiting subsection (1), the regulations may require fuel retailers for service stations to:
 - (a) register service stations for the purposes of the scheme; and
 - (b) report the normal fuel price of each prescribed fuel offered for retail sale at a service station and the date and time from which the reported price is the normal fuel price of the fuel.
- (3) The Commissioner may arrange for information reported under the scheme to be published as the Commissioner thinks fit, including by making it available on a website or through a telecommunication system or by any other means.

188 Offences in relation to scheme

- (1) The fuel retailer for a service station commits an offence if:
 - (a) the fuel retailer is required to register the service station for the purposes of the scheme; and
 - (b) the service station is not registered in accordance with the scheme.

Maximum penalty: 100 penalty units.

- (2) The fuel retailer for a service station commits an offence if the fuel retailer:
 - (a) is required to report the normal fuel price of a prescribed fuel in accordance with the scheme; and

- (b) fails to report the normal fuel price in accordance with the scheme.

Maximum penalty: 100 penalty units.

- (3) The fuel retailer for a service station commits an offence if the fuel retailer:

- (a) reports a normal fuel price for a prescribed fuel in accordance with the scheme; and

- (b) offers the prescribed fuel for retail sale at a normal fuel price other than the reported price.

Maximum penalty: 100 penalty units.

- (4) An offence against subsection (1), (2) or (3) is an offence of strict liability.

- (5) It is a defence to a prosecution for an offence against subsection (1), (2) or (3) if the defendant has a reasonable excuse.

- (6) In this section:

scheme means the scheme provided for by the regulations under section 187(1).

189 Requirements for price boards

- (1) The regulations may prescribe requirements in relation to the information displayed on a price board.

- (2) The fuel retailer for a service station commits an offence if information is displayed on a price board at the service station other than in accordance with the requirements prescribed under subsection (1).

Maximum penalty: 20 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

Part 3 Amendment of Consumer Affairs and Fair Trading (Infringement Notice Offences) Regulations

6 Regulations amended

This Part amends the *Consumer Affairs and Fair Trading (Infringement Notice Offences) Regulations*.

7 Regulation 3 amended

(1) Regulation 3(1)

omit, insert

(1) An ***infringement notice offence*** is an offence against a provision specified in the Schedule.

(2) Regulation 3(2)

omit

Schedule 1 or 2

insert

the Schedule

8 Regulation 4 amended

Regulation 4

omit

reasonably believes

insert

believes on reasonable grounds

9 Regulation 5 amended

Regulation 5(1)(f)

omit

whom

insert

which

10 Regulation 6 replaced

Regulation 6

repeal, insert

6 Electronic payment and payment by cheque

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the enforcement agency's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

11 Schedules 1 and 2 replaced

Schedules 1 and 2

repeal, insert

Schedule Infringement notice offences and prescribed amounts

regulation 3

Provision	Prescribed amount in penalty units
<i>Consumer Affairs and Fair Trading Act</i>	
sections 116(3), 117, 118(1), (3) and (4), 119(3), (4) and (7), 129(1), 130, 150(3), 157(1), 158(1), 160(1), 161(1) to (3), 163(1), 164, 166(1), 167, 172(1) and (3), 176(1), 178, 188(1), (2) and (3), 194(2), 195(6), 201, 205(3), 212(1), 213, 276, 277(1), 279, 281(1), 283(1) to (6), 284, 289, 290, 292, 293(1) and (2), 294(1) and (2), 299, 302, 311(4), 316, 317(4) and 318(2)	5

sections 144(4), 153(1), 174(1), 175, 189(2), 203(4), 209, 210, 211, 267(4), 274, 275(3), 280(3), 282(2), 285(1) and (2), 291(2), 296(1) and (2), 297(1), 300, 301(1), 315 and 326(2) and (3)	2
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Australian Consumer Law (NT)

a provision of Part 2–2, a provision of Part 3–1 (other than sections 32(1), 35(1), 36(1) to (3), 40, 43 and 47(1)), a provision of Part 3–2, Division 2 (other than section 85) and sections 102(2), 103(2), 106(1) to (3) and (5), 107(1) and (2), 118(1) to (3) and (5), 119(1) and (2), 127(1) and (2), 136(1) to (3) and 137(1) and (2)	12
section 66(2) and a provision of Part 3–2, Division 3 (other than section 96(2))	11
section 222(1)	10
sections 125(4), 128(2) and (6), 131(1), 132(1) and 221(1)	6
sections 100(1) and (3) and 101(3) and (4)	4
section 47(1)	2

Part 4 Expiry of Act

12 Expiry of Act

This Act expires on the day after it commences.