

NORTHERN TERRITORY OF AUSTRALIA
LIQUEFIED PETROLEUM GAS (SUBSIDY) ACT

No. 78 of 1981
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NORTHERN TERRITORY OF AUSTRALIA

No. 78 of 1981

AN ACT

To provide for the payment of a subsidy in respect of
liquefied petroleum gas supplied in the Territory

[Assented to 21 September 1981]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the Liquefied Petroleum Gas (Subsidy) Act 1981.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.

3. INTERPRETATION

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

"authorized officer" means a person appointed under section 6 to be an authorized officer;

"Commonwealth Act" means the Liquefied Petroleum Gas (Grants) Act 1980 of the Commonwealth;

"Commonwealth Minister" means the Minister of State of the Commonwealth for the time being administering the Commonwealth Act;

"eligible gas" means -

- (a) liquefied petroleum gas; or
- (b) eligible reticulation gas;

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"eligible reticulation gas" means gas supplied to premises by means of pipes, being gas the production of which involves the use of liquefied petroleum gas or naphtha;

"eligible use", in relation to liquefied petroleum gas or eligible reticulation gas, means -

- (a) the use of the gas at residential premises in providing food and drink for, in providing heating, air-conditioning, hot water or similar amenities for, or in meeting other domestic requirements of, residents of the premises;
- (b) the use of the gas at a hospital, nursing home or other institution providing medical or nursing care, not being an institution conducted for the profit, direct or indirect, of a person;
- (c) the use of the gas at a school, not being a school conducted for the profit, direct or indirect, of an individual or individuals; or
- (d) any other use of the gas outside a natural gas area, not being -
 - (i) use in a prescribed industry; or
 - (ii) use in the propulsion of a vehicle, other than a works truck;

"industry" means a primary, secondary or tertiary industry, and includes a field of governmental activity, of public or community services (including health and educational services) or of entertainment, sport or recreation;

"natural gas area" means a part of Australia that is, by virtue of a declaration in force under sub-section 3A(1) of the Commonwealth Act, a natural gas area for the purposes of that Act;

"prescribed industry" means an industry that is, by virtue of a declaration in force under sub-section 3B(1) of the Commonwealth Act, a prescribed industry for the purposes of that Act;

"registered distributor" means -

- (a) a registered distributor of liquefied petroleum gas; or
- (b) a registered distributor of eligible reticulation gas;

"registered distributor of eligible reticulation gas" means a distributor of eligible reticulation gas who is registered as such a distributor in accordance with the scheme;

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"registered distributor of liquefied petroleum gas" means a distributor of liquefied petroleum gas who is registered as such a distributor in accordance with the scheme;

"residential premises" means -

- (a) premises used as a house; or
- (b) other premises at which at least one person resides, but does not include -
 - (c) premises used to conduct the business of a hotel, motel or boarding-house or a similar business;
 - (d) premises used as a hospital, nursing home or other institution providing medical or nursing care;
 - (e) premises used as a boarding-school; or
 - (f) premises referred to in paragraph (b) that are included in a class of premises declared by the Commonwealth Minister, by notice in the Commonwealth of Australia Gazette, to be a class of premises that are not residential premises for the purposes of the Commonwealth Act;

"scheme" means the scheme, as in force from time to time, formulated by the Commonwealth Minister in relation to the Territory for the purposes of the Commonwealth Act;

"use", in relation to liquefied petroleum gas or eligible reticulation gas, does not include sale or exchange;

"works truck" means -

- (a) a fork-lift truck; or
- (b) any other vehicle designed for use at a factory, warehouse, dock, airport or similar place in transporting goods over short distances or in otherwise handling goods.

(2) A reference in this Act to liquefied petroleum gas sold for eligible use shall be read as including a reference to liquefied petroleum gas that, by virtue of a provision of the scheme, is deemed to have been sold for eligible use.

(3) A reference in this Act to liquefied petroleum gas sold for eligible use shall be read as not including a reference to any liquefied petroleum gas that, by virtue of a determination under a provision of the scheme, is deemed to have been sold otherwise than for eligible use.

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(4) A reference in this Act to eligible reticulation gas sold for eligible use shall be read as not including a reference to any eligible reticulation gas that, by virtue of a determination under a provision of the scheme, is deemed to have been sold otherwise than for eligible use.

4. CALCULATION OF SUBSIDY

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

5. ADVANCE ON ACCOUNT OF SUBSIDY

The Minister may authorize an advance on account of a payment under this Act to be made in accordance with the scheme to a registered distributor on such terms and conditions, including a condition with respect to the giving of the benefit of the amount of the advance to purchasers from the distributor of eligible gas for eligible use, as the Minister thinks fit.

6. AUTHORIZED OFFICERS

(1) The Minister may appoint persons to be authorized officers for the purposes of this Act.

(2) A person may be appointed under sub-section (1) to be an authorized officer notwithstanding that he is an officer of the Commonwealth.

(3) An officer of the Commonwealth shall not be appointed under sub-section (1) to be an authorized officer without the consent of the Commonwealth Minister.

7. CLAIM FOR PAYMENT

A claim by a registered distributor for a payment under this Act shall be made to an authorized officer and in accordance with the Regulations made under this Act.

8. CERTIFICATES

(1) An authorized officer shall examine each claim made to him for a payment under this Act and shall, if he is satisfied that an amount is payable to the claimant, give a certificate in writing to that effect.

(2) An authorized officer who is examining a claim for a payment under this Act may certify in writing -

(a) that a specified person sold a specified quantity of liquefied petroleum gas for eligible use on a specified date;

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(b) that a specified quantity of liquefied petroleum gas or naphtha was purchased by, delivered to, or used in the production of eligible reticulation gas by, a specified person on a specified date; or

(c) that a specified person sold a specified quantity of eligible reticulation gas for eligible use, or sold a specified quantity of eligible reticulation gas, during a specified period.

(3) Where an authorized 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 an overpayment to that person by the Territory.

(4) The Auditor-General shall treat a certificate under this section as 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 authorize 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. OVERPAYMENTS

(1) Where an amount, including an amount paid by way of an advance, paid to a person under this Act was not payable to the person or exceeded the amount that was payable to the person, that amount is an overpayment to that person by the Territory which that person is liable to repay to the Territory and the Territory may seek to recover the amount in a court of competent jurisdiction as a debt due to the Territory.

(2) In proceedings in a court against a person for the recovery of an amount by reason that it is an overpayment to the person by the Territory, a certificate under section 8(3) that the amount is such an overpayment is prima facie evidence of that fact.

11. SECURITIES

An authorized officer may require a registered distributor to give security in an amount determined by the authorized officer by bond, guarantee or cash deposit, or by all or any of those methods, for compliance by the registered distributor with the provisions of this Act and the Regulations or for the purposes of an undertaking given by the registered distributor for the purposes of this Act or the Regulations, and the distributor is not entitled to a payment under this Act unless he gives security accordingly.

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12. PRESERVATION OF ACCOUNTS, &c.

(1) A person who receives a payment under this Act in respect of the sale of any liquefied petroleum gas shall preserve the accounts, books, documents and other records relating to that sale until the expiration of 12 months after the date of making the claim in respect of which the payment was made.

(2) A person who receives a payment under this Act in respect of the purchase by him of any liquefied petroleum gas or naphtha delivered to him during a period shall preserve the accounts, books, documents and other records relating to -

(a) that purchase or delivery; or

(b) the production or sale by him of eligible reticulation gas during that period,

until the expiration of 2 years after the date of making the claim in respect of which the payment was made.

Penalty: \$1,000.

13. STOCKTAKING AND INSPECTION OF ACCOUNTS, &c.

(1) For the purposes of this Act or an Act of a State relating to subsidy for the sale of liquefied petroleum gas or the purchase of liquefied petroleum gas or naphtha, an authorized officer may, at all reasonable times, enter -

(a) any premises of -

(i) a registered distributor; or

(ii) a person who is registered as a distributor of -

(A) liquefied petroleum gas; or

(B) eligible reticulation gas,

in accordance with a scheme formulated by the Commonwealth Minister in relation to a State for the purposes of the Commonwealth Act; or

(b) any vehicle used by a person mentioned in sub-section (1)(a) for the carriage of liquefied petroleum gas,

and may inspect the accounts, books, documents and other records relating to the sale of liquefied petroleum gas, the production or sale of eligible reticulation gas or the purchase of liquefied petroleum gas or naphtha, and may inspect the accounts, books, documents and other records relating to the purchase or use of the gas.

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(2) The occupier of any premises or any person in charge of any vehicle referred to in sub-section (1) shall provide an authorized officer with all reasonable facilities and assistance for the effective exercise of the authorized officer's powers under this section.

(3) For the purposes of this Act, an authorized officer may, at all reasonable times, enter any premises to which eligible gas has been or is supplied by a registered distributor, being gas in relation to which a claim for payment under this Act has been made.

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

Penalty: \$500.

14. POWER TO REQUIRE A PERSON TO ANSWER QUESTIONS AND PRODUCE DOCUMENTS

(1) An authorized officer may, by a notice signed by him, require a person whom he believes to be capable of giving information relevant to a claim for a payment under this Act or an Act of a State relating to subsidy in respect of the sale of liquefied petroleum gas or the purchase of liquefied petroleum gas or naphtha to attend before him at the time and place specified in the notice and there to answer questions and produce to him such accounts, books, documents and other records in relation to the claim as are referred to in the notice.

(2) An authorized officer may make and retain copies of, or take extracts from, any accounts, books, documents or other records produced in pursuance of this section.

(3) A person is not excused from answering questions or from producing any accounts, books, documents or other records when required so to do, under this section, on the ground that the answer to the question, or the production of the accounts, books, documents or other records, 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 16(1)(c) or (3).

15. POWER TO EXAMINE ON OATH

(1) An authorized officer may examine, on oath or affirmation, a person attending before him following the service of a notice under section 14(1) and, for that purpose, may administer an oath or affirmation to that person.

(2) An oath or affirmation to be made by a person for the purpose of sub-section (1) is an oath or affirmation that the answers he will give to questions asked of him will be true.

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16. OFFENCES

(1) A person shall not, without reasonable excuse, refuse or fail -

- (a) to attend before an authorized officer;
- (b) to be sworn or make an affirmation; or
- (c) to answer any questions or produce any accounts, books, documents or other records when so required in pursuance of this Act.

Penalty: \$1,000.

(2) A person shall not -

- (a) knowingly obtain or attempt to obtain a payment that is not payable under this Act; or
- (b) obtain or attempt to obtain a payment under this Act by means of a statement that he knows to be false or misleading or by means of a document which to his knowledge contains information that is false or misleading.

Penalty: \$2,000 or imprisonment for 12 months.

(3) A person shall not make to an authorized officer a statement that is false or misleading in a material particular.

Penalty: \$1,000.

(4) Where a person is convicted of an offence against sub-section (2), the court may, in addition to imposing a penalty under that sub-section, order that 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 sub-section (4), a certificate, signed by 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 of competent jurisdiction and is thereupon enforceable in all respects as a final judgment of that court.

(6) Proceedings in relation to an offence against this Act shall not be commenced later than 12 months after the commission of the offence.

17. DELEGATION BY MINISTER

(1) The Minister may, from time to time, by instrument in writing, delegate to a person such of his powers and functions, other than this power of delegation, as are specified in the instrument.

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(2) A delegation under sub-section (1) may be made generally or for any particular case or class of cases specified in the instrument of delegation.

(3) A power or function delegated under this section may be exercised or performed, in accordance with the terms of the delegation, by the person to whom the delegation is made.

(4) A delegation under sub-section (1) is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.

18. 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, for or in respect of -

- (a) the manner in which claims for payment 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 \$200 for offences against the Regulations.
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