



ANNO TRICESIMO SEXTO

# ELIZABETHAE II REGINAE

A.D. 1987

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No. 65 of 1987

**An Act to amend the Business Franchise (Petroleum Products) Act, 1979.**

*[Assented to 29 October 1987]*

The Parliament of South Australia enacts as follows:

- Short title.            1. (1) This Act may be cited as the "Business Franchise (Petroleum Products) Act Amendment Act, 1987".
- (2) The Business Franchise (Petroleum Products) Act, 1979, is in this Act referred to as "the principal Act".
- Commencement.        2. This Act will come into operation on 1 November, 1987.
- Insertion of new s. 4a.    3. The following section is inserted after section 4 of the principal Act:
- Division of the State into zones.
- 4a. (1) Subject to subsection (2), the State is divided into zones as follows:
- (a) zone 1 is that part of the mainland of the State that lies within a radius of 50 kilometres from the General Post Office at Adelaide;
- (b) zone 2 is that part of the mainland of the State (excluding Yorke Peninsula) that lies outside zone 1 but within a radius of 100 kilometres from the General Post Office at Adelaide;
- and
- (c) zone 3 consists of all parts of the State outside zone 1 and zone 2.
- (2) The Governor may, if satisfied that it is necessary to do so in order to achieve equity between vendors of petroleum products, make a regulation varying the boundaries of a zone to such extent as may be necessary for that purpose.
- Amendment of s. 15—Inspectors.        4. Section 15 of the principal Act is amended by striking out from subsection (1) "Minister" and substituting "Commissioner".

## 5. Section 16 of the principal Act is amended—

Amendment of  
s. 16—  
Powers of an  
inspector.

(a) by striking out from subsection (1) “without any warrant other than this section”;

(b) by inserting after paragraph (a) of subsection (1) the following paragraph:

(ab) search the premises for records related to dealings with petroleum products;;

(c) by inserting after subsection (1) the following subsections:

(1a) An Inspector must not exercise force to break into premises or anything on premises unless authorized to do so by warrant issued by a magistrate.

(1b) A magistrate may issue such a warrant if satisfied that the warrant is reasonably required for the purposes of the administration or enforcement of this Act.;

and

(d) by striking out from subsection (5) “proceedings, civil or criminal” and substituting “criminal proceedings”.

## 6. Section 18 of the principal Act is amended—

Amendment of  
s. 18—  
Fees.

(a) by striking out paragraph (a) of subsection (1) and substituting the following paragraph:

(a) for a class A licence—\$50 plus—

(i) 10 per cent of the value of motor spirit and 12.2 per cent of the value of diesel fuel sold by the applicant during the relevant period and destined for consumption in zone 1;

(ii) 7.7 per cent of the value of motor spirit and 10 per cent of the value of diesel fuel sold by the applicant during the relevant period and destined for consumption in zone 2;

and

(iii) 5.5 per cent of the value of motor spirit and 7.7 per cent of the value of diesel fuel sold by the applicant during the relevant period and destined for consumption in zone 3;;

(b) by striking out subsections (2) and (3) and substituting the following subsection:

(2) For the purposes of subsection (1)—

(a) if the applicant for a Class A licence is, or was during the relevant period, a member of a group, all members of the group will be treated as applicants for the purpose of calculating the licence fee;

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- (b) petroleum products sold by an applicant will be taken to have been destined for consumption in zone 1 unless it is established to the Commissioner's satisfaction that they were destined for consumption in zone 2 or zone 3;
- (c) petroleum products will be taken to be destined for consumption in zone 2 or zone 3 if and only if it is established to the Commissioner's satisfaction—
- (i) that they were sold by retail, and delivered in pursuance of that sale, from a place of business in the relevant zone;
  - or
  - (ii) that they were delivered at a place of business within the relevant zone for the purpose of retail sale and delivery from that place of business;
- (d) the following amounts will be disregarded in calculating the fee for a Class A licence—
- (i) the value of petroleum products sold by the applicant (being at the time of the sale the holder of a Class A licence) to another holder of a Class A licence for the purpose of resale;
  - (ii) the value of petroleum products sold for delivery and consumption outside the State;
  - (iii) the value of diesel fuel sold for some purpose other than the propulsion of diesel engined road vehicles.;
- (c) by striking out subsections (4) to (8) and substituting the following subsections:
- (4) For the purpose of determining the fee for a Class A licence, the value of motor spirit and diesel fuel sold during a particular relevant period will be calculated by reference to a value per litre fixed by or under this Act and in force as at the commencement of the relevant period.
- (5) The Governor may, by regulation—
- (a) fix a value per litre for motor spirit;
  - and
  - (b) fix a value per litre for diesel fuel.
- (6) A value fixed under subsection (5) must not exceed a value representing, in the Minister's opinion, a reasonable average wholesale price for motor spirit or diesel fuel (as the case requires) in the State as at the date of the regulation.

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(7) Until a valuation of motor spirit and diesel fuel is made under subsection (5), the value of both motor spirit and diesel fuel will be taken to be 45 cents per litre.

(8) The valuation under subsection (7) will be taken to have come into force on 1 September, 1987 (and it will revive if a valuation made under subsection (5) is disallowed and the disallowance does not result in the revival of a previous valuation under an earlier regulation).;

and

(d) by inserting after subsection (12) the following subsection:

(13) The Commissioner may make an appropriate reduction in the fee for a class B licence if the licence is to be in force for less than 12 months.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor