

CLEAN AIR (AMENDMENT) ACT, 1981, No. 92

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 92, 1981.

An Act to amend the Clean Air Act, 1961, to increase the penalties for offences under that Act and to make further provision for reducing pollution of the air from premises and motor vehicles, including provision for the availability and use of unleaded petrol. [Assented to, 10th June, 1981.]

See also Motor Traffic (Clean Air) Amendment Act, 1981; Clean Waters (Amendment) Act, 1981.

Clean Air (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Clean Air (Amendment) Act, 1981".

Commencement.

2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5, in its application to Schedule 2, and Schedule 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Section 5, in its application to Schedule 3, and Schedule 3 shall commence on such day, being a later day than the day appointed and notified under subsection (2), as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Clean Air Act, 1961, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE AIR FROM PREMISES AND MOTOR VEHICLES.

Clean Air (Amendment).

**SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO UNLEADED PETROL.****Amendment of Act No. 69, 1961.**

5. The Principal Act is amended in the manner set forth in **Schedules 1–3.**

Saving.

6. The amendments made to sections 21B and 34 of the Principal Act by section 5 and Schedule 2 do not affect any regulation in force under the Principal Act immediately before the commencement of **Schedule 2**, and any such regulation continues in force as if made under the Principal Act, as amended by section 5 and Schedule 2.

SCHEDULE 1.**(Sec. 5.)****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.**

(1) Section 21G (3)—

Omit the subsection, insert instead:—

(3) A person who fails or neglects to comply with a requirement made pursuant to this section is guilty of an offence against this Act and is liable—

- (a)** where the offence was committed by a corporation—to a penalty not exceeding \$4,000; or
- (b)** where the offence was committed by any other person—to a penalty not exceeding \$2,000.

Clean Air (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—*continued.*

(2) Section 23 (3)—

Omit the subsection, insert instead:—

(3) A person who fails or neglects to comply with a requirement made pursuant to this section is guilty of an offence against this Act and is liable—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$4,000; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$2,000.

(3) Section 25 (2)—

Omit the subsection.

(4) Section 27 (5)—

Omit “and liable to a penalty not exceeding \$1,000.”, insert instead:—
against this Act and is liable—

- (d) where the offence was committed by a corporation—to a penalty not exceeding \$4,000; or
- (e) where the offence was committed by any other person—to a penalty not exceeding \$2,000.

(5) Section 31—

Omit “\$1,000”, insert instead “\$4,000”.

(6) (a) Section 32 (1) (d)—

Omit “or order made”, insert instead “, order or direction made or given”.

Clean Air (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—*continued.*

(b) Section 32 (2)—

After section 32 (1) insert:—

(2) Subsection (1) (d) does not apply to or in respect of an order given under section 33A.

(c) Section 32 (3) (a)—

Omit “\$10,000”, insert instead “\$40,000”.

(d) Section 32 (3) (a)—

Omit “\$2,000”, insert instead “\$20,000”.

(e) Section 32 (3) (b)—

Omit “\$1,000”, insert instead “\$20,000”.

(f) Section 32 (3) (b)—

Omit “\$200”, insert instead “\$10,000”.

(7) Section 32A—

Omit “shall be liable to a penalty not exceeding \$5,000 for every day that the non-compliance continues after that time.”, insert instead:—

is guilty of a further offence against this Act and is liable—

(c) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or

(d) where the offence was committed by any other person—to a penalty not exceeding \$10,000,

for every day that the non-compliance continues after that time.

(8) Section 33 (4)—

Omit “\$2,000”, insert instead “\$4,000”.

Clean Air (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—*continued.*

(9) Section 33A—

After section 33, insert:—

Orders for restoration and compensation.

33A. (1) Where, in proceedings before the Court for an offence against this Act arising under section 14, 15 or 19, a person is convicted, the Court, in addition to imposing a penalty for the offence, may—

- (a) order the person so convicted to take such steps as are specified in the order, within such time as is so specified or such further time as the Court upon application may allow, to remove, disperse, destroy or mitigate any pollution caused by reason of the commission of the offence; and
- (b) where it appears to the Court that—
 - (i) any statutory body or local authority has incurred costs and expenses in connection with the removal, dispersion, destruction or mitigation of any such pollution; or
 - (ii) any other person has, by reason of the commission of the offence, suffered loss of or damage to property or has incurred costs and expenses in preventing or mitigating, or in attempting to prevent or mitigate, any such loss or damage,

order the person so convicted to pay to the statutory authority, local authority or other person costs and expenses so incurred, or compensation for loss of or damage to property so suffered, as the case may be, in such amount as is fixed by the order.

Clean Air (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—*continued.*

(2) A person to whom an order under subsection (1) (a) has been given and who fails to comply with the order within the time specified therein (or, where the Court upon application allowed further time, within the time so allowed) is guilty of an offence against this Act and is liable—

(a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or

(b) where the offence was committed by any other person—to a penalty not exceeding \$10,000,

for every day that the non-compliance continues after that time.

(3) An order under subsection (1) (b) is enforceable as if it were an order made by the Court in proceedings referred to in section 20 of the Land and Environment Court Act, 1979.

(10) (a) Section 34 (4) (a)—

Omit "\$5,000", insert instead "\$20,000".

(b) Section 34 (4) (a)—

Omit "\$1,000", insert instead "\$10,000".

(c) Section 34 (4) (b)—

Omit "\$500", insert instead "\$10,000".

(d) Section 34 (4) (b)—

Omit "\$100", insert instead "\$5,000".

Clean Air (Amendment).

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES.

- (1) Section 1 (3), matter relating to Part IVA—

Omit “21G”, insert instead “21H”.

- (2) Section 5 (1), definition of “Authorised officer”—

Before “scheduled” where firstly and thirdly occurring, insert “motor vehicles or”.

- (3) Section 11 (8), (9)—

After section 11 (7), insert:—

(8) Nothing in this section authorises the attaching to a license of any condition with which the licensee could not comply without failing to meet any other requirement made by or under this Act.

(9) Where a licensee cannot meet any requirement made by or under this Act without failing to comply with a condition for the time being attached to his license, he shall, if he meets the requirement, be deemed to have complied with the condition.

- (4) (a) Section 14 (3A), (3B)—

After section 14 (3), insert:—

(3A) Subsection (1) does not apply to or in respect of any control equipment prescribed for the purposes of section 15B.

(3B) Subsection (2) does not apply to or in respect of any fuel burning equipment or industrial plant which is fitted, as required by section 15B (1), with control equipment prescribed for the purposes of section 15B.

- (b) Section 14 (4)—

After “15” wherever occurring, insert “or 15A”.

Clean Air (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—continued.****(5) Section 15B—**

After section 15A, insert:—

Control equipment on scheduled premises.

15B. (1) The occupier of any scheduled premises shall not, unless he is in special circumstances exempted from the provisions of this section by the Minister, use or operate, or cause or allow to be used or operated, any fuel burning equipment or industrial plant in or on those premises unless that equipment or plant is fitted with the prescribed control equipment.

(2) The occupier of any scheduled premises in or on which is installed any fuel burning equipment or industrial plant fitted with prescribed control equipment shall—

- (a) where specifications for the maintenance or operation of that fuel burning equipment, industrial plant or control equipment are prescribed—ensure that those specifications are complied with; or
- (b) where no such specifications are prescribed—maintain that fuel burning equipment, industrial plant or control equipment in an efficient condition and operate it in a proper and efficient manner.

(6) Section 16 (12)—

Omit “proceeding”, insert instead “proceedings”.

(7) Section 19A—

After section 19, insert:—

Control equipment on premises other than scheduled premises.

19A. (1) The occupier of any premises shall not, unless he is in special circumstances exempted from the provisions of this section by the Minister, use or operate, or cause or allow to be used or operated,

Clean Air (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—*continued.*

any fuel burning equipment or industrial plant in or on those premises unless that equipment or plant is fitted with the prescribed control equipment.

(2) The occupier of any premises in or on which is installed any fuel burning equipment or industrial plant fitted with prescribed control equipment shall—

- (a) where specifications for the maintenance or operation of that fuel burning equipment, industrial plant or control equipment are prescribed—ensure that those specifications are complied with; or
- (b) where no such specifications are prescribed—maintain that fuel burning equipment, industrial plant or control equipment in an efficient condition and operate it in a proper and efficient manner.

(8) Section 21A (2)—

At the end of section 21A, insert:—

(2) For the purposes of this Part, a motor vehicle emits excessive air impurities if—

- (a) when in operation, it emits at any point specified in or determined in accordance with the regulations, air impurities in excess of the standard of concentration and the rate, or the standard of concentration or the rate, prescribed in respect of the class of motor vehicles to which that motor vehicle belongs; or
- (b) when tested in the prescribed manner, it emits air impurities in excess of the amount per test prescribed in respect of the class of motor vehicles to which that motor vehicle belongs.

Clean Air (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—*continued.*

(9) (a) Section 21B (a)—

After “sell”, insert “or supply for sale”.

(b) Section 21B—

Omit “if, when in operation, it emits at any point specified in or determined in accordance with the regulations air impurities in excess of the standard of concentration and the rate, or the standard of concentration or the rate, prescribed in respect of the class of motor vehicles to which that motor vehicle belongs”, insert instead “if it emits excessive air impurities”.

(10) Section 21BA—

After section 21B, insert:—

Adjustment, etc., of motor vehicles and prescribed anti-pollution devices.

21BA. (1) A person shall not—

- (a) remove, disconnect or impair a device fitted to a motor vehicle, being a prescribed anti-pollution device or any other device designed or intended to minimise pollution of the air, or cause or allow any such device to be removed, disconnected or impaired; or
- (b) adjust or modify any such device or any part of a motor vehicle, or cause or allow any such device or part to be adjusted or modified, where the adjustment or modification results in the emission of excessive air impurities by the motor vehicle.

Clean Air (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—*continued.*

(2) Subsection (1) does not prohibit the removal, disconnection, impairment, adjustment or modification of any device or the adjustment or modification of any part—

- (a) in order to service, repair or replace the device or part, or improve its efficiency with respect to minimising pollution of the air; or
- (b) as a temporary measure in order to facilitate the service or repair of a motor vehicle.

(3) A person shall not service or repair a motor vehicle, or cause or allow a motor vehicle to be serviced or repaired, in a manner prohibited by the regulations.

(11) Section 21c (2)—

After “sell”, insert “or supply for sale”.

(12) Section 21d—

After section 21c, insert:—

Maintenance, etc., of motor vehicles.

21d. (1) A person who is the owner of a motor vehicle shall not, where the regulations require motor vehicles of a class to which that motor vehicle belongs to be serviced, maintained or adjusted in a specified manner, use the motor vehicle or cause or allow it to be used unless it has been serviced, maintained or adjusted in that manner.

(2) A person shall not, whether on his own behalf or on behalf of another person, sell or supply for sale, exhibit or offer for sale, or conduct negotiations for the sale of, a motor vehicle belonging

Clean Air (Amendment).

*SCHEDULE 2—continued.***AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—*continued.***

to a class of motor vehicles required by the regulations to be serviced, maintained or adjusted in a specified manner unless it has been serviced, maintained or adjusted in that manner.

(13) (a) Section 21E (a)—

Omit “paragraph (a) of section 21B, or under subsection (2) of section 21C”, insert instead “section 21B (a), 21C (2) or 21D (2)”.

(b) Section 21E (a)—

Omit “or” where lastly occurring.

(c) Section 21E (b)—

Omit “paragraph (a) or (b) of section 21B”, insert instead “section 21B (a) or (b),”.

(d) Section 21E (b) (i)—

Omit “at any point referred to in that section air impurities in excess of the standard of concentration and the rate, or the standard of concentration or the rate, prescribed in respect of the class of motor vehicles to which that motor vehicle belonged”, insert instead “excessive air impurities”.

(e) Section 21E (b) (iii)—

Omit the subparagraph, insert instead:—

(iii) that no visible air impurities were emitted by that motor vehicle; and

(f) Section 21E (b) (iv)—

Omit “1909.”, insert instead “1909;”.

Clean Air (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—*continued.*

(g) Section 21E (c)–(e)—

After section 21E (b), insert:—

- (c) arising under section 21BA (1) (b), if the defendant proves that, at the time the offence was committed—
 - (i) he did not know and could not reasonably be expected to have known that the motor vehicle to which the offence relates emitted excessive air impurities; and
 - (ii) no visible air impurities were emitted by the motor vehicle;
- (d) arising under section 21C (1), if the defendant proves that, at the time the offence was committed, he had reasonable grounds to believe, and did believe, that the motor vehicle was fitted with every prescribed anti-pollution device required by the regulations to be fitted thereto and that he took all reasonable steps to ensure that every such device was maintained in accordance with the regulations; or
- (e) arising under section 21D (1) or (2), if the defendant proves that he took all reasonable steps to ensure that the motor vehicle was serviced, maintained or adjusted as required by the regulations.

(14) Section 21EA—

After section 21E, insert:—

Notices to repair, etc., prescribed anti-pollution devices.

21EA. (1) Where a motor vehicle emits excessive air impurities, an authorised officer may, by notice in writing served on the owner of the motor vehicle, direct the owner to cause the motor vehicle to be serviced or repaired, within a period of time specified in the notice, so that it no longer emits excessive air impurities.

Clean Air (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—*continued.*

(2) Where—

- (a) a motor vehicle is not fitted with every prescribed anti-pollution device required by the regulations to be fitted thereto;
- (b) any device fitted to a motor vehicle, being a prescribed anti-pollution device or any other device designed or intended to minimise pollution of the air, has been removed, disconnected or impaired; or
- (c) any such device or any part of a motor vehicle has been so adjusted or modified that, as a result, the motor vehicle emits excessive air impurities,

an authorised officer may, by notice in writing served on the owner of the motor vehicle, direct the owner to—

- (d) cause the motor vehicle to be fitted with such devices as are specified in the notice, being prescribed anti-pollution devices required by the regulations to be fitted thereto;
- (e) cause such devices as are specified in the notice, being devices of a kind referred to in paragraph (b), to be refitted, reconnected or repaired; or
- (f) cause any such devices, or any part of the motor vehicle, specified in the notice to be readjusted or restored,

as the case may require, within a period of time specified in the notice.

(3) Where—

- (a) a direction has been given under this section in respect of a motor vehicle and has not been revoked under subsection (4);

Clean Air (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—*continued.*

(b) the period of time specified in the notice whereby the
direction was given has expired; and

(c) the direction has not been complied with,

a person who knows that the direction was given shall not use the
motor vehicle or cause or allow it to be used.

Penalty: \$1,000.

(4) A direction given under this section in respect of a
motor vehicle may be revoked by an authorised officer by notice in
writing served on the owner of the motor vehicle.

(5) Where an authorised officer has given a direction
under this section in respect of a motor vehicle, he may affix to the
windscreen of the motor vehicle or otherwise conspicuously affix to
the motor vehicle a prescribed label.

(6) A person not being an authorised officer shall not
remove a prescribed label affixed to a motor vehicle or obliterate
or interfere with any such label.

Penalty for an offence under this subsection: \$1,000.

(15) Section 21G (1A)—

After section 21G (1), insert:—

(1A) The Commission, by a like notice, may require a person by
whom any motor vehicles of a class or description specified in the
notice were manufactured, assembled, imported, sold or supplied
for sale, to furnish to it—

(a) such information as to the ownership of any such motor
vehicles; or

Clean Air (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—continued.**

- (b) such information as to any other matter or thing concerning any such motor vehicles (whether or not it is information of a kind that the Commission may, in relation to a motor vehicle, require by a notice under subsection (1)),

as it requires by the notice, being information in the possession of that person or to which he has access.

(16) Section 21H—

After section 21G, insert:—

Notice to recall motor vehicles.

21H. (1) Where the Commission is satisfied that not less than the prescribed proportion of motor vehicles in a prescribed sample of a class of motor vehicles, being motor vehicles of a like make and model, are defective in that they—

- (a) emit excessive air impurities;
- (b) have not been fitted with every prescribed anti-pollution device required by the regulations to be fitted thereto; or
- (c) have been fitted with prescribed anti-pollution devices, or with any other devices designed or intended to minimise pollution of the air, which devices have been designed or manufactured, or fitted to the motor vehicles, in such a manner that the motor vehicles—
 - (i) emit excessive air impurities; or
 - (ii) are likely, after a short period of use, to emit excessive air impurities,

Clean Air (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE AIR FROM PREMISES AND MOTOR VEHICLES—continued.**

the Commission, by notice in writing served on any person who, at a time not earlier than 12 months before service of the notice, manufactured, assembled or imported any motor vehicles of that class, may require the person to take such reasonable steps as are specified in the notice—

- (d) to effect, within such reasonable time as is so specified, the return to him of any such motor vehicles by any persons to whom he sold or supplied them or by any other persons having possession of them; and
- (e) where the notice so specifies—to effect such repairs, adjustments or modifications to the motor vehicles or any devices fitted thereto, being prescribed anti-pollution devices or any other devices designed or intended to minimise pollution of the air, or to fit the motor vehicles with such prescribed anti-pollution devices, as are specified in the notice, within such reasonable time as is so specified and at no cost to the owners of the motor vehicles or to any other persons who had possession of them.

(2) It is a sufficient defence to a prosecution for neglecting or failing to comply with a requirement under subsection (1), if the defendant proves—

- (a) that certain regulations that were in force at the time the notice was served, being regulations—
 - (i) referred to in, or made for the purposes of, section 21A (2); or
 - (ii) referred to in subsection (1) (b),were not in force at the time he manufactured, assembled or imported, as the case may be, the motor vehicles to which the notice relates; and
- (b) that, but for those regulations, the Commission could not have been satisfied that any motor vehicles of the class to which those motor vehicles belong were defective.

Clean Air (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—*continued.*

(3) Nothing in this section affects any person's right to possession of a motor vehicle.

(17) Section 32 (2)—

After "of", insert "a direction given under section 21EA or".

(18) (a) Section 33 (3) (a)—

Omit "or" where lastly occurring.

(b) Section 33 (3) (b) (ii)—

Omit "paragraph," insert instead "paragraph; or".

(c) Section 33 (3) (c)—

After section 33 (3) (b), insert:—

- (c) by a member of the police force of proceedings for an offence prescribed, under the Motor Traffic Act, 1909, for the purposes of section 18B (1) (e) of that Act, whether or not the offence has been dealt with under section 18B of that Act,

(19) Section 33A (1)—

Omit "or 19", insert instead "15B, 19 or 19A".

(20) (a) Section 34 (1)—

After "regulations" where firstly occurring, insert "not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular,".

Clean Air (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—continued.****(b) Section 34 (1) (f3)—**

After “them”, insert “or of determining whether they comply with a requirement of this Act”.

(c) Section 34 (1) (g)–(n)—

Omit section 34 (1) (g), insert instead:—

- (g) control equipment to be fitted to fuel burning equipment or industrial plant;
- (h) the installation, maintenance, testing, inspection and operation of any fuel burning equipment or industrial plant and of any control equipment fitted thereto;
- (i) the design of or specifications for, and control equipment to be fitted to, equipment used for the storage, transfer or conveyance of substances of a prescribed class or description;
- (j) the service, repair and maintenance of motor vehicles in order to minimise the emission by them of air impurities;
- (k) prohibiting the registration under the Motor Traffic Act, 1909, of all motor vehicles of a specified class, being motor vehicles of a like make and model, where not less than the prescribed proportion of motor vehicles in a prescribed sample of motor vehicles of that class do not comply with the regulations;
- (l) the design, in a manner conducive to minimising pollution of the air, of component parts of motor vehicles;
- (m) the filling, in a manner conducive to minimising pollution of the air, of motor vehicle fuel tanks or other containers used for the storage of fuels of a prescribed class or description; and

Clean Air (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POLLUTION OF THE
AIR FROM PREMISES AND MOTOR VEHICLES—continued.**

- (n) the display in or upon, or the affixing to—
- (i) motor vehicles of a prescribed class or description; or
 - (ii) equipment used for or in connection with the sale or distribution for sale of fuels, of prescribed signs, displayed or affixed in the prescribed manner, to indicate the suitability of operating the vehicle with, or of using the equipment in relation to, specified fuels or to indicate that the vehicle or equipment complies with the provisions, or with any specified provision, of this Act.

- (d) Section 34 (2)—

After section 34 (1), insert:—

(2) A provision of this Act which authorises the Minister to exempt any person from the provisions of the section in which the provision occurs does not operate so as to limit or restrict an exemption contained in, or a power of exemption conferred by, the regulations.

- (e) Section 34 (3c)—

Omit “Traffic”, insert instead “Transport”.

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO UNLEADED PETROL.

- (1) Section 1 (3), matter relating to Part IVA—

Omit “21H”, insert instead “21N”.

Clean Air (Amendment).

SCHEDULE 3—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
UNLEADED PETROL—*continued.***

(2) (a) Section 21A (1)—

Omit the subsection, insert instead:—

(1) In this Part—

“owner”, in relation to a motor vehicle, includes—

- (a) every person who is the owner or joint owner or part owner of the motor vehicle and any person who has the use of the motor vehicle under a hire-purchase agreement, but not the lessor under any such agreement;
- (b) the person in whose name the motor vehicle is registered under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the regulations under that Act applicable to him in regard to the sale or disposal; and
- (c) where a trader's plate issued under those regulations is affixed to the motor vehicle, the person to whom the trader's plate is on issue;

“petrol” includes a mixture of petrol and any other substance, other than a prescribed mixture or a mixture of a prescribed class or description;

“unleaded petrol” means petrol—

(a) which contains—

- (i) no lead or not more than the prescribed mass of lead per litre; and
- (ii) no phosphorus or not more than the prescribed mass of phosphorus per litre; and

(b) which has a research octane number within the prescribed range.

Clean Air (Amendment).

SCHEDULE 3—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
UNLEADED PETROL—continued.****(b) Section 21A (3)—**

After section 21A (2), insert:—

(3) For the purposes of this Part, the mass of an element contained in a specified volume of a substance may be determined by reference to the mass of the element present as a constituent of a compound contained in that volume.

(3) Sections 21I, 21J, 21K, 21L, 21M, 21N—

After section 21H, insert:—

Petrol retailers to sell unleaded petrol.

21I. A person who sells petrol by retail shall not fail or refuse to comply on demand with a request from another person to be sold unleaded petrol.

Petrol suppliers to supply unleaded petrol.

21J. (1) A person (in this section referred to as a “supplier”) who, in the course of business, supplies petrol (otherwise than by retail sale) shall not fail or refuse to comply on demand with a request from another person to be supplied with unleaded petrol.

(2) It is sufficient compliance with a request referred to in subsection (1) if a supplier arranges for the supply, by another supplier, of unleaded petrol in accordance with the request.

Clean Air (Amendment).

SCHEDULE 3—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
UNLEADED PETROL—continued.****Defences to prosecutions for offences under section 21I or 21J.**

21K. It is a sufficient defence to a prosecution for an offence arising under section 21I or 21J, if the defendant proves, in relation to a request referred to in section 21I or 21J, as the case may be—

- (a) that he had done all things reasonably practicable to be able to comply with the request but that he was prevented, by circumstances beyond his control, from so complying; or
- (b) that, due to the nature of the request or the nature, character or actions of the person making the request, it was reasonable, having regard to all the circumstances of the case, to refuse or fail to comply with the request.

Unleaded petrol to be genuine.

21L. A person shall not—

- (a) sell or distribute for sale as unleaded petrol;
- (b) offer or exhibit for sale as unleaded petrol; or
- (c) have in his possession for sale as, or for distribution for sale as, unleaded petrol,

any petrol which, at the time it is so sold or distributed, offered or exhibited or had in possession, as the case may be—

- (d) contains—
 - (i) more than the prescribed mass of lead per litre; or
 - (ii) more than the prescribed mass of phosphorus per litre; or
- (e) has a research octane number not within the prescribed range.

Clean Air (Amendment).

SCHEDULE 3—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
UNLEADED PETROL—continued.****Sale of certain motor vehicles prohibited.**

21M. (1) A person shall not, whether on his own behalf or on behalf of another person, sell or supply for sale, exhibit or offer for sale, or conduct negotiations for the sale of, a motor vehicle of a prescribed class or description unless the motor vehicle, when in operation using unleaded petrol, meets the prescribed road octane requirement when tested in accordance with the regulations.

(2) It is a sufficient defence to a prosecution for an offence arising under subsection (1), if the defendant proves that the offence was committed by him in the course of his employment by another person or that, upon, or in the event of, the sale of the motor vehicle, he received or was to receive remuneration, by way of commission, from a person other than the owner of the motor vehicle.

Certain motor vehicles to use only unleaded petrol.

21N. (1) A person shall not place in the fuel tank of a motor vehicle of a prescribed class or description—

- (a) any petrol which contains—
 - (i) more than the prescribed mass of lead per litre; or
 - (ii) more than the prescribed mass of phosphorus per litre; or
- (b) any substance which, when mixed with anything already contained in the fuel tank of the motor vehicle, would result in the fuel tank's then having contents which contain—
 - (i) more than the prescribed mass of lead per litre; or
 - (ii) more than the prescribed mass of phosphorus per litre.

Clean Air (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
UNLEADED PETROL—*continued.*

(2) A person shall not operate a motor vehicle of a prescribed class or description if the contents of its fuel tank contain—

- (a) more than the prescribed mass of lead per litre; or
- (b) more than the prescribed mass of phosphorus per litre.

(3) It is a sufficient defence to a prosecution for an offence arising under subsection (2), if the defendant proves that, at the time he operated the motor vehicle, he did not know and could not reasonably be expected to have known that the contents of its fuel tank contained more than the prescribed mass of lead per litre, or more than the prescribed mass of phosphorus per litre, as the case may be.

(4) (a) Section 34 (1) (m)—

Omit “description; and”, insert instead “description;”.

(b) Section 34 (1) (n)—

Omit “fuels.”, insert instead “fuels;”.

(c) Section 34 (1) (o)–(q)—

After section 34 (1) (n), insert:—

- (o) the design of or specifications for equipment used for or in connection with the sale or distribution for sale of fuels;
- (p) the design of or specifications for fuel tanks and related parts of motor vehicles of a prescribed class or description; and

Clean Air (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
UNLEADED PETROL—*continued.*

- (q) requiring or prohibiting the mixing of colouring agents with fuels of a prescribed class or description.
-