

# PETROLEUM PRODUCTS SUBSIDY ACT.

## Act No. 1, 1965.

An Act to subsidize the distribution of certain petroleum products in certain country areas; and for purposes connected therewith. [Assented to, 16th September, 1965.]

Elizabeth II,  
No. 1, 1965

**B**E 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:—

1. This Act may be cited as the "Petroleum Products Subsidy Act, 1965".

Short title.

2. This Act applies to sales or consumption of petroleum products by registered distributors to which the scheme applies.

Application  
of Act.

3. (1) In this Act, unless the contrary intention appears—

Definitions.

"authorized officer" means a person appointed to be an authorized officer under section six of this Act;

"eligible petroleum product" means motor spirit, power kerosene, automotive distillate, aviation gasoline or aviation turbine fuel;

"registered distributor of eligible petroleum products" means a distributor of eligible petroleum products who is registered by the Commonwealth Minister in accordance with the scheme;

"the Commonwealth" means the Commonwealth of Australia;

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**No. 1, 1965**        “the Commonwealth Minister” means the Minister of State for Customs and Excise of the Commonwealth, and includes any Minister of State of the Commonwealth or member of the Federal Executive Council for the time being acting for or on behalf of the Minister of State for Customs and Excise of the Commonwealth;

                  “the scheme” means the scheme formulated by the Commonwealth Minister in relation to the State for the purposes of the States Grants (Petroleum Products) Act 1965 of the Commonwealth and, if that scheme has been amended, means that scheme as so amended;

                  “the State” means the State of New South Wales.

(2) Where under the scheme the Commonwealth Minister has directed that any goods are or are not to be treated as motor spirit, power kerosene, 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.

**Subsidies.**            **4.** There are payable, in accordance with this Act, to registered distributors of eligible petroleum products, amounts ascertained in accordance with the scheme.

**Advances on account of subsidy.**        **5.** 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 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.

**Authorized officers.**        **6.** (1) The Minister may appoint persons to be authorized officers for the purposes of this Act.

(2) A person may be appointed to be such an authorized officer notwithstanding that he is an officer of the Commonwealth.

**7.**

7. A claim by a registered distributor of eligible petroleum products for a payment under this Act shall be made to an authorized officer and in accordance with the regulations made under this Act. No. 1, 1965  
Claims for  
payments.

8. (1) An authorized 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. Certificates.

(2) An authorized 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 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 that person or exceeded the amount that was payable to that 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 that person to the State.

(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.

(6) Where a certificate has been given under subsection one of this section the certification prescribed by subsection three of section forty-one of the Audit Act, 1902, as amended by subsequent Acts, shall not be necessary.

9. Where a certificate is given under subsection one of section eight of this Act, 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. Payments.

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Over-  
payments.

**10.** Where an authorized officer gives a certificate under subsection three of section eight of this Act that an amount is repayable by a person to the State, the person is liable to repay that amount to the State and such amount may be recovered in a court of competent jurisdiction as a debt due to the State.

Preserva-  
tion of  
accounts,  
&c.

**11.** (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 twelve months after the date of making of the claim in respect of which the payment was made.

(2) A person who fails to comply with subsection one of this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred pounds.

Stock-  
taking and  
inspection  
of accounts,  
&c.

**12.** (1) For the purposes of this Act or an Act of another State relating to subsidy for eligible petroleum products, an authorized officer may, at all reasonable times, enter any premises of a registered distributor of eligible petroleum products (whether registered under the scheme or the scheme in relation to another State) 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 one of this section shall provide the authorized 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 authorized officer in the exercise of his powers under this section.

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(4) Any person who fails to comply with or contravenes any provision of this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding fifty pounds. **No. 1, 1965**

**13.** (1) An authorized 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 or an Act of another State relating to subsidy for eligible petroleum products to attend before him at a time and place specified in the notice and there, in relation to the claim, to answer questions and to produce to him such accounts, books and documents as are referred to in the notice. **Power to require person to answer questions and produce documents.**

(2) The authorized 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 accounts, 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 paragraph (c) of subsection two of section fifteen of this Act.

**14.** (1) An authorized officer may administer an oath to a person required to attend before him in pursuance of section thirteen of this Act and may examine that person on oath. **Power to examine on oath.**

(2) Where any such person conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions asked him.

(3) An affirmation so made is of the same force and effect, and entails the same penalties, as an oath.

**15.**

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**Offences.**

**15.** (1) A person who refuses or fails—

- (a) to attend before an authorized officer;
- (b) to be sworn or make an affirmation; or
- (c) to answer a question or produce an account, book or document,

when so required in pursuance of this Act shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding fifty pounds.

(2) A person who—

- (a) obtains a payment under this Act that, to the knowledge of that person, is not payable;
- (b) obtains a payment under this Act by means of a statement that, to the knowledge of that person, is false or misleading in a material particular; or
- (c) presents to an authorized officer or other person doing duty in relation to this Act or an Act of another State relating to subsidy for eligible petroleum products a claim, account, book or document, or makes to such an officer or person a statement that, to the knowledge of the person presenting the claim, account, book or document or making the statement, is false or misleading in a material particular,

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding five hundred pounds or imprisonment for twelve months.

(3) For the purposes of subsection two of this section, 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 an officer of the body corporate.

In this subsection "officer" has the meaning ascribed thereto in the Companies Act, 1961, as amended by subsequent Acts.

(4) Where a person is convicted of an offence against subsection two of this section, the court may, in addition to imposing a penalty under that subsection, order the person to refund to the State the amount of any payment under this Act wrongfully obtained by that person.

(5)

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(5) Where a court has made an order under sub-section four of this section, 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. **No. 1, 1965**

**16.** (1) The Minister may, either generally or otherwise as provided in the instrument of delegation, by writing under his hand delegate all or any of his powers under this Act (except this power of delegation) to such person as may be specified in the instrument of delegation. **Delegation.**

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Minister.

**17.** For the purposes of this Act, there shall be opened within the Special Deposits Account in the Treasury an account called Commonwealth Government—States Grants (Petroleum Products) Act 1965 Account which shall be credited with all the moneys, including recoveries, received by the State in accordance with the scheme and this Act and which shall be drawn upon for the purpose of making payments in accordance with the scheme and this Act, including any amounts repayable by the State to the Commonwealth. **Special Deposits Account.**

**18.** All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions held before a stipendiary magistrate sitting alone. **Recovery of penalties.**

**19.** (1) The Governor 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 and with respect to— **Regulations.**

(a) the manner in which claims for payments under this Act shall be made;

(b)

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(b) the information to be furnished by claimants in connection with claims for payments under this Act.

(2) The regulations may impose a penalty not exceeding fifty pounds for any offence against the regulations.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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