



New South Wales

Petroleum Products Subsidy (1997 Act) Regulation 1999

under the

Petroleum Products Subsidy Act 1997

Explanatory note

The objects of this Regulation are:

- (a) to prescribe zones for the purposes of the payment of subsidies with respect to certain petroleum products, and
- (b) to prescribe rates at which payments of subsidies are to be made, and
- (c) to prescribe the maximum amount of subsidy allowed to be paid to a person in any financial year, and
- (d) to provide for the making of claims for subsidies, and
- (e) to impose conditions on the registration of persons for eligibility for subsidies, and
- (f) to provide for the keeping of records by persons who hold authorities or permits under the Act and by persons who are registered under the Act.

This Regulation is made under the *Petroleum Products Subsidy Act 1997*, as amended by the *State Revenue Legislation Amendment Act 1998*, in particular section 31 (the general regulation-making power).

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Clause 1 Petroleum Products Subsidy (1997 Act) Regulation 1999

Part 1 Preliminary

**Petroleum Products Subsidy (1997 Act)
Regulation 1999**

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Petroleum Products Subsidy (1997 Act) Regulation 1999*.

2 Commencement

This Regulation commences on 1 January 1999.

3 Definitions

In this Regulation:

certificate of registration means a certificate issued under section 8 of the Act.

registered person means a person registered under the Act.

the Act means the *Petroleum Products Subsidy Act 1997*.

zone means a zone prescribed by clause 5.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

Part 2 Subsidies

5 Zones

For the purposes of section 4 (1) of the Act, the State is divided into 6 zones, with boundaries as specified in Schedule 1.

6 Rates of subsidy

- (1) The basic rate of subsidy with respect to petroleum products sold in any zone is the rate specified in Schedule 2 with respect to the zone and type of petroleum product concerned.
- (2) A subsidy is payable at the basic rate. subject to the Act and this Regulation.
- (3) If, at any time after the commencement of this clause rates of duty under the *Excise Tariff Act 1921* of the Commonwealth are indexed in accordance with section 6A (Indexation of rates of duty) of that Act, the rate of subsidy calculated in accordance with this clause is increased by the same percentage amount, rounded off to 2 decimal places.
- (4) Any such increase is to take effect on the date on which the indexation takes effect under the Commonwealth Act.

7 Maximum subsidy

- (1) The Chief Commissioner may, when issuing a certificate of registration, specify in the certificate the maximum volume for each type of petroleum product, and for each of the different uses to which a petroleum product may be put, on which the relevant subsidy rate will be paid in a financial year.
- (2) The Chief Commissioner may at 'any time after the issue of a certificate of registration, by written notice to a registered person, vary the maximum volume specified for the person.
- (3) If the variation increases the maximum subsidy, the variation takes effect from the date specified in the notice, which may be a date before the issue of the notice. If the variation decreases the maximum subsidy, the variation takes effect from the beginning of the next financial year.

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Part 2 Subsidies

- (4) For the purposes of section 6 (1) of the Act, the maximum amount of subsidy that may be paid to a person in any financial year in respect of a particular type of petroleum product is the amount determined by multiplying the basic rate of subsidy in respect of that type of petroleum product by the maximum volume of the petroleum product on which the subsidy rate will be paid as specified in the certificate of registration issued to the person or as later varied under this clause.

Part 3 Claims for subsidies

8 Claim for subsidy

- (1) A registered person may make a claim for a subsidy by lodging a claim form with the Chief Commissioner.
- (2) A claim form must be in a form approved by the Chief Commissioner and must include any information required by the approved form.
- (3) A claim form may be lodged with the Chief Commissioner:
 - (a) by delivering it at an office of the Chief Commissioner, or
 - (b) by post, addressed to the Chief Commissioner at an office of the Chief Commissioner, or
 - (c) by a means indicated by the Chief Commissioner as being an available means of service (such as by facsimile transmission or by delivering it, addressed to the Chief Commissioner, to the facilities of a document exchange), or
 - (d) by leaving it with a person who has authority to accept documents on the Chief Commissioner's behalf.

9 Time for making claim for subsidy

A claim for a subsidy must be made within 5 years after the end of the month in which the relevant eligible petroleum product was sold or purchased.

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Clause 10 Petroleum Products Subsidy (1997 Act) Regulation 1999

Part 4 Registration

Part 4 Registration

10 Cancellation of registration

- (1) This clause applies to a person who was registered on the Chief Commissioner's own motion.
- (2) The Chief Commissioner may, by written notice, request at any time that a person to whom this clause applies lodge a completed application conforming to the requirements of section 8 of the Act and this Regulation within 14 days after service of notice of the request or such longer period as may be specified in the request.
- (3) For the purposes of section 10 (1) (d) of the Act, the failure of a person to lodge such an application within the time required under subclause (2) is prescribed as a cause for which the Chief Commissioner may cancel a person's registration.

11 Conditions of registration

It is a condition of a person's registration that, if the person is also the holder of a permit:

- (a) the person must use the diesel fuel purchased with the authority of the permit for off-road use in the course of a business or activity conducted by the person, and
- (b) the person must repay to the Chief Commissioner an amount equal to the subsidy received by the person in relation to any diesel fuel purchased for off-road use that is used for any on-road purpose, whether used by the person or by some other person.

Part 5 Records

12 Prescribed capacity: transportation records for bulk transport of petroleum products

For the purposes of section 19 (1) of the Act, the prescribed capacity is 7,000 litres.

13 Records to be kept by holders of authorities to sell diesel fuel for off-road purposes

- (1) The holder of an authority must keep the following records for each sale of diesel fuel for off-road purposes (other than a sale for which records are required to be kept by subclause (3)) made by the holder of the authority:
 - (a) the date of the sale,
 - (b) the invoice number,
 - (c) the volume (in litres) of diesel fuel sold,
 - (d) the name of the purchaser,
 - (e) the number of the purchaser's permit.
- (2) Those records may be kept in the form of a copy of the relevant invoice or in any other form.
- (3) The holder of an authority must keep the following records for each sale of diesel fuel for marine purposes (being a sale accompanied by delivery of the diesel fuel directly into the fuel tanks of a vessel) made by the holder of the authority to a person who does not hold a permit:
 - (a) the date of the sale,
 - (b) the name (if any) indicated on the vessel.
 - (c) if the vessel is registered under any legislation of a State or Territory governing marine safety, the name or number under which the vessel is registered,
 - (d) the volume (in litres) of the diesel fuel sold.
- (4) Despite this clause, the Chief Commissioner may determine in any particular case or class of cases that the holder of an authority is not required to keep the records specified in this clause or is only required to maintain and keep such records as are specified as a condition of the authority.

Maximum penalty: 50 penalty units.

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Clause 14 Petroleum Products Subsidy (1997 Act) Regulation 1999

Part 5 Records

14 Records to be kept by holders of permits to purchase diesel fuel for off-road purposes

- (1) The holder of a permit must keep the following records for diesel fuel purchased by the holder for off-road purposes (other than marine purposes):
 - (a) for each vehicle or item of equipment used by the holder of the permit for off-road purposes:
 - (i) a description of the vehicle or equipment (including information identifying the vehicle or equipment), and
 - (ii) the name of the owner of the vehicle or equipment (if it is not owned by the holder of the permit), and
 - (iii) such other information as is required by the permit,
 - (b) for each purchase of diesel fuel by the holder (whether purchased for off-road purposes or for on-road purposes). a copy of the invoice for the sale together with such of the following information as is not contained in the invoice:
 - (i) the name and address of the person from whom the diesel fuel was purchased, and
 - (ii) the volume (in litres) of diesel fuel purchased, and
 - (iii) the date on which the diesel fuel was purchased, and
 - (iv) the address to which the diesel fuel was delivered.
 - (c) for all diesel fuel purchased by the holder for off-road purposes:
 - (i) the address or location where, and the specific purpose for which, the diesel fuel was used, and
 - (ii) a record of the time spent by any equipment while using the diesel fuel, and
 - (iii) a record of the distance travelled, or the time spent, by any vehicle while using the diesel fuel.
- (2) Despite this clause. the Chief Commissioner may determine in any particular case or class of cases that the holder of a permit is not required to keep the records specified in this clause or is only required to maintain and keep such records as are specified as a condition of the permit.

Maximum penalty: 50 penalty units.

15 Records to be kept by registered persons in relation to purchases of petroleum products

- (1) A registered person must keep the records required to be kept by this clause.

Maximum penalty: 50 penalty units.

- (2) For each purchase of petroleum products, separate records must be made showing:
- (a) the name and address of the vendor, and
 - (b) the number of the vendor's certificate of registration or a statement to the effect that the vendor is unregistered, as the case requires, and
 - (c) the price at which the petroleum products were purchased. and
 - (d) the date of the purchase, and
 - (e) the volume (in litres) of the petroleum products, and
 - (f) in the case of a purchase of motor spirit, the grade of the motor spirit, and
 - (g) the address of the place to which the petroleum products were delivered.
- (3) For each purchase of petroleum products delivered by road vehicle, the records must include a copy of the transportation record required by section 19 of the Act to be carried on a road vehicle for the petroleum products so delivered.
- (4) The records may be in the form of invoices or copies of invoices containing the required particulars.

16 Records to be kept by registered persons in relation to sales of petroleum products

- (1) A registered person who sells petroleum products (other than by retail sale by means of a pump that has an accumulative sales meter) in the ordinary course of a business or activity must keep the records required to be kept by this clause.

Maximum penalty: 50 penalty units.

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Clause 16 Petroleum Products Subsidy (1997 Act) Regulation 1999

Part 5 Records

- (2) For each sale of petroleum products to which this clause applies, separate records must be made showing:
 - (a) the name and (if known) the address of the purchaser, and
 - (b) the number of the purchaser's certificate of registration or a statement to the effect that the purchaser is unregistered, as the case requires, and
 - (c) the price at which the petroleum products were sold, and
 - (d) the date of the sale, and
 - (e) the volume (in litres) of the petroleum products, and
 - (f) in the case of a sale of motor spirit, the grade of the motor spirit, and
 - (g) the address of the place to which the petroleum products were delivered.
- (3) For each sale of petroleum products delivered by road vehicle, the records must include a copy of the transportation record required by section 19 of the Act to be carried on a road vehicle for the petroleum products so delivered.
- (4) For each sale of petroleum products, separate records must be made showing the volume (in litres) of petroleum products held in stock at the end of each month.
- (5) The records may be in the form of invoices or copies of invoices containing the required particulars or in any other form.

17 Records to be kept by registered persons in relation to retail sales by means of certain pumps

- (1) A registered person who sells petroleum products by retail in the ordinary course of a business or activity by means of a pump that has an accumulative sales meter must keep the records required to be kept by this clause.

Maximum penalty: 50 penalty units.

- (2) For petroleum products that are sold from a fixed storage tank by means of one or more pumps that each have an accumulative sales meter, separate records must be made showing, for each pump:

- (a) the volume (in litres) of petroleum products sold by the person each day through the pump, and
- (b) details of each reading taken from the meter in accordance with subclause (4), including:
 - (i) the time and date of the reading. and
 - (ii) the volume (in litres) of petroleum products shown by the meter as having been pumped and, in the case of motor spirit, the grade of motor spirit to which the reading relates, and
 - (iii) if the petroleum products were dispensed otherwise than for the purpose of sale, an explanation of the purpose for which the products were so dispensed and details of their destination.
- (3) For all petroleum products sold, separate records must be made showing the volume (in litres) of petroleum products held in stock at the end of each month.
- (4) For the purposes of the records referred to in subclause (2) (b), readings from the accumulative sales meter must be taken on the following occasions:
 - (a) immediately after the pump is installed (whether as a replacement pump or a new pump),
 - (h) at least once daily,
 - (c) immediately before and immediately after each alteration or adjustment is made to the meter,
 - (d) immediately before and immediately after motor spirit or diesel fuel is dispensed otherwise than for sale,
 - (e) immediately before the pump is removed.

18 General provisions relating to keeping records

- (1) If any petroleum products consist of motor spirit of different grades or both motor spirit and diesel fuel, a requirement under this Part to record the price or volume of the petroleum products is not complied with unless the prices or volumes of the different kinds (including, in the case of motor spirit, the different grades) of petroleum products are separately recorded.

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Part 5 Records

- (2) All records required to be kept under this Part must be made in the English language, and the entries in each record must be arranged in chronological order according to the time of each purchase, sale or other matter to which the entry relates.
- (3) All records required to be kept under this Part must be kept for 5 years after the end of the financial year to which the records relate.

Maximum penalty: 50 penalty units.

19 Inspection of tanks

- (1) For the purpose of ascertaining whether records are being kept in accordance with this Regulation, an authorised officer may require a person who sells petroleum products to permit the authorised officer to estimate, by the use of a dip stick or by some other reasonable method proposed by the authorised officer, the volume of any petroleum products stored in a tank from which those products are sold.
- (2) A person who sells petroleum products must not fail to comply with a requirement under this clause or hinder an authorised officer in the exercise of the officer's powers under this clause.

Maximum penalty: 50 penalty units.

20 No obligation to duplicate records

If more than one clause of this Part requires a person to keep a record and the clauses can be complied with by the keeping of a single record, it is sufficient compliance with each of those clauses that only one such record be kept.

Part 6 Miscellaneous

21 Authorised officer may take sample of petroleum product

- (1) For the purpose of ascertaining whether or not petroleum products are eligible petroleum products, an authorised officer may obtain a sample of any petroleum product that appears to the authorised officer to be intended for sale or to have been sold, whether by purchasing the petroleum product or otherwise.
- (2) This clause does not authorise an authorised officer to enter any premises or part of any premises, except as authorised by or under the Act.
- (3) A person must not obstruct or hinder an authorised officer in the exercise of the officer's powers under this clause.

Maximum penalty (subclause (3)): 50 penalty units.

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Schedule 1 Zone boundaries

Schedule 1 Zone boundaries

(Clause 5)

The various zones are as follows:

Zone 1

The towns of Bonshaw, Jennings, Tenterfield, Boggabilla and Mungindi and the area bounded by the border between the State of New South Wales and the State of Queensland, the Tweed River, Terranora Inlet and the Cobaki Broadwater.

Zone 2

The area bounded by the border between the State of New South Wales and the State of Queensland to the North, the Pacific Ocean to the East, latitude 29 degrees 21 minutes South to the South and the border between the State of New South Wales and the State of South Australia to the West, excluding the areas in Zone 1.

Zone 3

The area bounded by latitude 29 degrees 21 minutes South to the North, the Pacific Ocean to the East, latitude 30 degrees South to the South and the border between the State of New South Wales and the State of South Australia to the West.

Zone 4

The area bounded by latitude 30 degrees South to the North, the Pacific Ocean to the East, latitude 30 degrees 22 minutes South to the South and the border between the State of New South Wales and the State of South Australia to the West.

Zone 5

The area bounded by latitude 30 degrees 22 minutes South to the North, the Pacific Ocean to the East, latitude 30 degrees 41 minutes South to the South and the border between the State of New South Wales and the State of South Australia to the West.

Residual zone

The area of the State of New South Wales that is not included in Zone Nos 1–5.

Schedule 2 Basic rates of subsidy

(Clause 6)

Basic rate of subsidy (cents per litre)			
Zone	Petroleum product type		
	Petrol	Diesel on-road	Diesel off-road
I	8.15	8.15	8.15
2	6.52	6.52	8.15
3	4.89	4.89	8.15
4	3.26	3.26	8.15
5	1.63	1.63	8.15
Residual	Nil	Nil	8.15