

**LIQUEFIED PETROLEUM GAS (GRANTS) ACT,  
1980, No. 175**

**New South Wales**



ANNO VICESIMO NONO

**ELIZABETHÆ II REGINÆ**

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**Act No. 175, 1980.**

An Act with respect to a scheme granting financial assistance in relation to certain non-commercial uses of liquefied petroleum gas and gas produced by the use of liquefied petroleum gas or naphtha. [Assented to, 17th December, 1980.]

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*Liquefied Petroleum Gas (Grants).*

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**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 :—

**1.** This Act may be cited as the “Liquefied Petroleum Gas (Grants) Act, 1980”. Short title.

**2.** (1) This section and section 1 shall commence on the date of assent to this Act. Commencement.

(2) Except as provided in subsection (1), this Act shall be deemed to have commenced on 28th March, 1980.

**3.** (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“authorised officer” means a person appointed under section 6;

“Commonwealth Act” means the Liquefied Petroleum Gas (Grants) Act 1980 of the Parliament of the Commonwealth as amended from time to time;

“Commonwealth Minister” means the Minister of State of the Commonwealth administering the Commonwealth Act or another Minister of State of the Commonwealth acting for or on behalf of that Minister;

“eligible gas” means—

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

“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;

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*Liquefied Petroleum Gas (Grants).*

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“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; or
- (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;

“function” includes power, authority and duty;

“registered distributor” means—

- (a) a distributor of liquefied petroleum gas who is registered as such a distributor in accordance with the scheme; or
- (b) a distributor of eligible reticulation gas who is registered as such a distributor in accordance with the scheme;

“regulation” means a regulation made under this Act;

“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;

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*Liquefied Petroleum Gas (Grants).*

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- (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 published 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 State of New South Wales for the purposes of the Commonwealth Act.

(2) A reference in this Act to liquefied petroleum gas sold for eligible use includes 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 an Act of another State includes a reference to a law of the Northern Territory.

(4) A reference in this Act to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

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

Calcula-  
tion of  
amounts  
payable.

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*Liquefied Petroleum Gas (Grants).*

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Advance  
on account  
of amounts  
payable.

**5.** The Minister may authorise 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 conditions with respect to the giving to purchasers from the distributor of eligible gas for eligible use of the benefit of the amount of the advance) as the Minister thinks fit.

Authorised  
officers.

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

(2) A person may be appointed to be an authorised officer for the purposes of this Act notwithstanding that he is an officer of the Commonwealth.

(3) An officer of the Commonwealth shall not be appointed to be an authorised officer for the purposes of this Act without the consent of the Commonwealth Minister.

Claims for  
payment.

**7.** A claim by a registered distributor for a payment under this Act shall be made—

- (a) to an authorised officer; and
- (b) in accordance with the regulations.

Certificates.

**8.** (1) An authorised 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.

(2) An authorised officer, upon examining a claim for a payment under this Act, may give a certificate 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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*Liquefied Petroleum Gas (Grants).*

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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 authorised 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.

(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 (1), the certification prescribed by section 41 (3) of the Audit Act, 1902, shall not be necessary.

**9.** Where a certificate is given under section 8 (1), the Minister shall authorise 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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*Liquefied Petroleum Gas (Grants).*

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Over-payments.

**10.** (1) Where 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, the amount paid or the amount of the excess, as the case may be—

- (a) is an overpayment to the person, which the person is liable to repay to the Minister; and
- (b) may be recovered as a debt due to the Minister from the person in a court of competent jurisdiction.

(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, a certificate given under section 8 (3) that the amount is such an overpayment is prima facie evidence that the amount is such an overpayment.

Securities.

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

Preservation of accounts, etc.

**12.** (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 not less than 1 year 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 that

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*Liquefied Petroleum Gas (Grants).*

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purchase or to the production or sale by him of eligible reticulation gas during that period until the expiration of not less than 2 years after the date of making the claim in respect of which the payment was made.

Penalty : \$1,000.

**13.** (1) For the purpose of this Act or an Act of another State relating to subsidy for the sale of liquefied petroleum gas or the purchase of liquefied petroleum gas or naphtha, an authorised officer may at all reasonable times—

Stock-taking and inspection of accounts, etc.

- (a) enter any premises of a registered distributor;
- (b) enter any premises of a person who is registered as a distributor of liquefied petroleum gas or a distributor of eligible reticulation gas in accordance with a scheme formulated by the Commonwealth Minister in relation to another State or the Northern Territory for the purposes of the Commonwealth Act; or
- (c) enter any vehicle used by such a distributor or person for the carriage of any 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.

(2) The occupier of any premises, or any person in charge of any vehicle, referred to in subsection (1) shall provide the authorised officer with all reasonable facilities and assistance for the effective exercise of his powers under this section.

(3) For the purposes of this Act, an authorised 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.



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*Liquefied Petroleum Gas (Grants).*

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

Penalty : \$500.

Power to  
require a  
person to  
answer  
questions  
and  
produce  
documents.

**14.** (1) An authorised officer may, by 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 another 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) The authorised 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 a question or 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).

Examina-  
tion on  
oath, etc.

**15.** (1) An authorised officer may examine, on oath or affirmation, a person attending before him in pursuance of section 14 and, for that purpose, may administer an oath or affirmation to that person.

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

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*Liquefied Petroleum Gas (Grants).*

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**16.** (1) A person shall not, without reasonable excuse, refuse **Offences.** or fail—

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

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 under this Act that is not payable; 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 authorised 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 subsection (2), the court may, in addition to imposing a penalty under that subsection, order that person to refund to the Minister the amount of any payment under this Act wrongfully obtained.

(5) Where a court has made an order under subsection (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 to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

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*Liquefied Petroleum Gas (Grants).*

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Proceedings  
for  
offences.

**17.** (1) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(2) Notwithstanding anything in any Act, proceedings for any offence against this Act or the regulations may be brought within the period of 1 year after the alleged commission of the offence.

Delegation.

**18.** (1) The Minister may by instrument in writing delegate to any person specified in the instrument, or to the holder for the time being of any office so specified, the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Minister by or under this Act and may in like manner revoke wholly or in part any such delegation.

(2) A function, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any of the functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Minister may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force or effect as if the act or thing had been done or suffered by the Minister and shall be deemed to have been done or suffered by the Minister.

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*Liquefied Petroleum Gas (Grants).*

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(6) An instrument purporting to be signed by or on behalf of a delegate of the Minister in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Minister and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Minister under this section.

19. For the purposes of this Act, there shall be established in the Special Deposits Account in the Treasury an account called the Commonwealth Government—Liquefied Petroleum Gas (Grants) Account which shall be credited with all the money, 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.

20. (1) The Governor may make regulations, 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, for or with respect to—

- (a) the manner in which claims for payments under this Act shall be made; and
- (b) the information to be furnished by claimants in connection with claims for payments under this Act.

(2) A regulation may impose a penalty not exceeding \$200 for any offence against the regulation.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;

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*Liquefied Petroleum Gas (Grants).*

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- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

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