

[Act 1997 No 112]



New South Wales

# Petroleum Products Subsidy Bill 1997

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Appropriation (Refunds and Subsidies) Bill 1997*.

## Overview of Bill

The object of this Bill is to regulate the distribution of certain money granted by the Commonwealth to the State by way of financial assistance.

The Bill provides for registration of retailers and commercial consumers of petroleum products, and of wholesalers who sell to retailers and commercial consumers, who are eligible to receive subsidies under certain conditions. Registration of wholesalers or retailers under the proposed Act may be cancelled if the benefit of subsidies is not passed on to subsequent purchasers.

The off-road diesel fuel scheme that existed as a tax-relief measure under the *Business Franchise Licences (Petroleum Products) Act 1987* is substantially continued by the proposed Act in the form of provision for maximum subsidy for diesel fuel sold for off-road consumption.

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## Outline of provisions

### **Part 1 Preliminary**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be proclaimed.

**Clause 3** defines *petroleum products* and other words and expressions used in the proposed Act.

### **Part 2 Subsidies**

**Clause 4** authorises the payment of subsidies.

**Clause 5** provides that persons registered under the proposed Act (being retailers, commercial consumers and certain wholesalers of petroleum products) are eligible for subsidies.

**Clause 6** provides for a prescribed ceiling in relation to the amount that may be paid to a person in any financial year by way of subsidy under the proposed Act.

**Clause 7** provides that the amount of a subsidy paid under the proposed Act is refundable in certain circumstances, namely, where the petroleum products in respect of which the subsidy was paid are sold or consumed in contravention of conditions of registration, or where an overpayment has been made in contravention of proposed section 6 (in which case a penalty also applies).

### **Part 3 Registration for eligibility for subsidies**

**Clause 8** authorises the registration (and periodic renewal of registration) of retailers and commercial consumers of petroleum products and of wholesalers who sell to retailers and commercial consumers. Registration is subject to conditions prescribed by the regulations or imposed by the Chief Commissioner of State Revenue, and may be refused on grounds mentioned in the clause.

**Clause 9** provides for variation of the conditions of registration.

**Clause 10** provides that a person's registration may be cancelled if the registered person is convicted of an offence against the proposed Act or the regulations or fails to abide by the conditions of registration, or ceases to be eligible for registration, or if (in the case of vendors) the person fails to pass on the benefit of subsidies to subsequent purchasers of petroleum products sold in the course of the person's business.

#### **Part 4 Sales of diesel fuel for off-road use**

**Clause 11** defines *marine purpose* and *off-road purpose*.

**Clause 12** provides for the issue of authorities to sell diesel fuel for off-road purposes. An authority is subject to conditions prescribed by the regulations or imposed by the Chief Commissioner.

**Clause 13** provides for the issue of permits to buy diesel fuel for off-road purposes. A permit is subject to conditions prescribed by the regulations or imposed by the Chief Commissioner, and provides for the imposition of an upper limit on the amount of fuel the permit-holder can buy in a given time (except when the fuel is bought for marine purposes).

**Clause 14** describes what authorities and permits allow. The holder of an authority is permitted to sell diesel fuel for off-road use to other authority-holders or to permit-holders, or to any person for marine purposes. All parties are subject to the conditions imposed on them by or under the proposed Act.

**Clause 15** states that authorities and permits have effect for the period specified in them and are renewable from time to time.

**Clause 16** provides for variation of the conditions of any authority or permit.

**Clause 17** provides that a person's authority or permit may be cancelled if the person is convicted of an offence against the proposed Act or the regulations or fails to abide by the conditions of the authority or permit.

**Clause 18** creates certain offences in connection with the use of authorities and permits. Holders of permits must notify the Chief Commissioner of any relevant change in their circumstances, must not buy fuel in excess of their permit limit and must not lend their permit to another person. These offences are punishable by fines of up to 50 penalty units. (The current value of a penalty unit is \$110.)

## **Part 5 Records and investigation**

**Clause 19** requires transportation records to be kept in vehicles transporting petroleum products in bulk, indicating the owner, transporter, destination and other particulars concerning the products transported.

**Clause 20** requires drivers of vehicles transporting petroleum products in bulk to yield to police signals to enable inspection.

**Clause 21** confers on the Chief Commissioner and authorised officers the same powers to investigate registered persons and other persons as are available for the purposes of the State's taxation laws. These powers include powers to summon persons to answer questions and produce documents and powers of entry and search (subject, in appropriate cases, to a requirement to obtain a search warrant). Provisions binding officers to secrecy as to information obtained in an investigation also apply. In addition, the *Revenue Laws (Reciprocal Powers) Act 1987* is made to apply, in order to allow collaboration of State and Commonwealth officers for investigative purposes.

## **Part 6 Administration**

**Clause 22** provides for employment of staff to serve in the administration of the proposed Act.

**Clause 23** allows delegation of the powers and functions of the Chief Commissioner.

**Clause 24** protects the Chief Commissioner and others from personal liability in respect of things done or omitted by them in good faith for the purposes of executing the proposed Act.

## **Part 7 Miscellaneous**

**Clause 25** provides that persons aggrieved by a decision of the Chief Commissioner not to renew, or to cancel, their authorities, permits, or registration, or to vary the conditions in force in respect of them, may apply to the Administrative Decisions Tribunal for a review of the decision.

**Clause 26** provides for the form in which applications under the proposed Act are to be made and for fees chargeable in connection with applications.

**Clause 27** creates certain offences relating to the furnishing of information in connection with applications under the proposed Act or the purchase of diesel fuel under a permit, or in other specified circumstances.

**Clause 28** creates an offence of obtaining a subsidy by false representation. The offence is punishable by a fine equal to three times the amount of the subsidy payment obtained.

**Clause 29** is an evidentiary provision that states that information furnished by officers of a corporation is admissible against the corporation in certain circumstances.

**Clause 30** provides that proceedings for an offence against the proposed Act or the regulations may be brought before a Local Court or before the Supreme Court in its summary jurisdiction.

**Clause 31** provides for regulations to be made in aid of the proposed Act.

**Clause 32** requires a review of the proposed Act to be undertaken in 5 years' time.