



ANNO VICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1975

No. 61 of 1975

An Act to amend the Business Franchise (Petroleum) Act, 1974; to provide for the subsequent repeal of that Act; and to amend the Business Franchise (Tobacco) Act, 1974.

[Assented to 28th August, 1975]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Business Franchises (Miscellaneous Provisions) Act, 1975" and shall come into operation on a day to be fixed by proclamation. Short title and commencement.

2. This Act is arranged as follows:—

Arrangement.

PART I—PRELIMINARY

PART II—AMENDMENT OF BUSINESS FRANCHISE
(PETROLEUM) ACT, 1974

PART III—REPEAL OF BUSINESS FRANCHISE (PETROLEUM)
ACT, 1974-1975

PART IV—AMENDMENT OF BUSINESS FRANCHISE
(TOBACCO) ACT, 1974

THE SCHEDULE.

PART II

PART II

AMENDMENT OF BUSINESS FRANCHISE (PETROLEUM) ACT, 1974

Short titles.

3. (1) The Business Franchise (Petroleum) Act, 1974, is in this Part referred to as "the principal Act".

(2) The principal Act, as amended by this Part, may be cited as the "Business Franchise (Petroleum) Act, 1974-1975".

Amendment of
principal Act,
s. 4—
Interpretation.

4. Section 4 of the principal Act is amended by striking out paragraph (b) from the definition of "licence period" in subsection (1) and inserting in lieu thereof the following paragraph:—

(b) the period commencing on the twenty-fourth day of September, 1975, and ending on the twenty-third day of December, 1975.

Amendment of
principal Act,
s. 11—
Sale of
petroleum
products by
unlicensed
persons
prohibited.

5. Section 11 of the principal Act is amended—

(a) by striking out from subsection (1) the passage—

Penalty: One thousand dollars.

Default Penalty: Two hundred dollars.;

and

(b) by inserting immediately after subsection (1) the following subsections:—

(1a) Where a person is convicted of an offence against subsection (1) of this section (whether the offence was committed before or after the commencement of the Business Franchises (Miscellaneous Provisions) Act, 1975) the court shall impose upon him a monetary penalty consisting of—

(a) such amount (if any) as has been certified by the Commissioner as the amount by which the convicted person has benefited financially through non-payment of licence fees;

and

(b) a further amount not exceeding one thousand dollars fixed by the Court.

(1b) An apparently genuine document purporting to be a certificate referred to in subsection (1a) of this section shall, in the absence of proof to the contrary, be accepted as such in the proceedings in respect of the offence against subsection (1) of this section.

Amendment of
principal Act,
s. 18—
Payment of
fees by
instalments.

6. Section 18 of the principal Act is amended by inserting immediately after subsection (3) the following subsection:—

(4) Any amount which is due and payable by any person under subsection (2) of this section and which is unpaid may be recovered by the Commissioner, as a debt, in any court of competent jurisdiction.

PART III

PART III

REPEAL OF BUSINESS FRANCHISE (PETROLEUM) ACT, 1974-1975

7. On the twenty-fourth day of December, 1975, the Act and the sections of the Act referred to in the schedule to this Act are repealed. Repeal.

PART IV

PART IV

AMENDMENT OF BUSINESS FRANCHISE (TOBACCO) ACT, 1974

8. (1) The Business Franchise (Tobacco) Act, 1974, is in this Part referred to as "the principal Act". Short titles.

(2) The principal Act, as amended by this Part, may be cited as the "Business Franchise (Tobacco) Act, 1974-1975".

9. Section 3 of the principal Act is amended by inserting immediately after the passage "Division I—The Commissioner" the passage "Division IA—The Appeal Tribunal". Amendment of principal Act, s. 3—
Arrangement of Act.

10. Section 4 of the principal Act is amended—

(a) by inserting in subsection (1) immediately after the definition of "relevant period" the following definition:— Amendment of principal Act, s. 4—
Interpretation.

"the repealed Business Franchise (Petroleum) Act" means the Business Franchise (Petroleum) Act, 1974-1975, repealed by the Business Franchises (Miscellaneous Provisions) Act, 1975.;

and

(b) by striking out from subsection (1) the definition of "the Tribunal" and inserting in lieu thereof the following definition:—

"the Tribunal" means the Business Franchise Appeal Tribunal established under the repealed Business Franchise (Petroleum) Act and continued in existence under this Act.:

11. The following Division is enacted and inserted in the principal Act immediately after section 6 thereof:— Enactment of Division IA of Part II of principal Act.

DIVISION IA—THE APPEAL TRIBUNAL

6a. (1) The Business Franchise Appeal Tribunal established under the repealed Business Franchise (Petroleum) Act shall, on and after the repeal of that Act, continue in existence for the purposes of this Act. Continuation of Appeal Tribunal.

(2) The Governor may appoint a person to constitute the Tribunal.

(3) The person appointed under subsection (2) of this section shall be appointed for such term of office not exceeding five years and on such terms and conditions as the Governor may determine and specifies in the instrument of his appointment and on the expiration of his term of office shall be eligible for re-appointment.

PART IV

(4) The Governor may appoint a person to be the deputy of the person appointed under subsection (2) of this section and during any absence from or inability to perform the duties of his office on the part of that person the Tribunal shall be constituted of the deputy so appointed.

(5) A person appointed under subsection (2) or (4) of this section shall be entitled to receive such allowances and expenses as may from time to time be determined by the Governor.

(6) The person constituting the Business Franchise Appeal Tribunal under the repealed Business Franchise (Petroleum) Act and any person appointed under that Act to be his deputy shall, on and after the repeal of that Act, continue in their respective offices for the balance of the terms for which they were respectively appointed and shall be eligible for re-appointment.

Registrar of
Appeal
Tribunal.

6b. (1) On and after the repeal of the Business Franchise (Petroleum) Act, 1974-1975, there shall continue to be a Registrar of the Tribunal who shall be appointed and shall hold office subject to and in accordance with the Public Service Act, 1967-1975.

(2) The office of the Registrar of the Tribunal may be held in conjunction with any other office in the public service of the State.

Amendment of
principal Act,
s. 9—
Tobacco sellers
to be licensed.

12. Section 9 of the principal Act is amended by inserting immediately after subsection (1) the following passage:—

Penalty: One thousand dollars

Default Penalty: Two hundred dollars.

Amendment of
principal Act,
s. 15—
Payment of
fees by
instalments.

13. Section 15 of the principal Act is amended by inserting immediately after subsection (3) the following subsection:—

(4) Any amount which is due and payable by any person under subsection (2) of this section and which is unpaid may be recovered by the Commissioner, as a debt, in any court of competent jurisdiction.

Section 6.

THE SCHEDULE

Business Franchise (Petroleum) Act, 1974
Sections 3, 4, 5 and 6 of this Act

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor