



ANNO VICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1974

No. 64 of 1974

An Act to amend the Motor Fuel Distribution Act, 1973.

[Assented to 26th September, 1974]

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

1. (1) This Act may be cited as the "Motor Fuel Distribution Act Amendment Act, 1974". Short titles.

(2) The Motor Fuel Distribution Act, 1973, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Motor Fuel Distribution Act, 1973-1974".

2. Section 4 of the principal Act is amended—

(a) by inserting immediately before the definition of "Inspector" the following definition:—

"holder" in relation to a prescribed interest, means the person in the name of whom that prescribed interest is recorded in the records of the Board pursuant to section 17a of this Act;;

and

(b) by inserting after the definition of "permit" the following definitions:—

"prescribed interest" in relation to premises means an interest in those premises recorded by the Board pursuant to section 17a of this Act as being a "prescribed interest":

"prescribed lessee" in relation to premises, means the lessee under a lease from the owner of those premises being a lease entered into before the commencement of the Motor Fuel Distribution Act Amendment Act, 1974, and includes the lessee under any renewal or extension of such a lease:.

Amendment of
principal Act,
s. 4—
Interpretation.

Enactment of
s. 17a of
principal Act—

3. The following section is enacted and inserted in the principal Act immediately after section 17 thereof:—

Prescribed
interest.

17a. (1) Where a person satisfies the Board in relation to any premises the subject of a licence or permit—

(a) that he is the owner of any premises in respect of which a prescribed lessee is the holder of a licence or permit;

(b) that he is the prescribed lessee in respect of any premises;

or

(c) that he has any interest in the premises arising under any lease, licence, agreement or arrangement entered into before the commencement of the Motor Fuel Distribution Act Amendment Act, 1974,

the Board shall cause that interest to be recorded in the name of that person as a prescribed interest in the records of the Board relating to those premises.

(2) The Secretary shall take such steps as are reasonably necessary to notify the holder of a prescribed interest in relation to premises of—

(a) any notice in writing given to the Board pursuant to paragraph (a) of subsection (1) of section 34 of this Act in respect of those premises;

(b) any failure to pay the prescribed annual fee referred to in paragraph (c) of that subsection within the time provided for by subsection (3) of section 35 of this Act in respect of those premises;

(c) any application to vary the licence pursuant to section 36 of this Act in respect of those premises;

(d) any notice in writing given to the Board pursuant to paragraph (a) of subsection (1) of section 44 of this Act in respect of those premises;

(e) any application to vary the permit pursuant to section 45 of this Act in respect of those premises;

or

(f) any inquiry proposed to be undertaken pursuant to section 48 of this Act in relation to those premises.

Amendment of
principal Act,
s. 27—
Prohibition of
certain retail
sales of motor
fuel.

4. Section 27 of the principal Act is amended by striking out from subsection (1) the passage "On and after the expiration of the third month next following the appointed day" and inserting in lieu thereof the passage "On or after the first day of January, 1975".

Amendment of
principal Act,
s. 29—
Grant of
licence in
respect of
certain existing
premises.

5. Section 29 of the principal Act is amended by inserting immediately after subsection (1) the following subsection:—

(1a) Where a person satisfies the Board—

(a) that he is the prescribed lessee of premises referred to in subsection (1) of section 28 of this Act;

and

- (b) the owner of those premises has failed to make application for the grant of a licence in respect of those premises before the expiration of the third month next following the appointed day,

then subsection (1) of this section shall apply and have effect in all respects as if—

- (c) for the word “owner” wherever occurring in that subsection, there was substituted the passage “prescribed lessee”;

and

- (d) for the passage “third month” in that subsection there was substituted the passage “fifth month”.

6. Section 30 of the principal Act is amended by inserting immediately after subsection (1) the following subsection:—

Amendment of principal Act, s. 30—
Grant of licence generally.

(1a) Where a person satisfies the Board—

- (a) that he is the prescribed lessee of premises to which this section applies;

and

- (b) the owner of those premises has, after a request being made by the person so to do, failed to make application for the grant of a licence in respect of those premises,

then subsection (1) of this section shall apply and have effect in all respects as if for the word “owner” wherever occurring in that subsection there was substituted the passage “prescribed lessee”.

7. Section 34 of the principal Act is amended—

Amendment of principal Act, s. 34—
Expiry of licence.

- (a) by inserting in paragraph (a) of subsection (1) after the passage “surrenders the licence” the passage “and the Board by writing accepts that surrender”;

and

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

(1a) The Board shall not accept the surrender of a licence under subsection (1) of this section unless it is satisfied that that acceptance will not prejudice the prescribed interest of any holder thereof.

8. Section 35 of the principal Act is amended—

Amendment of principal Act, s. 35—
Payment of the prescribed fee.

- (a) by striking out from subsection (2) the passage “subsection (3)” and inserting in lieu thereof the passage “subsections (3) and (4)”;

and

- (b) by inserting immediately after subsection (3) the following subsection:—

(4) Where an annual fee is not paid within the time specified in subsection (3) of this section but that annual fee is paid within one month of the expiration of that time by the holder of a prescribed interest in the premises to which the fee relates that payment shall for all purposes have effect and this Act shall apply as if it were a payment within the time so specified.

Amendment of
principal Act,
s. 36—
Variation to
licence.

9. Section 36 of the principal Act is amended by inserting in subsection (2) after the passage “thinks proper” the passage “including, without limiting the generality thereof, the prescribed interest of any holder thereof,”.

Enactment of
s. 36a of
principal Act—

10. The following section is enacted and inserted in the principal Act immediately after section 36 thereof:—

Holder of
licence who is
prescribed
lessee.

36a. Where pursuant to sections 29 or 30 of this Act a licence in respect of premises was granted to a prescribed lessee, that licence shall on the expiration or earlier termination of the lease pursuant to which the prescribed lessee was such a prescribed lessee (or as the case requires, on the expiration or earlier termination of the last renewal or extension of that lease) by force of this section be varied by substituting the owner of the premises for the holder of the licence at the time of that expiration or termination.

Amendment of
principal Act,
s. 39—
Grant of permit
in respect of
certain existing
premises.

11. Section 39 of the principal Act is amended by inserting immediately after subsection (1) the following subsection:—

(1a) Where a person satisfies the Board—

(a) that he is the prescribed lessee of premises referred to in subsection (1) of section 38 of this Act;

and

(b) the owner of those premises has failed to make application for the grant of a permit in respect of those premises before the expiration of the third month next following the appointed day,

then subsection (1) of this section shall apply and have effect in all respects as if—

(c) for the word “owner” wherever occurring in that subsection, there was substituted the passage “prescribed lessee”;

and

(d) for the passage “third month” in that subsection there was substituted the passage “fifth month”.

Amendment of
principal Act,
s. 40—
Grant of permit
generally.

12. Section 40 of the principal Act is amended by inserting immediately after subsection (1) the following subsection:—

(1a) Where a person satisfies the Board—

(a) that he is the prescribed lessee of premises to which this section applies;

and

- (b) the owner of those premises has, after a request being made by the person so to do, failed to make application for the grant of a permit in respect of those premises,

then subsection (1) of this section shall apply and have effect in all respects as if for the word "owner" wherever occurring in that subsection there was substituted the passage "prescribed lessee".

13. Section 44 of the principal Act is amended—

- (a) by inserting in paragraph (a) of subsection (1) after the passage "surrenders the permit" the passage "and the Board by writing accepts that surrender";

and

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

(1a) The Board shall not accept the surrender of a permit under subsection (1) of this section unless it is satisfied that acceptance will not prejudice the prescribed interest of any holder thereof.

Amendment of
principal Act,
s. 44—
Expiry of
licence.

14. Section 45 of the principal Act is amended by inserting in subsection (2) after the passage "thinks proper" the passage "including, without limiting the generality thereof, the prescribed interest of any holder thereof,".

Amendment of
principal Act,
s. 45—
Variation to
permit.

15. The following section is enacted and inserted in the principal Act immediately after section 45 thereof:—

45a. Where pursuant to sections 39 or 40 of this Act a permit in respect of premises was granted to a prescribed lessee, that permit shall on the expiration or earlier termination of the lease pursuant to which the prescribed lessee was such a prescribed lessee (or as the case requires, on the expiration or earlier termination of the last renewal or extension of that lease) by force of this section be varied by substituting the owner of the premises for the holder of the permit at the time of that expiration or termination.

Enactment of
s. 45a of
principal Act—

Holder of
permit who is
prescribed
lessee.

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

M. L. OLIPHANT, Governor