



## **PETROLEUM PRODUCTS REGULATION (LICENCE FEES AND SUBSIDIES) AMENDMENT ACT 1998**

**No. 29 of 1998**

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A.D. 1998

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No. 29 of 1998

An Act to amend the Petroleum Products Regulation Act 1995.

[Assented to 16 April 1998]

The Parliament of South Australia enacts as follows:

## Short title

1. (1) This Act may be cited as the *Petroleum Products Regulation (Licence Fees and Subsidies) Amendment Act 1998*.

(2) The *Petroleum Products Regulation Act 1995* is referred to in this Act as "the principal Act".

## Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

## Repeal of s. 3

3. Section 3 of the principal Act is repealed.

## Amendment of s. 4—Interpretation

4. Section 4 of the principal Act is amended—

(a) by striking out from subsection (1) the definition of "annual licence";

(b) by inserting after the definition of "authorised officer" in subsection (1) the following definitions:

"bulk end user certificate" means a bulk end user certificate under Part 2A;

"certificate" means a bulk end user certificate or an off-road diesel fuel user certificate;;

(c) by striking out from the definition of "Commissioner" in subsection (1) "Stamps" wherever occurring and substituting, in each case, "State Taxation";

- (d) by inserting after the definition of "**Commissioner**" in subsection (1) the following definitions:

"**Commonwealth customs duty**" means customs duty on petroleum products payable under the *Customs Tariff Act 1995* of the Commonwealth, or other legislation of the Commonwealth prescribed under this Act;

"**Commonwealth excise duty**" means excise duty on petroleum products payable under the *Excise Tariff Act 1921* of the Commonwealth, or other legislation of the Commonwealth prescribed under this Act;;

- (e) by inserting ", certificate" in the definition of "**condition**" in subsection (1) after "**licence**";

- (f) by striking out from subsection (1) the definition of "**Consumer Price Index**";

- (g) by inserting after the definition of "**conveyance**" in subsection (1) the following definition:

"**corresponding law**" means a law of another State, or of a Territory, of the Commonwealth declared by regulation to be a corresponding law for the purposes of this Act;;

- (h) by inserting after the definition of "**diesel fuel**" in subsection (1) the following definition:

"**eligible petroleum products**" means petroleum products on which Commonwealth customs or excise duty has been paid or is payable but does not include petroleum products prepared by mixture of a petroleum product on which such duty has been paid or is payable with a petroleum product on which such duty has not been paid nor is payable;;

- (i) by striking out from subsection (1) the definitions of "**Environment Protection Fund**" and "**Highways Fund**";

- (j) by striking out from the definition of "**licence**" in subsection (1) "monthly licence or an annual";

- (k) by striking out from subsection (1) the definitions of "**member of a group**" and "**monthly licence**";

- (l) by inserting after the definition of "**motor spirit**" in subsection (1) the following definition:

"**off-road diesel fuel user certificate**" means an off-road diesel fuel user certificate under Part 2A;;

- (m) by striking out from subsection (1) the definition of "**relevant period**" and substituting the following definition:

"**retail licence**" means a licence under Part 2 that authorises retail sales of petroleum products;;

- (n) by inserting "in a retail quantity" in the definition of "**retail sale**" in subsection (1) after "sale";
- (o) by striking out from subsection (1) the definition of "**voting share**" and substituting the following definitions:

"**wholesale**" means a sale other than a retail sale;

"**wholesale licence**" means a licence under Part 2 that authorises the sale of petroleum products by wholesale.;

- (p) by striking out subsection (2) and substituting the following subsection:

(2) In this Act, a reference to a Commonwealth Act includes a reference to—

- (a) that Commonwealth Act as amended and in force for the time being; and
- (b) an Act enacted in substitution for that Act.

#### **Insertion of ss. 4A to 4D**

5. The following sections are inserted in the principal Act after section 4:

##### **Retail quantity**

**4A.** (1) Subject to this section, for the purposes of this Act "**retail quantity**" in relation to petroleum products means a quantity not exceeding 3 000 litres or, if some other quantity is prescribed by regulation, that quantity.

(2) However, a quantity of petroleum products is not a retail quantity unless it is delivered at a fixed site by a metered pump into—

- (a) a running tank of a vehicle; or
- (b) a container that has a capacity of less than 250 litres.

(3) The regulations may prescribe different quantities for different types of petroleum products.

##### **Bulk end user**

**4B.** (1) For the purposes of this Act, a person is a "**bulk end user**" of petroleum products to the extent that petroleum products purchased by the person otherwise than in a retail quantity are used by that person.

(2) For the purposes of subsection (1), petroleum products are to be taken to be used by a person if—

- (a) the products are required for an enterprise being carried on by the person and as part of the enterprise are sold in retail quantities to, or are used by, an independent contractor, joint venturer or partner of the person; and
- (b) on delivery to the person the products do not require transportation before use by the independent contractor, joint venturer or partner; and

- (c) the products are supplied by the person to the independent contractor, joint venturer or partner in retail quantities.

(3) Subject to subsection (2), for the purposes of subsection (1), the regulations may prescribe circumstances in which petroleum products are, or are not, to be taken to be used by a person.

(4) Subject to subsection (2) and the regulations, for the purposes of subsection (1), petroleum products are not to be taken to be used by a person if they are sold by the person.

(5) For the purposes of this Act, a person sells petroleum products as a bulk end user if the person sells petroleum products as referred to in subsection (2)(a) or in a regulation made under subsection (3) for the purposes of subsection (1).

#### **Off-road diesel fuel user**

**4C.** (1) For the purposes of this Act, a person is an "off-road diesel fuel user" to the extent that diesel fuel purchased by the person is used by that person in South Australia for any purpose other than for propelling a diesel engined motor vehicle on a public road.

(2) For the purposes of subsection (1), diesel fuel is to be taken to be used in South Australia if it is used in propelling a vessel that operates from South Australia.

(3) Subject to subsection (2), for the purposes of subsection (1), the regulations may prescribe circumstances in which diesel fuel is, or is not, to be taken to be used by a person as referred to in subsection (1).

(4) Subject to the regulations, for the purposes of subsection (1), diesel fuel is not to be taken to be used by a person as referred to in subsection (1) if it is sold by the person.

#### **Notional sale and purchase**

**4D.** The regulations may declare that, for the purposes of a specified provision of this Act, a sale and purchase of petroleum products is to be taken to occur in specified circumstances where petroleum products are delivered or allocated for sale or consumption.

#### **Repeal of Part 2 Division 1 heading**

**6.** The heading to Division 1 of Part 2 is repealed.

#### **Amendment of s. 8—Requirement for licence**

**7.** Section 8 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (1) and substituting the following paragraphs:

(b) sell petroleum products by retail sales; or

(ba) sell petroleum products by wholesale; or;

(b) by inserting after subsection (1) the following subsection:

(1a) A licence is not required under subsection (1) for the sale of petroleum products as a bulk end user.;

(c) by striking out subsection (2).

**Amendment of s. 9—Issue or renewal of licence**

8. Section 9 of the principal Act is amended—

(a) by striking out subsection (2);

(b) by striking out from subsection (3) "an annual" and substituting "a";

(c) by striking out subsections (4) and (5).

**Amendment of s. 10—Licence term, etc.**

9. Section 10 of the principal Act is amended—

(a) by striking out subsection (1);

(b) by striking out from subsection (2) "an annual" and substituting "a";

(c) by striking out from subsection (4) "an annual" and substituting "a";

(d) by inserting after subsection (4) the following subsection:

(5) A licence is not transferable except by way of variation of the licence under section 12.

**Amendment of s. 11—Conditions of licence**

10. Section 11 of the principal Act is amended by inserting after paragraph (g) of subsection (2) the following paragraphs:

(ga) conditions regulating the price at which eligible petroleum products may be sold pursuant to a licence, being conditions imposed for the purpose of ensuring that the licensee does not recover from the purchaser (whether directly or indirectly) that part of the sale price of a quantity of eligible petroleum products that is an amount equal to the subsidy paid or payable under this Act in respect of that quantity for that sale;

(gb) conditions as to the terms that any contract for the sale of eligible petroleum products entered into between a licensee who is a manufacturer or importer of petroleum products and any purchaser must contain in relation to the time of payment for that component of the sale price of the petroleum products that is referable to the Commonwealth excise or customs duty paid or payable by the manufacturer or importer, as the case may be;.

**Amendment of s. 13—Form of application and licence fee**

11. Section 13 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) An application may not be granted except on payment of the appropriate fee under the regulations.

**Repeal of Part 2 Division 2**

12. Division 2 of Part 2 of the principal Act is repealed.

**Insertion of Part 2A**

**13.** The following Part is inserted in the principal Act after Part 2:

**PART 2A  
SUBSIDIES**

**Entitlement to subsidy**

**20.** (1) Subject to this section, the holder of a wholesale licence is entitled to a subsidy at the prescribed rate in respect of a quantity of eligible petroleum products sold by wholesale in accordance with the licence to the holder of a retail licence who purchased the petroleum products for sale pursuant to the retail licence.

(2) Subject to this section, a person who holds both a wholesale licence and a retail licence is entitled to a subsidy at the prescribed rate in respect of a quantity of eligible petroleum products sold pursuant to the retail licence.

(3) Subject to this section, the holder of a wholesale licence is entitled to a subsidy at the prescribed rate in respect of—

- (a) a quantity of eligible petroleum products other than diesel fuel sold in accordance with the licence to the holder of a bulk end user certificate; or
- (b) a quantity of diesel fuel sold in accordance with the licence to the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement.

(4) Subject to this section, the holder of a retail licence is entitled to a subsidy at the prescribed rate in respect of a quantity of eligible petroleum products purchased by the holder of the licence for retail sale pursuant to the licence if—

- (a) the petroleum products were sold to the holder of the licence by wholesale; and
- (b) the wholesaler has no entitlement to a subsidy under this Act in respect of the transaction.

(5) Subject to this section, the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement is entitled to a subsidy at the prescribed rate in respect of a retail quantity of diesel fuel purchased from the holder of a retail licence.

(6) Only one subsidy is payable (whether under this Act or a corresponding law) in respect of one quantity of eligible petroleum products.

(7) No subsidy is payable under this Act in respect of—

- (a) eligible petroleum products sold for delivery to the purchaser in zone 1 other than diesel fuel sold to the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement; or
- (b) diesel fuel sold for delivery to the purchaser in zone 2 other than diesel fuel sold to the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement.

(8) The prescribed rate is—

- (a) in respect of diesel fuel sold to the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement for delivery to the holder in zone 1—8.10 cents per litre;
- (b) in respect of eligible petroleum products sold for delivery to the purchaser in zone 2—
  - (i) in the case of leaded petrol—0.66 cents per litre;
  - (ii) in the case of unleaded petrol—0.82 cents per litre;
  - (iii) in the case of diesel fuel sold to the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement—8.10 cents per litre;
- (c) in respect of eligible petroleum products sold for delivery to the purchaser in zone 3—
  - (i) in the case of leaded petrol—3.17 cents per litre;
  - (ii) in the case of unleaded petrol—3.33 cents per litre;
  - (iii) in the case of diesel fuel (other than diesel fuel sold to the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement)—1.94 cents per litre;
  - (iv) in the case of diesel fuel sold to the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement—8.10 cents per litre.

(9) Subsection (8) may be amended by regulation for the purpose of altering the rate of subsidy under this section.

(10) In this section—

**"off-road diesel fuel user certificate"** includes a certificate, licence or other authority under a corresponding law recognised by the Commissioner as the equivalent of an off-road diesel fuel user certificate under this Act.

#### **Claim for subsidy**

21. (1) A claim for a subsidy under this Part must be made to the Commissioner in a manner and form approved by the Commissioner and contain the information required by the Commissioner.

(2) A claimant must provide any further information that the Commissioner requires for the purposes of determining whether the claimant is entitled to a subsidy under this Part and the amount of subsidy payable to the claimant.

**Payment of subsidy**

22. (1) If the Commissioner is satisfied that—

- (a) a claim for a subsidy has been made in accordance with this Act; and
- (b) the claimant is entitled to a subsidy under this Act in respect of the sale or purchase of petroleum products to which the claim relates,

the Commissioner must pay the claimant an amount calculated at the prescribed rate in respect of the claim.

(2) This section, without further appropriation, is sufficient authority for making payments under subsection (1).

(3) A subsidy may, at the request of the person entitled to it, be paid to another person on his or her behalf.

**Amounts recoverable by Commissioner**

23. (1) The Commissioner may, by notice in writing, require a person to repay, within the period specified in the notice, a subsidy paid under this Act if satisfied that—

- (a) the subsidy was paid in consequence of an incorrect claim; or
- (b) a subsidy in respect of the quantity of petroleum products concerned has also been paid under a corresponding law; or
- (c) the person was not entitled to the subsidy under this Act for some other reason.

(2) If for any reason a subsidy under this Act is overpaid, the Commissioner may, by notice in writing, require the person who received the subsidy to repay to the Commissioner, within the period specified in the notice, the amount overpaid.

(3) The Commissioner may, by notice in writing, require the holder of a wholesale licence to pay to the Commissioner, within the period specified in the notice, an amount equal to the amount of a subsidy paid or payable under this Act in respect of a quantity of eligible petroleum products if the holder of the licence has sold the petroleum products in breach of a condition of the licence relating to the price at which the petroleum products may be sold.

(4) The Commissioner may, by notice in writing, require the holder of a retail licence to pay to the Commissioner, within the period specified in the notice, an amount equal to the amount of a subsidy paid or payable under this Act (whether to the holder of the retail licence or a wholesaler) in respect of a quantity of eligible petroleum products if the holder of the retail licence has sold the petroleum products in breach of a condition of the licence relating to the price at which the petroleum products may be sold.

(5) The Commissioner may, by notice in writing, require a person who holds a retail licence to pay to the Commissioner, within the period specified in the notice, an amount equal to the amount of a subsidy paid or payable under this Act (whether to the holder of the retail licence or a wholesaler) in respect of a quantity of eligible petroleum products if, in breach of a condition of the licence, the holder of the licence—

- (a) has sold the petroleum products from premises other than premises specified in the licence; or
- (b) has sold the petroleum products otherwise than by retail; or
- (c) has failed to keep specified records in relation to the petroleum products.

(6) The Commissioner may, by notice in writing, require the holder of a bulk end user certificate to pay to the Commissioner, within the period specified in the notice, an amount equal to the amount of a subsidy paid or payable under this Act to a licensee in respect of a quantity of eligible petroleum products if the holder of the certificate has—

- (a) sold, used or dealt with the petroleum products; or
- (b) failed to keep specified records in relation to the petroleum products,

in breach of a condition of the certificate.

(7) The Commissioner may, by notice in writing, require the holder of an off-road diesel fuel user certificate or bulk end user certificate bearing an off-road diesel fuel user endorsement to pay to the Commissioner, within the period specified in the notice, an amount equal to the amount of a subsidy paid or payable under this Act to a licensee or the holder of the certificate in respect of a quantity of diesel fuel if the holder of the certificate has—

- (a) sold, used or dealt with the diesel fuel; or
- (b) failed to keep specified records in relation to the diesel fuel,

in breach of a condition of the certificate.

(8) A person to whom a notice is given by the Commissioner under this section requiring repayment or payment of an amount, must, in addition, pay to the Commissioner, within the time specified in the notice, a penalty of an amount equal to the amount of the repayment or payment.

(9) The Commissioner may, on application, remit a penalty payable under subsection (8) if satisfied that proper cause exists for doing so.

(10) An amount payable to the Commissioner under this section may be recovered by the Commissioner, as a debt due to the Crown, in any court of competent jurisdiction.

(11) A certificate purporting to be signed by the Commissioner and stating that a specified amount is payable to the Commissioner under this section by a specified person is admissible in proceedings for the recovery of that amount and will, in the absence of proof to the contrary, be proof of the amount payable.

(12) In this section—

"off-road diesel fuel user certificate" includes a certificate, licence or other authority under a corresponding law recognised by the Commissioner as the equivalent of an off-road diesel fuel user certificate under this Act.

**Bulk end user certificate**

**23A.** (1) The Commissioner may, on application by a person, issue a bulk end user certificate if satisfied that the person will, during the period for which the certificate is to be in force, purchase eligible petroleum products for use as a bulk end user.

(2) A bulk end user certificate is subject to the following conditions:

- (a) a condition that the holder of the certificate must not sell petroleum products purchased pursuant to the certificate except as a bulk end user; and
- (b) a condition that petroleum products purchased pursuant to the certificate must only be used by the holder of the certificate as a bulk end user; and
- (c) a condition that the holder of the certificate must not permit another person to use the certificate to purchase petroleum products for a person other than the holder of the certificate; and
- (d) a condition that if the holder of the certificate becomes aware that another person has used the certificate to purchase petroleum products for a person other than the holder of the certificate, the holder must immediately give the Commissioner written notice of that fact; and
- (e) such conditions requiring the keeping of records and provision of information as the Commissioner thinks fit to impose; and
- (f) such other conditions as the Commissioner thinks fit to impose.

**Off-road diesel fuel user certificate**

**23B.** (1) The Commissioner may, on application by a person, issue an off-road diesel fuel user certificate if satisfied that the person will, during the period for which the certificate is to be in force, purchase diesel fuel for use as an off-road diesel fuel user.

(2) An off-road diesel fuel user certificate is subject to the following conditions:

- (a) a condition that the holder of the certificate must not sell diesel fuel purchased pursuant to the certificate; and
- (b) a condition that diesel fuel purchased pursuant to the certificate must only be used by the holder of the certificate as an off-road diesel fuel user; and
- (c) a condition that the holder of the certificate must not permit another person to use the certificate to purchase diesel fuel for a person other than the holder of the certificate; and
- (d) a condition that if the holder of the certificate becomes aware that another person has used the certificate to purchase diesel fuel for a person other than the holder of the certificate, the holder must immediately give the Commissioner written notice of that fact; and
- (e) such conditions requiring the keeping of records and provision of information as the Commissioner thinks fit to impose; and
- (f) such other conditions as the Commissioner thinks fit to impose.

**Off-road diesel fuel user endorsement on bulk end user certificate**

**23C.** (1) The Commissioner may, on application by a person, endorse a bulk end user certificate to the effect that the holder is an off-road diesel fuel user (an "off-road diesel fuel user endorsement").

(2) An off-road diesel fuel user endorsement may be made at the time of issue of a bulk end user certificate or at any time during the currency of the certificate.

(3) An off-road diesel fuel user endorsement must not be made on a bulk end user certificate unless the Commissioner is satisfied that the applicant will, during—

(a) the period for which the certificate is to be in force; or

(b) if the certificate is already in force—the unexpired period of the certificate,

purchase diesel fuel for use as an off-road diesel fuel user.

(4) A bulk end user certificate that bears an off-road diesel fuel user endorsement is subject to the conditions set out in section 23B(2) and any conditions imposed by the Commissioner.

**Variation of certificate**

**23D.** (1) The Commissioner may, on application or at the Commissioner's own initiative, substitute, add, remove or vary a condition of a certificate.

(2) A certificate may be varied by endorsement of the certificate or by notice in writing to the holder of the certificate.

**Expiry of certificate, etc.**

**23E.** (1) Subject to this Part, a certificate expires on the third anniversary of the date of issue of the certificate and may be renewed on application for successive terms of three years.

(2) The holder of a certificate may at any time surrender the certificate to the Commissioner, at which time the certificate ceases to have effect.

(3) A certificate is not transferable.

**Form of application for issue, renewal or variation of certificate**

**23F.** (1) An application for the issue, renewal or variation of a certificate or for the making of an off-road diesel fuel user endorsement on a bulk end user certificate must be made in a manner and form approved by the Commissioner and contain the information required by the Commissioner.

(2) An applicant must provide any further information that the Commissioner reasonably requires for the purposes of determining the application.

**Form of certificate**

**23G.** A certificate will be in a form determined by the Commissioner.

**Offence relating to certificate conditions**

**23H.** The holder of a certificate must not contravene or fail to comply with a condition of the certificate.

Maximum penalty: \$10 000.

**Cancellation of certificate, etc.**

**23I.** (1) The Commissioner may at any time cancel a certificate, or remove an off-road diesel fuel user endorsement from a bulk end user certificate by notice in writing to the holder of the certificate if satisfied that—

- (a) the holder obtained the certificate or endorsement improperly; or
- (b) the holder has contravened, or failed to comply with, a condition of the certificate; or
- (c) the holder is no longer a bulk end user or off-road diesel fuel user, as the case may be.

(2) The Commissioner may, in a notice under subsection (1), require the holder or former holder of the certificate to return or produce the certificate to the Commissioner within a specified period.

(3) A person who refuses or fails to comply with a requirement made under subsection (2) is guilty of an offence.

Maximum penalty: \$5 000.

**Amendment of s. 35—Controls during rationing periods**

**14.** Section 35 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) During a rationing period a person must not sell rationed petroleum products except to a permit holder.

Maximum penalty: \$10 000.;

(b) by striking out from subsection (3) "licensee in the ordinary course of the licensee's business" and substituting "person in the ordinary course of carrying on a business of selling petroleum products".

**Amendment of s. 42—Appointment of authorised officers**

**15.** Section 42 of the principal Act is amended by striking out from subsection (4) "*Stamp Duties Act 1923*" and substituting "*Taxation Administration Act 1996*".

**Amendment of s. 44—Powers of authorised officers**

**16.** Section 44 of the principal Act is amended by inserting in subsection (1)(l) ", certificate" after "licence".

**Amendment of s. 47—Appeals**

**17.** Section 47 of the principal Act is amended—

- (a) by inserting after paragraph (a) of subsection (1) the following paragraph:
- (ab) by an applicant for the issue, renewal or variation of a certificate against a decision by the Commissioner to refuse to issue, renew or vary the certificate; or;
- (b) by inserting after paragraph (c) of subsection (1) the following paragraph:
- (ca) by a certificate holder against a decision by the Commissioner to vary or cancel the certificate; or;
- (c) by striking out paragraph (e) of subsection (1) and substituting the following paragraphs:
- (e) by a claimant for a subsidy under this Act against a decision by the Commissioner on the claim; or
- (ea) by a person to whom the Commissioner has given notice under section 23 requiring the payment or repayment of an amount to the Commissioner against the decision to issue the notice; or;
- (d) by inserting in subsection (3) "or Commissioner" after "Minister" wherever occurring;
- (e) by inserting in subsection (3) "certificate or" before "permit holder";
- (f) by striking out from subsection (4) all the words preceding paragraph (a) and substituting "An appeal against a decision by the Commissioner on a claim for a subsidy or a decision by the Commissioner to issue a notice under section 23 may only be instituted if the appellant has lodged an objection to the decision with the Commissioner and—";
- (g) by inserting in subsection (5)(a) "or a decision of the Commissioner (other than a decision of a kind referred to in subsection (4))" after "Minister";
- (h) by striking out from paragraph (b) of subsection (5) "an assessment by the Commissioner of a monthly licence fee or other amount under Division 2 of Part 2" and substituting "a decision of the Commissioner of a kind referred to in subsection (4)";
- (i) by striking out subsection (7) and substituting the following subsection:
- (7) A decision to—
- (a) vary, suspend or cancel a licence; or
- (b) vary or cancel a certificate; or
- (c) cancel a permit; or
- (d) issue a notice under section 23; or
- (e) issue an improvement notice under Part 4,

is suspended pending determination of an appeal against the decision.

**Repeal of Part 10**

18. Part 10 of the principal Act is repealed.

**Amendment of s. 50—Register**

19. Section 50 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The Minister must cause a register to be kept of—

(a) licensees under Part 2; and

(b) holders of certificates under Part 2A.

**Substitution of s. 52**

20. Section 52 of the principal Act is repealed and the following section is substituted:

**Records to be kept of bulk transport of petroleum products**

52. Where a quantity of petroleum products other than a retail quantity is being transported in the State by road in a vehicle (whether with or without any other goods), the person transporting the petroleum products must, while so transporting them, carry in the vehicle at all times a record containing the prescribed particulars.

Maximum penalty: \$2 500.

Expiation fee: \$200.

**Amendment of s. 53—Records to be kept**

21. Section 53 of the principal Act is amended—

(a) by inserting "invoices, receipts," after "accounts," wherever occurring;

(b) by inserting after subsection (2) the following subsections:

(3) A person who purchases petroleum products pursuant to a certificate must keep invoices, receipts, records, books and documents as required by the Minister from time to time by notice published in the *Gazette* for a period of five years after the last entry is made in any of the records, receipts, books or documents.

Maximum penalty: \$2 500.

Expiation fee: \$200.

(4) The Minister—

(a) must, as soon as practicable after the end of the period of 12 months from the commencement of subsection (3), have an inquiry and report made as to the costs to businesses during that period of 12 months of compliance with the requirements of that subsection; and

(b) must, within 12 sitting days after receiving the report, have copies of the report laid before both Houses of Parliament.

**Insertion of s. 53A**

22. The following section is inserted in the principal Act after section 53:

**Petroleum Products Regulation (Licence Fees and  
Subsidies) Amendment Act 1998**

No. 29 of 1998

**Falsely claiming to hold licence, certificate or permit, etc.**

**53A.** A person must not falsely claim or purport to be the holder of a licence, certificate or permit.

Maximum penalty: \$10 000.

**Amendment of s. 56—Confidentiality**

**23.** Section 56 of the principal Act is amended—

- (a) by inserting in paragraph (c) "or a corresponding law" after "Act";
- (b) by inserting in paragraph (e) "or a corresponding law" after "Act".

**Amendment of s. 61—Prosecutions**

**24.** Section 61 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

- (1) Proceedings for an offence against this Act must be commenced—
  - (a) in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*;
  - (b) in any other case—within two years after the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within five years after that date.

**Amendment of s. 62—Evidence**

**25.** Section 62 of the principal Act is amended by inserting after paragraph (c) the following paragraph:

- (ca) that a person was or was not the holder of a certificate of a specified kind at a specified date; or.

**Amendment of s. 64—Regulations**

**26.** Section 64 of the principal Act is amended by inserting after subsection (2) the following subsection:

- (2a) The Governor may make regulations authorising specified powers conferred by or under this Act to be exercised for the purposes of the administration or enforcement of a corresponding law.

**Amendment of Schedule 1**

**27.** Schedule 1 of the principal Act is amended by striking out from clause 3(1)(d) "*Stamp Duties Act 1923*" and substituting "*Taxation Administration Act 1996*".

**Repeal of schedule 2**

**28.** Schedule 2 of the principal Act is repealed.

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

E. J. NEAL Governor