



ANNO VICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1974

No. 95 of 1974

An Act to provide for the licensing of persons who carry on the business of selling petroleum products and for other purposes.

[Assented to 5th December, 1974]

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

Short title.

1. This Act may be cited as the "Business Franchise (Petroleum) Act, 1974".

Commencement.

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

Arrangement of Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—ADMINISTRATION

DIVISION I—THE COMMISSIONER

DIVISION II—THE APPEAL TRIBUNAL

DIVISION III—INSPECTORS

PART III—LICENCES

PART IV—OBJECTIONS AND APPEALS

PART V—MISCELLANEOUS.

Interpretation.

4. (1) In this Act, unless the contrary intention appears—

"Class 1 licence" means a licence that authorizes the licensee to carry on the business of selling petroleum products manufactured by him and no other petroleum products and to sell them only to other licensees:

- “Class 2 licence” means a licence that authorizes the licensee to carry on the business of selling petroleum products manufactured by him and no other petroleum products and to sell them to other licensees or to persons who are not licensees, if, in the case of the sale of any petroleum product prescribed for the purposes of this class of licence to such a person, the quantity of that petroleum product is not less than the quantity of that petroleum product prescribed for that purpose:
- “Class 3 licence” means a licence that authorizes the licensee to carry on the business of selling petroleum products manufactured by him and no other petroleum products and to sell them only to persons who are not licensees:
- “Class 4 licence” means a licence that authorizes the licensee to carry on the business of selling petroleum products manufactured by him and petroleum products not manufactured by him and to sell them only to other licensees:
- “Class 5 licence” means a licence that authorizes the licensee to carry on the business of selling petroleum products manufactured by him and petroleum products not manufactured by him and to sell them to other licensees or to persons who are not licensees, if, in the case of the sale of any petroleum product prescribed for the purposes of this class of licence to such a person, the quantity of that petroleum product is not less than the quantity of that petroleum product prescribed for that purpose:
- “Class 6 licence” means a licence that authorizes the licensee to carry on the business of selling petroleum products manufactured by him and petroleum products not manufactured by him and to sell them only to persons who are not licensees:
- “Class 7 licence” means a licence that authorizes the licensee to carry on the business of selling petroleum products not manufactured by him and to sell them only to other licensees:
- “Class 8 licence” means a licence that authorizes the licensee to carry on the business of selling petroleum products not manufactured by him and to sell them only to other licensees or to persons who are not licensees, if, in the case of the sale of any petroleum product prescribed for the purposes of this class of licence to such a person, the quantity of that petroleum product is not less than the quantity of that petroleum product prescribed for that purpose:
- “Class 9 licence” means a licence that authorizes the licensee to carry on at the premises specified in the licence the business of selling, at the premises specified in the licence, petroleum products not manufactured by him and not manufactured at those premises and to sell them only to persons who are not licensees:
- “the Commissioner” means the Commissioner of Stamps and includes a Deputy Commissioner of Stamps and any other person while he is performing any of the duties or functions of the Commissioner of Stamps or Deputy Commissioner of Stamps:
- “the Commissioner of Stamps” means the person for the time being holding or acting in the office of Commissioner of Stamps under the Stamp Duties Act, 1923, as amended:
- “Deputy Commissioner of Stamps” means the person for the time being holding or acting in the office of Deputy Commissioner of Stamps under the Stamp Duties Act, 1923, as amended:

“Inspector” means an inspector appointed under section 9 of this Act:

“licence” means a licence, of any class, granted and in force under this Act:

“licence period” means—

(a) the period commencing on the twenty-fourth day of March, 1975, and ending on the twenty-third day of September, 1975;

and

(b) each succeeding period of twelve months:

“licensee” means the holder for the time being of a licence:

“petroleum product” means—

(a) a liquid obtained by refining or processing petroleum;

(b) a liquid obtained by refining or processing a liquid referred to in paragraph (a) of this definition;

(c) any grease obtained by refining or processing petroleum or a liquid referred to in paragraph (a), (b), (d) or (e) of this definition or any mixture of any such grease or any other substance;

(d) a liquid which is the residue after refining or processing—

(i) petroleum;

(ii) a liquid referred to in paragraph (a), (b) or (e) of this definition;

or

(iii) any grease referred to in paragraph (c) of this definition;

or

(e) a liquid which is a mixture of all or any of the liquids referred to in paragraph (a), (b) or (d) of this definition and any other substance,

but does not include petroleum bitumen, mineral pitch or mineral tar or such other substances as may be prescribed:

“premises” includes any place, vehicle, ship, vessel or aircraft:

“prescribed percentage” means—

(a) in relation to the first licence period—ten per centum;

and

(b) in relation to a subsequent licence period—such percentage as is prescribed in relation to that period:

“relevant period” means—

(a) in relation to a licence that is to be in force during the first licence period—the financial year ending on the thirtieth day of June, 1974;

and

(b) in relation to a licence that is to be in force during a subsequent licence period—the financial year ending on the thirtieth day of June last preceding the commencement of that licence period:

“the Tribunal” means the Business Franchise Appeal Tribunal established under section 7 of this Act:

“value” in relation to a quantity of petroleum products sold means the value attributed to that quantity of petroleum products pursuant to section 16 of this Act.

(2) A reference in this Act to a licensee or the holder of a licence includes a reference to a person to whom that licence is transferred under section 23 of this Act.

(3) A reference in this Act to—

(a) a person who sells petroleum products;

or

(b) a person who carries on the business of selling petroleum products, does not extend to a person who, as agent or employee of a person referred to in paragraph (a) or (b) of this subsection, sells petroleum products or carries on the business of selling petroleum products.

(4) Where pursuant to a sale made outside the State not being a sale made in the course of trade or commerce among the States within the meaning of section 92 of the Constitution of the Commonwealth petroleum products are delivered within the State, that sale shall for the purposes of this Act be deemed to have been made within the State.

(5) Where in, or at the foot of, any section or part of a section of this Act there appears the expression "Default Penalty", it shall indicate that any person who is convicted of an offence against this Act in relation to that section or part shall be guilty of a further offence against this Act if the offence continues after he is so convicted and liable to an additional penalty for each day during which the offence so continues of not more than the amount expressed in the section or part as the amount of the default penalty.

5. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other Act.

Application of other Acts not affected.

PART II

PART II

ADMINISTRATION

DIVISION I—THE COMMISSIONER

DIVISION I

6. (1) The Commissioner of Stamps shall have the general administration of this Act.

The Commissioner.

(2) The Commissioner of Stamps may, with the approval of the Minister controlling any Department of the public service of the State, on terms mutually arranged, make use of the services of an officer of that Department.

DIVISION II—THE APPEAL TRIBUNAL

DIVISION II

7. (1) For the purposes of this Act there shall be established a tribunal by the name of the "Business Franchise Appeal Tribunal".

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 II
DIVISION II

(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.

The Registrar.

8. (1) There shall be a Registrar of the Tribunal who shall be appointed and shall hold office subject to and in accordance with the Public Service Act, 1967-1974.

(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.

DIVISION III

DIVISION III—INSPECTORS

Inspectors.

9. (1) The Minister may appoint any person to be an inspector for the purposes of this Act.

(2) An Inspector may hold his office in conjunction with any other office in the public service of the State.

(3) Each Inspector shall be furnished by the Commissioner with a certificate of his appointment.

Powers of Inspector.

10. (1) An Inspector may at any time, with such assistants as he considers necessary, without any warrant other than this section—

(a) enter and remain in any premises at which or at which he reasonably suspects the business of selling petroleum products is carried on or which is or which he reasonably suspects is being used for the storage or custody of any accounts, records, books or documents relating to the sale or purchase of petroleum products;

(b) take copies of, or extracts or notes from, any such accounts, records, books or documents;

and

(c) request any person found in or upon any premises used for the sale or purchase of petroleum products or on which petroleum products are stored for sale—

(i) to produce any accounts, records, books or documents which relate to or which the Inspector reasonably suspects relate to the sale or purchase of petroleum products and which at the time of the request are in the possession or under the control of that person;

and

(ii) to answer any question with respect to any such accounts, records, books or documents or the sale or purchase of any petroleum products.

(2) A person shall not—

(a) prevent or attempt to prevent an Inspector from exercising any power conferred on him by subsection (1) of this section;

(b) hinder or obstruct any Inspector in the exercise of any such power;

(c) fail to comply with a request of an Inspector under paragraph (c) of subsection (1) of this section;

or

(d) furnish to an Inspector information which is false or misleading in a material particular.

Penalty: Two hundred dollars.

(3) A person is not guilty of an offence under paragraph (c) of subsection (2) of this section by reason of his failure to answer any question if he proves to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, the answer to the question.

(4) An Inspector who intends to exercise any of the powers conferred on him by this section shall not refuse or fail, at the request of a person in relation to whom he intends to exercise those powers, to produce to that person the certificate of appointment furnished him under subsection (3) of section 9 of this Act.

Penalty: Fifty dollars.

(5) A person is not excused from answering any question if required to do so under paragraph (c) of subsection (1) of this section on the ground that the answer might tend to criminate him or make him liable to a penalty but the information furnished by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (2) of this section.

(6) Where an answer to a question referred to in subparagraph (ii) of paragraph (c) of subsection (1) of this section or any information whatsoever is given to an Inspector by an officer of a corporation within the meaning of the Companies Act, 1962-1973, which is carrying on or has carried on the business of selling petroleum products, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, binding upon and admissible in evidence against the corporation unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.

(7) The provisions of subsection (6) of this section are in addition to and not in derogation of any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

PART III

PART III

LICENCES

11. (1) On and from the twenty-fourth day of March, 1975, a person shall not carry on the business of selling petroleum products unless he is the holder of a licence.

Sale of petroleum products by unlicensed persons prohibited.

Penalty: One thousand dollars.

Default Penalty: Two hundred dollars.

(2) Nothing in this Act requires any person to hold a licence if his sales of petroleum products are only of a prescribed class or kind.

PART III

Classes of
licence.

12. A licence under this Act shall be—

- (a) a Class 1 licence;
 - (b) a Class 2 licence;
 - (c) a Class 3 licence;
 - (d) a Class 4 licence;
 - (e) a Class 5 licence;
 - (f) a Class 6 licence;
 - (g) a Class 7 licence;
 - (h) a Class 8 licence;
- or
- (i) a Class 9 licence.

Offence to
sell certain
petroleum
products.

13. (1) A licensee shall not sell petroleum products except as authorized by the licence held by him.

Penalty: One thousand dollars.

(2) Where the holder of a Class 9 licence sells petroleum products to a purchaser who does not, at the time of the sale, produce to that licensee a licence held by that purchaser, the sale shall, for the purposes of subsection (1) of this section, be deemed to be a sale to a person who is not a licensee.

Fees.

14. (1) A reference in this section to the quantity of any petroleum product non-accountable in respect of a relevant period in relation to which any part of a fee for a licence is assessed is a reference to the quantity, if any, of any petroleum product, being a petroleum product which was sold by that licensee to another licensee, whether or not during that period, and—

- (a) which was resold by that other licensee during that period;
 - (b) which, in the opinion of the Commissioner, was wasted or lost by spillage, evaporation, theft or fire by that other licensee during that period;
- or
- (c) which at the end of that period was, in the opinion of the Commissioner, held for resale by that other licensee,

reduced by the quantity, if any, of that petroleum product which was sold by the firstmentioned licensee to that other licensee and which at the end of the next preceding relevant period was, in the opinion of the Commissioner, held for resale by that other licensee.

(2) The fee payable for a Class 1 licence shall be—

- (a) five hundred dollars;

and

- (b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period reduced by the quantity of any petroleum product non-accountable in respect of that period.

- (3) The fee payable for a Class 2 licence shall be—
- (a) five hundred dollars;
- and
- (b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period reduced by the quantity of any petroleum product non-accountable in respect of that period.
- (4) The fee payable for a Class 3 licence shall be—
- (a) five hundred dollars;
- and
- (b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period reduced by the quantity of any petroleum product non-accountable in respect of that period.
- (5) The fee payable for a Class 4 licence shall be—
- (a) five hundred dollars;
- and
- (b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period reduced by the quantity of any petroleum product non-accountable in respect of that period.
- (6) The fee payable for a Class 5 licence shall be—
- (a) five hundred dollars;
- and
- (b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period reduced by the quantity of any petroleum product non-accountable in respect of that period.
- (7) The fee payable for a Class 6 licence shall be—
- (a) five hundred dollars;
- and
- (b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period reduced by the quantity of any petroleum product non-accountable in respect of that period.
- (8) The fee payable for a Class 7 licence shall be—
- (a) one hundred dollars;
- and
- (b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period reduced by the quantity of any petroleum product non-accountable in respect of that period.

(9) The fee payable for a Class 8 licence shall be—

(a) one hundred dollars;

and

(b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period reduced by the quantity of any petroleum product non-accountable in respect of that period.

(10) The fee payable for a Class 9 licence shall be—

(a) fifty dollars;

and

(b) the prescribed percentage of the value of the quantity of petroleum products sold by the applicant during the relevant period.

(11) Where an application is made for a licence and the applicant did not, during the relevant period, carry on the business of selling petroleum products in the manner which would be authorized by the licence for which he has applied, the fee payable by the applicant in respect of the licence shall be such amount as is assessed by the Commissioner as being just and reasonable in the circumstances of the case, having regard only to—

(a) the sales of petroleum products that in the opinion of the Commissioner would have been made by the applicant had he been carrying on the business of selling petroleum products during that period;

(b) the class of licence applied for;

and

(c) any fee already paid by the applicant for a licence which has been surrendered by him and but for its surrender would have authorized him to carry on the business of selling petroleum products during any part of the period in respect of which the licence applied for by him would, if granted, be in force,

but in relation to a Class 9 licence the Commissioner shall not have regard to any such sales of petroleum products other than any such sales of petroleum products that would in his opinion have been made by the applicant had he been carrying on the business of selling petroleum products during that period at the premises to be specified in the licence.

(12) Where—

(a) an application is made for a licence;

(b) during the whole of the relevant period the applicant carried on the business of selling petroleum products;

and

(c) the Commissioner is of the opinion that he is unable for any reason accurately to assess the fee payable by the applicant under subsection (2), (3), (4), (5), (6), (7), (8), (9) or (10) of this section,

the fee payable by the applicant in respect of the licence shall be such amount as is assessed by the Commissioner as being just and reasonable in the circumstances of the case, having regard only to—

- (d) the sales of petroleum products that in the opinion of the Commissioner were made by the applicant during that period;
- and
- (e) the class of licence applied for,

but in relation to a Class 9 licence the Commissioner shall not have regard to any such sales of petroleum products other than any such sales of petroleum products that were in his opinion made at the premises to be specified in the licence.

(13) The provisions of subsections (11) and (12) of this section have effect notwithstanding the provisions of subsections (2), (3), (4), (5), (6), (7), (8), (9) and (10) of this section.

(14) Notwithstanding any other provision of this section, where a licence—

- (a) is to be in force for a period of nine months or less but more than six months the amount of the fee that, but for this subsection, would be payable shall be reduced by one-quarter;
- (b) is to be in force for a period of six months or less but more than three months the amount of the fee that, but for this subsection, would be payable shall be reduced by one-half;

or

- (c) is to be in force for a period of three months or less the amount of the fee that, but for this subsection, would be payable shall be reduced by three-quarters.

15. (1) The Commissioner may, by instrument in writing, require any person who is carrying on or has carried on the business of selling any petroleum products to furnish, within such period as is specified in the instrument or such further period as the Commissioner may, in writing, allow, to the Commissioner particulars with respect to such sales, purchases or stocks of, or dealings with, petroleum products as are specified in the instrument, being sales, purchases or dealings made, or stocks held, in any year ended on the thirtieth day of June (not being a year after the date of the requirement) in the course of carrying on that business.

Particulars of sales and purchases of petroleum products.

(2) A person shall not wilfully fail to comply with any requirement made of him under subsection (1) of this section.

Penalty: One thousand dollars.

Default Penalty: Two hundred dollars.

16. The Minister may from time to time by notice published in the *Gazette* set out the basis upon which and the means by which a value shall be attributed to any quantity of petroleum products sold during the period specified in the notice and for the purpose of this Act the value of that quantity of petroleum products shall be the value so attributed.

Value in relation to petroleum products.

PART III

Reduced fees
in respect of
petroleum
products
delivered in
certain zones.

17. (1) Notwithstanding section 14 of this Act, where during any period by reference to which a licence fee is assessed petroleum products were delivered to any purchaser at a place in any zone declared by the Minister under subsection (2) of this section the fee payable in respect of the licence shall be reduced by such amount as the Minister thinks fit.

(2) For the purpose of subsection (1) of this section the Minister may by notice published in the *Gazette* declare any part of the State to be a zone and by such further notice amend, vary or revoke the notice.

Payment of
fees by
instalments.

18. (1) An applicant for a licence which is to be in force for more than three months, or a renewal of a licence, may, in his application, elect to pay the licence fee payable in respect of that licence by instalments in accordance with this section.

(2) Where the licence—

(a) is to be in force for a period of more than nine months, the licence fee may be paid by four equal instalments, the first instalment being due and payable before the grant or renewal of the licence and each of the remaining three instalments being due and payable respectively on the twenty-third day of December, the twenty-third day of March and the twenty-third day of June next following the date of issue or renewal of the licence;

(b) is to be in force for a period of more than six months but not more than nine months, the licence fee may be paid by three equal instalments, the first instalment being due and payable before the grant of the licence and each of the remaining two instalments being due and payable respectively on the twenty-third day of March and the twenty-third day of June next following the date of issue of the licence;

or

(c) is to be in force for a period of more than three months but not more than six months, the licence fee may be paid by two equal instalments, the first instalment being due and payable before the grant of the licence and the remaining instalment being due and payable on the twenty-third day of June next following the date of issue of the licence.

(3) For the purpose of calculating the amount of instalments under subsection (2) of this section, where the quotient obtained by dividing the licence fee by the appropriate number of instalments results in a remaining fraction of a cent, that fraction shall be ignored.

Licences.

19. (1) The Commissioner upon—

(a) application made in a form approved by him for a licence;

(b) receipt of the particulars, if any, required by him to be furnished under section 15 of this Act;

and

(c) payment of—

(i) the fee assessed by the Commissioner in accordance with section 14 of this Act;

or

(ii) where the applicant has made an election under section 18 of this Act, the first instalment of that fee,

may grant or refuse to grant a licence to the applicant.

(2) In the case of the grant of a Class 9 licence the Commissioner shall cause the premises at which a business is carried on to be specified in that licence and shall upon receipt at any time of a request in the prescribed form and payment of the prescribed fee by the holder of the licence and in accordance with the request substitute for, or delete from, premises so specified, such premises as are specified in the request.

(3) A licence shall be in force on and from the date specified in the licence as the date on which the licence shall come into force.

(4) An application for a licence may not be made earlier than two months before the commencement of the period in respect of which the licence is applied for or, except with the approval of the Commissioner, later than one month before the commencement of the period.

(5) Where the Commissioner refuses to grant a licence he shall, in writing, inform the applicant of the reasons for the refusal and refund to the applicant any fee paid by the applicant and referred to in subsection (1) of this section.

20. (1) A licence shall expire, subject to this Act at the expiration of the licence period in respect of which it was granted and may, from time to time, upon—

Renewal of licences.

(a) application made to the Commissioner in a form approved by him;

(b) receipt by the Commissioner of the particulars, if any, required by him to be furnished under section 15 of this Act;

and

(c) payment of—

(i) the fee assessed by the Commissioner in accordance with section 14 of this Act;

or

(ii) where the applicant has made an election under section 18 of this Act, the first instalment of that fee,

be renewed for successive licence periods.

(2) An application for the renewal of a licence may not be made earlier than two months before the commencement of the period in respect of which the renewal of the licence is applied for or, except with the approval of the Commissioner, later than one month before the commencement of the period.

PART III

Surrender and
termination of
licences.

21. (1) A licensee may, at any time, by notice in writing to the Commissioner, surrender his licence, and the licence shall thereupon cease to be in force.

(2) A licence shall cease to be in force if—

(a) the applicant for the licence or renewal of the licence made an election under section 18 of this Act and an instalment that is due and payable under that section is unpaid;

or

(b) any additional amount that is due and payable under section 22 of this Act is unpaid.

Adjustment of
fee.

22. (1) Where, in the opinion of the Commissioner, the fee assessed in respect of any licence was assessed incorrectly, the Commissioner may at any time reassess the fee in accordance with the principles of assessing fees under whichever of subsections (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) of section 14 of this Act the Commissioner considers appropriate.

(2) Where on a reassessment of a fee under subsection (1) of this section the fee is reduced, the amount overpaid shall be refunded by the Commissioner in accordance with the provisions of subsections (3) and (4) of this section.

(3) Where—

(a) during the whole of the period during which the licence in respect of which the licence fee was reassessed (whether or not the licence has ceased to be in force) has been or was in force, it was held by one person, the amount to be refunded shall be refunded to that person;

or

(b) during the period during which the licence in respect of which the licence fee was reassessed (whether or not the licence has ceased to be in force) has been or was in force, it was held by two or more persons, the amount to be refunded shall be refunded to those persons in proportion to the periods, in days, for which they held the licence.

(4) Notwithstanding subsection (3) of this section, in a case where—

(a) the licence has not ceased to be in force;

(b) in the application for the licence the applicant made an election under section 18 of this Act;

(c) any instalment payable by virtue of that election has not become due and payable;

and

(d) the instalments paid do not exceed the amount of the fee as reassessed,

a refund shall not be made to the holder of the licence in accordance with paragraph (a) or (b) of subsection (3) of this section but in that case each of the remaining instalments payable in respect of the licence shall be reduced by an amount that bears to the amount that but for this subsection would be required to be refunded to that holder under subsection (3) of this section the same proportion as one bears to the number of those remaining instalments.

(5) Where on a reassessment of a fee under subsection (1) of this section the fee is increased, the additional amount payable by virtue of the reassessment shall be due and payable in accordance with the provisions of subsections (6) and (7) of this section.

(6) For the purposes of subsection (5) of this section where—

(a) during the whole of the period during which the licence in respect of which the licence fee was reassessed (whether or not the licence has ceased to be in force) has been or was in force, it was held by one person, the additional amount shall be due and payable within fourteen days after notice of the reassessment is served on that person;

or

(b) during the period during which the licence in respect of which the licence fee was reassessed (whether or not the licence has ceased to be in force) has been or was in force, it was held by two or more persons, the additional amount shall be due and payable, within fourteen days after notice of the reassessment is served on them, by those persons in proportion to the periods, in days, for which they held the licence,

unless, in respect of that additional amount or any part of that additional amount so due and payable by that person or any of those persons, approval has been given under subsection (7) of this section for the payment of that amount or part by instalments.

(7) A person by whom any additional amount or part is payable under subsection (6) of this section may, within fourteen days after the service on him of notice of the reassessment by virtue of which the additional amount or part became so payable by him, apply to the Commissioner for approval to pay that amount or part by instalments, and if the Commissioner approves of the amount or part being so paid, it shall be due and payable by that person by such instalments payable at such times as are specified in the instrument of the Commissioner's approval.

(8) For the purposes of making the apportionment referred to in paragraph (b) of subsection (3) or (6) of this section, where the licence has not ceased to be in force the period, in days, for which the licensee who was the holder of the licence at the time of the reassessment has held the licence together with the unexpired period, in days, of the licence shall be deemed to be the period for which that licensee held the licence.

(9) Any amount which is due and payable by any person under subsection (6) or (7) of this section and which is unpaid may be recovered by the Commissioner, as a debt, in any court of competent jurisdiction.

PART IIITransfer of
licences.

23. (1) The holder of a licence or a person authorized by the Commissioner and any person to whom it is proposed to transfer the licence may, by application made in a form approved by the Commissioner and accompanied by a fee of ten dollars, jointly request the Commissioner to enter in his records the transfer of the licence from the holder to that person on and from such day as may be specified in the application.

(2) The Commissioner shall comply with the request or refuse to comply with the request and, where he complies with the request, shall notify the persons making the request that he has made an entry in his records in accordance with the request.

(3) A transfer of a licence in accordance with a request made under subsection (1) of this section shall, after the transfer is recorded in accordance with the request, take effect on and from the day specified in the request as the day upon which the licence is transferred.

(4) Where the Commissioner refuses to comply with a request made under subsection (1) of this section he shall, in writing, inform the persons making the request of the reasons for the refusal.

Records to be
kept.

24. (1) A person who carries on the business of selling petroleum products shall keep such accounts, records, books and documents as may be prescribed containing such particulars as may be prescribed relating to petroleum products and shall preserve each of those accounts, records, books and documents for a period of five years after the last entry was made in it.

Penalty: One thousand dollars.

(2) This section shall not apply so as to require the preservation of any accounts, records, books or documents—

(a) in respect of which the Commissioner has notified the person carrying on the business that preservation is not required;

or

(b) of a company which has gone into liquidation and which has been finally dissolved.

PART IV

PART IV

OBJECTIONS AND APPEALS

25. (1) Subject to this Act, an appeal to the Tribunal may be had by— Appeal.

- (a) an applicant for a licence against a refusal by the Commissioner to grant the licence under section 19 of this Act;
- (b) a person making a request for the transfer of a licence against a refusal of that request by the Commissioner under section 23 of this Act;

or

- (c) a licensee against the assessment or reassessment of a fee in respect of his licence.

(2) Subject to this Act, the procedure for the hearing and determination of an appeal shall be as determined by the Tribunal.

(3) An order or decision of the Tribunal shall be final and without appeal.

26. (1) This section applies to appeals referred to in paragraphs (a) or (b) of subsection (1) of section 25 of this Act. Appeals other than appeals against assessment.

(2) An appeal must be instituted within one month of the making of the decision appealed against, but the Tribunal may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

(3) The Tribunal may, on the hearing of an appeal, do one or more of the following, according to the nature of the case—

- (a) affirm the decision appealed against, or quash the decision and substitute any decision that could have been made by the Commissioner in the first instance;
- (b) remit the subject matter of the appeal to the Commissioner for further consideration;
- (c) make any further or other order as to any other matter as the case requires.

27. (1) A licensee may—

- (a) where he has paid the fee assessed in respect of his licence or, where he has made an election under subsection (1) of section 18 of this Act, the first instalment of that fee, within one month after the grant or renewal of the licence;

or

- (b) where he has been served with a notice of reassessment under section 22 of this Act, within fourteen days after service of the notice,

object to the Commissioner against the assessment or reassessment of the fee on the ground that the fee is excessive by reason that it was incorrectly assessed or reassessed by the Commissioner under this Act and on no other ground.

Objection to and appeal against assessment or reassessment.

(2) The Commissioner shall, as soon as practicable, determine the objection and serve on the licensee notice of his determination.

(3) If the licensee is not satisfied with the determination of the Commissioner on his objection or if within one month after the objection was lodged the Commissioner has not given a determination with respect to the objection, the licensee may appeal to the Tribunal against the assessment or reassessment of the fee on the ground referred to in subsection (1) of this section and on no other ground.

(4) An appeal under subsection (3) of this section may be lodged—

(a) where the licensee is not satisfied with the determination of the Commissioner on his objection within one month after his being notified by the Commissioner of that determination;

or

(b) where the Commissioner has not, within one month after the objection was lodged, given a determination with respect to the objection, within two months after the objection was lodged.

(5) The Tribunal shall hear and determine the appeal and assess the fee payable and the provisions of section 14 of this Act apply to the Tribunal's assessment of that fee in the same way as that section applies to the assessment of fees by the Commissioner.

(6) Where, on an objection or appeal made under this section, the Commissioner or the Tribunal upholds the objection or appeal, in whole or in part—

(a) the Commissioner shall, where the whole of the fee as determined on the objection or appeal has been paid, refund any amount overpaid to the person who paid the whole of the fee as originally assessed or the first instalment of the fee as originally assessed;

or

(b) if in the application for the licence the applicant made an election under subsection (1) of section 18 of this Act, any instalment payable by virtue of that election has not become due and payable and—

(i) the applicant is, when the appeal is determined, the holder of the licence, each of the remaining instalments payable in respect of the licence shall be reduced by an amount that bears to the difference between the fee as originally assessed and the fee as determined on the objection or appeal the same proportion as one bears to the number of those remaining instalments;

or

(ii) during the period between the date on which the licence commenced to be in force or was renewed and the date on which the objection or appeal was determined the licence was held by two or more persons, the Commissioner shall refund to that applicant an amount that bears to the difference between the fee as originally assessed and the fee as determined on the objection or appeal the same proportion as the period, in days, for which the licence was in force up to the date on which

the objection or appeal was determined bears to the period, in days, from the date on which the licence commenced to be in force or was renewed until the twenty-third day of September next following and each of the remaining instalments payable in respect of the licence shall be reduced by an amount that bears to the balance of that difference the same proportion as one bears to the number of those remaining instalments.

(7) Subsection (3) of section 18 of this Act applies to the calculation of reductions under subsection (6) of this section in the same way as it applies to the calculations of instalments under subsection (2) of section 18 of this Act.

PART V

PART V

MISCELLANEOUS

28. (1) Except as provided by subsection (2) of this section, a person shall not disclose any information or publish any document or part of a document obtained by him in connection with the administration or execution of this Act unless the disclosure or publication is made—

Disclosure of information.

- (a) with the consent of the person from whom the information or document was obtained;
- (b) in connection with the administration or execution of this Act;
- or
- (c) for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings.

Penalty: Two thousand five hundred dollars.

(2) The Commissioner may communicate any matter which comes to his knowledge in the exercise or performance of his powers, authorities, duties or functions under this Act to an officer or authority engaged in administering or executing a law of another State or a Territory relating to the licensing of persons to carry on the business of selling any petroleum products.

(3) Nothing in subsection (1) of this section prevents the disclosure of information or the publication of a document in accordance with any lawful requirement of the Commonwealth Statistician.

29. (1) A person shall not—

- (a) make or deliver an application or other document under this Act;
- or
- (b) make an answer whether orally or in writing to a question put to him pursuant to this Act by the Commissioner or the Tribunal,

False or misleading statements.

that is to his knowledge false or misleading in a material particular.

Penalty: Five hundred dollars.

PART V

- (2) A person shall not—
- (a) in furnishing any information;
 - (b) in giving any notification;
 - or
 - (c) in keeping any record,

pursuant to this Act make or cause to be made any statement or representation that is to his knowledge false or misleading in a material particular.

Penalty: Five hundred dollars.

(3) The Court before which a licensee is convicted of an offence that is a contravention of subsection (1) or subsection (2) of this section may in addition to imposing any other penalty order that the licence of the licensee shall cease to be in force and that order shall have effect accordingly.

Protection for
Commissioner,
etc.

30. No liability shall attach to—

- (a) the Commissioner;
- (b) the Tribunal or the person constituting the Tribunal;
- or
- (c) any Inspector,

for an act or omission by it or him done in good faith for the purpose or purported purposes of exercising or performing any power, function or duty conferred on it or him by or under this Act.

Evidence.

31. In any proceedings for an offence against this Act an allegation in the complaint that—

- (a) a person is an Inspector;
- or
- (b) a person named therein was or was not the holder of a licence at the time mentioned therein,

shall, in the absence of proof to the contrary, be deemed to be proved.

Summary
procedure.

32. Proceedings in respect of offences under this Act shall be disposed of summarily.

Offences by
bodies
corporate.

33. Where a person convicted of an offence against this Act is a body corporate, every person concerned in the management of that body corporate may be convicted of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Service of
documents and
notices.

34. Any document to be delivered or any notice to be given to any person under this Act may be delivered or given by post.

Regulations.

35. (1) The Governor may make such regulations as he considers necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section those regulations may—

(a) provide for and require the making of returns relating to sales, purchases, or stocks of, or dealings with, petroleum products; and

(b) impose a penalty not exceeding two hundred dollars for a breach of a regulation.

(3) Regulations may be made so as to apply differently to or in respect of different classes of persons or different classes of petroleum products or according to such other different factors as may be specified in the regulations.

(4) A regulation made for the purpose of excluding any substance from the definition of "petroleum product" in subsection (1) of section 4 of this Act may exclude that substance from that definition in respect of such period as may be specified in the regulation, whether that period is before, after or partly before and partly after the date on which that regulation takes effect.

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

M. L. OLIPHANT, Governor