



ANNO QUINTO

## GEORGI VI REGIS.

A.D. 1941.

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### No. 21 of 1941.

An Act to enact certain provisions relating to the sale of certain liquid fuel and for purposes connected therewith.

[Assented to 6th November, 1941.]

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

1. This Act may be cited as the "Liquid Fuel Act, 1941". Short title.
  
2. This Act shall come into operation on a day to be fixed by the Governor by proclamation. Commencement.
  
3. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that, where any provision of this Act would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power. Construction.
  
4. (1) In this Act, unless the context otherwise requires or some other meaning is clearly intended— Definitions.
  - "fixed price" means price fixed pursuant to section 8 of this Act:
  - "licence" means licence issued under this Act:
  - "liquid fuel" means liquid which, either alone or when blended with any other liquid, is suitable for use as fuel for internal combustion engines:

“mineral spirit” means any inflammable liquid which has a true flashing point (as defined in the Inflammable Oils Act, 1908-1935) of less than seventy-three degrees Fahrenheit:

“motor spirit” means mineral spirit (other than a proclaimed liquid fuel) suitable for use as fuel for internal combustion engines, but does not include any motor spirit which is the subject of interstate trade or commerce within the meaning of section 92 of the Constitution of the Commonwealth, while it is the subject of such trade or commerce:

“proclaimed liquid fuel” means any liquid fuel which is for the time being a proclaimed liquid fuel pursuant to proclamations for the time being in force under section 7 of this Act:

“quarter” means period of three calendar months commencing on the first day of January, the first day of April, the first day of July, or the first day of September:

“sell” includes sell, barter, and offer or agree to sell or barter.

Person selling motor spirit to be holder of licence.

5. (1) Subject to this Act, after the expiration of one month from the commencement of this Act, a person who does not hold a licence shall not, either as principal or as agent, sell any motor spirit in South Australia: Provided that this subsection shall not apply if—

(a) the motor spirit so sold was previously purchased from a person who holds a licence under this Act; or

(b) the motor spirit is so sold in the course of trade and commerce between the States.

(2) Any person who sells any motor spirit in contravention of subsection (1) of this section shall be guilty of an offence, and shall be liable for a first offence to a fine not exceeding fifty pounds, and for a second or subsequent offence, to a fine of not less than twenty pounds or more than two hundred pounds.

Licences.

6. (1) Every application for a licence or for the renewal of a licence under this Act shall be made in the form fixed by the Minister and shall contain such particulars as are indicated therein.

(2) Every such application shall be made to and lodged with the Minister. No fee shall be payable on any application for the issue or renewal of a licence.

(3) Every licence shall be issued by the Minister and shall, subject to this Act, remain in force for one year from the date of its issue, and may be renewed from time to time for a like period.

(4) The Minister may refuse to issue a licence to any person who was previously the holder of a licence under this Act, but whose licence has been cancelled.

(5) The Minister may cancel or refuse to renew the licence of any person who has been convicted twice for offences against section 7 of this Act.

7. (1) The Governor may from time to time by proclamation—

Duty to purchase proclaimed liquid fuel.

(a) declare that as from a day mentioned in the proclamation any liquid fuel specified in the proclamation shall be a proclaimed liquid fuel for purposes of this Act;

(b) declare what shall be the prescribed number of gallons of any proclaimed liquid fuel for purposes of this Act;

(c) at any time revoke or vary any such proclamation.

(2) So long as any liquid fuel is a proclaimed liquid fuel, every holder of a licence shall during each quarter of the term of his licence purchase and pay at the fixed price for a quantity of that liquid fuel not less than the prescribed number of gallons for every one hundred gallons of motor spirit sold by him during the preceding quarter.

(3) The fixed price of a proclaimed liquid fuel shall be the price fixed as provided in the next following section of this Act.

(4) In calculating for the purposes of this section the number of gallons of motor spirit sold by any holder of a licence there shall not be taken into account—

(a) any motor spirit sold to another holder of a licence;

(b) any motor spirit sold in the course of trade and commerce between the States,

but there shall be taken into account, in addition to any motor spirit sold unblended, the amount of motor spirit contained in any liquid fuel which does not consist wholly of motor spirit.

(5) If the holder of a licence contravenes or fails to comply with any requirement of subsection (2) of this section he shall be guilty of an offence.

(6) It shall be a defence to any proceedings under this section if the holder of a licence proves—

- (a) that he was unable to obtain at the fixed price any of the proclaimed liquid fuel to which the proceedings relate; or
- (b) that he was unable to obtain at the fixed price sufficient of the said proclaimed liquid fuel to comply with this section, but that he obtained as much of the said proclaimed liquid fuel as was reasonably possible.

The fixed price of proclaimed liquid fuel.

8. (1) Where the wholesale price of a proclaimed liquid fuel is fixed by or pursuant to any Act of the Parliament of the Commonwealth of Australia, or any regulations thereunder, the fixed price for that proclaimed liquid fuel shall be the price for the time being so fixed.

(2) Subject to subsection (1) of this section, the fixed price for benzol (if declared to be a proclaimed liquid fuel) shall be the price fixed from time to time by the Auditor-General, and published in the *Gazette*.

The Auditor-General shall fix the said price at such an amount as will return to the manufacturer of the benzol his costs of production and profit at a rate which the Auditor-General considers reasonable.

Whenever the Auditor-General is of opinion that a change has occurred in the cost of producing benzol, or in the rate of profit which should be allowed, he may alter the price of benzol as previously fixed by him, and shall publish such altered price in the *Gazette*.

(3) Subject to subsection (1) of this section, the fixed price of a proclaimed liquid fuel other than benzol shall be a price fixed by or under the regulations made under this Act.

The regulations made under this Act may prescribe either the actual fixed price of a liquid fuel or the method by which that price is to be calculated.

Inspection of books, etc.

9. (1) Any person authorized in writing in that behalf by the Minister may for purposes of this Act from time to time inspect any books, accounts, registers, documents, or writings in the custody or control of any person engaged in the business of selling motor spirit and may take notes, copies, or extracts thereof or therefrom.

(2) Any such person, or any agent or servant of any such person—

- (a) who neglects or refuses to produce for inspection to any person authorized as aforesaid any such books, accounts, registers, documents, or writings as aforesaid; or
- (b) who refuses to allow any person authorized as aforesaid to take notes, copies, or extracts of or from any such books, accounts, registers, documents, or writings as aforesaid; or
- (c) who refuses to answer any question asked by a person authorized as aforesaid in relation to any such books, accounts, registers, documents, or writings as aforesaid, or wilfully gives any untruthful answer to such question; or
- (d) who obstructs any person authorized as aforesaid in the carrying out of any power conferred upon him by this section,

shall be guilty of an offence.

**10.** (1) Every person who is engaged in the business of selling motor spirit by wholesale shall keep proper books and accounts in which full particulars of all motor spirit and proclaimed liquid fuel sold by him shall be recorded clearly and in such a manner as to be readily understood.

Person selling motor spirit to keep proper books.

The Minister or any person authorized in writing in that behalf by the Minister may direct any such person to alter his method of keeping his books and accounts if, in the opinion of the Minister or such authorized person, they are not kept in such a manner as to be readily understood.

(2) Any person neglecting, refusing, or failing to comply with any provision of subsection (1) of this section or any direction given thereunder shall be guilty of an offence.

**11.** (1) The Minister shall enter in a register to be kept for the purpose the name of every person to whom a licence is issued under this Act, the date of the issue, the duration and the date of the expiration or cancellation of the licence and such other particulars (if any) as may be prescribed.

Record of licences.

(2) An apparently genuine document purporting to be a copy of any entry in such register and purporting to be signed by the Minister shall be *prima facie* evidence of the truth of the matters stated in such copy.

General  
penalty.

**12.** Any person guilty of an offence against this Act shall, if no other penalty is expressly provided, be liable on conviction to a fine not exceeding one hundred pounds.

Offences by  
corporations.

**13.** Where any offence against this Act is committed by a body corporate, and the act or omission constituting the offence is proved to have been done or made or authorized or permitted by any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence, and he may be proceeded against and punished accordingly.

Recovery of  
penalties.

**14.** (1) Proceedings in respect of offences against this Act shall be disposed of summarily.

(2) In any proceedings under or for the purposes of this Act or the regulations—

(a) an allegation in the complaint that the defendant was not, at the time of the commission of the alleged offence, the holder of a licence shall be deemed to be proved in the absence of proof to the contrary;

(b) every entry in any book kept by or belonging to any person or found on the premises of any person shall be deemed, unless the contrary is shown, to have been made by or with the authority of such person.

## Regulations.

**15.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1) of this section the Governor may make regulations for or with respect to—

(a) applications for licences and the form, terms, provisions, and conditions of the licence;

(b) the mode of proving any purchases and sales of motor spirit or proclaimed liquid fuel;

(c) requiring sellers of motor spirit to issue any prescribed certificate or invoice to persons buying motor spirit for re-sale;

- (d) forms of returns to be made and of statistics to be furnished to the Minister, and the contents thereof, and the persons (whether licensees or not) by whom the same shall be made, and the time and mode of making the returns and furnishing the statistics ;
- (e) the forms of documents under this Act ;
- (f) the manner of service of any notice, order, or other document under this Act, and the mode of proof of service of any such document ;
- (g) prescribing penalties recoverable summarily and not exceeding fifty pounds for breach of any regulation made under this Act.

**16.** The money required by the Minister for the administration of this Act shall be paid out of money provided by Parliament for these purposes.

Financial provision.

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

C. M. BARCLAY-HARVEY, Governor.