

6/1/00

Petroleum Products (Terminal Gate Pricing) Bill

As Sent Print

EXPLANATORY MEMORANDUM

- Clause 1 sets out the purpose of the Bill. This is to require the determination of terminal gate prices for petroleum products and for other purposes.
- Clause 2 provides for the Bill to come into operation on a proclaimed day.
- Clause 3 defines a number of terms used in the Bill.
- Clause 4 sets out a procedure for the Governor in Council to declare suppliers who will be required to determine terminal gate prices. It also provides for the Governor in Council to determine the classes of petroleum products to be subject to the determination of terminal gate prices.
- Clause 5 requires a declared supplier to determine terminal gate prices for declared classes of petroleum products sold or supplied by the supplier. This price can only be varied once a day. The price must be determined by adding together the landed international product price of the petroleum products (determined in accordance with the clause), the excise and other taxes payable by the supplier, the margin amount (determined in accordance with the clause) and any GST payable. The terminal gate price must not include an amount for discounts, rebates, cost of transport, delivery or credit services, cost of brand fees, cost of provision of equipment or any return on assets owned by the declared supplier at a retail site for the sale or supply of petroleum products.
- Clause 6 provides that the price at which a declared supplier sells or supplies petroleum products of a declared class is to be an amount determined by adding to the current terminal gate price any amount charged by the supplier for transport, delivery and

credit services, brand fees and the provision of equipment and deducting from that total any discount or rebate provided by the declared supplier.

- Clause 7 requires a declared supplier to publish in the prescribed manner the current terminal gate price determined by the supplier for a petroleum products of a declared class and any variation of that price. Sub-clause (2) requires a declared supplier to make available details of the charges for any optional services provided by the supplier. Sub-clause (3) allows a declared supplier which owns or is the lessor of a retail site for the sale of petroleum products to determine an additional amount representing a return on its asset in that site to be paid by the retailer at that site for the supply of petroleum products of a declared class. Under sub-clause (4) that additional amount is to be made available on request to the retailer affected. Sub-clause (5) requires a declared supplier to include in the invoice for a sale or supply of petroleum products of a declared class details of the current terminal gate price and any discounts or rebates, charges for optional services determined under sub-clause (4) and additional amount determined, on a per litre basis, under sub-clause (5), in respect of that load.
- Clause 8 prohibits a declared supplier from selling or supplying petroleum products of a declared class to a distributor or retailer at a price determined in any manner otherwise than in accordance with clause 6. The prohibition does not affect contracts entered into before 1 November 2000 but any provision of a contract entered into on or after that date will be void if the provision is inconsistent with the clause.
- Clause 9 prohibits a declared supplier from refusing to supply petroleum products of a declared class except in certain defined circumstances.
- Clause 10 empowers the Director of Consumer and Business Affairs to require a declared supplier to answer questions and produce documents. The provisions of Part 10 of the **Fair Trading Act 1999** will apply in respect of this power (see clause 11).

- Clause 11 incorporates Part 10 of the **Fair Trading Act 1999** (except the powers relating to emergency entry) which provides for the powers and duties of the Director and inspectors in investigating offences under this Bill. Clause 10 of this Bill is to be treated as if it were included in Part 10.
- Clause 12 provides that if a body corporate contravenes a provision of the Bill, any officer of the body corporate who knowingly authorised or permitted the contravention is deemed to contravene the same provision.
- Clause 13 provides for regulation-making powers for the purposes of the Bill.

