



STATUTES AMENDMENT (OIL REFINERIES) ACT 1994

No. 74 of 1994

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ELIZABETHAE II REGINAE

A.D. 1994

No. 74 of 1994

An Act to amend the Oil Refinery (Hundred of Noarlunga) Indenture Act 1958 and the Mobil Lubricating Oil Refinery (Indenture) Act 1976.

[Assented to 1 December 1994]

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Statutes Amendment (Oil Refineries) Act 1994*.

Interpretation

2. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2
AMENDMENT OF OIL REFINERY (HUNDRED OF NOARLUNGA)
INDENTURE ACT 1958**

Amendment of s. 9—Cargo service charges

3. Section 9 of the principal Act is amended by striking out subsection (1).

Amendment of schedule—Indenture

4. The schedule of the principal Act is amended—

(a) by inserting before the definition of "feedstock" in clause 1(1) the following definition:

"cargo service charge" means a charge payable under the law of the State in respect of goods loaded onto a vessel ("outward cargo service charge"), or unloaded from a vessel ("inward cargo service charge"), at port facilities provided by or on behalf of the State;;

- (b) by striking out the definition of "Esso" in clause 1(1) and substituting the following definition:

"the lube refinery" has the same meaning as in the Indenture set out in the first schedule of the *Mobil Lubricating Oil Refinery (Indenture) Act 1976*;

- (c) by striking out the definition of "Port Adelaide" in clause 1(1) and substituting the following definition:

"Port Adelaide" has the same meaning as in the *Harbors and Navigation Act 1993*;

- (d) by striking out paragraph (a) of clause 6(1) and substituting the following paragraph:

(a) lay and operate pipelines from the refinery site to Birkenhead and Osborne along or under any road or railway land in accordance with plans and specifications approved in writing by the Minister for Transport;

- (e) by striking out from clause 6(1)(b) "The South Australian Harbors Board" and substituting "the Minister for Transport";

- (f) by striking out subclause (2) of clause 6 and substituting the following subclauses:

(2) The Minister for Transport must, before approving any plans and specifications relating to pipelines along or under a road, consult with the municipal or district council in whose area the road is situated.

(3) The Minister for Transport must not unreasonably refuse to approve any plans and specifications submitted under subclause (1).;

- (g) by striking out clauses 8 to 10A (inclusive) and substituting the following clauses:

Pilotage and harbor and navigation charges

8. (1) A vessel arriving at, or off, or proceeding to sea from, the Company's marine installations is exempted from Division 5 (Pilotage) of Part 5 of the *Harbors and Navigation Act 1993*.

(2) Where a vessel uses the Company's marine installations, a harbor service charge is not payable but a navigation service charge is payable.

(3) In subclause (2)—

"harbor service charge" means a charge payable under the law of the State for services provided by or on behalf of the State in relation to vessels at port facilities;

"navigation service charge" means a charge payable under the law of the State for the provision by or on behalf of the State of navigational aids for the safe navigation of vessels in State waters.

Charge on unloading of crude oil

9. (1) A charge is payable to the Minister for Transport in respect of feedstock unloaded by means of the Company's marine installations.

(2) The charge applies only in respect of the volume of feedstock that equals the volume of petroleum products produced at the refinery from that feedstock and distributed for use only in the State by land to any place in the State or by sea to Port Adelaide.

(3) The charge is payable each month on the basis of petroleum products distributed in the previous month.

(4) The Company must make available to the South Australian Department of Transport customs or audited figures for the purpose of calculating the charge payable.

(5) Subject to subclause (6), the charge is \$2.0076 per kilolitre.

(6) If the rate of inward cargo service charge payable under the scale fixed in respect of bulk liquid cargo unloaded at Port Adelaide is increased or decreased, the rate fixed by subclause (5) will be taken to have been increased or decreased by the percentage of that increase or decrease.

(7) This clause does not apply in relation to feedstock brought into the refinery by land.

(8) This clause expires on 1 February 1996 if Mobil has, before that day, paid to the Minister for Transport the sum of \$1 000 000.

Charge on unloading of finished petroleum products

10. (1) A charge is payable to the Minister for Transport in respect of finished petroleum products unloaded by Mobil at the Company's marine installations.

(2) The charge is payable at a rate equal to the rate of inward cargo service charge under the scale fixed from time to time in respect of bulk liquid cargo unloaded at Port Adelaide.

(3) Subject to subclause (4), the Minister may, on written application by Mobil, grant an exemption from subclause (1).

(4) The Minister must not grant an exemption unless—

(a) the Minister is satisfied that—

- (i) production of finished petroleum products at the refinery or the lube refinery has been, or is to be, interrupted; and
- (ii) the unloading of finished petroleum products to which the application for exemption relates is necessary to ensure continuity of supply of such products in the State; and

(b) except where the Minister is of the opinion that exceptional circumstances exist justifying the unloading of a greater quantity of finished petroleum products than that specified in this paragraph without payment of the charge imposed by subclause (1)—

- (i) the amount of finished petroleum products proposed to be unloaded by Mobil at the Company's marine installations pursuant to the exemption does not exceed 100 000 kilolitres; or

- (ii) if Mobil has previously unloaded finished petroleum products at the Company's marine installations in the same calendar year pursuant to an exemption under this clause, the aggregate of the amount proposed to be unloaded and the amount previously unloaded does not exceed 100 000 kilolitres.

Charge on loading of refinery products

10A. (1) No charge is payable to the Minister for Transport in respect of—

- (a) petroleum products produced at the refinery and loaded at the Company's marine installations; or
- (b) petroleum products produced at the refinery and loaded at Port Adelaide if the products are—
 - (i) transported by pipeline or other means of land transport to Port Adelaide; and
 - (ii) transported by sea from Port Adelaide and subsequently unloaded at port facilities provided by or on behalf of the State.

(2) A charge is payable to the Minister for Transport in respect of crude oil or condensate loaded by Mobil at the Company's marine installations.

(3) Subject to subclause (4), the charge payable under subclause (2) is \$2.0076 per kilolitre.

(4) If the rate of outward cargo service charge payable under the scale fixed in respect of bulk liquid cargo loaded at Port Adelaide is increased or decreased, the rate fixed by subclause (3) will be taken to have been increased or decreased by the percentage of that increase or decrease.;

- (h) by striking out from clause 11(1) "inward wharfage" and substituting "an inward cargo service charge";
- (i) by striking out from clause 11(1) "by The South Australian Harbors Board" and substituting "by or on behalf of the State";
- (j) by striking out from clause 11(1) "unshipping" and substituting "unloading";
- (k) by striking out from clause 11(1) "wharfage charges" and substituting "cargo service charges";
- (l) by striking out from clause 11(1) "by the said Harbors Board" and substituting "by or on behalf of the State";
- (m) by striking out subclause (2) of clause 11 and substituting the following subclauses:

(2) A charge is payable in respect of—

- (a) petroleum products unloaded at Port Pirie, Port Lincoln or at any other port in the State (other than Port Adelaide) if the products were produced at the refinery and transported to that port by sea; and

- (b) petroleum products unloaded at any port in the State if the products were produced at the refinery and—
- (i) are transported to Port Adelaide by pipeline or other means of land transport; and
 - (ii) are transported by sea from Port Adelaide to the port at which they are unloaded.

(3) A charge under subclause (2) is payable at a rate equal to the rate of inward cargo service charge under the scale fixed from time to time in respect of bulk liquid cargo unloaded at that port and is payable to the authority who has the care, control and management of the port.;

(n) by striking out clauses 12 to 14 (inclusive) and substituting the following clause:

General liability for other charges

12. Except as expressly provided, this Indenture does not confer any exemption from charges payable under the law of the State for the use of port facilities, or services provided by or on behalf of the State at such facilities.

**PART 3
AMENDMENT OF MOBIL LUBRICATING OIL REFINERY
(INDENTURE) ACT 1976**

Amendment of s. 6—Cargo service charges

5. (1) Section 6 of the principal Act is amended by striking out from subsection (1) "inward or outward wharfage" twice occurring and substituting, in each case, "inward or outward cargo service charges".

Amendment of first schedule—Indenture

6. The first schedule of the principal Act is amended—

(a) by inserting in clause 1(1) before the definition of "lube refinery feedstock" the following definition:

"cargo service charge" means a charge payable under the law of the State in respect of goods loaded onto a vessel ("outward cargo service charge"), or unloaded from a vessel ("inward cargo service charge"), at port facilities provided by or on behalf of the State.;

(b) by striking out from clause 1(1) the definition of "Port Adelaide" and substituting the following definition:

"Port Adelaide" has the same meaning as in the *Harbors and Navigation Act 1993*.;

(c) by striking out clause 4 and substituting the following clause:

4. (1) A charge is payable to the Minister for Transport in respect of lube refinery feedstock unloaded by means of the marine installations.

(2) The charge applies only in respect of the volume of such feedstock that equals the volume of petroleum products produced at the lube refinery from that feedstock and distributed for use only in the State by land to any place in the State or by sea to Port Adelaide.

(3) The charge is payable each month on the basis of petroleum products distributed in the previous month.

(4) Mobil must make available to the South Australian Department of Transport customs or audited figures for the purpose of calculating the charge payable.

(5) Subject to subclause (6), the charge is \$2.0076 per kilolitre.

(6) If the rate of inward cargo service charge payable under the scale fixed in respect of bulk liquid cargo unloaded at Port Adelaide is increased or decreased, the rate fixed by subclause (5) will be taken to have been increased or decreased by the percentage of that increase or decrease.

(7) This clause expires on 1 February 1996 if Mobil has complied with clause 9(8) of the original Indenture.;

(d) by striking out from clause 5(1) "the amount of inward wharfage on lube refinery feedstock unshipped" and substituting "the amount of the charge payable under clause 4 in respect of lube refinery feedstock unloaded";

(e) by striking out from clause 6(1) "the total amount of inward wharfage on lube refinery feedstock and feedstock for the P.R.A. refinery unshipped by means of the marine installations paid for that year" and substituting "the total amount paid for that year under clause 4(1) of this Indenture and clause 9(1) of the original Indenture in respect of lube refinery feedstock and feedstock for the P.R.A. refinery unloaded by means of the marine installations";

(f) by striking out from clause 6(2) "any amount paid as inward wharfage" and substituting "any amount paid under clause 4(1) of this Indenture or clause 9(1) of the original Indenture";

(g) by striking out from clause 6(2) "inward wharfage" and substituting "a charge under those clauses";

(h) by striking out clause 7 and substituting the following clause:

7. (1) No charge is payable to the Minister for Transport in respect of—

(a) petroleum products produced at the lube refinery and loaded at the marine installations; or

(b) petroleum products produced at the lube refinery and loaded at Port Adelaide if the products are—

(i) transported by pipeline or other means of land transport to Port Adelaide; and

(iii) transported by sea from Port Adelaide and subsequently unloaded at port facilities provided by or on behalf of the State.;

(i) by striking out from clause 8(1) "will not be chargeable with inward wharfage" and substituting "are not liable to an inward cargo service charge";

- (j) by striking out from clause 8(1) "by the Minister of Marine" twice occurring and substituting, in each case, "by or on behalf of the State";
- (k) by striking out from clause 8(1) "unshipping" and substituting "unloading";
- (l) by striking out from clause 8(1) "wharfage charges" and substituting "inward cargo services charges";
- (m) by striking out subclauses (2) and (3) and substituting the following subclauses:

(2) A charge is payable in respect of—

- (a) petroleum products unloaded at Port Pirie, Port Lincoln or at any other port in the State (other than Port Adelaide) if the products were produced at the lube refinery and transported to that port by sea; and
- (b) petroleum products unloaded at any port in the State if the products were produced at the lube refinery and—
- (i) are transported to Port Adelaide by pipeline or other means of land transport; and
- (ii) are transported by sea from Port Adelaide to the port at which they are unloaded.

(3) A charge under subclause (2) is payable at a rate equal to the rate of inward cargo service charge under the scale fixed from time to time in respect of bulk liquid cargo unloaded at that port and is payable to the authority who has the care, control and management of the port.;

- (n) by striking out clauses 9 to 11 (inclusive) and substituting the following clause:

9. Except as expressly provided, this Indenture does not confer any exemption from charges payable under the law of the State for the use of port facilities, or services provided by or on behalf of the State at such facilities.

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

ROMA MITCHELL Governor