



# Petroleum Products Pricing Act 1981

No. 117 of 1981

## TABLE OF PROVISIONS

### PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Definitions
4. Other interpretative provisions

### PART II—PETROLEUM PRODUCTS PRICING AUTHORITY

5. Petroleum Products Pricing Authority
6. Period of appointment of Commissioner
7. Terms and conditions of appointment of Commissioner
8. Leave of absence
9. Outside employment
10. Acting Commissioner
11. Associate Commissioners
12. Disclosure of financial interests
13. Resignation
14. Termination of appointment
15. Exercise of powers of Authority where associate Commissioners appointed

### PART III—FUNCTIONS OF THE AUTHORITY

16. Functions of Authority
17. Power of Minister to require Authority to conduct an inquiry
18. Directions of Minister as to special considerations
19. Notification to Authority of proposed increases in prices of petroleum products or services
20. Prices of petroleum products or services not to be increased pending inquiry

TABLE OF PROVISIONS—*continued*

Section	
21.	Interim price increases
22.	Inquiry and report by Authority on requirement by Minister
23.	Withdrawal of notices by Authority
24.	Parties to inquiries
25.	Procedure at inquiries
26.	Power to obtain information
27.	Power to take evidence on oath or affirmation
28.	Failure of witness to attend
29.	Refusal to be sworn or to answer questions
30.	Protection of Commissioner, associate Commissioners, representatives and witnesses
31.	Powers of Authority in relation to documents produced
32.	Allowances to witnesses

PART IV—MISCELLANEOUS

33.	Prosecutions
34.	Staff
35.	Engagement of consultants
36.	Secrecy
37.	Annual report
38.	Notices given under Prices Justification Act
39.	Regulations

SCHEDULE



# Petroleum Products Pricing Act 1981

No. 117 of 1981

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**An Act to make provision for the holding of inquiries into prices charged or proposed to be charged for the supply of petroleum products or services related to the production or supply of petroleum products in Australia**

[Assented to 24 June 1981]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

## PART I—PRELIMINARY

### Short title

1. This Act may be cited as the *Petroleum Products Pricing Act 1981*.

### Commencement

2. This Act shall come into operation on a date to be fixed by Proclamation.

### Definitions

3. In this Act, unless the contrary intention appears—  
“associate Commissioner” means an associate Commissioner of the Authority;

“Authority” means the Petroleum Products Pricing Authority established by this Act;

“Commissioner” means the Commissioner for Petroleum Products Pricing appointed under section 5;

“company” means a body corporate that—

- (a) is a foreign corporation;
- (b) is a trading or financial corporation incorporated or deemed to be incorporated under the law relating to companies in force in a State or in a Territory forming part of Australia; or
- (c) is a holding company of a body corporate of a kind referred to in paragraph (a) or (b);

“declared company” means a company declared by the Minister by notice published in the *Gazette* to be a declared company for the purposes of this Act;

“meeting”, in relation to the Authority when constituted by the Commissioner and an associate Commissioner or associate Commissioners, includes a sitting of the Authority when so constituted for the purpose of taking evidence or receiving submissions in an inquiry;

“petroleum” means—

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide;

“petroleum product” means any product derived from petroleum but does not include—

- (a) petroleum;
- (b) any product specified in the Schedule; or
- (c) any product that the Minister has, by notice in writing published in the *Gazette*, declared not to be a petroleum product for the purposes of this Act;

“prices justification inquiry” means an inquiry of the kind referred to in paragraph 16 (2) (a);

“services” means services related to the production or supply of petroleum products and includes the rights or benefits provided under an agreement for the performance of work (otherwise than under a contract of service), whether with or without the supply of goods.

**Other interpretative provisions**

4. (1) A reference in this Act to the supply of petroleum products or services shall be read as a reference to the supply of petroleum products or services by a company.

(2) In this Act—

(a) a reference to the supply of petroleum products does not include a reference to—

- (i) a supply for use outside Australia;
- (ii) a supply for which a charge is not made; or
- (iii) any other prescribed supply; and

(b) a reference to the supply of services does not include a reference to—

- (i) a supply outside Australia;
- (ii) a supply for which a charge is not made; or
- (iii) any other prescribed supply.

(3) For the purposes of this Act, the question whether a body corporate is a holding company of another body corporate shall be determined in the same manner as the question whether a corporation is a holding company of another corporation is determined under the *Companies Ordinance* 1962 of the Australian Capital Territory as amended and in force from time to time.

**PART II—PETROLEUM PRODUCTS PRICING AUTHORITY**

**Petroleum Products Pricing Authority**

5. (1) There shall be a Petroleum Products Pricing Authority.

(2) Subject to sub-section (3) and section 11, the Authority shall be constituted by a person appointed by the Governor-General on a full-time basis to the office of Commissioner for Petroleum Products Pricing.

(3) The Governor-General may, under sub-section (2), appoint the person who holds the office of full-time member of the Temporary Assistance Authority as the Commissioner for Petroleum Products Pricing, and nothing in this Act operates to prohibit such a person carrying out the duties of the office of full-time member of the Temporary Assistance Authority.

(4) Notwithstanding section 9, the person who holds the office of Commissioner for Petroleum Products Pricing may be appointed, and may carry out the duties of, the office of full-time member of the Temporary Assistance Authority.

**Period of appointment of Commissioner**

6. (1) The Commissioner shall be appointed for such period, not exceeding 5 years, as is specified in the instrument of his appointment, but, subject to this Act, is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Commissioner and a person shall not be appointed or re-appointed as the Commissioner for a period that extends beyond the date on which he will attain the age of 65 years.

#### **Terms and conditions of appointment of Commissioner**

7. (1) The Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation he shall be paid such remuneration as is prescribed.

(2) The Commissioner shall be paid such allowances as are prescribed.

(3) Sub-sections (1) and (2) have effect subject to the *Remuneration Tribunals Act 1973*.

(4) The Commissioner holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

#### **Leave of absence**

8. The Minister may grant leave of absence to the Commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

#### **Outside employment**

9. Except with the consent of the Minister, the Commissioner shall not engage in paid employment outside the duties of his office.

#### **Acting Commissioner**

10. (1) The Minister may appoint a person to act as Commissioner—

(a) during a vacancy in the office of Commissioner, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Commissioner is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) Notwithstanding section 5, the Minister may appoint a person to act as Commissioner as provided by sub-section (1) on a part-time basis.

(3) The Minister may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Commissioner; and

(b) terminate such an appointment at any time.

(4) Where a person is acting as Commissioner in accordance with an appointment made under paragraph (1) (b) and the office of Commissioner becomes vacant while that person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12

months from the date on which the vacancy occurred expires, whichever first happens.

(5) The appointment of a person to act as Commissioner ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

(6) While a person is acting as Commissioner, he has and may exercise all the powers, and shall perform all the functions, of the Commissioner under this Act.

(7) The validity of anything done by a person purporting to act under an appointment made as provided by sub-section (1) shall not be called into question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

### **Associate Commissioners**

11. (1) The Minister, after consultation with the Commissioner, may appoint a person to be an associate Commissioner, or persons to be associate Commissioners, of the Authority for the purposes of an inquiry by the Authority in relation to a particular matter.

(2) An associate Commissioner shall be appointed for a period commencing on a day specified in the instrument of his appointment and ending on the day on which the Authority completes its inquiry and report in relation to the matter specified in that instrument, but is eligible for re-appointment.

(3) Where an associate Commissioner has, or associate Commissioners have, been appointed for the purposes of a particular inquiry, the Authority is constituted, for the purposes of that inquiry, by the Commissioner and the associate Commissioner or associate Commissioners.

(4) An associate Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(5) An associate Commissioner shall be paid such allowances as are prescribed.

(6) Sub-sections (4) and (5) have effect subject to the *Remuneration Tribunals Act 1973*.

(7) Subject to this section, an associate Commissioner holds office on such terms and conditions (if any) as the Minister determines.

(8) In this section, a reference to the Commissioner shall, if there is a person acting in the office of Commissioner, be read as a reference to the person so acting.

### **Disclosure of financial interests**

12. (1) The Commissioner shall, to the best of his knowledge, give written notice to the Minister of all direct or indirect pecuniary interests that he has or acquires in any business carried on in Australia or in any body corporate carrying on such a business.

(2) Where an associate Commissioner who is appointed for the purposes of a particular inquiry by the Authority has or acquires any direct or indirect pecuniary interest in any business carried on in Australia or in any body corporate carrying on any such business, being an interest that could conflict with the proper performance of his functions in relation to that inquiry, he shall, to the best of his knowledge, disclose the interest to the Commissioner.

(3) The Commissioner or an associate Commissioner shall not exercise any power conferred upon him by this Act in any matter in which he has a direct or indirect pecuniary interest unless his interest is disclosed in any report in which he participates.

(4) In this section, a reference to the Commissioner shall, if there is a person acting in the office of Commissioner, be read as a reference to the person so acting.

### **Resignation**

13. (1) The Commissioner may resign his office by writing under his hand delivered to the Governor-General.

(2) An associate Commissioner may resign his office by writing under his hand delivered to the Minister.

### **Termination of appointment**

14. (1) The Governor-General may terminate the appointment of the Commissioner or of an associate Commissioner by reason of misbehaviour or physical or mental incapacity.

(2) If the Commissioner—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) fails to comply with his obligations under section 12;
- (c) engages in any paid employment outside the duties of his office otherwise than with the consent of the Minister or as provided by section 5; or
- (d) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months,

the Governor-General shall terminate the appointment of the Commissioner.



(3) If an associate Commissioner—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (b) fails to comply with his obligations under section 12,

the Governor-General shall terminate the appointment of that associate Commissioner.

### **Exercise of powers of Authority where associate Commissioners appointed**

**15. (1)** Where an associate Commissioner has, or associate Commissioners have, been appointed under sub-section 11(1) for the purposes of a particular inquiry, the Commissioner shall convene such meetings of the Authority as he thinks necessary for the efficient performance of the functions of the Authority in relation to that inquiry.

(2) Meetings of the Authority shall be held at such places as the Commissioner determines.

(3) The Commissioner shall preside at all meetings of the Authority.

(4) The Authority shall keep records of its meetings.

(5) Subject to Part III and to any direction given to the Authority by the Minister under sub-section 17 (4), the Commissioner may give directions regarding the procedure to be followed at, or in connection with, a meeting of the Authority.

(6) At a meeting of the Authority—

- (a) all questions shall be decided by a majority of votes of the Commissioner and the associate Commissioners present and voting; and
- (b) the Commissioner has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(7) In this section, a reference to the Commissioner shall, if there is a person acting in the office of Commissioner, be read as a reference to the person so acting.

## **PART III—FUNCTIONS OF THE AUTHORITY**

### **Functions of Authority**

**16. (1)** The functions of the Authority are to conduct inquiries in accordance with this Part in relation to—

- (a) the prices for the supply of petroleum products; and
- (b) the prices for the supply of services,

and to report to the Minister the results of every such inquiry.

(2) An inquiry under this Part may be either—

- (a) a prices justification inquiry, that is to say an inquiry as to whether the price or prices at which a company or companies (whether a declared

company or declared companies or not) supplies or supply, or proposes or propose to supply, petroleum products or services of a particular description is or are justified and, if the Authority is of the opinion that the price or any of the prices is not justified, what lower price for the supply by the company or companies concerned of petroleum products or services of that description would be justified; or

(b) an inquiry into a matter specified by the Minister in a notice under paragraph 17 (1) (b).

(3) The Authority shall conduct such prices justification inquiries as it is required to conduct by notice given by the Minister under section 17 and may, with the approval of the Minister, conduct such other prices justification inquiries as it thinks fit.

(4) The Authority shall conduct such inquiries other than prices justification inquiries as it is required to conduct by notice given by the Minister under section 17.

(5) In conducting a prices justification inquiry and making its report on such an inquiry, the Authority shall have due regard to the need for the company or companies concerned to achieve a level of profitability that is sufficient to enable the company or companies to maintain an adequate level of investment and employment.

**Power of Minister to require Authority to conduct an inquiry**

**17. (1)** The Minister may, by notice in writing under his hand delivered to the Commissioner, require the Authority—

(a) to conduct a prices justification inquiry; or

(b) to conduct an inquiry, not being a prices justification inquiry, into a specified matter or specified matters related to the prices at which petroleum products or services are supplied,

and to report to him the results of the inquiry.

(2) A notice under sub-section (1) shall either—

(a) specify the description of the petroleum products or services to which the inquiry is to relate, without specifying the particular company or companies in relation to which the inquiry is to be conducted; or

(b) specify both—

(i) the description of the petroleum products or services to which the inquiry is to relate; and

(ii) the particular company or companies in relation to which the inquiry is to be conducted.

(3) Where a notice under this section is in accordance with paragraph (2) (a), the Authority shall determine the particular company or companies in relation to which the inquiry will be conducted, and the Commissioner shall give notice in writing of the determination to the Minister.

(4) Where the Minister by a notice under this section requires the Authority to conduct an inquiry other than a prices justification inquiry, he may, in the notice, give such directions as he thinks fit as to the conduct of the inquiry or the matters to be taken into consideration.

(5) A notice under sub-section (1) may specify the time within which the inquiry must be completed and the report submitted and the Authority shall complete the inquiry and submit the report within that time or within that time as extended by the Minister in his discretion.

(6) Where a notice under sub-section (1) does not specify the time within which the inquiry must be completed and the report submitted, the Authority shall complete the inquiry and submit the report within the time specified in paragraph 22 (1) (c) or within that time as extended by the Minister in his discretion.

#### **Directions of Minister as to special considerations**

18. The Minister may, by notice in writing under his hand delivered to the Commissioner, direct the Authority to give special consideration, in exercising its functions and powers under this Act, to the matter or matters specified in the notice and the Authority shall comply with any such direction.

#### **Notification to Authority of proposed increases in prices of petroleum products or services**

19. (1) If a declared company supplies petroleum products or services of a particular description in a locality where the company has, during the immediately preceding period of 90 days, supplied petroleum products or services of that description on the same or substantially similar terms and conditions, and the price at which the company supplies the petroleum products or services is higher than the highest price at which during that preceding period the company supplied petroleum products or services of that description in that locality on the same or substantially similar terms and conditions, the company is guilty of an offence unless—

- (a) a notice in writing stating that the company proposes to supply petroleum products or services of that description in that locality and specifying the price at which, and the terms and conditions on which, the company proposes to supply the petroleum products or services has been given, as prescribed, to the Authority; and
- (b) the event or events referred to in one of the following sub-paragraphs has or have occurred:
  - (i) the prescribed period has expired;
  - (ii) the Authority has served notice in writing on the company stating that the Authority does not intend to hold an inquiry as to whether the proposed price is justified; or
  - (iii) the Authority has served notice in writing on the company specifying a price for the supply of petroleum products or services of that description in that locality on those terms and conditions that the Authority considers to be justified, being a

price that is lower than the price specified in the notice by the company, and the company has, not later than 7 days after service on the company of the notice by the Authority, given, as prescribed, to the Authority a further notice stating that the price at which the company proposes to supply any petroleum products or services of that description in that locality on those terms and conditions will not be higher than the price specified in the notice by the Authority.

(2) If a declared company supplies petroleum products or services of a particular description in a locality where the company has previously supplied petroleum products or services of that description on the same or substantially similar terms and conditions but has not, during the immediately preceding period of 90 days, so supplied petroleum products or services of that description, and the price at which the company supplies the petroleum products or services is higher than the highest price at which the company has previously supplied petroleum products or services of that description in that locality on the same or substantially similar terms and conditions, the company is guilty of an offence unless—

- (a) a notice in writing stating that the company proposes to supply petroleum products or services of that description in that locality and specifying the price at which, and the terms and conditions on which, the company proposes to supply the petroleum products or services has been given, as prescribed, to the Authority; and
- (b) the event or events referred to in one of the following sub-paragraphs has or have occurred:
  - (i) the prescribed period has expired;
  - (ii) the Authority has served notice in writing on the company stating that the Authority does not intend to hold an inquiry as to whether the proposed price is justified; or
  - (iii) the Authority has served notice in writing on the company specifying a price for the supply of petroleum products or services of that description in that locality on those terms and conditions that the Authority considers to be justified, being a price that is lower than the price specified in the notice by the company, and the company has, not later than 7 days after service on the company of the notice by the Authority, given, as prescribed, to the Authority a further notice stating that the price at which the company proposes to supply any petroleum products or services of that description in that locality on those terms and conditions will not be higher than the price specified in the notice by the Authority.

(3) If a declared company supplies petroleum products or services of a particular description in a locality where the company has not previously supplied petroleum products or services of that description, or in a locality where the company has not previously supplied petroleum products or services

of that description on the same or substantially similar terms and conditions, and—

- (a) the company has not previously supplied petroleum products or services of that description elsewhere in Australia, or has not previously supplied petroleum products or services of that description elsewhere in Australia on the same or substantially similar terms and conditions; or
- (b) where the company has previously supplied petroleum products or services of that description elsewhere in Australia on the same or substantially similar terms and conditions—the price at which the company supplies the petroleum products or services is higher than the highest price at which the company has previously supplied petroleum products or services of that description in Australia on the same or substantially similar terms and conditions,

the company is guilty of an offence unless—

- (c) a notice in writing stating that the company proposes to supply petroleum products or services of that description in that locality and specifying the price at which, and the terms and conditions on which, the company proposes to supply the petroleum products or services has been given, as prescribed, to the Authority; and
- (d) the event or events referred to in one of the following sub-paragraphs has or have occurred:
  - (i) the prescribed period has expired;
  - (ii) the Authority has served notice in writing on the company stating that the Authority does not intend to hold an inquiry as to whether the proposed price is justified; or
  - (iii) the Authority has served notice in writing on the company specifying a price for the supply of petroleum products or services of that description in that locality on those terms and conditions that the Authority considers to be justified, being a price that is lower than the price specified in the notice by the company, and the company has, not later than 7 days after the service on the company of the notice by the Authority, given, as prescribed, to the Authority a further notice stating that the price at which the company proposes to supply any petroleum products or services of that description in that locality on those terms and conditions will not be higher than the price specified in the notice by the Authority.

(4) A company that commits an offence against sub-section (1), (2) or (3) is punishable, on conviction, by a fine not exceeding \$10,000.

(5) At any time after a company has given a notice to the Authority under this section specifying a price at which the company proposes to supply petroleum products or services and before the Authority commences to hold an inquiry as to whether that price is justified—

- (a) the company may give, as prescribed, to the Authority a further notice stating that the previous notice is to have effect as if there were substituted for the price specified in that notice such lower price as is specified in the further notice; and
- (b) where a further notice is so given by the company, the previous notice by the company has effect in accordance with the further notice.

(6) Subject to sub-sections (7), (8) and (9), the prescribed period for the purposes of this section is the period of 21 days that commenced on the day on which the notice referred to in paragraph (1) (a), (2) (a) or (3) (c), as the case may be, was given to the Authority.

(7) The Authority may, with the consent of a company, determine, before the expiration of the period of 21 days referred to in sub-section (6), that the prescribed period in relation to that company for the purposes of this section shall be a specified longer period and, in that case, a reference to that longer period shall, for the purposes of the application of sub-section (6) in relation to that company, be deemed to be substituted in that sub-section for the reference to that period of 21 days.

(8) Where the Authority has served a notice on a company under sub-paragraph (1) (b) (iii), (2) (b) (iii) or (3) (d) (iii), then, for the purposes of the application of sub-section (6) in relation to that company, the reference in that sub-section to a period of 21 days, or, if a reference to a longer period is deemed to be substituted in that sub-section by the application of sub-section (7), the reference to that longer period, shall be construed as a reference to the period of 21 days, or to that longer period, as the case may be, increased by a further period of 14 days.

(9) If the Authority serves notice in writing on the company before the expiration of the period that, but for this sub-section, would be the prescribed period in relation to that company for the purposes of this section stating that the Authority is to hold an inquiry as to whether the proposed higher price or the proposed price, as the case may be, is justified, then, notwithstanding sub-sections (6), (7) and (8), the prescribed period in relation to the company for the purposes of this section is the period that commenced on the day on which the notice referred to in paragraph (1) (a), (2) (a) or (3) (c), as the case may be, was given to the Authority and ends on whichever is the earlier of the following days:

- (a) the day on which a copy of the report by the Authority in relation to the proposed higher price or the proposed price is received by the company; or
- (b) the fourteenth day after the expiration of—
  - (i) the period of 3 months that commenced on the day on which the Authority served notice on the company that it intended to hold the inquiry; or
  - (ii) such further period as is, or such further periods as are, specified in a notice or notices served on the company under sub-section 22 (2).

(10) When a company receives a copy of a report by the Authority in relation to the price at which the company proposes to supply petroleum products or services of a particular description in a particular locality—

- (a) the company shall, within 14 days after the report is so received, give notice in writing to the Authority specifying the price at which the company is supplying or proposes to supply petroleum products or services of that description in that locality; and
- (b) the Authority shall, within 14 days after it receives the notice under paragraph (a), make available to the public particulars of the price specified in that notice.

(11) A company that contravenes paragraph (10) (a) is guilty of an offence and is punishable, on conviction, by a fine not exceeding \$1,000.

(12) This section applies subject to section 21.

**Prices of petroleum products or services not to be increased pending inquiry**

20. (1) Where, after the commencement of this Act, the Authority serves on a company a notice (other than a notice served in consequence of a notice given to the Authority by the company under paragraph 19 (1) (a), 19 (2) (a) or 19 (3) (c)) stating that the Authority is to inquire and report whether the price at which the company supplies or proposes to supply petroleum products or services of a particular description in a particular locality on particular terms and conditions is justified—

- (a) if the company supplied petroleum products or services of that description in that locality on the same or substantially similar terms and conditions during the period of 30 days immediately preceding the date of service of the notice—the company shall not, before the prescribed day, supply petroleum products or services of that description in that locality on the first-mentioned terms and conditions at a price that is higher than the highest price at which the company supplied petroleum products or services of that description in that locality on the same or substantially similar terms and conditions during that period;
- (b) if the company has previously supplied petroleum products or services of that description in that locality on the same or substantially similar terms and conditions but has not, during the period of 30 days immediately preceding the date of service of the notice, so supplied petroleum products or services of that description—the company shall not, before the prescribed day, supply petroleum products or services of that description in that locality on the first-mentioned terms and conditions at a price that is higher than the highest price at which the company previously supplied petroleum products or services of that description in that locality on the same or substantially similar terms and conditions; or
- (c) if the company has not previously supplied petroleum products or services of that description in that locality, or has not previously supplied petroleum products or services of that description in that locality on the same or substantially similar terms and conditions—

- (i) in the case where the company has not previously supplied petroleum products or services of that description elsewhere in Australia, or has not previously supplied petroleum products or services of that description elsewhere in Australia on the same or substantially similar terms and conditions—the company shall not, before the prescribed day, supply petroleum products or services of that description in that locality on the first-mentioned terms and conditions; or
- (ii) in the case where the company has previously supplied petroleum products or services of that description elsewhere in Australia on the same or substantially similar terms and conditions—the company shall not, before the prescribed day, supply petroleum products or services of that description in that locality on the first-mentioned terms and conditions at a price that is higher than the highest price at which the company has previously supplied petroleum products or services of that description in Australia on the same or substantially similar terms and conditions.

Penalty: \$10,000.

(2) For the purposes of sub-section (1), the prescribed day is whichever is the earlier of the following days:

- (a) the day on which a copy of the report by the Authority in relation to the price or proposed price is received by the company; or
- (b) the fourteenth day after the expiration of—
  - (i) the period of 4 months that commenced on the day on which the Authority served notice on the company that it intended to hold the inquiry; or
  - (ii) such further period as is, or such further periods as are, specified in a notice or notices served on the company under sub-section 22 (2).

(3) When a company receives a copy of a report by the Authority in relation to the price at which the company supplies or proposes to supply petroleum products or services of a particular description in a particular locality—

- (a) the company shall, within 14 days after the report is so received, give notice in writing to the Authority specifying the price at which the company is supplying or proposes to supply petroleum products or services of that description in that locality; and
- (b) the Authority shall, within 14 days after it receives the notice under paragraph (a), make available to the public particulars of the price specified in that notice.

(4) A company that contravenes paragraph (3) (a) is guilty of an offence and is punishable, on conviction, by a fine not exceeding \$1,000.



**Interim price increases**

**21. (1)** The Authority may, at any time, on the application of—

- (a) a declared company that has given to the Authority a notice referred to in paragraph 19 (1) (a), 19 (2) (a) or 19 (3) (c); or
- (b) a company that has been served with a notice referred to in sub-section 20 (1),

give to the company a notice stating that the company is permitted, from a specified date until—

- (c) in the case of a company referred to in paragraph (a), the day on which the prescribed period for the purposes of section 19 expires; or
- (d) in the case of a company referred to in paragraph (b), the prescribed day for the purposes of section 20,

to supply petroleum products or services of a particular description in a specified locality on specified terms and conditions at the price or prices specified in the notice.

(2) The Authority may at any time revoke a notice given under this section, and the notice shall cease to be in effect from the day on which it is revoked.

(3) Where a notice is given to a company under this section and while the notice continues to be in effect the company is not guilty of an offence against section 19 or 20 by reason only of supplying petroleum products or services in accordance with the notice.

**Inquiry and report by Authority on requirement by Minister**

**22. (1)** Subject to this section, where the Authority is required by the Minister to hold an inquiry, the Authority shall—

- (a) serve notice in writing on the company or each of the companies—
  - (i) specified in the notice given under section 17 in accordance with paragraph 17 (2) (b); or
  - (ii) determined in accordance with sub-section 17 (3),

stating that the Authority is required to hold the inquiry;

- (b) before commencing to hold an inquiry, give reasonable notice in each State and in the Australian Capital Territory and the Northern Territory, by advertisement published in the *Gazette* and in a newspaper circulating in the State or Territory, that it is required to hold the inquiry and specifying the matter that is the subject of the inquiry and the time and place at which the inquiry is to be commenced;

- (c) subject to section 17, complete the inquiry and send a report to the Minister—

- (i) in the case of an inquiry held in consequence of a notice given to the Authority under paragraph 19 (1) (a), 19 (2) (a) or 19 (3) (c)—within 3 months from the date on which the Authority served notice on the company or companies in accordance with paragraph (a) of this sub-section; or

- (ii) in any other case—within 4 months from the date on which the Authority served notice on the company or companies in accordance with paragraph (a);
- (d) on the day on which it sends the report to the Minister, send a copy of the report to the company or each of the companies; and
- (e) as soon as practicable after the company or each of the companies has received a copy of the report, make copies of the report available for inspection by the public.

(2) If the Authority is of the opinion that the company or any of the companies has failed to provide the Authority with sufficient information to enable the Authority to complete its inquiry and report within the period applicable under paragraph (1) (c), or within any further period or periods specified in any other notice or notices served on the company or each of the companies in pursuance of this sub-section, the Authority shall serve notice in writing on the company or each of the companies stating that the Authority is of that opinion and that it requires a further period specified in the notice within which to complete its inquiry and report.

#### **Withdrawal of notices by Authority**

23. Where the Authority has served a notice on a company under this Act, the Authority may, by notice in writing served on the company, withdraw the notice previously served on the company and, in that case, this Act has effect as if the notice so withdrawn had not been served on the company.

#### **Parties to inquiries**

24. (1) At an inquiry conducted by the Authority, any person or body of persons may apply to the Authority to be made a party to the inquiry.

(2) If, upon the making of such an application, the Authority is of the opinion that the applicant has a substantial interest in the matter that is the subject of the inquiry, the Authority shall grant the application but, if not so satisfied, shall refuse the application.

(3) A party to an inquiry by the Authority is entitled to give evidence, or call witnesses to give evidence, and to make submissions to the Authority, in relation to the matter that is the subject of the inquiry.

#### **Procedure at inquiries**

25. (1) Subject to any direction given to the Authority by the Minister, an inquiry conducted by the Authority may, at the discretion of the Commissioner, be held in public or in private.

- (2) In an inquiry—
  - (a) evidence shall be taken on oath or affirmation; and
  - (b) any party to the inquiry may make submissions to the Authority.

(3) If, at an inquiry held in public, any witness objects to giving any evidence in public that the Authority is satisfied is of a confidential nature, the

Authority may take that evidence in private if it considers that it is desirable to do so.

(4) In an inquiry, the Authority may, if it thinks fit, permit a person appearing as a witness at the inquiry to give evidence by tendering, and verifying by oath or affirmation, a written statement and, where evidence is so given in an inquiry held in public, the Authority shall make available to the public in such manner as the Authority thinks fit the contents of the statement other than any matter—

- (a) that the person who gave the evidence objects to being made public; and
- (b) the evidence of which the Authority is satisfied would have been taken in private if that evidence had been given orally and the witness had objected to giving it in public.

(5) In an inquiry, the Authority may, if it thinks fit, require or permit a party to the inquiry desiring to make submissions to the Authority to make those submissions in writing and, where submissions are so made in an inquiry held in public, the Authority shall make available to the public in such manner as the Authority thinks fit the contents of the submission.

(6) Subject to this Act and to any direction given to the Authority by the Minister in an inquiry—

- (a) the procedure to be followed is within the discretion of the Commissioner; and
- (b) the Authority is not bound by the rules of evidence.

(7) Notwithstanding anything contained in this section, if a company claims that information made available, or to be made available, by or on behalf of the company (whether in oral evidence or in a written statement, submission or other document) at the hearing of an inquiry is confidential information and the Authority is satisfied that the claim is justified, the Authority shall take all reasonable steps to ensure that the information is not, without the consent of the company, disclosed, in the proceedings or by the Authority, to any person other than—

- (a) the Commissioner;
- (b) an associate Commissioner appointed for the purposes of that inquiry; or
- (c) a consultant to the Authority or member of the staff of the Authority receiving the information in the course of his duties,

but this sub-section does not apply in relation to a disclosure of information other than information relating to a secret formula or process where the disclosure is, in the opinion of the Authority, necessary in the public interest.

(8) In sub-section (7) “confidential information” means information relating to a secret formula or process or other information the disclosure of which would damage the competitive position of the company.

**Power to obtain information**

**26. (1)** Subject to sub-section (2), the Commissioner or an associate Commissioner may, by notice in writing under his hand served on a company, require the company—

- (a) to furnish to the Authority, by writing signed by a competent officer of the company, within the time and in the manner specified in the notice, such information in relation to the affairs of the company as is so specified; or
- (b) to produce to the Authority, in accordance with the notice, such documents in relation to the affairs of the company as are specified in the notice.

**(2)** The power of the Commissioner under sub-section (1) to require a company to furnish information or produce documents applies only to information that is or documents that are—

- (a) relevant to the consideration by the Authority of the matters contained in a notice given to the Authority by the company under paragraph 19 (1) (a), 19 (2) (a) or 19 (3) (c); or
- (b) relevant to an inquiry that is being held in relation to the company.

**(3)** The power of an associate Commissioner under sub-section (1) to require a company to furnish information or produce documents applies only to information that is or documents that are relevant to an inquiry that is being held in relation to the company, being the inquiry for the purposes of which the associate Commissioner was appointed.

**(4)** A company shall not—

- (a) refuse or fail, without reasonable excuse, to comply with a notice under this section; or
- (b) in purported compliance with such a notice, knowingly furnish information that is false or misleading.

Penalty: \$1,000.

**(5)** Subject to sub-section (6), where, in pursuance of a notice served on a company in relation to information or documents to which paragraph (2) (b) or sub-section (3) applies, a company furnishes information or produces documents to the Authority in connection with an inquiry that is being held by the Authority, the Authority shall make the information or documents available to the public in such manner as the Authority thinks fit.

**(6)** Notwithstanding anything contained in this section, if a company claims that information furnished, or contained in a document produced, by the company in accordance with this section in relation to an inquiry held, or proposed to be held, in relation to the company is confidential information and the Authority is satisfied that the claim is justified, the Authority shall take all reasonable steps to ensure that the information is not, without the consent of the company, disclosed, in the proceedings or by the Authority, to any person other than—

- (a) the Commissioner;

- (b) an associate Commissioner appointed for the purposes of that inquiry; or
- (c) a consultant to the Authority or member of the staff of the Authority receiving the information in the course of his duties,

but this sub-section does not apply in relation to a disclosure of information other than information relating to a secret formula or process where the disclosure is, in the opinion of the Authority, necessary in the public interest.

(7) In sub-section (6) "confidential information" means information relating to a secret formula or process or other information the disclosure of which would damage the competitive position of the company.

#### **Power to take evidence on oath or affirmation**

27. (1) The Authority may take evidence on oath or affirmation and, for that purpose, the Commissioner or an associate Commissioner may administer an oath or affirmation.

(2) The Commissioner may, for the purposes of this Act, by writing under his hand, summon a person to appear at an inquiry under this Act to give evidence and to produce such books and documents (if any) as are referred to in the summons.

(3) An associate Commissioner may, for the purposes of this Act, by writing under his hand, summon a person to appear at the inquiry for the purposes of which that associate Commissioner was appointed to give evidence and to produce such books and documents (if any) as are referred to in the summons.

(4) A power conferred on the Commissioner or on an associate Commissioner under sub-section (2) or (3) may, in the discretion of the Commissioner or the associate Commissioner, as the case may be, be exercised on the application of a party to the inquiry.

#### **Failure of witness to attend**

28. A person served with a summons to appear as a witness at an inquiry shall not, without reasonable excuse—

- (a) fail to attend as required by the summons; or
- (b) fail to appear and report himself from day to day unless excused, or released from further attendance, by the Commissioner or an associate Commissioner.

Penalty: \$1,000 or imprisonment for 3 months.

#### **Refusal to be sworn or to answer questions**

29. A person appearing as a witness at an inquiry shall not, without reasonable excuse—

- (a) refuse or fail to be sworn or to make an affirmation;
- (b) refuse or fail to answer a question that he is required to answer by the Commissioner or an associate Commissioner appointed for the purposes of the inquiry; or

- (c) refuse or fail to produce a document that he was required to produce by a summons under this Act served on him.

Penalty: \$1,000 or imprisonment for 3 months.

**Protection of Commissioner, associate Commissioners, representatives and witnesses**

**30. (1)** The Commissioner, or an associate Commissioner, has, in the performance of his duty as the Commissioner or as an associate Commissioner, as the case may be, the same protection and immunity as a Justice of the High Court.

(2) A person appearing before the Authority on behalf of a party at an inquiry under this Act has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

(3) Subject to this Act, a person summoned to attend or appearing before the Authority as a witness at an inquiry under this Act has the same protection, and is, in addition to the penalties provided by this Act, subject to the same liabilities, in any civil or criminal proceedings as a witness in proceedings in the High Court.

**Powers of Authority in relation to documents produced**

**31. (1)** The Commissioner or a member of the staff assisting the Authority may inspect any books or documents—

(a) furnished to the Authority for the purposes of the performance of its functions under this Act; or

(b) produced at an inquiry under this Act,

and may make copies of, or take extracts from, those books or documents.

(2) An associate Commissioner may inspect any books or documents—

(a) furnished to the Authority for the purposes of the performance of its functions under this Act in relation to the inquiry for the purposes of which the associate Commissioner was appointed; or

(b) produced at that inquiry,

and may make copies of, or take extracts from, those books or documents.

(3) Books or documents so furnished may be retained by the Authority for such reasonable period as the Authority thinks fit.

**Allowances to witnesses**

**32.** A witness summoned under this Act to appear at an inquiry is entitled to be paid—

(a) in a case where the witness was summoned on the application of a party to the inquiry—by that party; or

(b) in any other case—by the Commonwealth,

such allowances for his travelling and other expenses as are prescribed.

**PART IV—MISCELLANEOUS**

**Prosecutions**

**33. (1)** Prosecutions for offences against this Act shall be brought only in the Federal Court of Australia.

**(2)** Jurisdiction is conferred on the Federal Court of Australia to hear and determine prosecutions under this Act.

**(3)** The jurisdiction of the Federal Court of Australia under this section may be exercised by a single Judge.

**(4)** A prosecution for an offence against this Act shall not be instituted except with the consent in writing of the Minister.

**Staff**

**34. (1)** The staff required to assist the Authority in the performance of its functions shall be persons appointed or employed under the *Public Service Act* 1922.

**(2)** The Commissioner has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act* 1922 so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in sub-section (1) as if that branch were a separate Department of the Australian Public Service.

**(3)** For the purposes of sub-sections 25 (5) and (6) of the *Public Service Act* 1922, the Commissioner shall be deemed to be a Permanent Head:

**Engagement of consultants**

**35. (1)** The Authority may, on behalf of the Commonwealth, with the approval of the Public Service Board, engage persons to furnish advice to, or perform services for, the Authority otherwise than as members of the staff of the Authority referred to in section 34.

**(2)** The terms and conditions of engagement of persons engaged under sub-section (1) shall be such as are, with the approval of the Public Service Board, determined by the Authority.

**Secrecy**

**36. (1)** This section applies to a person who is or has been—

- (a)** the Commissioner or an associate Commissioner;
- (b)** a consultant to the Authority; or
- (c)** a member of the staff of the Authority.

**(2)** Subject to sub-section (3), a person to whom this section applies shall not, either directly or indirectly, except in the performance of a duty or function under or in connection with this Act—

- (a)** make a record of, or divulge or communicate to any person, any information acquired by reason of his office or appointment under this Act or in the performance of his duties, or the exercise of his powers or

functions, under or in connection with this Act, being information disclosed by a person or obtained from a person—

- (i) for the purposes of this Act; or
  - (ii) as permitted by sub-section 234 (2) of the *Commonwealth Functions (Statutes Revision) Act* 1981; or
- (b) produce to any person a document—
- (i) supplied to, lodged with, or otherwise acquired by, the Authority for the purposes of this Act; or
  - (ii) transferred to the Authority as required by sub-section 233 (1) of the *Commonwealth Functions (Statutes Revision) Act* 1981.

Penalty: \$1,000 or imprisonment for 3 months.

(3) Sub-section (2) does not apply in relation to information or documents made available to the public by the Authority or to information contained in oral evidence given in public at the hearing of an inquiry.

(4) A person to whom this section applies shall not be required to produce in a court any document referred to in paragraph (2) (b) or to divulge or to communicate to a court any information referred to in paragraph (2) (a), except when it is necessary to do so for the purposes of this Act.

(5) In this section—

“court” includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

“produce” includes permit access to, and “production” has a corresponding meaning.

### **Annual report**

37. (1) The Authority shall, as soon as practicable after each 30 June, prepare and furnish to the Minister a report with respect to the operations of the Authority during the year ended on that date.

(2) The Minister shall cause the report to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him.

### **Notices given under Prices Justification Act**

38. Where—

- (a) before the commencement of this Act, a notice had been given to the Prices Justification Tribunal under paragraph 18 (1) (a), 18 (2) (a) or 18 (2A) (c) of the *Prices Justification Act* 1973 by a company that is a declared company for the purposes of this Act, being a notice in respect of petroleum products or services; and
- (b) immediately before the commencement of this Act, none of the events referred to in paragraph 18 (1) (b), 18 (2) (b) or 18 (2A) (d), as the case requires, of the *Prices Justification Act* 1973 had occurred,

the notice shall, for the purposes of this Act, be deemed to have been given to the Authority on the date of commencement of this Act.



## Regulations

39. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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## SCHEDULE

Section 3

Products not included in the definition of "petroleum product"

### CHEMICAL FERTILISERS

Ammonia aqua, fertiliser grade  
Ammonium nitrate  
Ammonium nitrate, liquid  
Ammonium phosphate fertiliser  
Ammonium sulphate  
Anhydrous ammonia fertiliser  
Chemical fertilisers  
Chemical fertilisers, mixed  
Fertilisers, leaf or foliage type  
Nitrate of soda fertiliser  
Phosphate, ground  
Potash fertilisers  
Prilled ammonium nitrate  
Sodium nitrate fertiliser  
Superphosphate  
Urea, fertiliser grade

### INDUSTRIAL GASES

Acetylene gas  
Argon  
Carbon dioxide gas  
Carbon monoxide  
Dry ice  
Helium  
Hydrogen  
Neon  
Nitrogen  
Nitrous oxide  
Oxygen

### SYNTHETIC RESINS AND RUBBER

Acrylic resins  
Acrylonitrile-butadiene-styrene  
Alkyd resins  
Allyl plastics  
Aminoaldehyde resins  
Carbon black  
Casein, hardened  
Cellulose acetate  
Cellulose nitrate  
Cellulosic resins  
Coal tar resins  
Cresol formaldehyde  
Epoxy resins  
Ethyl cellulose  
Fluorocarbon resins  
Gelatin, chemically hardened  
Melamine formaldehyde resins

Methylstyrene  
Phenol formaldehyde  
Phenol resins  
Plastics raw materials  
Polyamide resins  
Polyester resins  
Polyethylene resins  
Polymethacrylate  
Polypropylene resins  
Polystyrene  
Polyurethane resins  
Polyvinyl acetate  
Polyvinyl chloride compounds  
Polyvinyl chloride resins (polymer)  
Protein, hardened  
Resin esters  
Styrene butadiene resins  
Styrene butylene resins  
Styrene resins  
Synthetic resins  
Synthetic rubber  
Urea formaldehyde resins  
Urea resins  
Urethane resins  
Vinyl chloride copolymers  
Vinyl resins  
Vulcanised fibre

### ORGANIC INDUSTRIAL CHEMICALS

Acetaldehyde  
Acetic acid  
Acetic anhydride  
Acetin  
Acetone  
Acetone redistilling or re-refining  
Acetylsalicylic acid  
Acids, organic  
Alcohol, absolute  
Alcohol, industrial  
Amyl acetate  
Amyl alcohol  
Aniline dyes  
Aniline oil  
Ascorbic acid  
Azo dyes  
B.H.C.  
Butadiene  
Butyl acetate  
Butyl alcohol

SCHEDULE—continued

Carbolic acid	Urea
Carbon bisulphide	Vinyl acetate monomer
Carbon disulphide	White spirit, non-potable
Carbon tetrachloride	Wood alcohol
Chemical colours, organic	Xylol
Chloroform	
Citric acid	INORGANIC INDUSTRIAL CHEMICALS
Cresylic acid	Acids, inorganic
Cuprene, organic	Alkalis
Cyclic plasticisers	Aluminium sulphate
D.D.T.	Ammonia
Dibutyl phthalate	Ammonium persulphate
Di-iso-octyl phthalate	Barium sulphate, precipitated
Dye intermediates	Bone char
Dyes	Boracic acid
Dyestuffs	Borax
Ethyl acetate	Boric acid
Ethyl alcohol	Cadmium pigments
Ethyl formate	Calcium arsenate
Ethylene	Calcium carbide
Ethylene oxide	Calcium chloride
Fatty acids	Carbide
Fluorocarbons	Charcoal
Formaldehyde	Chemical colours, inorganic
Industrial chemicals, organic	Chloride of lime
Lactic acids	Chlorine
Lake colours	Chrome oxide
Methanol	Chromium green oxide
Methyl alcohol	Copper sulphate
Methyl methacrylate	Cuprene, inorganic
Methylated spirits	Degreasing compounds
Naphtha, crude	Glaubers salt
Natural resins	Graphite, artificial
Nitrobenzene	Hydrochloric acid
Nitrocellulose	Hydrofluoric acid
Nitromethane	Hydrogen peroxide
Nitroparaffins	Hydrogen sulphide
Oil treating compounds	Industrial chemicals, inorganic
Oleic acid	Lampblack
Oxalic acid	Lead arsenate
Phenol	Lead chromate
Phthalic anhydride esters	Litharge
Pigments, organic	Lithopone
Plasticisers	Muriatic acid
Polymeric plasticisers	Nitre cake
Power alcohol	Nitric acid
Rennin	Phosphoric acid
Rosin	Phosphorus
Spirits, non-potable	Pigments, inorganic
Stearine pitch	Potassium carbonate
Stearate or stearic acid	Potassium hydroxide
Tannic acid	Prussian blue
Tanning compounds, organic	Red lead
Tannins	Salt cake
Tartaric acid	Salt refining
T.D.E.	Silicates
Thinners, paint, redistilling or re-refining	Soda ash
Toluol	Sodium alginate
Trichloroethylene	Sodium aluminate
Tricresyl phosphate	Sodium antimonate
Turpentine	Sodium benzoate
Turpentine, mineral	Sodium bicarbonate

**SCHEDULE—continued**

Sodium bisulphate	Vitreous enamel frits
Sodium borate	Water treating compounds
Sodium carbonate	Waterproofing compounds
Sodium cyanide	White lead
Sodium hydroxide	Zinc chloride
Sodium metasilicate	Zinc oxide
Sodium	
Sodium peroxide	
Sodium silicate	<b>OTHER PRODUCTS</b>
Sodium sulphate	Crude oil
Sodium sulphide	Liquefied natural gas
Sulphur compounds	Natural gas
Sulphur dioxide	Natural sales gas
Sulphuric acid	Natural gas condensate
Tanning compounds, inorganic	Ethane
Titanium dioxide	Liquefied petroleum gas obtained from
Titanium pigments	unstabilized crude petroleum oil or from
Ultramarine	naturally occurring petroleum gas