



Liquid Fuel Emergency Act 1984

No. 5 of 1984

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Liquid Fuel Emergency Act 1984

No. 5 of 1984

An Act to facilitate the management of liquid fuel that is, or is likely to be, in short supply

[Assented to 27 March 1984]

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 *Liquid Fuel Emergency Act 1984*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
“aircraft” means any machine or craft that can derive support in the atmosphere from the reactions of the air or from buoyancy but does not include an air-cushion vehicle;
“Australia”, when used in a geographical sense, includes the external Territories;

“Agreement” means the Agreement on an International Energy Program that was signed at Paris on 18 November 1974;

“authority of the Commonwealth” means—

- (a) a body corporate established for a purpose of the Commonwealth by or under a law of the Commonwealth or a law of a Territory; or
- (b) an incorporated company in which the Commonwealth, or a body corporate referred to in paragraph (a), has a controlling interest;

“contravention”, in relation to a relevant provision of this Act, includes a failure to comply with that relevant provision;

“corporation” means a body corporate that—

- (a) is a foreign corporation;
- (b) is a trading corporation; or
- (c) is incorporated in an internal Territory;

“Court” means the Federal Court of Australia;

“document” includes—

- (a) a book, plan, paper, parchment, film or other material on which there is writing or printing, or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them;
- (b) a disc, tape, paper, film or other device from which sounds or images are capable of being reproduced; and
- (c) any other record of information;

“Energy Minister” means—

- (a) in relation to a State—the Minister of the State who, under a law of that State, is responsible, or principally responsible, for the administration of emergency measures relating to any liquid fuel shortage that might affect that State;
- (b) in relation to the Northern Territory—the person holding Ministerial office under section 36 of the *Northern Territory (Self-Government) Act 1978* who, under a law of that Territory, is responsible, or principally responsible, for the administration of emergency measures relating to any liquid fuel shortage that might affect that Territory;
- (c) in relation to the Australian Capital Territory (including the Jervis Bay Territory) and an external Territory (other than an external Territory referred to in paragraph (d))—the Minister for Territories and Local Government; and
- (d) in relation to the Australian Antarctic Territory and the Territory of Heard Island and McDonald Islands—the Minister for Science and Technology;

“enter”, in relation to a ship or an aircraft, includes board;

“examine” includes account, measure, weigh, grade or gauge;

“foreign corporation” means a foreign corporation to which paragraph 51 (xx) of the Constitution is applicable, and includes a body corporate that is incorporated in an external Territory;

“liquid fuel” means liquid petroleum, a liquid petroleum product, a liquid petrochemical, methanol or ethanol;

“liquid petrochemical” means a substance that is a petrochemical and is in a liquid state at standard temperature and pressure;

“liquid petroleum” means a substance that is petroleum and is in a liquid state at—

- (a) standard temperature and pressure; or
- (b) a temperature and pressure prescribed for the purposes of this definition;

“liquid petroleum product” means any substance that is a petroleum product and is in a liquid state at—

- (a) standard temperature and pressure; or
- (b) a temperature and pressure prescribed for the purposes of this definition;

“offence against this Act” means—

- (a) an offence against sub-section 14 (4) or (5), 29 (5), 30 (2) or (3) or 33 (1) of this Act; or
- (b) an offence against—
 - (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
 - (ii) sub-section 86 (1) of that Act by virtue of paragraph (a) of that sub-section,

being an offence that relates to an offence referred to in paragraph (a) of this definition;

“officer of the Northern Territory” means—

- (a) an officer or employee of the Northern Territory;
- (b) a member of the police force of the Northern Territory; or
- (c) a person who constitutes, is a member of, or is employed by, an authority established by or under a law of the Northern Territory;

“officer of a State”, in relation to a State, means—

- (a) an officer or employee of the State;
- (b) a member of the police force of the State; or
- (c) a person who constitutes, is a member of, or is employed by, an authority established by or under a law of the State;

“period of national liquid fuel emergency” means a period specified in a Proclamation made under sub-section 16 (1);

“petrochemical” means a substance (not being a petroleum product), whether in a gaseous, liquid or solid state, manufactured from any of, or from a mixture of any of, the following substances, that is to say, a petroleum product, petroleum or a petroliferous mineral;

“petroleum” means—

- (a) any naturally occurring hydrocarbon or mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (b) any naturally occurring mixture of a hydrocarbon or hydrocarbons and of another substance or other substances, whether in a gaseous, liquid or solid state;

“petroleum product” means—

- (a) any hydrocarbon or mixture of hydrocarbons produced by subjecting petroleum to a process of refining or produced from petroliferous minerals; or
- (b) any mixture of a hydrocarbon or hydrocarbons so produced with another substance or other substances;

“price” includes a charge of any description;

“refined liquid petroleum product” means—

- (a) a liquid petroleum product, being—
 - (i) aviation gasoline;
 - (ii) motor spirit;
 - (iii) aviation turbine fuel;
 - (iv) lighting kerosine;
 - (v) heating oil;
 - (vi) power kerosine;
 - (vii) automotive distillate;
 - (viii) industrial diesel fuel;
 - (ix) liquid petroleum gas;
 - (x) fuel oil;
 - (xi) bitumen;
 - (xii) naphtha;
 - (xiii) lubricating oil; or
 - (xiv) lubricating grease;
- (b) a liquid petroleum product (other than a liquid petroleum product referred to in paragraph (a)) that is declared by the regulations to be a refined liquid petroleum product for the purposes of this Act;
- (c) methanol; or
- (d) ethanol;

“relevant fuel industry corporation” means a corporation that—

- (a) is engaged in the importation into Australia, or in the exportation from Australia, of liquid fuel;
- (b) is engaged in the recovery of petroleum;
- (c) is engaged in the refining or production of liquid fuel; or
- (d) is engaged in the sale, in Australia, of liquid fuel, either in bulk or otherwise,

whether or not that activity constitutes the sole or principal activity in which the corporation is engaged;

“relevant liquid fuel”, in relation to a period of national liquid fuel emergency, means a liquid fuel the shortage or likely shortage of which resulted in the declaration of that national liquid fuel emergency;

“relevant person” means a person, other than a corporation, who—

- (a) is engaged in the importation into Australia, or the exportation from Australia, of liquid fuel; or
- (b) is engaged in the sale in Australia of liquid fuel, either in bulk or otherwise,

whether or not that activity constitutes the sole or principal activity in which the person is engaged;

“relevant provision of this Act” means sub-section 12 (5), 13 (5), 14 (2) or (3), 17 (2), 18 (2), 19 (3), 20 (2), 21 (4), 22 (4), 23 (5) or 24 (5) or section 28;

“ship” means a vessel or boat of any description and includes—

- (a) any floating structure; and
- (b) any air-cushion vehicle;

“trading corporation” means a trading corporation to which paragraph 51 (xx) of the Constitution is applicable.

(2) In this Act, a reference to standard temperature and pressure is a reference to a temperature of 15 degrees Celsius and a pressure of 101.325 kilopascals.

(3) In this Act, a reference to trading or commercial activities is a reference to trading activities or commercial activities carried on within Australia or carried on between Australia and places outside Australia.

(4) The express references in this Act to corporations and bodies corporate shall not be taken to imply that references to persons do not also include references to persons who are not natural persons.

(5) For the purposes of this Act, in interpreting whether a purchase of a particular kind of refined liquid petroleum product is a purchase in bulk, regard shall be had to all relevant matters, including, but without limiting the generality of the foregoing, such matters (if any) as are prescribed in relation to refined liquid petroleum products of that kind.

Extension of Act to external Territories

4. This Act extends to every external Territory.

Act to bind Crown

5. (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island, but nothing in this Act renders the Crown liable to be prosecuted for an offence.

(2) A direction under this Act has no effect to the extent that, but for this sub-section, it would prevent the exercise of powers, or the performance of functions, of government of a State or of the Northern Territory.

Operation of Act

6. (1) The Minister shall not exercise his powers under all or any of the following provisions, namely, sections 12, 13, 17, 18, 19, 20, 21, 22, 23 or 24 except—

- (a) for purposes related to the defence of Australia, including, but without limiting the generality of the foregoing, the purpose of ensuring the availability in Australia at all times of liquid fuel essential to the reasonable requirements of the community;
- (b) for the purpose of giving effect to the Agreement;
- (c) for purposes in connection with all or any of the Territories;
- (d) for the purpose of protecting the existence of Australia as a nation;
- (e) for the purpose of ensuring that trade or commerce—
 - (i) between Australia and places outside Australia;
 - (ii) among the States; or
 - (iii) engaged in by a corporation,may be carried on without obstruction or hindrance;
- (f) to the extent that the Constitution permits, for the purpose of ensuring that trade or commerce—
 - (i) between Australia and places outside Australia;
 - (ii) among the States; or
 - (iii) engaged in by a corporation,may be carried on in an efficient, competitive and profitable manner; or
- (g) for the purpose of ensuring that the supply of goods or services by or to the Commonwealth or an authority or instrumentality of the Commonwealth may be carried on without obstruction or hindrance.

(2) In sub-section (1), a reference to a corporation shall be construed as including a reference to any financial corporation to which paragraph 51 (xx) of the Constitution is applicable including a body corporate that carries on as its sole or principal business the business of banking (other than State banking not extending beyond the limits of the State concerned) or insurance (other than State insurance not extending beyond the limits of the State concerned).

Additional operation of Act in relation to relevant fuel industry corporations

7. (1) Without prejudice to its effect apart from this sub-section, this Act also has, by force of this sub-section, the effect that it would have if section 6, sub-section (2) of this section, sections 22 and 24 and sub-section 47 (2) were omitted.

(2) Without prejudice to its effect apart from this sub-section, this Act also has, by force of this sub-section, the effect that it would have if—

- (a) section 6, sub-section (1) of this section, sections 22 and 24 and sub-section 47 (2) were omitted; and
- (b) a direction under section 12, 13, 17, 18 or 20 applicable to a trading corporation had no effect to the extent that, but for this paragraph, the direction related to an act or thing done, or omitted to be done, by the corporation otherwise than for the purposes of its trading or commercial activities.

Additional operation of Act in relation to relevant persons

8. Without prejudice to its effect apart from this section, this Act also has, by force of this section, the effect that it would have if—

- (a) each reference in sections 22 and 24 to the trading or commercial activities of a relevant person were, by express provision, confined to trading or commercial activities of that relevant person carried on—
 - (i) between Australia and places outside Australia;
 - (ii) among the States;
 - (iii) within a Territory, between a State and a Territory, or between Territories; or
 - (iv) by way of the supply of goods or services to the Commonwealth or an authority or instrumentality of the Commonwealth; and
- (b) section 6 were omitted.

Minister may determine planning periods

9. (1) For the purposes of this Act, a reference to a planning period in relation to a period of national liquid fuel emergency is a reference to a period forming part of that period of national liquid fuel emergency that the Minister, by instrument in writing, determines in accordance with this section to be a planning period in relation to that period of national liquid fuel emergency.

(2) A period determined by the Minister under sub-section (1) to be a planning period in relation to a period of national liquid fuel emergency shall commence on a date specified by the Minister in the determination and shall end on a date specified by the Minister in the determination or, if the period of national liquid fuel emergency terminates before the last-mentioned date, on the date on which the period of national liquid fuel emergency terminates.

(3) As soon as practicable after the Minister makes a determination under sub-section (1), he shall cause a copy of the determination—

- (a) to be published in the *Gazette*; and
- (b) to be served in a manner specified in the regulations upon the Energy Minister for each State and Territory.

Bulk customers of relevant fuel industry corporations or of relevant persons

10. (1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing—

- (a) specify guidelines to be observed in identifying persons who, or organizations which, have purchased in bulk, or who propose to purchase in bulk, a refined liquid petroleum product of a kind specified in the instrument from a relevant fuel industry corporation or from a relevant person as bulk customers of that corporation or that relevant person, as the case may be, in relation to that product;
- (b) vary guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section); and
- (c) revoke guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section).

(2) Without limiting the generality of sub-section (1), guidelines specified under that sub-section may relate to the likelihood that activities carried on by a person or organization before being identified as a bulk customer will continue to be carried on by that person or organization during the period in relation to which the identification has effect.

(3) The Minister may, by instrument in writing—

- (a) identify a person or an organization as a bulk customer of a relevant fuel industry corporation or of a relevant person in relation to a period of national liquid fuel emergency and to a particular refined liquid petroleum product; and
- (b) at any time revoke an instrument identifying a person or an organization in accordance with paragraph (a).

(4) The Minister shall not identify a person or an organization as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a period of national liquid fuel emergency and to a particular refined liquid petroleum product unless the person or organization is so identified in accordance with guidelines specified under sub-section (1) that are in force, in relation to that product, immediately before the person or organization is so identified.

(5) The Minister shall not revoke an instrument identifying a person or an organization as a bulk customer of a relevant fuel industry corporation or of a relevant person in relation to a particular period of national liquid fuel emergency and to a particular refined liquid petroleum product unless he is satisfied that the person or organization has ceased to carry on activities by reason of which the person or organization could have been identified as such a bulk customer at the time when the instrument so revoked was made.

(6) For the purposes of this Act, a person or an organization identified as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a period of national liquid fuel

emergency and to a particular refined liquid petroleum product shall be taken—

- (a) if the person or organization was so identified before the commencement of that period—to be such a bulk customer for the duration of the period; or
- (b) if the person or organization was so identified during the period—to have been such a bulk customer during that part of the planning period during which the person or organization was so identified that preceded the identification of the person or organization and to be such a bulk customer during the remainder of that planning period and during each succeeding planning period occurring during the period of national liquid fuel emergency.

(7) Where, after the commencement of a period of national liquid fuel emergency, the Minister revokes an instrument identifying a person or an organization as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to that period of national liquid fuel emergency and to a particular refined liquid petroleum product, that person or organization shall be taken, for the purposes of this Act, to have ceased to be such a bulk customer with effect from the expiration of the planning period during which the instrument effecting the revocation was made.

- (8) Where the Minister, by instrument in writing—
 - (a) identifies a person or an organization under this section as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a period of national liquid fuel emergency and to a particular refined liquid petroleum product; or
 - (b) revokes an instrument so identifying a person or an organization as such a bulk customer,

the Minister shall forthwith cause a copy of the first-mentioned instrument to be made available to the person or organization concerned.

Essential users, or high priority users, of refined liquid petroleum products

11. (1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing—

- (a) specify guidelines to be observed in identifying, in relation to a refined liquid petroleum product of a kind specified in the instrument, persons or organizations as essential users, or high priority users, of that product in a State or Territory;
- (b) vary guidelines specified by him under this sub-section (including criteria varied by virtue of a previous application or previous applications of this sub-section); and
- (c) revoke guidelines specified by him under this sub-section (including criteria varied by virtue of a previous application or previous applications of this sub-section).

(2) Without limiting the generality of sub-section (1), guidelines specified under that sub-section for the identification of persons or organizations as essential users, or high priority users, of a refined liquid petroleum product of a particular kind in a State or Territory may relate to—

- (a) activities carried on by those persons or organizations outside that State or Territory; and
- (b) the likelihood that activities carried on by persons or organizations before being identified as essential users, or as high priority users, of that product in that State or Territory will continue to be carried on by those persons or organizations during the period in relation to which the identification has effect.

(3) The Minister may, by instrument in writing, identify a person or organization as an essential user, or as a high priority user, of a particular refined liquid petroleum product in a State or Territory if, and only if, the activities carried on by that person or organization, being activities by reason of which the person or organization could be identified as an essential user, or a high priority user, of that product in that State or Territory are, or include—

- (a) activities related to the defence of Australia;
- (b) activities related to the provision of that product as fuel for ships and aircraft engaged in trade or commerce—
 - (i) between Australia and places outside Australia;
 - (ii) among the States; or
 - (iii) between a State and a Territory or between Territories;
- (c) activities related to the export of that product from Australia; or
- (d) activities (other than the activities referred to in paragraph (a), (b) or (c)) that the Minister, by notice published in the *Gazette*, determines to be activities of national significance.

(4) Subject to sub-section (5), a person or organization shall not be taken to have been identified for the purposes of sub-section (6) as an essential user, or as a high priority user, of a particular refined liquid petroleum product in a State or Territory unless the person or organization is so identified by the Energy Minister for that State or Territory, or by the Minister, in accordance with guidelines specified under sub-section (1) that are in force, in relation to that product, immediately before the person or organization is identified.

(5) An identification of a person or organization by the Energy Minister for a State or Territory as an essential user, or as a high priority user, of a particular refined liquid petroleum product in that State or Territory that would, but for this sub-section, be taken to be an identification of the person for the purposes of sub-section (6) shall not be taken to be an identification for those purposes if at the time of the identification, the person could have been identified under sub-section (3).

(6) For the purposes of this Act, a person or organization identified as an essential user, or a high priority user, of a particular refined liquid petroleum

product in a particular State or Territory by the Energy Minister for that State or Territory, or by the Minister, shall be taken—

- (a) if the person or organization was so identified at a time other than during any planning period and the identification is not revoked before the commencement of the planning period next following the identification—to be such an essential user, or such a high priority user, for the duration of that planning period; or
- (b) if the person or organization was so identified during a planning period—to have been such an essential user, or high priority user, during that part of the planning period that preceded the identification of the person or organization, and to be such an essential user, or high priority user, as the case requires, during the remainder of that planning period.

(7) Where the Minister makes a decision identifying, or refusing to identify, a person or organization seeking identification as an essential user, or as a high priority user, of a particular refined liquid petroleum product in a State or Territory as such an essential user or as such a high priority user, he shall forthwith cause notice in writing of that decision to be made available—

- (a) to that person or organization; and
- (b) to the Energy Minister for that State or Territory.

(8) Where the Energy Minister for a Territory other than the Northern Territory makes a decision identifying, or refusing to identify, a person seeking identification as an essential user, or as a high priority user, of a particular refined liquid petroleum product in that Territory as such an essential user or as such a high priority user, the Energy Minister for that Territory shall forthwith cause notice in writing of that decision to be made available to that person or organization.

(9) Nothing in paragraph (3) (a), (b) or (c) shall be taken, by implication, to limit the generality of paragraph (3) (d).

PART II—CONTINGENCY PLANNING POWERS

Minister may direct relevant fuel industry corporations to maintain reserves, &c.

12. (1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing—

- (a) specify guidelines for determining, in relation to a liquid fuel of a particular kind—
 - (i) the quantity of reserve supplies of liquid fuel of that kind—
 - (A) that should be maintained in Australia by relevant fuel industry corporations at all times prior to the making of a declaration by the Governor-General that a national liquid fuel emergency will exist; or

- (B) that should be accumulated in Australia by relevant fuel industry corporations prior to the making of such a declaration and thereafter be maintained in Australia by those corporations at all times prior to the making of such a declaration;
- (ii) the places in Australia at which relevant fuel industry corporations that are required to maintain, or to accumulate and maintain, as the case requires, particular quantities of reserve supplies of liquid fuel of that kind, prior to the making by the Governor-General of a declaration that a national liquid fuel emergency will exist, should be required to keep the whole or any part of those reserve supplies; and
- (iii) the period within which relevant fuel industry corporations that are required to accumulate, prior to the making of a declaration by the Governor-General that a national liquid fuel emergency will exist, at particular places, particular quantities of reserve supplies of liquid fuel of that kind should be required so to accumulate those quantities of reserve supplies;
- (b) vary guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section); and
- (c) revoke guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section).

(2) The Minister may, at any time other than at a time during a period of national liquid fuel emergency, by instrument in writing served upon a relevant fuel industry corporation, direct that corporation—

- (a) to maintain at all times after a date specified in the instrument, at such places in Australia as are specified in the instrument, such quantities as are specified in the instrument of reserve supplies of liquid fuel of a kind that is specified in the instrument; or
- (b) to accumulate, by a date specified in the instrument, such quantities as are specified in the instrument of reserve supplies of liquid fuel of a kind specified in the instrument and at all times thereafter to maintain such quantities of reserve supplies of liquid fuel of that kind at such places in Australia as are specified in the instrument.

(3) The Minister shall not give a direction to a relevant fuel industry corporation under sub-section (2) unless that direction is in accordance with guidelines that have been specified under sub-section (1) and that are in force at the time when the direction was given.

(4) The Minister shall not give a direction under sub-section (2) except for the purpose of ensuring that, if the Governor-General declares that a national liquid fuel emergency of a particular kind will exist, a relevant fuel industry corporation will be in a position to comply with any direction that could be

given in relation to a national liquid fuel emergency of that kind under section 17, 18, 19, 20, 21 or 23.

(5) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction given to it under sub-section (2).

(6) The Minister may, in order to meet temporary circumstances, by instrument in writing, authorize a relevant fuel industry corporation (being a corporation that is required by an instrument under sub-section (2) to maintain at a particular place a particular quantity of reserve supplies of liquid fuel of a particular kind) to maintain at that place during a period specified in the authority, such lesser quantity of reserve supplies of liquid fuel of that kind as is specified in the authority.

(7) The maintenance by a relevant fuel industry corporation of a quantity of reserve supplies of liquid fuel of a particular kind at a particular place at a particular time in accordance with an authority given to the corporation under sub-section (6) shall be deemed to constitute compliance by the corporation with a direction given to it under sub-section (2) in relation to the maintenance by the corporation of reserve supplies of liquid fuel of that kind at that place at that time.

Minister may direct relevant fuel industry corporations to develop bulk allocation procedures

13. (1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing—

- (a) specify guidelines for the allocation, by relevant fuel industry corporations that are included within a class of relevant fuel industry corporations that is specified in the guidelines, of bulk supplies of a refined liquid petroleum product of a kind that is specified in the guidelines to persons who, or organizations that, in the event that the Governor-General declares that a national liquid fuel emergency will exist, will be likely to be, during the whole or a part of the period of the national liquid fuel emergency, bulk customers of those relevant fuel industry corporations in relation to that product;
- (b) vary guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section); and
- (c) revoke guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section).

(2) The Minister may, by instrument in writing published in the *Gazette*, direct that each relevant fuel industry corporation that—

- (a) is included in a class of relevant fuel industry corporations in relation to which guidelines specified under sub-section (1) are in force; and
- (b) supplies a refined liquid petroleum product of a kind specified in those guidelines,

shall furnish to the Minister, by such date as is specified in the instrument, in such form as is specified in the instrument, particulars of procedures developed by the corporation to enable it to allocate bulk supplies of that product in accordance with those guidelines.

(3) Where particulars of procedures are, in accordance with sub-section (2) furnished to the Minister by a relevant fuel industry corporation, the Minister shall, by instrument in writing served upon the corporation—

- (a) if he is satisfied that the procedures will enable the corporation to allocate bulk supplies of the product in accordance with the relevant guidelines, approve those procedures; or
- (b) if he is not so satisfied, for the purpose of ensuring that the corporation will develop procedures that will enable it so to allocate bulk supplies of the product, direct the corporation—
 - (i) to make such amendment or amendments of the procedures developed by it as is specified in the instrument; and
 - (ii) to furnish to him, by such date as is specified in the instrument, in such form as is specified in the instrument, particulars of the procedures as so amended.

(4) Where a relevant fuel industry corporation furnishes to the Minister, in accordance with a direction applicable to that corporation under paragraph (3) (b), particulars of procedures amended in the manner specified in the direction, the Minister shall, by instrument in writing served upon the corporation, approve the procedures as so amended.

(5) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction applicable to it under sub-section (2) or with a direction given to it under sub-section (3) in so far as that last-mentioned direction required particular procedures to be furnished to the Minister.

Minister may direct relevant fuel industry corporations and others to maintain statistical information

14. (1) For the purposes of this Act, the Minister may, at any time, by instrument in writing published in the *Gazette*, direct that each relevant fuel industry corporation included in a class of relevant fuel industry corporations specified in the instrument and each relevant person included in a class of relevant persons specified in the instrument shall—

- (a) maintain, after such date as is specified in the instrument, in such form as is specified in the instrument, such statistical information relating to liquid fuels that are from time to time after that date in the possession, or under the control, of that corporation or person as is specified in the instrument in relation to that class of corporations or that class of persons, as the case requires; and
- (b) if required to do so, by instrument signed by the Minister and served upon the corporation or person, as the case requires—make available to the Minister and to the Energy Minister for each State or Territory

(if any) that is specified in the last-mentioned instrument, by such date after the date referred to in paragraph (a) as is specified in the last-mentioned instrument, such of the statistical information that that corporation or person is required, in pursuance of paragraph (a), to maintain as is specified in the last-mentioned instrument.

(2) A relevant fuel industry corporation shall not, without reasonable excuse—

- (a) refuse or fail to maintain statistical information in accordance with the requirements of a direction under sub-section (1) that is applicable to it; or
- (b) refuse or fail to make statistical information available in accordance with an instrument served upon it in pursuance of such a direction.

(3) A relevant person shall not, without reasonable excuse—

- (a) refuse or fail to maintain statistical information in accordance with the requirements of a direction under sub-section (1) that is applicable to him; or
- (b) refuse or fail to make statistical information available in accordance with an instrument served upon the relevant person in pursuance of such a direction.

(4) A relevant fuel industry corporation shall not, in purported compliance with a direction under sub-section (1) that is applicable to it or with an instrument served upon it in pursuance of such a direction, maintain or make available statistical information that is false or misleading in a material particular.

Penalty: \$50,000.

(5) A relevant person shall not, in purported compliance with a direction under sub-section (1) that is applicable to him or with an instrument served upon him in pursuance of such a direction, knowingly maintain or make available statistical information that is false or misleading in a material particular.

Penalty: \$10,000, or imprisonment for 2 years, or both.

(6) The powers conferred by this section are in addition to, and not in derogation of, the powers conferred by section 30.

Minister may enter into arrangements for carrying out measures to enable the implementation of directions under sections 23 and 24

15. (1) The Minister may, on behalf of the Commonwealth, at any time, for the purpose of ensuring the effective operation of any directions that may be, or have been, given under sections 23 and 24, enter into such arrangements as he considers appropriate with a Minister of a State on behalf of that State, with a person holding Ministerial office under section 36 of the *Northern Territory (Self-Government) Act 1978* on behalf of the Northern Territory, or with an authority established by or under a law of the Commonwealth or of a State or Territory for the carrying out of such measures (including preliminary

measures) as he considers necessary to facilitate the implementation of such directions.

(2) An arrangement under sub-section (1) may provide for the Commonwealth to reimburse the authority concerned with respect to the cost of the carrying out of the measures to which the arrangement relates.

PART III—DECLARATION OF, AND POWERS FOR DEALING WITH, NATIONAL LIQUID FUEL EMERGENCY

Declaration of national liquid fuel emergency

16. (1) Subject to this section, the Governor-General may, by Proclamation, declare that a national liquid fuel emergency will exist during a period specified in the Proclamation.

(2) The Governor-General shall not make a Proclamation under sub-section (1) unless—

- (a) he is satisfied that it is necessary in the public interest to do so by reason that there is a shortage, or the likelihood of a shortage, of liquid fuel, being a shortage of such magnitude as to require the making of directions under all or any of the following provisions, namely, sections 17, 18, 19, 20, 21, 22, 23 and 24; and
- (b) he is satisfied that the Minister has afforded the Energy Minister for each State and the Energy Minister for the Northern Territory a reasonable opportunity to consult with the Minister concerning the shortage, or likelihood of a shortage, as the case may be.

(3) Without limiting the generality of the matters to which the Governor-General is to have regard for the purposes of paragraph (2) (a), he shall have regard to the question whether the shortage, or the likelihood of a shortage, of the liquid fuel concerned is likely to be averted by the voluntary augmenting of supplies of the liquid fuel by relevant fuel industry corporations.

(4) The period specified in the Proclamation under sub-section (1) shall be expressed to commence on a date not earlier than the date on which the Proclamation is published in the *Gazette* and shall not exceed 3 months.

(5) At any time during a period of national liquid fuel emergency specified in a Proclamation under sub-section (1), the Governor-General may, and if he becomes satisfied that it is no longer in the public interest that that period of national liquid fuel emergency should continue, shall, by Proclamation, revoke the first-mentioned Proclamation and, upon the revocation of the first-mentioned Proclamation, the period of national liquid fuel emergency terminates.

Minister may direct relevant fuel industry corporations to maintain reserves, &c., during a national liquid fuel emergency

17. (1) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant

liquid fuel, by instrument in writing served upon a relevant fuel industry corporation, direct that corporation—

- (a) to maintain, at all times after a date specified in the instrument, at such places in Australia as are specified in the instrument, such quantities as are specified in the instrument of reserve supplies of liquid fuel of a kind that is specified in the instrument; or
- (b) to accumulate, by a date specified in the instrument, such quantities as are specified in the instrument of reserve supplies of liquid fuel of a kind specified in the instrument and at all times after that date to maintain such quantities of reserve supplies of liquid fuel of that kind at such places in Australia as are specified in the instrument.

(2) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction given to it under sub-section (1).

(3) The Minister may, in order to meet temporary circumstances, by instrument in writing, authorize a relevant fuel industry corporation (being a corporation that is required, by an instrument under sub-section (1), to maintain at a particular place a particular quantity of reserve supplies of liquid fuel of a particular kind) to maintain at that place, during a period specified in the authority, such lesser quantity of reserve supplies of liquid fuel of that kind as is specified in the authority.

(4) The maintenance by a relevant fuel industry corporation of a quantity of reserve supplies of liquid fuel of a particular kind at a particular place at a particular time in accordance with an authority given to the corporation under sub-section (3) shall be deemed to constitute compliance by the corporation with a direction given to it under sub-section (1) in relation to the maintenance by the corporation of liquid fuel of that kind at that place at that time.

(5) For all purposes of this Act, any direction in relation to liquid fuel of a particular kind that was given to a relevant fuel industry corporation under section 12 and was in force immediately before the proclamation of a national liquid fuel emergency shall be taken to continue in force, unless sooner revoked under sub-section 33 (3) of the *Acts Interpretation Act 1901* or set aside by a court, after the making of that proclamation as if it had been given to the corporation under and in accordance with sub-section (1) of this section and had related to the maintenance or to the accumulation and maintenance of reserve supplies of liquid fuel of that kind during the period of the national liquid fuel emergency or during so much of that period as it is, in accordance with its terms, capable of applying to.

(6) Notwithstanding anything contained in section 27, a direction continued in force during a period or periods of a national liquid fuel emergency by virtue of sub-section (5) continues in force, unless sooner revoked under sub-section 44 (4) of this Act or sub-section 33 (3) of the *Acts Interpretation Act 1901* or set aside by a court or by the Administrative Appeals Tribunal, after the expiration of that period or of the last of those periods as a direction under section 12.

Minister may direct transfer of liquid fuel

18. (1) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing served upon a relevant fuel industry corporation, direct that corporation to cause a specified quantity of liquid fuel of a specified kind that is held by the corporation at a place in Australia that is specified in the instrument to be transferred on or before such date as is specified in the instrument to another place in Australia that is specified in the instrument, being a place at which the corporation has adequate facilities to hold the quantity of liquid fuel to be transferred and not being a place that, in a case where—

- (a) the first-mentioned place is situated in a State or the Northern Territory; and
- (b) the transfer is for purposes that do not include any or all of the following purposes:
 - (i) purposes related to the defence of Australia;
 - (ii) purposes related to the provision of fuel for ships and aircraft engaged in trade and commerce—
 - (A) between Australia and places outside Australia;
 - (B) among the States; or
 - (C) between a State and a Territory or between Territories;
 - (iii) purposes related to the export of liquid fuel from Australia;
 - (iv) purposes related to the carrying on of an activity to which paragraph 11 (3) (d) applies,

is situated in the same State or Territory as the first-mentioned place.

(2) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction given to it under sub-section (1).

Minister may direct release or sale of liquid fuel

19. (1) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing served upon a relevant fuel industry corporation, give to the corporation a direction that the corporation, in the course of its trading or commercial activities, shall take such measures as are necessary to make a specified quantity of liquid fuel of a specified kind available for purchase on or before such date as is specified in the instrument at such place as is specified in the instrument by a specified person or specified persons or by persons who are included in a specified class of persons.

(2) A direction given under sub-section (1) to a relevant fuel industry corporation concerning a liquid fuel of a specified kind, may provide that the price at which that fuel is to be made available to a person in accordance with that direction shall be such price as is agreed upon by the corporation and that person or, in the absence of agreement, as is determined by a person nominated by the Minister, by instrument in writing, for the purpose.

(3) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction given to it under sub-section (1).

Minister may give directions as to output from refineries

20. (1) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing served upon a relevant fuel industry corporation that is engaged in the production or refining of liquid fuel, direct the corporation to produce in Australia, during a period specified in the instrument, a specified quantity of liquid fuel of a specified kind.

(2) A relevant fuel industry corporation shall not, without reasonable excuse, refuse or fail to comply with a direction given to it under sub-section (1).

Minister may give directions with respect to allocation by corporations of liquid fuel to bulk customers

21. (1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing—

- (a) specify guidelines for the calculation of the respective quantities of a refined liquid petroleum product of a kind specified in the instrument that, if the Governor-General declares that a national liquid fuel emergency will exist, would be required to be made available by relevant fuel industry corporations during each planning period in relation to that period of national liquid fuel emergency to persons who, or organizations which, are bulk customers of those corporations;
- (b) vary guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section); and
- (c) revoke guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section).

(2) During a period of national liquid fuel emergency the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing published in the *Gazette*, direct each relevant fuel industry corporation that ordinarily makes a refined liquid petroleum product of a specified kind available, in the course of its trading or commercial activities for purchase in bulk in a State or Territory by persons who are, or organizations that are, in relation to that product, bulk customers of the corporation, to make available for purchase in bulk in that State or Territory by those persons or organizations during a period that is specified in the instrument, being a planning period in relation to that period of national liquid fuel emergency, in accordance with bulk allocation procedures approved by the Minister under section 13—

- (a) in the case of such of those persons or organizations (if any) as have been identified by the Energy Minister for that State or Territory, in relation to that planning period, as essential users, or high priority

users, of that product in that State or Territory, such respective quantities of that product as—

- (i) are calculated by or on behalf of the Energy Minister for that State or Territory in accordance with a manner specified in the instrument; and
 - (ii) are notified in writing, by or on behalf of the Energy Minister for that State or Territory, to that corporation;
- (b) in the case of such of those persons or organizations (if any) as have been identified by the Minister or by a delegate of the Minister, in relation to that planning period, as essential users, or high priority users, of that product in that State or Territory, such respective quantities of that product as—
- (i) are calculated by or on behalf of the Minister in accordance with a manner specified in the instrument; and
 - (ii) are notified in writing, by or on behalf of the Minister, to that corporation; or
- (c) in the case of such of those persons or organizations (if any) as are persons to whom or organizations to which neither paragraph (a) nor (b) applies, such respective quantities of that product as—
- (i) are calculated by or on behalf of the Minister in accordance with a manner specified in the instrument; and
 - (ii) are notified in writing, by or on behalf of the Minister, to that corporation.

(3) The Minister shall not specify a manner of calculation of a quantity of a refined liquid petroleum product for the purposes of a direction under sub-section (2) that is not in accordance with guidelines that have been specified under sub-section (1) in relation to that product and that are in force at the time when the direction is given.

(4) Where the Minister has, under sub-section (2), directed relevant fuel industry corporations to make available for purchase by bulk customers of those corporations, during a specified period, in accordance with bulk allocation procedures approved by the Minister under section 13, quantities of a refined liquid petroleum product, any such corporation shall not, without reasonable excuse—

- (a) refuse or fail to make that product available for purchase by such a bulk customer of that corporation, during that period, in accordance with that direction; or
- (b) make that product available for purchase in bulk, during that period, by a person who is not, in relation to that product, a bulk customer of that corporation.

(5) Without limiting the generality of the expression “reasonable excuse” in sub-section (4), it is a reasonable excuse, for the purposes of paragraph (4) (a), if the person in respect of whom, or the organization in respect of which, a contravention of that sub-section is alleged to have been committed in relation to a particular refined liquid petroleum product refused or failed to

produce to the relevant fuel industry corporation concerned a copy of the notice that was caused to be made available to the person or organization by the Minister under sub-section 10 (8) and stated the person or organization to be a bulk customer of that corporation in relation to that product.

(6) Without limiting the generality of the expression “reasonable excuse” in sub-section (4), it is a reasonable excuse, for the purposes of paragraph (4) (a), if the person in respect of whom, or the organization in respect of which, a contravention of that sub-section is alleged to have been committed in relation to a particular refined liquid petroleum product, being a person who is, or an organization that is, an essential user, or a high priority user, of that product in the State or Territory in which the contravention is alleged to have been committed, refused or failed to produce to the relevant fuel industry corporation concerned—

- (a) a copy of the notice that was caused to be made available to the person or organization by the Minister under sub-section 10 (8) and stated the person or organization to be a bulk customer of that corporation in relation to that product; and
- (b) a copy of a notice that stated the person or organization to be such an essential user or such a high priority user, being a notice made available to that person or organization by the Energy Minister for that State or Territory or by the Minister.

(7) A manner of calculation of a quantity of a refined liquid petroleum product specified in an instrument under sub-section (2) may be applicable generally to persons or organizations respectively referred to in each of paragraphs (2) (a), (b) and (c) or to persons or organizations included in classes of persons or organizations so referred to, being classes that are specified in the instrument.

Minister may give directions with respect to allocation by relevant persons of liquid fuel to bulk customers

22. (1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing—

- (a) specify guidelines for the calculation of the respective quantities of a refined liquid petroleum product of a kind specified in the instrument that, if the Governor-General declares that a national liquid fuel emergency exists, will be required to be made available by relevant persons during each planning period in relation to that period of national liquid fuel emergency to persons who, or organizations which, are bulk customers of those relevant persons;
- (b) vary guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section); and
- (c) revoke guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section).

(2) During a period of national liquid fuel emergency the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing published in the *Gazette*, direct each relevant person who ordinarily makes a refined liquid petroleum product of a specified kind available, in the course of his trading or commercial activities for purchase in bulk in a State or Territory by persons who are, or organizations that are, in relation to that product, bulk customers of the relevant person, to make available for purchase in bulk in that State or Territory by those persons or organizations during a period that is specified in the instrument, being a planning period in relation to that period of national liquid fuel emergency, in accordance with bulk allocation procedures specified in the instrument—

- (a) in the case of such of those persons or organizations (if any) as have been identified by the Energy Minister for that State or Territory, in relation to that planning period as essential users, or high priority users, of that product in that State or Territory, such respective quantities of that product as—
 - (i) are calculated by or on behalf of the Energy Minister for that State or Territory in accordance with a manner specified in the instrument; and
 - (ii) are notified in writing, by or on behalf of the Energy Minister for that State or Territory, to that relevant person;
- (b) in the case of such of those persons or organizations (if any) as have been identified by the Minister or by a delegate of the Minister, in relation to that planning period, as essential users, or high priority users, of that product in that State or Territory, such respective quantities of that product as—
 - (i) are calculated by or on behalf of the Minister in accordance with a manner specified in the instrument; and
 - (ii) are notified in writing, by or on behalf of the Minister, to that relevant person; or
- (c) in the case of such of those persons or organizations (if any) as are persons to whom or organizations to which neither paragraph (a) nor (b) applies, such respective quantities of that product as—
 - (i) are calculated by or on behalf of the Minister in accordance with a manner specified in the instrument; and
 - (ii) are notified in writing, by or on behalf of the Minister, to that relevant person.

(3) The Minister shall not specify a manner of calculating a quantity of a refined liquid petroleum product for the purposes of a direction under sub-section (2) that is not in accordance with guidelines that have been specified under sub-section (1) in relation to that product and that are in force at the time when the direction is given.

(4) Where the Minister has, under sub-section (2), directed relevant persons to make available for purchase by bulk customers of those relevant persons, during a specified period, in accordance with allocation procedures

specified in the direction, quantities of a refined liquid petroleum product, any such relevant person shall not, without reasonable excuse—

- (a) refuse or fail to make that product available for purchase by such a bulk customer of that relevant person, during that period, in accordance with the requirements of that direction;
- (b) make that product available for purchase in bulk by such a bulk customer of that relevant person, during that period, otherwise than in accordance with that direction; or
- (c) make that product available for purchase in bulk during that period by a person who is not, in relation to that product, a bulk customer of that relevant person.

(5) Without limiting the generality of the expression “reasonable excuse” in sub-section (4), it is a reasonable excuse, for the purposes of paragraph (4) (a), if the person in respect of whom, or the organization in respect of which, a contravention of that sub-section is alleged to have been committed in relation to a particular refined liquid petroleum product refused or failed to produce to the relevant person concerned a copy of the notice that was caused to be made available to the person or organization by the Minister under sub-section 10 (8) and stated the person or organization to be a bulk customer of that relevant person in relation to that product.

(6) Without limiting the generality of the expression “reasonable excuse” in sub-section (4), it is a reasonable excuse, for the purposes of paragraph (4) (a), if the person in respect of whom, or the organization in respect of which, a contravention of that sub-section is alleged to have been committed in relation to a particular refined liquid petroleum product, being a person who is, or an organization that is, an essential user, or a high priority user, of that product in the State or Territory in which the contravention is alleged to have been committed, refused or failed to produce to the relevant person concerned—

- (a) a copy of the notice that was caused to be made available to the person or organization by the Minister under sub-section 10 (8) and stated the person or organization to be a bulk customer of that relevant person in relation to that product; and
- (b) a copy of a notice that stated the person or organization to be such an essential user or such a high priority user, being a notice made available to that person or organization by the Energy Minister for that State or Territory or by the Minister.

(7) A manner of calculation of a quantity of a refined liquid petroleum product specified in an instrument under sub-section (2) may be applicable generally to persons or organizations respectively referred to in each of paragraphs (2) (a), (b) and (c) or to persons or organizations included in classes of persons or organizations so referred to, being classes that are specified in the instrument.

Minister may give directions to corporations regulating or prohibiting supply of liquid fuel

23. (1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing—

- (a) specify guidelines for the giving of directions, in the event of the Governor-General declaring that a national liquid fuel emergency will exist, regulating or prohibiting the supply by relevant fuel industry corporations, in the course of their trading or commercial activities, during each planning period in relation to that period of national liquid fuel emergency, of a refined liquid petroleum product of a kind specified in the instrument;
- (b) vary guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section); and
- (c) revoke guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section).

(2) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage, or likely shortage, of relevant liquid fuel, by instrument in writing published in the *Gazette*, give directions regulating or prohibiting the supply by relevant fuel industry corporations, in the course of their trading or commercial activities, during a period specified in the instrument, being a planning period in relation to that period of national liquid fuel emergency, of a refined liquid petroleum product of a kind specified in the instrument to persons generally or to persons included in a specified class of persons.

(3) The Minister shall not give a direction under sub-section (2) with respect to the supply by relevant fuel industry corporations of a refined liquid petroleum product if the direction relates only to the supply of that product to persons who are bulk customers of those corporations.

(4) The Minister shall not give a direction under sub-section (2) with respect to the supply of a refined liquid petroleum product unless the direction complies with guidelines that have been specified under sub-section (1) in relation to that product and are in force at the time the direction is given.

(5) A relevant fuel industry corporation shall not, without reasonable excuse, contravene or fail to comply with a direction given to it under sub-section (2).

Minister may give directions to relevant persons regulating or prohibiting supply of liquid fuel

24. (1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing—

- (a) specify guidelines for the giving of directions, in the event of the Governor-General declaring that a national liquid fuel emergency will exist, regulating or prohibiting the supply by relevant persons, in the

course of their trading or commercial activities, during each planning period in relation to that period of national liquid fuel emergency, of a refined liquid petroleum product of a kind specified in the instrument;

- (b) vary guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section); and
- (c) revoke guidelines specified by him under this sub-section (including guidelines varied by virtue of a previous application or previous applications of this sub-section).

(2) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage, or likely shortage, of relevant liquid fuel, by instrument in writing published in the *Gazette*, give directions regulating or prohibiting the supply by relevant persons, in the course of their trading or commercial activities, during a period specified in the instrument, being a planning period in relation to that period of national liquid fuel emergency, of a refined liquid petroleum product of a kind specified in the instrument to persons generally or to persons included in a specified class of persons.

(3) The Minister shall not give a direction under sub-section (2) with respect to the supply by relevant persons of a refined liquid petroleum product if the direction relates only to the supply of that product to persons who are bulk customers of those relevant persons.

(4) The Minister shall not give a direction under sub-section (2) with respect to the supply of a refined liquid petroleum product unless the direction complies with guidelines that have been specified under sub-section (1) in relation to that product and are in force at the time the direction is given.

(5) A relevant person shall not, without reasonable excuse, contravene a direction given under sub-section (2).

Directions under section 21, 22, 23 or 24 not to regulate price

25. (1) A direction under sub-section 21 (2) or 22 (2) requiring a refined liquid petroleum product to be made available for purchase in a State or Territory shall not make provision for the determination of the price, or the maximum price, at which persons to whom that direction is given—

- (a) may make that product available for purchase in that State or Territory in accordance with that direction; or
- (b) may make available for purchase services in connection with the making available for purchase of that product in that State or Territory in accordance with that direction.

(2) A direction under sub-section 23 (2) or 24 (2) regulating or prohibiting the supply of a refined liquid petroleum product shall not make provision for the determination of the price, or the maximum price, at which persons to whom that direction is given—

- (a) may supply that product in accordance with that direction; or

- (b) may supply services in connection with the supply of that product in accordance with that direction.
- (3) It is the intention of the Parliament that, without limiting the generality of section 51, this Act shall not apply to the exclusion of a law of a State or Territory in so far as that law makes—
 - (a) in relation to a refined liquid petroleum product in respect of which a direction might be given under sub-section 21 (2) or 22 (2)—provision of the kind referred to in sub-section (1) of this section; or
 - (b) in relation to a refined liquid petroleum product of a kind in respect of which a direction might be given under sub-section 23 (2) or 24 (2)—provision of the kind referred to in sub-section (2) of this section.

Certain directions to be published

26. As soon as practicable after the Minister has given a direction under section 21, 22, 23 or 24, the Minister shall cause a copy of the direction to be published in each State, in the Northern Territory and in the Australian Capital Territory in a newspaper circulating generally in that State or Territory.

Directions to cease to be in force when Proclamation ceases to be in force

27. (1) Subject to sub-section (2), a direction given under this Part continues to be in force, unless sooner revoked under sub-section 33 (3) of the *Acts Interpretation Act 1901* or set aside by a court, until the expiration of the period of national liquid fuel emergency during which it came into force.

(2) If, during a period of national liquid fuel emergency, a Proclamation under sub-section 16 (1) declares that a national liquid fuel emergency will exist during a period commencing immediately after the expiration of the first-mentioned period, any direction under this Part in force immediately before the expiration of the first-mentioned period (including a direction in force by virtue of a previous application or previous applications of this sub-section) continues in force, unless revoked under sub-section 33 (3) of the *Acts Interpretation Act 1901* or set aside by a court, until the expiration of the second-mentioned period.

PART IV—ENFORCEMENT

Ancillary contraventions of relevant provisions of Act

28. A person shall not—
- (a) attempt to contravene a relevant provision of this Act;
 - (b) aid, abet, counsel or procure a person to contravene such a provision;
 - (c) induce, or attempt to induce, a person, whether by threats or promises or otherwise, to contravene such a provision;
 - (d) be in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision; or
 - (e) conspire with others to contravene such a provision.

Appointment of authorized persons

29. (1) The Minister may, by instrument in writing, appoint a specified person, or persons included in a specified class of persons, to be an authorized person or authorized persons, as the case may be, for the purpose of the exercise by that person or those persons of the powers of an authorized person under this Act or of such of those powers as are specified in the instrument.

(2) Without limiting the generality of sub-section (1), the Minister may appoint as authorized persons for the purposes of this Act, persons who are officers of a State or officers of the Northern Territory.

(3) All persons appointed under sub-section (1) to be authorized persons shall be taken, for the purposes of the application of Part VI of the *Crimes Act 1914* to and in relation to them in the exercise of their powers as authorized persons, to be Commonwealth officers within the meaning of that Act.

(4) The Minister may cause to be issued to an authorized person an identity card in a form approved by him by instrument in writing.

(5) Where a person in possession of an identity card issued to him under sub-section (4) ceases to be an authorized person, he shall forthwith return the identity card to the Minister or a person nominated by the Minister by instrument in writing and, if he fails to do so, he is guilty of an offence punishable upon conviction by a fine not exceeding \$100.

(6) The Minister may issue a certificate stating that a person specified in the certificate was, at a time, or at all times during a period, specified in the certificate an authorized person for the purpose of the exercise of all of the powers of an authorized person under this Act or of such of those powers as are specified in the certificate and such a certificate is *prima facie* evidence of the matters certified.

Power to require persons to furnish information and produce documents

30. (1) Where an authorized person has reason to believe that a person is capable of furnishing information or producing documents relating to a matter that is relevant to the exercise of a power conferred on the Minister by or under this Act or that constitutes, or may constitute, a contravention of a relevant provision of, or an offence against, this Act, he may, by notice in writing served on that person, require that person—

- (a)** to furnish to him, by writing signed by that person or, in the case of a body corporate, by a competent officer of the body corporate, within the time and in the manner specified in the notice, any such information; or
- (b)** to produce to him, or to any other authorized person specified in the notice, in accordance with the notice, any such documents.

(2) A person shall not refuse or fail to comply with a notice under this section to the extent that the person is capable of complying with it.

Penalty: \$1,000.

(3) A person shall not, in purported compliance with a notice under this section, knowingly furnish information that is false or misleading in a material particular.

Penalty: \$2,000 or imprisonment for 12 months.

(4) An offence against sub-section (3) is punishable on summary conviction.

(5) A person is not excused from furnishing information or producing a document in pursuance of this section on the ground that the information or the production of the document might tend to incriminate the person or to render him liable to a pecuniary penalty in accordance with section 34, but the information or the production of the document is not admissible in evidence against the person—

- (a) in the case of a person other than a body corporate—in any criminal proceedings other than proceedings under, or arising out of, this section; or
- (b) in the case of a body corporate—in any criminal proceedings other than proceedings under, or arising out of, this Act.

(6) A person is not required to furnish information or produce a document containing information in pursuance of this section if there is in force a law of the Commonwealth prohibiting the person from disclosing the information or producing the document, whether the prohibition is absolute or is subject to exceptions or qualifications.

(7) An authorized person may inspect a document produced in pursuance of a notice under sub-section (1) and may make copies of, or take extracts from, the document.

(8) An authorized person may, for the purposes of this Act, take, and retain for so long as is necessary for those purposes, possession of a document produced in pursuance of a notice under sub-section (1) but the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the authorized person under his hand to be a true copy and the certified copy shall be received in all courts as evidence as if it were the original.

(9) Until such a certified copy of a document is supplied, the authorized person having possession of the document shall, at such times and place as he thinks appropriate, permit the person otherwise entitled to the document, or a person authorized by that person, to inspect and make copies of or take extracts from the document.

Inspection

31. (1) For the purposes of ascertaining whether a person has contravened or is contravening a relevant provision of this Act or has committed or is

committing an offence against this Act, an authorized person may, with such assistance as he thinks necessary—

- (a) with the consent of the occupier, in pursuance of a warrant granted under sub-section (3), or in pursuance of sub-section (5), enter any land or premises;
 - (b) with the consent of the person (if any) in charge of the vehicle, ship or aircraft concerned, in pursuance of a warrant granted under sub-section (3), or in pursuance of sub-section (5), enter any vehicle, ship or aircraft;
 - (c) search any land, premises, vehicle, ship or aircraft;
 - (d) break open any hold or compartment or any container or other receptacle (including any place that could be used as a receptacle);
 - (e) inspect and examine any land, premises, vehicle, ship, aircraft, matter or thing;
 - (f) secure any land, premises, vehicle, ship, aircraft, matter or thing;
 - (g) take samples of any matter or thing (including parts of land, premises, vehicles, ships or aircraft); or
 - (h) take extracts from, and make copies of, any document.
- (2) Samples of any matter or thing taken in accordance with sub-section (1) shall be dealt with as prescribed.

(3) If, on an application made by an authorized person, a Justice of the Peace is satisfied, by information on oath or affirmation, that it is reasonably necessary that the authorized person should, for the purpose of exercising the powers of an authorized person under paragraphs (1) (c) to (h) (inclusive) of this section or section 32, have access to the land, premises, vehicle, ship or aircraft to which the application relates, the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as he thinks necessary, to enter the land, premises, vehicle, ship or aircraft during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the powers of an authorized person under paragraphs (1) (c) to (1) (h) (inclusive) of this section or section 32.

(4) A warrant under sub-section (3) shall specify a date after which the warrant ceases to have effect.

(5) An authorized person may enter any land, premises, vehicle, ship or aircraft on or in which he believes on reasonable grounds that there is situated any matter or thing that he believes on reasonable grounds will afford evidence of a contravention of a relevant provision of, or offence against, this Act if—

- (a) he believes on reasonable grounds that the entry and the subsequent exercise of his powers under paragraphs (1) (c) to (h) (inclusive) of this section or section 32 is necessary to prevent the concealment, loss or destruction of any matter or thing that may afford evidence of a contravention of a relevant provision of, or an offence against, this Act; and

- (b) the entry is made in circumstances of such seriousness and urgency as to require and justify immediate entry without the authority of a warrant issued under sub-section (3) of this section.

(6) Where an authorized person enters a vehicle, ship or aircraft in accordance with paragraph (1) (b) of this section, he may, for that purpose and for the purpose of the subsequent exercise of his powers under paragraphs (1) (c) to (h) (inclusive) of this section or section 32, stop and detain the vehicle, ship or aircraft.

Seizure

32. (1) An authorized person may seize any matter or thing that he believes on reasonable grounds will afford evidence of the contravention of a relevant provision of, or an offence against, this Act and may retain the matter or thing until the expiration of 60 days after the seizure or, if proceedings in respect of which the matter or thing may afford evidence are instituted within that period, until those proceedings (including any appeal to a court in relation to those proceedings) are terminated.

(2) The Minister may authorize any liquid fuel, or any other matter or thing, seized under sub-section (1) to be released to the owner, or to the person from whose possession the liquid fuel or the other matter or thing was seized, either unconditionally or on such conditions as are specified in the authority, including conditions as to the giving of security for payment of their value if they are forfeited under section 38.

Persons to assist authorized persons

33. (1) Subject to sub-section (2), the owner, or person in charge of any vehicle, ship or aircraft entered by an authorized person, and the owner or occupier of any land or premises entered by an authorized person, under section 31 shall if requested by the authorized person to do so, provide reasonable assistance to the authorized person for the purpose of the exercise of his powers under that section or section 32 in relation to that land, vehicle, ship or aircraft or those premises.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2) Where an authorized person makes a request of a person under this section, the authorized person shall produce his identity card for inspection by that person and, if the authorized person fails to do so, that person is not obliged to comply with the request.

Pecuniary penalties

34. (1) If the Court is satisfied that a person has contravened a relevant provision of this Act, the Court may order the person to pay to the Commonwealth such pecuniary penalty in respect of each act or omission by the person not exceeding—

- (a) in the case of a contravention of sub-section 12 (5), 17 (2) or 20 (2)—
(i) by a person other than a body corporate—\$50,000; or

- (ii) by a body corporate—\$250,000;
- (b) in the case of a contravention of sub-section 18 (2) or 19 (3)—
 - (i) by a person other than a body corporate—\$30,000; or
 - (ii) by a body corporate—\$150,000;
- (c) in the case of a contravention of sub-section 13 (5), 14 (2) or (3)—
 - (i) by a person other than a body corporate—\$10,000; or
 - (ii) by a body corporate—\$50,000; or
- (d) in the case of a contravention of sub-section 21 (4), 22 (4), 23 (5) or 24 (5)—
 - (i) by a person other than a body corporate—\$3,000; or
 - (ii) by a body corporate—\$15,000,

as the Court determines to be appropriate having regard to all relevant matters including, but without limiting the generality of the foregoing, the nature and extent of the act or omission, the consequences of the act or omission, the circumstances in which the act or omission took place and the previous conduct of the person.

(2) If conduct constitutes a contravention of 2 or more relevant provisions of this Act, a proceeding may be instituted under this Act against a person in relation to the contravention of any one or more of those provisions but a person is not liable to more than one pecuniary penalty under this section in respect of the same conduct.

(3) A reference in sub-section (1) to a contravention of a particular relevant provision of this Act includes a reference to a contravention of section 28 that relates to a contravention of that particular relevant provision.

Civil action for recovery of pecuniary penalties

35. (1) The Minister may institute a proceeding in the Court for the recovery on behalf of the Commonwealth of a pecuniary penalty referred to in section 34.

(2) A proceeding under sub-section (1) may be commenced within 6 years after the contravention.

Criminal proceedings not to be brought for contraventions of relevant provisions of this Act

36. Criminal proceedings do not lie against a person by reason only that the person has contravened a relevant provision of this Act.

Injunctions

37. (1) Where a person has engaged, is engaging, or is proposing to engage in any conduct that constituted, constitutes or would constitute a contravention of a relevant provision of this Act, the Court may on the application of—

- (a) the Minister; or
- (b) any person whose interests have been, are or would be affected by the conduct,

grant an injunction restraining the first-mentioned person from engaging in the conduct and, if, in the opinion of the Court, it is desirable to do so, requiring that person to do any act or thing.

(2) Where—

- (a) a person has refused or failed, is refusing or failing or is proposing to refuse or fail to do an act or thing; and
- (b) that refusal or failure is, or would be, a contravention of a relevant provision of this Act,

the Court may, on the application of—

- (c) the Minister; or
- (d) any person whose interests have been, are or would be affected by that refusal or failure,

grant an injunction requiring the first-mentioned person to do that act or thing.

(3) Where an application is made to the Court for an injunction under sub-section (1), the Court may, if in the opinion of the Court it is desirable to do so, before considering the application, grant an interim injunction restraining the person from engaging in conduct of the kind referred to in that sub-section pending the determination of the application.

(4) The Court may discharge or vary an injunction granted under sub-section (1), (2) or (3).

(5) Where an application is made to the Court for the grant of an injunction restraining a person from engaging in conduct of a particular kind, the power of the Court to grant the injunction may be exercised—

- (a) if the Court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
- (b) if it appears to the Court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.

(6) Where an application is made to the Court for a grant of an injunction requiring a person to do a particular act or thing, the power of the Court to grant the injunction may be exercised—

- (a) if the Court is satisfied that the person has refused or failed to do that act or thing—whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or
- (b) if it appears to the Court that, in the event that an injunction is not granted, it is likely that the person will refuse or fail to do that act or thing—whether or not the person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of

substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

(7) Where the Minister makes an application to the Court for the grant of an injunction under this section, the Court shall not require the Minister or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

Forfeiture

38. (1) Where a court—

- (a) orders a person to pay a pecuniary penalty under section 34 in respect of a contravention by the person of a relevant provision of this Act;
- (b) convicts a person of an offence against this Act; or
- (c) makes an order under section 19B of the *Crimes Act 1914* in relation to an offence against this Act,

the court may order the forfeiture to the Commonwealth of any article used or otherwise involved in the contravention or in the commission of the offence.

(2) The Minister may, by instrument in writing, direct that an article forfeited under this section be sold or otherwise disposed of upon such conditions (if any) as are specified in the instrument of direction and, pending his direction, the article shall be kept in such custody as he directs.

Indictable offences

39. (1) An offence against sub-section 14 (4) or (5) is an indictable offence.

(2) Notwithstanding that an offence referred to in sub-section (1) is expressed to be an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(3) Where, in accordance with sub-section (2), a court of summary jurisdiction convicts a person of an offence referred to in sub-section (1), the penalty that the court may impose is—

- (a) in the case of an offence against sub-section 14 (4)—a fine not exceeding \$10,000; and
- (b) in the case of an offence against sub-section 14 (5)—a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months, or both.

Conduct by servants or agents of bodies corporate

40. (1) Where, in a proceeding under section 34 or 37 in respect of any conduct engaged in by a body corporate, being conduct in relation to which a relevant provision of this Act applies, it is necessary to establish the intention of the body corporate, it is sufficient to show that a servant or agent of the body corporate by whom the conduct was engaged in had that intention.

(2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate or by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate shall be deemed, for the purposes of this Act, to have been engaged in also by the body corporate.

(3) In this section, a reference to engaging in conduct is a reference to doing or refusing to do any act or thing.

PART V—MISCELLANEOUS

Parliament may disallow certain instruments made under this Act

41. (1) This section applies to an instrument made by the Minister under sub-section 10 (1), 11 (1), 12 (1), 13 (1), 21 (1), 22 (1), 23 (1) or 24 (1).

(2) The Minister shall, as soon as practicable after making an instrument to which this section applies—

- (a) cause a copy of the instrument to be published in the *Gazette*; and
- (b) cause a copy of the instrument to be laid before each House of the Parliament.

(3) Subject to sub-section (4), an instrument to which this section applies comes into force at the expiration of—

- (a) unless paragraph (b) applies—the fifteenth sitting day of the House of Representatives after a copy of the instrument is laid before that House; or
- (b) if the fifteenth sitting day of the Senate after a copy of the instrument is laid before the Senate is a later day than the day referred to in paragraph (a)—that fifteenth sitting day of the Senate.

(4) If either House of the Parliament, within 15 sitting days of a copy of an instrument to which this section applies has been laid before that House, passes a resolution disallowing the instrument, the instrument shall not come into force.

(5) If, before the expiration of 15 sitting days of a House of the Parliament after a copy of an instrument to which this section applies has been laid before that House—

- (a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and
- (b) at the time of the dissolution, expiry or prorogation, as the case may be—
 - (i) a notice of motion disallowing the instrument has not been withdrawn and the motion has not been called on; or
 - (ii) a motion disallowing the instrument has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the copy of the instrument shall, for the purposes of sub-sections (3) and (4), be deemed to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation, as the case may be.

(6) Where an instrument to which this section applies is made during a period of national liquid fuel emergency—

- (a) the instrument comes into force forthwith;
- (b) sub-sections (3), (4) and (5) do not apply to the instrument; and
- (c) sub-section (8) applies to the instrument.

(7) Where—

- (a) an instrument to which this section applies is made otherwise than during a period of national liquid fuel emergency;
- (b) a period of national liquid fuel emergency is declared to exist; and
- (c) on the commencement of that period the instrument had neither come into force under sub-section (3) nor been disallowed under sub-section (4),

then, on the commencement of that period—

- (d) the instrument comes into force;
- (e) sub-sections (3), (4) and (5) cease to apply to the instrument; and
- (f) sub-section (8) applies to the instrument.

(8) If either House of the Parliament, in pursuance of a motion of which notice has been given within 15 sitting days after a copy of an instrument to which this sub-section applies has been laid before that House, (whether the notice was given for the purposes of sub-section (4) or of this sub-section), passes a resolution disallowing that instrument, the instrument so disallowed shall thereupon cease to have effect.

(9) If, at the expiration of 15 sitting days after notice of a motion to disallow an instrument to which sub-section (8) applies has been given in a House of the Parliament, being notice given within 15 sitting days after a copy of the instrument has been laid before that House—

- (a) the notice has not been withdrawn and the motion has not been called on; or
- (b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the instrument specified in the motion shall thereupon be deemed to have been disallowed.

(10) If, before the expiration of 15 sitting days after notice of a motion to disallow any instrument to which sub-section (8) applies has been given in a House of the Parliament—

- (a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and

- (b) at the time of the dissolution, expiry or prorogation, as the case may be—
- (i) the notice has not been withdrawn and the motion has not been called on; or
 - (ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the instrument shall, for the purposes of sub-sections (8) and (9), be deemed to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation, as the case may be.

(11) Where an instrument to which sub-section (8) applies is disallowed, or is deemed to have been disallowed, under this section, the disallowance of the instrument has the same effect as a revocation of the instrument.

(12) Where—

- (a) an instrument to which sub-section (8) applies (in this sub-section referred to as the “relevant instrument”) is disallowed, or is deemed to have been disallowed, under this section; and
- (b) the relevant instrument revoked, in whole or in part, another instrument to which this section applies that was in force immediately before the relevant instrument came into operation,

the disallowance of the relevant instrument has the effect of reviving that other instrument from and including the date of the disallowance as if the relevant instrument had not been made.

(13) Where an instrument to which this section applies comes into force, the Minister shall cause a notice to that effect to be published in the *Gazette*.

(14) The Minister shall, before 1 July 1984, make at least one instrument to which this section applies under each of the sub-sections referred to in sub-section (1) of this section.

Consultation between Ministers concerning emergency procedures

42. (1) The Minister shall not make a determination for the purposes of sub-section 9 (1) or paragraph 11 (3) (d) or give a direction under Part II or III unless he has given notice in a manner specified in the regulations to the Energy Minister for each State or Territory of his intention to make such a determination or give such a direction, as the case may be, and has afforded a reasonable opportunity to the Energy Minister for each State or Territory to consult with him concerning the matters to which the determination or direction, as the case may be, is to relate.

(2) The Minister may, by writing signed by him, issue a certificate setting out such facts as he considers relevant with respect to a matter referred to in sub-section (1).

(3) A certificate purporting to be issued under sub-section (2) is *prima facie* evidence of the facts stated in it.

Application of other Acts to certain instruments under this Act

43. (1) Section 5 of the *Evidence Act 1905* applies to an instrument referred to in sub-section 41 (1) or to an instrument made by the Minister under sub-section 10 (2), 11 (2), 12 (2) or (6), 13 (2) or (3), 14 (1), 17 (1) or (3), 18 (1), 19 (1), 20 (1), 21 (2), 22 (2), 23 (2) or 24 (2) in like manner as that section applies to an order made by a Minister.

(2) Section 50 of the *Acts Interpretation Act 1901* applies to an instrument under sub-section 13 (2), 14 (1), 21 (2), 22 (2), 23 (2) or 24 (2) in like manner as that section applies to regulations.

(3) An instrument referred to in sub-section (1) shall be deemed to be a statutory rule within the meaning of the *Statutory Rules Publication Act 1903* and, for the purposes of the application of sub-section 5 (3B) of that Act to that instrument, the reference in that sub-section of that Act to the Minister of State for Administrative Services shall be read as a reference to the Minister for the time being administering this Act.

Reconsideration and review of decisions

44. (1) In this section, unless the contrary intention appears—

“decision” has the same meaning as it has in the *Administrative Appeals Tribunal Act 1975*;

“reviewable decision” means a decision of the Minister, or a delegate of the Minister, under sub-section 10 (3), 11 (3), 12 (2) or (6) or 13 (3) or sub-section (2) of this section.

(2) A person affected by a reviewable decision who is dissatisfied with the decision may, within the period of 3 days after the day on which the decision first comes to the notice of the person, or within such further period as the Minister (either before or after the expiration of that period), by notice in writing served on the person, allows, by notice in writing given to the Minister in a manner specified in the regulations, request the Minister to reconsider the decision.

(3) There shall be set out in the request the reasons for making the request.

(4) The Minister shall, within 14 days after the receipt of the request, reconsider the decision and may affirm or revoke the decision or vary the decision in such manner as he thinks fit.

(5) Where the Minister affirms, revokes, or varies a decision, he shall, by notice in writing served on the person who made the request, inform the person of the result of his reconsideration of the decision, set out the findings on material questions of fact, refer to the evidence or other material on which those findings were based and give his reasons for affirming, revoking or varying the decision, as the case may be.

(6) Applications may be made to the Administrative Appeals Tribunal for review of reviewable decisions that have been affirmed or varied under sub-section (4).

(7) Where the Minister, or a delegate of the Minister, makes a reviewable decision and gives to the person or persons whose interests are affected by the decision notification in writing of the making of the decision, that notice shall include a statement to the effect that a person affected by the decision—

- (a) may, if he is dissatisfied with the decision, seek a reconsideration of the decision by the Minister in accordance with sub-section (2); and
- (b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if he is dissatisfied with a decision made by the Minister upon that reconsideration affirming or varying the first-mentioned decision, make application to the Administrative Appeals Tribunal for review of the decision so affirmed or varied.

(8) Where the Minister makes a decision under sub-section (4) affirming or varying a reviewable decision, the notice given under sub-section (5) in relation to that decision shall include a statement to the effect that a person affected by the decision so affirmed or varied may, subject to the *Administrative Appeals Tribunal Act 1975*, if he is dissatisfied with the decision so affirmed or varied, make application to the Administrative Appeals Tribunal for review of the decision.

(9) Any failure to comply with the requirements of sub-section (7) or (8) in relation to a decision does not affect the validity of the decision.

(10) Nothing in this section shall be taken by implication to affect the application of sub-section 33 (3) of the *Acts Interpretation Act 1901* to a power conferred by this Act.

Compensation for acquisition of property

45. (1) Where, but for this sub-section, the operation of a provision of this Act would result in the acquisition of property from a person by another person otherwise than on just terms, there is payable to the person by that other person such amount of compensation as is agreed upon between those persons, or, failing agreement, as is determined by a court of competent jurisdiction.

(2) Any damages or compensation recovered or other remedy given in proceedings that are instituted otherwise than by virtue of this section shall be taken into account in assessing compensation payable in proceedings that are instituted under this section and that arise out of the same event or transaction.

(3) In this section, “acquisition of property” and “just terms” have the same respective meanings as in paragraph 51 (xxxi) of the Constitution.

Compensation for compliance with directions under Part II or III

46. (1) Subject to this section, where a person suffers loss, injury or damage by reason of the compliance by the person with a direction under Part II or III, there is payable to the person by the Commonwealth such amount of compensation in respect of that loss, injury or damage as is agreed between the Commonwealth and the person or, failing agreement, as is determined by a court of competent jurisdiction.

(2) In assessing the amount of compensation payable under sub-section (1) in respect of loss, injury or damage suffered by a person, account shall be taken only of so much of the loss, injury or damage—

- (a) as is greater than the loss, injury or damage suffered by the community at large, or a substantial part of the community at large, in connection with dealing with, or in preparation for dealing with, a shortage or likely shortage of liquid fuel during a period of national liquid fuel emergency; and
- (b) as the person is not, and is not likely to be, in a position to make good from the market supplied by the person.

(3) Compensation is not payable under sub-section (1) in respect of loss, injury or damage suffered by a person unless the person lodges a claim for compensation with the Minister within 12 months, or such longer period (if any) as is prescribed, after the loss, injury or damage was suffered.

(4) Any damages or compensation recovered or other remedy given in proceedings that are instituted otherwise than by virtue of this section shall be taken into account in assessing compensation payable in proceedings that are instituted under this section and that arise out of the same event or transaction.

Exemption from suit

47. (1) No action or proceeding lies against a relevant fuel industry corporation for, or in relation to, a breach of a contract entered into between that corporation and another person where, but for compliance by the corporation with a direction under section 17, 18, 19, 20, 21 or 23, the act or omission that is alleged to constitute the breach would not have occurred.

(2) No action or proceeding lies against a relevant person for, or in relation to, breach of a contract entered into between that relevant person and another person where, but for compliance by the relevant person with a direction under section 22 or 24, the act or omission that is alleged to constitute the breach would not have occurred.

(3) Nothing in this section shall be taken to affect a right to compensation conferred upon a person by section 45.

Jurisdiction of courts

48. (1) Jurisdiction is conferred on the Court with respect to matters arising under section 34 or 37 and that jurisdiction is exclusive of the jurisdiction of all other courts other than the jurisdiction of the High Court under section 75 of the Constitution.

(2) Subject to sub-section (1), the Supreme Court of each State is invested with federal jurisdiction and jurisdiction is conferred on the Federal Court of Australia and, to the extent that the Constitution permits, on the Supreme Court of each Territory, with respect to all matters arising under this Act.

(3) The inferior courts of each State are invested with federal jurisdiction, and jurisdiction is conferred on the inferior courts of each Territory, within the

limits, other than limits as to subject-matter, of their several jurisdictions, with respect to matters arising under section 45 or 46.

(4) An appeal lies to the Court from a judgment or order of a court of a State or Territory exercising jurisdiction under this Act.

(5) An appeal lies to the High Court, with special leave of the High Court, from a judgment or order referred to in sub-section (4).

(6) Except as provided in sub-section (4) or (5), no appeal lies from a judgment or order referred to in sub-section (4).

(7) A reference in sub-section (3) to an inferior court shall be read as a reference to—

(a) a County Court, District Court or Local Court; or

(b) a court of summary jurisdiction exercising civil jurisdiction,

being a court having jurisdiction in actions for the recovery of debts up to an amount not less than the amount of compensation claimed.

Delegation

49. (1) The Minister may, either generally or as otherwise provided in the instrument of delegation, by writing signed by him, delegate to a person all or any of his powers under this Act or under any instrument made by him under Part II or III, other than—

(a) his power to make an instrument under sub-section 10 (1), 11 (1), 12 (1), 13 (1), 21 (1), 22 (1), 23 (1) or 24 (1);

(b) his power to give a direction under sub-section 13 (2), 14 (1), 21 (2), 22 (2), 23 (2) or 24 (2); or

(c) this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or that instrument, as the case may be, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

(4) The Minister may enter into such arrangements with the Energy Minister for a State as he considers to be appropriate to facilitate the delegation under this section of powers under this Act to the Energy Minister for that State or to an officer of that State.

(5) The Minister may enter into such arrangements with the Energy Minister for the Northern Territory as he considers to be appropriate to facilitate the delegation under this section of powers under this Act to the Energy Minister for the Northern Territory or to an officer of the Northern Territory.

(6) Where, in accordance with arrangements entered into under sub-section (4) or (5), the Energy Minister for a State or for the Northern Territory or an officer of a State or of the Northern Territory causes notice of

the fact that he has, in the exercise, as delegate of the Minister, of the powers conferred on the Minister under section 10, identified a person or an organization as a bulk customer of a relevant fuel industry corporation or of a relevant person in relation to a refined liquid petroleum product to be made available to that person or organization, that notice shall, for all purposes of this Act, have the effect that it would have if it had been made available by the Minister in accordance with the requirements of that section.

Service

50. (1) For the purposes of this Act, a document may be served—

(a) on a natural person—

(i) by delivering it to the person personally; or

(ii) by leaving it at, or by sending it by post to, the address of the place of residence or business of the person last known to the person serving the document; or

(b) on a body corporate—by leaving it at, or sending it by post to, the registered office or a principal office of the body corporate or in such other manner as is prescribed.

(2) Nothing in sub-section (1) affects the power of a court to authorize service of a document otherwise than as provided in that sub-section.

Operation of State and Territory laws

51. This Act is not intended to affect the operation of a law of a State or Territory to the extent that that law is capable of operating concurrently with this Act.

Directions to prevail over inconsistent Commonwealth, State or Territory law

52. Subject to section 51, a direction under this Act has effect notwithstanding any law of the Commonwealth (other than this Act), or any law of a State or Territory, that is inconsistent with that direction.

Act not to confer powers on State or Northern Territory Energy Ministers by implication

53. Nothing in this Act shall be taken, by implication, to confer a power upon the Energy Minister for a State or for the Northern Territory.

Cessation of operation of Act

54. (1) This Act, unless sooner repealed, shall cease to be in force at whichever is the later of—

(a) the expiration of the period (in this section referred to as the “prescribed period”) of 3 years after the date of commencement of this Act; or

(b) if, before the expiration of the prescribed period, a Proclamation under sub-section 16 (1) declares that a period of national liquid fuel

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emergency will exist during a period expiring after the expiration of the prescribed period—

- (i) the expiration of that period of national liquid fuel emergency; or
- (ii) if there is a period (in this sub-paragraph referred to as a “continuous period”) of national liquid fuel emergency that is continuous with that last-mentioned period—the expiration of the last such continuous period.

(2) For the purposes of sub-paragraph (1) (b) (ii), a period of national liquid fuel emergency shall be taken to be continuous with another period of national liquid fuel emergency if a direction under Part III in force immediately before the expiration of the first-mentioned period (including a direction in force by virtue of an application or applications of sub-section 27 (2)) is continued in force, or would, but for any revocation or setting aside of the direction, be continued in force, by virtue of an application or applications of sub-section 27 (2), until the expiration of the second-mentioned period.

(3) For the purposes of section 8 of the *Acts Interpretation Act 1901*, when this Act ceases to be in force by virtue of sub-section (1) of this section, it shall thereupon be deemed to have been repealed by an Act other than this Act.

Repeal of *Liquid Fuel (Defence Stocks) Act 1949*

55. The *Liquid Fuel (Defence Stocks) Act 1949* is repealed.

Regulations

56. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.