



# **Liquid Fuel Emergency Amendment Act 2007**

**No. 86, 2007**

**An Act to amend the *Liquid Fuel Emergency Act  
1984*, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



---

## Contents

|   |                                       |           |
|---|---------------------------------------|-----------|
| 1   | Short title .....                     | 1         |
| 2   | Commencement .....                    | 2         |
| 3   | Schedule(s) .....                     | 2         |
| <b>Schedule 1—Main amendments</b>                   |                                       | <b>3</b>  |
|   | <i>Liquid Fuel Emergency Act 1984</i> | 3         |
| <b>Schedule 2—Removing gender-specific language</b> |                                       | <b>49</b> |
|   | <i>Liquid Fuel Emergency Act 1984</i> | 49        |





# Liquid Fuel Emergency Amendment Act 2007

No. 86, 2007

---

---

## An Act to amend the *Liquid Fuel Emergency Act 1984*, and for related purposes

[Assented to 21 June 2007]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Liquid Fuel Emergency Amendment Act 2007*.

---

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| <b>Commencement information</b>   |  |                     |
|---|--|---------------------|
| <b>Column 1</b>   | <b>Column 2</b>  | <b>Column 3</b>     |
| <b>Provision(s)</b>   | <b>Commencement</b>  | <b>Date/Details</b> |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent.   | 21 June 2007        |
| 2. Schedules 1 and 2  | A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period. | 21 December 2007    |

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Main amendments**

### ***Liquid Fuel Emergency Act 1984***

#### **1 Subsection 3(1)**

Insert:

*civil penalty provision* means subsection 12(9), 13(9), 14(6) or (7), 14A(6) or (7), 17(8), 18(6), 19(5), 20(7), 21(9), 22(9), 23(9) or 24(9).

#### **2 Subsection 3(1) (definition of *contravention*)**

Repeal the definition.

#### **3 Subsection 3(1) (at the end of paragraph (a) of the definition of *Energy Minister*)**

Add “and”.

#### **4 Subsection 3(1) (after paragraph (a) of the definition of *Energy Minister*)**

Insert:

(aa) in relation to the Australian Capital Territory—the person appointed as a Minister under section 41 of the *Australian Capital Territory (Self-Government) Act 1988* 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; and

#### **5 Subsection 3(1) (at the end of paragraph (b) of the definition of *Energy Minister*)**

Add “and”.

#### **6 Subsection 3(1) (paragraphs (c) and (d) of the definition of *Energy Minister*)**

Repeal the paragraphs, substitute:

(c) in relation to the Jervis Bay Territory and an external Territory (other than an external Territory referred to in

paragraph (d)—the Minister administering the *Jervis Bay Territory Acceptance Act 1915*; and

- (d) in relation to the Australian Antarctic Territory and the Territory of Heard Island and McDonald Islands—the Minister administering the *Australian Antarctic Territory Acceptance Act 1933*.

### **7 Subsection 3(1) (definition of *offence against this Act*)**

Repeal the definition, substitute:

*offence against this Act* means:

- (a) an offence against subsection 14(8) or (9), 14A(8) or (9), 29(5), 30(2) or 33(2); or
- (b) an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act; or
- (c) an offence against:
  - (i) section 6 of the *Crimes Act 1914*; or
  - (ii) section 11.1, 11.4 or 11.5 of the *Criminal Code*;that relates to an offence referred to in paragraph (a) or (b) of this definition.

### **8 Subsection 3(1)**

Insert:

*officer of the Australian Capital Territory* means:

- (a) an officer or employee of the Australian Capital Territory; or
- (b) a member or special member of the Australian Federal Police providing police services in relation to the Australian Capital 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 Australian Capital Territory.

### **9 Subsection 3(1)**

Insert:

*penalty unit* has the meaning given by section 4AA of the *Crimes Act 1914*.

### **10 Subsection 3(1)**

---



Insert:

*planning period*, in relation to a period of national liquid fuel emergency, means a period determined under subsection 9(1).

**11 Subsection 3(1) (definition of *relevant provision of this Act*)**

Repeal the definition.

**12 Subsection 5(1)**

Repeal the subsection, substitute:

- (1) This Act binds the Crown in each of its capacities.
- (1A) This Act does not make the Crown liable to be prosecuted for an offence.

**13 Subsection 5(2)**

After “State”, insert “, of the Australian Capital Territory”.

**14 Sections 9 to 11**

Repeal the sections, substitute:

**9 Minister must determine planning periods**

- (1) The Minister must, by legislative instrument, determine a period that forms part of a period of national liquid fuel emergency to be a planning period in relation to that period of national liquid fuel emergency.
- (2) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a determination under subsection (1) may be expressed to take effect before the day it is registered under that Act.
- (3) If the period of national liquid fuel emergency terminates before the end of a planning period, the planning period ends at the same time.
- (4) The Minister must, as soon as practicable after making a determination under subsection (1), give a copy of the determination to the Energy Minister for each State and Territory.

**10 Bulk customers of relevant fuel industry corporations or of relevant persons**

- (1) The Minister may, by writing, identify a person or an organisation as a bulk customer of a particular relevant fuel industry corporation, or of a particular relevant person, in relation to a particular refined liquid petroleum product.

*Instrument not a legislative instrument*

- (2) An instrument under subsection (1) is not a legislative instrument.

*Guidelines*

- (3) An instrument under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the instrument is made.
- (4) The Minister must, by legislative instrument, make guidelines for the purposes of this section.
- (5) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, guidelines made under subsection (4) may be expressed to take effect before the day they are registered under that Act.

*Limits on revocation*

- (6) The Minister must not revoke an instrument under subsection (1) unless he or she is satisfied that the person or organisation has ceased to carry on activities because of which the person or organisation was identified as such a bulk customer.

*Status as bulk customer during period of national liquid fuel emergency*

- (7) Subject to subsection (8), a person or an organisation identified as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a particular refined liquid petroleum product is taken for the purposes of this Act:
- (a) if the identification is in force immediately before the start of a period of national liquid fuel emergency—to be such a bulk customer for all of that period; or

- 
- (b) if the identification occurs during a planning period in relation to a period of national liquid fuel emergency—to be such a bulk customer during:
    - (i) that part of the planning period that is after the identification; and
    - (ii) each later planning period in relation to that period of national liquid fuel emergency.

*Effect of revocation during a period of national liquid fuel emergency*

- (8) If:
  - (a) the Minister revokes an instrument identifying a person or an organisation as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a particular refined liquid petroleum product; and
  - (b) the revocation occurs during a period of national liquid fuel emergency;that person or organisation is taken, for the purposes of this Act, to cease to be such a bulk customer at the end of the planning period in which the revocation was made.

*Notice of decisions*

- (9) If the Minister makes a decision:
  - (a) identifying, or refusing to identify, a person or organisation as a bulk customer of a relevant fuel industry corporation, or of a relevant person, in relation to a particular refined liquid petroleum product; or
  - (b) revoking the identification of a person or organisation as such a bulk customer;the Minister must, as soon as practicable after making the decision, give notice of the decision to that person or organisation.

## **11 Essential users of refined liquid petroleum products**

- (1) The Minister may, by writing, identify a person or organisation as an essential user of a particular refined liquid petroleum product in a particular State or Territory if, and only if, the activities carried on by that person or organisation in that State or Territory are or include:

- (a) activities related to the defence of Australia; or
- (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; or
  - (ii) among the States; or
  - (iii) between a State and a Territory or between Territories;or
- (c) activities related to the export of that product from Australia; or
- (d) activities determined under subsection (3).

*Instrument not a legislative instrument*

- (2) An instrument under subsection (1) is not a legislative instrument.

*Determination of activities*

- (3) The Minister may, by legislative instrument, determine activities for the purposes of paragraph (1)(d). The Minister must not determine an activity unless the Minister is satisfied that it is essential to the health, safety or welfare of the community.

*Guidelines*

- (4) An instrument under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the instrument is made.
- (5) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

*When instruments take effect*

- (6) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, the following instruments may be expressed to take effect before the day they are registered under that Act:
  - (a) an instrument under subsection (3);
  - (b) guidelines made under subsection (5).

*Limits on revocation*

- (7) The Minister must not revoke an instrument under subsection (1) unless he or she is satisfied that the person or organisation has
-

---

ceased to carry on activities because of which the person or organisation was identified as such an essential user.

*Status as essential user during period of national liquid fuel emergency*

- (8) Subject to subsection (9), a person or organisation identified as an essential user of a particular refined liquid petroleum product in a particular State or Territory is taken for the purposes of this Act:
- (a) if the identification is in force immediately before the start of a period of national liquid fuel emergency—to be such an essential user for all of that period; or
  - (b) if the identification occurs during a planning period in relation to a period of national liquid fuel emergency—to be such an essential user during:
    - (i) that part of the planning period that is after the identification; and
    - (ii) each later planning period in relation to that period of national liquid fuel emergency.

*Effect of revocation during a period of national liquid fuel emergency*

- (9) If:
- (a) the Minister revokes an instrument identifying a person or an organisation as an essential user of a particular refined liquid petroleum product in a particular State or Territory; and
  - (b) the revocation occurs during a period of national liquid fuel emergency;
- that person or organisation is taken, for the purposes of this Act, to cease to be such an essential user at the end of the planning period in which the revocation was made.

*Notice of decisions*

- (10) If the Minister makes a decision:
- (a) identifying, or refusing to identify, a person or organisation as an essential user of a particular refined liquid petroleum product in a State or Territory; or
  - (b) revoking the identification of a person or organisation as such an essential user;

the Minister must, as soon as practicable after making the decision, give notice of the decision to that person or organisation and to the Energy Minister for that State or Territory.

## 15 Sections 12 to 15

Repeal the sections, substitute:

### 12 Minister may direct relevant fuel industry corporations to maintain reserves etc.

- (1) The Minister may, by writing, direct a relevant fuel industry corporation:
  - (a) to maintain at all times after a specified day, at specified places in Australia, specified quantities of reserve supplies of a specified kind of liquid fuel; or
  - (b) to accumulate, by a specified day, specified quantities of reserve supplies of a specified kind of liquid fuel and to maintain, at all times after that day, such quantities of reserve supplies of liquid fuel of that kind at specified places in Australia.
- (2) The Minister must not give a direction under subsection (1) during a period of national liquid fuel emergency.

Note: Section 17 deals with giving directions of a kind mentioned in subsection (1) of this section during a period of national liquid fuel emergency.

#### *Purpose of direction*

- (3) The Minister must not give a direction under subsection (1) unless it is for the purpose of ensuring that, in the event of a period of national liquid fuel emergency, the relevant fuel industry corporation will be in a position to comply with any direction that could be given to it during that period under Part III.

#### *Direction not a legislative instrument*

- (4) A direction under subsection (1) is not a legislative instrument.

*Guidelines*

- (5) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
- (6) The Minister must, by legislative instrument, make guidelines for the purposes of this section.
- (7) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, guidelines made under subsection (6) may be expressed to take effect before the day they are registered under that Act.

*Variation of quantities*

- (8) If:
  - (a) a relevant fuel industry corporation is required by a direction under subsection (1) to maintain at a particular place a particular quantity of reserve supplies of liquid fuel of a particular kind; and
  - (b) the Minister is satisfied that particular temporary circumstances exist;

the Minister may, in order to meet those circumstances, vary in writing the direction to specify a lesser quantity of reserve supplies of liquid fuel of that kind that the corporation needs to maintain at that place during a specified period.

*Civil penalty*

- (9) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1) (including such a direction as varied under subsection (8)).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

*Notice of decisions*

- (10) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

- (11) The Minister must give notice of a variation under subsection (8) to the relevant fuel industry corporation. The variation comes into effect when the notice is given.

*Relationship with section 17*

- (12) If:
- (a) a direction (the *earlier direction*) given to a relevant fuel industry corporation under subsection (1) is in force; and
  - (b) a direction (the *later direction*) is given to the corporation under subsection 17(1);
- then the earlier direction ceases to be in force at the time the later direction comes into force.

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

- (1) The Minister may direct each relevant fuel industry corporation that:
- (a) is included in a class of relevant fuel industry corporations in relation to which guidelines under subsection (3) are in force; and
  - (b) supplies a refined liquid petroleum product of a kind specified in those guidelines;
- to give to the Minister, in a specified form and by a specified day, particulars of procedures the corporation has developed to enable it to allocate bulk supplies of that product in accordance with those guidelines.
- (2) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the direction.

*Guidelines*

- (3) The Minister must, by legislative instrument, make guidelines relating to a specified class of relevant fuel industry corporations allocating bulk supplies of a specified kind of refined liquid petroleum product to:
- (a) persons who in the event of a period of national liquid fuel emergency; or



(b) organisations that in the event of a period of national liquid fuel emergency;  
would be likely to be, during the whole or a part of that period, bulk customers of that class of relevant fuel industry corporations in relation to that product.

*When instruments take effect*

- (4) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, the following instruments may be expressed to take effect before the day they are registered under that Act:
- (a) a direction given under subsection (1);
  - (b) guidelines made under subsection (3).

*Approval of procedures*

- (5) If:
- (a) a relevant fuel industry corporation gives particulars of procedures to the Minister under subsection (1); and
  - (b) the Minister is satisfied that the procedures will enable the corporation to allocate bulk supplies of the product in accordance with the guidelines;
- the Minister must, by writing, approve those procedures.

*Amendment of procedures*

- (6) If:
- (a) a relevant fuel industry corporation gives particulars of procedures to the Minister under subsection (1); and
  - (b) the Minister is not satisfied that the procedures will enable the corporation to allocate bulk supplies of the product in accordance with the guidelines;
- the Minister must, by writing, direct the corporation to:
- (c) make specified amendments of the procedures; and
  - (d) give to the Minister, in a specified form and by a specified day, particulars of the procedures as so amended.
- (7) If a relevant fuel industry corporation gives particulars of the procedures as so amended to the Minister under subsection (6), the Minister must, by writing, approve the procedures as so amended.

*Certain instruments are not legislative instruments*

- (8) The following are not legislative instruments:
- (a) an approval under subsection (5) or (7);
  - (b) a direction under subsection (6).

*Civil penalty*

- (9) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1) or (6).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

*Notice of decisions*

- (10) The Minister must give notice of an approval under subsection (5) or (7) to the relevant fuel industry corporation.
- (11) The Minister must give notice of a direction under subsection (6) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

**14 Minister may direct relevant fuel industry corporations and relevant persons to maintain statistical information**

- (1) The Minister may direct:
- (a) each relevant fuel industry corporation included in a specified class of relevant fuel industry corporations; and
  - (b) each relevant person included in a specified class of relevant persons;
- to maintain, in a specified form and after a specified day, specified statistical information relating to liquid fuels that come into the possession or under the control of that corporation or person after that day.
- (2) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the direction.

*Guidelines*

- (3) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
- (4) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

*When instruments take effect*

- (5) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, the following instruments may be expressed to take effect before the day they are registered under that Act:
  - (a) a direction given under subsection (1);
  - (b) guidelines made under subsection (4).

*Civil penalties*

- (6) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

- (7) A relevant person must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant person that contravenes such a direction to pay a pecuniary penalty.

*Criminal offences*

- (8) A relevant fuel industry corporation commits an offence if:
  - (a) a direction is in force under subsection (1) in relation to the corporation; and
  - (b) the corporation maintains statistical information; and
  - (c) the corporation does so knowing that the information is false or misleading in a material particular; and
  - (d) the information is maintained in compliance or purported compliance with the direction.

Penalty: 500 penalty units.

Note: Section 14B sets out some procedural matters relating to the prosecution of this offence.

- (9) A relevant person commits an offence if:
- (a) a direction is in force under subsection (1) in relation to the person; and
  - (b) the person maintains statistical information; and
  - (c) the person does so knowing that the information is false or misleading in a material particular; and
  - (d) the information is maintained in compliance or purported compliance with the direction.

Penalty for contravention of this subsection: 100 penalty units, or imprisonment for 2 years, or both.

Note: Section 14B sets out some procedural matters relating to the prosecution of this offence.

#### **14A Minister may direct relevant fuel industry corporations and relevant persons to make available statistical information**

- (1) The Minister may, by writing, direct a relevant fuel industry corporation or a relevant person to make available:
- (a) to the Minister and each Energy Minister (if any) specified in the direction; and
  - (b) by the day specified in the direction;
- such of the statistical information that the corporation or person is required to maintain under section 14 as is specified in the direction.

##### *Direction not a legislative instrument*

- (2) A direction under subsection (1) is not a legislative instrument.

##### *Guidelines*

- (3) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
- (4) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

- (5) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, guidelines made under subsection (4) may be expressed to take effect before the day they are registered under that Act.

*Civil penalties*

- (6) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

- (7) A relevant person must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant person that contravenes such a direction to pay a pecuniary penalty.

*Criminal offences*

- (8) A relevant fuel industry corporation commits an offence if:
- (a) a direction is in force under subsection (1) in relation to the corporation; and
  - (b) the corporation makes available statistical information; and
  - (c) the corporation does so knowing that the information is false or misleading in a material particular; and
  - (d) the information is made available in compliance or purported compliance with the direction.

Penalty: 500 penalty units.

Note: Section 14B sets out some procedural matters relating to the prosecution of this offence.

- (9) A relevant person commits an offence if:
- (a) a direction is in force under subsection (1) in relation to the person; and
  - (b) the person makes available statistical information; and
  - (c) the person does so knowing that the information is false or misleading in a material particular; and
  - (d) the information is made available in compliance or purported compliance with the direction.

Penalty: 100 penalty units, or imprisonment for 2 years, or both.

Note: Section 14B sets out some procedural matters relating to the prosecution of this offence.

*Notice of decision*

- (10) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation or relevant person. The direction comes into force when the notice is given.

**14B Prosecution of offences against section 14 or 14A**

*Indictable offences*

- (1) An offence against subsection 14(8) or (9) or 14A(8) or (9) is an indictable offence.

*Court of summary jurisdiction may determine the charge*

- (2) However, if a person is charged with such an offence, a court of summary jurisdiction may, with the consent of the defendant and the prosecutor and if the court is satisfied that it is proper to do so, determine the charge summarily.

*What penalty court of summary jurisdiction may impose*

- (3) If, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence referred to in subsection (1), the penalty that the court may impose is:
- (a) for an offence against subsection 14(8) or 14A(8)—a fine not exceeding 100 penalty units; and
  - (b) for an offence against subsection 14(9) or 14A(9)—a fine not exceeding 20 penalty units or imprisonment for a period not exceeding 12 months, or both.

**15 Minister may enter into arrangements to enable directions under sections 23 and 24 to be implemented**

- (1) The Minister may, on behalf of the Commonwealth and 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 arrangements with:
- (a) a Minister of a State on behalf of that State; or

- (b) a person appointed as a Minister under section 41 of the *Australian Capital Territory (Self-Government) Act 1988* on behalf of the Australian Capital Territory; or
  - (c) a person holding Ministerial office under section 36 of the *Northern Territory (Self-Government) Act 1978* on behalf of the Northern Territory; or
  - (d) 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 the Minister considers necessary to facilitate the implementation of such directions.
- (2) An arrangement under subsection (1) may provide for reimbursement by the Commonwealth of the cost of the carrying out of the measures to which the arrangement relates.

**16 Paragraph 16(2)(a)**

Omit “he”, substitute “the Minister”.

**17 Paragraph 16(2)(b)**

Omit “he is satisfied that the Minister”, substitute “the Minister is satisfied that he or she”.

**18 Paragraph 16(2)(b)**

After “State”, insert “, the Energy Minister for the Australian Capital Territory”.

**19 Subsection 16(3)**

Omit “Governor-General is to have regard for the purposes of paragraph (2)(a), he”, substitute “Minister is to have regard for the purposes of paragraph (2)(a), he or she”.

**20 Subsection 16(5)**

Omit “he”, substitute “the Minister”.

**21 Sections 17 to 24**

Repeal the sections, substitute:

**17 Minister may direct relevant fuel industry corporations to maintain reserves etc.**

- (1) During a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation:
- (a) to maintain at all times after a specified day, at specified places in Australia, specified quantities of reserve supplies of a specified kind of liquid fuel; or
  - (b) to accumulate, by a specified day, specified quantities of reserve supplies of a specified kind of liquid fuel and to maintain, at all times after that day, such quantities of reserve supplies of liquid fuel of that kind at specified places in Australia.

*Purpose of direction*

- (2) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

*Direction not a legislative instrument*

- (3) A direction under subsection (1) is not a legislative instrument.

*Guidelines*

- (4) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
- (5) The Minister must, by legislative instrument, make guidelines for the purposes of this section.
- (6) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, guidelines made under subsection (5) may be expressed to take effect before the day they are registered under that Act.

*Variation of quantities*

- (7) If:
- (a) a relevant fuel industry corporation is required by a direction under subsection (1) to maintain at a particular place a



---

particular quantity of reserve supplies of liquid fuel of a particular kind; and

- (b) the Minister is satisfied that particular temporary circumstances exist;

the Minister may, in order to meet those circumstances, vary in writing the direction to specify a lesser quantity of reserve supplies of liquid fuel of that kind that the corporation needs to maintain at that place during a specified period.

#### *Civil penalty*

- (8) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1) (including such a direction as varied under subsection (7)).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

#### *Notice of decisions*

- (9) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.
- (10) The Minister must give notice of a variation under subsection (7) to the relevant fuel industry corporation. The variation comes into effect when the notice is given.

### **18 Minister may direct transfer of liquid fuel**

- (1) During a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation to cause a specified quantity of liquid fuel of a specified kind that is held by the corporation at a specified place (the *old place*) in Australia to be transferred by a specified day to another specified place (the *new place*) in Australia.
- (2) The new place:
- (a) must be a place at which the corporation has adequate facilities to hold the quantity of liquid fuel to be transferred; and
- (b) if the old place is situated in a State, the Australian Capital Territory or the Northern Territory and the transfer is for

purposes that do not include any or all of the purposes mentioned in subsection (3)—must not be situated in the same State or Territory as the old place.

- (3) The purposes are as follows:
- (a) purposes related to the defence of Australia;
  - (b) purposes related to the provision of fuel for ships and aircraft engaged in trade and commerce:
    - (i) between Australia and places outside Australia; or
    - (ii) among the States; or
    - (iii) between a State and a Territory or between Territories;
  - (c) purposes related to the export of liquid fuel from Australia;
  - (d) purposes related to the carrying on of an activity to which paragraph 11(1)(d) applies.

*Purpose of direction*

- (4) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

*Direction not a legislative instrument*

- (5) A direction under subsection (1) is not a legislative instrument.

*Civil penalty*

- (6) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

*Notice of decision*

- (7) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

## **19 Minister may direct liquid fuel to be available for purchase**

- (1) During a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation, in the
-

---

course of its trading or commercial activities, to take such measures as are necessary to make a specified quantity of liquid fuel of a specified kind available for purchase on or before a specified day at a specified place by one or more specified persons.

*Purpose of direction*

- (2) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

*Direction may deal with price*

- (3) A direction given under subsection (1) to a relevant fuel industry corporation may provide that the price at which the liquid fuel is to be made available to a person in accordance with that direction is to be:
- (a) such price as is agreed upon by the corporation and that person; or
  - (b) in the absence of such agreement—such price as is determined by a specified person by arbitration.

*Direction not a legislative instrument*

- (4) A direction under subsection (1) is not a legislative instrument.

*Civil penalty*

- (5) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

*Notice of decision*

- (6) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

## **20 Minister may give directions as to output from refineries**

- (1) During a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation that is

engaged in producing or refining liquid fuel to produce in Australia, during a specified period, a specified quantity of liquid fuel of a specified kind.

*Purpose of direction*

- (2) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

*Direction not a legislative instrument*

- (3) A direction under subsection (1) is not a legislative instrument.

*Guidelines*

- (4) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
- (5) The Minister must, by legislative instrument, make guidelines for the purposes of this section.
- (6) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, guidelines made under subsection (5) may be expressed to take effect before the day they are registered under that Act.

*Civil penalty*

- (7) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

*Notice of decision*

- (8) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

---

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

- (1) During a period of national liquid fuel emergency, the Minister may direct each relevant fuel industry corporation that, in the course of its trading or commercial activities:
- (a) ordinarily makes a specified kind of refined liquid petroleum product available for purchase in bulk in a State or Territory; and
  - (b) ordinarily makes that product available for such purchase by persons or organisations that are bulk customers of the corporation in relation to that product;
- to make that product available for purchase in bulk in that State or Territory by those persons or organisations in such quantities as are specified in, or worked out in accordance with, the direction.
- (2) A direction under subsection (1) must specify that the product is to be made available for purchase in accordance with bulk allocation procedures approved by the Minister under section 13.

*Limitations on directions*

- (3) A direction under subsection (1) has effect in relation to one or more planning periods, in relation to the period of national liquid fuel emergency, that are specified in the direction. However, the direction has no effect in relation to any part of a planning period that occurs before the day on which the direction takes effect.
- (4) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

*Direction is a legislative instrument*

- (5) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the direction.

*Guidelines*

- (6) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.

- (7) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

*When instruments take effect*

- (8) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, the following instruments may be expressed to take effect before the day they are registered under that Act:
- (a) a direction given under subsection (1);
  - (b) guidelines made under subsection (7).

*Civil penalty*

- (9) A relevant fuel industry corporation must not, without reasonable excuse:
- (a) contravene a direction in force under subsection (1); or
  - (b) make the kind of refined liquid petroleum product covered by a direction in force under subsection (1) available for purchase in bulk, during a period covered by the direction, by a person who is not a bulk customer of the corporation in relation to that product.

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

*Reasonable excuses*

- (10) It is a reasonable excuse for the purposes of paragraph (9)(a) if the person or organisation in respect of which the contravention is alleged to have occurred:
- (a) is not an essential user of the refined liquid petroleum product concerned in the State or Territory concerned at the time of the alleged contravention; and
  - (b) refused or failed to produce to the relevant fuel industry corporation concerned a copy of the notice given to the person or organisation under subsection 10(9) stating the person or organisation to be a bulk customer of the corporation in relation to that product.
- (11) It is a reasonable excuse for the purposes of paragraph (9)(a) if the person or organisation in respect of which the contravention is alleged to have occurred:

- 
- (a) is an essential user of the refined liquid petroleum product concerned in the State or Territory concerned at the time of the alleged contravention; and
  - (b) refused or failed to produce to the relevant fuel industry corporation concerned a copy of the following notices:
    - (i) the notice given to the person or organisation under subsection 10(9) stating the person or organisation to be a bulk customer of the corporation in relation to that product;
    - (ii) the notice given to the person or organisation under subsection 11(10) stating the person or organisation to be an essential user of that product in that State or Territory.

(12) Subsections (10) and (11) do not limit subsection (9).

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

- (1) During a period of national liquid fuel emergency, the Minister may direct each relevant person who, in the course of the person's trading or commercial activities:
  - (a) ordinarily makes a specified kind of refined liquid petroleum product available for purchase in bulk in a State or Territory; and
  - (b) ordinarily makes that product available for such purchase by persons or organisations that are bulk customers of the relevant person in relation to that product;to make that product available for purchase in bulk in that State or Territory by those persons or organisations in such quantities as are specified in, or worked out in accordance with, the direction.
- (2) A direction under subsection (1) must specify that the product is to be made available for purchase in accordance with bulk allocation procedures specified in the direction.

### *Limitations on directions*

- (3) A direction under subsection (1) has effect in relation to one or more planning periods, in relation to the period of national liquid fuel emergency, that are specified in the direction. However, the

direction has no effect in relation to any part of a planning period that occurs before the day on which the direction takes effect.

- (4) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

*Direction is a legislative instrument*

- (5) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the direction.

*Guidelines*

- (6) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
- (7) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

*When instruments take effect*

- (8) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, the following instruments may be expressed to take effect before the day they are registered under that Act:
- (a) a direction given under subsection (1);
  - (b) guidelines made under subsection (7).

*Civil penalty*

- (9) A relevant person must not, without reasonable excuse:
- (a) contravene a direction in force under subsection (1); or
  - (b) make the kind of refined liquid petroleum product covered by a direction in force under subsection (1) available for purchase in bulk, during a period covered by the direction, by a person who is not a bulk customer of the relevant person in relation to that product.

Note: Under section 34, the Court may order a relevant person that contravenes such a direction to pay a pecuniary penalty.



---

*Reasonable excuses*

- (10) It is a reasonable excuse for the purposes of paragraph (9)(a) if the person or organisation in respect of which the contravention is alleged to have occurred:
- (a) is not an essential user of the refined liquid petroleum product concerned in the State or Territory concerned at the time of the alleged contravention; and
  - (b) refused or failed to produce to the relevant person concerned a copy of the notice given to the person or organisation under subsection 10(9) stating the person or organisation to be a bulk customer of the relevant person in relation to that product.
- (11) It is a reasonable excuse for the purposes of paragraph (9)(a) if the person or organisation in respect of which the contravention is alleged to have occurred:
- (a) is an essential user of the refined liquid petroleum product concerned in the State or Territory concerned at the time of the alleged contravention; and
  - (b) refused or failed to produce to the relevant person concerned a copy of the following notices:
    - (i) the notice given to the person or organisation under subsection 10(9) stating the person or organisation to be a bulk customer of the relevant person in relation to that product;
    - (ii) the notice given to the person or organisation under subsection 11(10) stating the person or organisation to be an essential user of that product in that State or Territory.
- (12) Subsections (10) and (11) do not limit subsection (9).

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

- (1) During a period of national liquid fuel emergency, the Minister may give directions regulating or prohibiting the supply by relevant fuel industry corporations, in the course of their trading or commercial activities, of specified refined liquid petroleum products to persons generally or to specified persons.

*Limitations on directions*

- (2) A direction under subsection (1) has effect in relation to one or more planning periods, in relation to the period of national liquid fuel emergency, that are specified in the direction. However, the direction has no effect in relation to any part of a planning period that occurs before the day on which the direction takes effect.
- (3) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.
- (4) The Minister must not give a direction under subsection (1) that relates only to the supply of refined liquid petroleum products to persons who are bulk customers of relevant fuel industry corporations.

*Direction is a legislative instrument*

- (5) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the direction.

*Guidelines*

- (6) A direction under subsection (1) must be in accordance with any guidelines made under this section.
- (7) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

*When instruments take effect*

- (8) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, the following instruments may be expressed to take effect before the day they are registered under that Act:
  - (a) a direction given under subsection (1);
  - (b) guidelines made under subsection (7).

*Civil penalty*

- (9) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

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

- (1) During a period of national liquid fuel emergency, the Minister may give directions regulating or prohibiting the supply by relevant persons, in the course of their trading or commercial activities, of specified refined liquid petroleum products to persons generally or to specified persons.

### *Limitations on directions*

- (2) A direction under subsection (1) has effect in relation to one or more planning periods, in relation to the period of national liquid fuel emergency, that are specified in the direction. However, the direction has no effect in relation to any part of a planning period that occurs before the day on which the direction takes effect.
- (3) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.
- (4) The Minister must not give a direction under subsection (1) that relates only to the supply of refined liquid petroleum products to persons who are bulk customers of relevant persons.

### *Direction is a legislative instrument*

- (5) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the direction.

### *Guidelines*

- (6) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
- (7) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

*When instruments take effect*

- (8) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, the following instruments may be expressed to take effect before the day they are registered under that Act:
- (a) a direction given under subsection (1);
  - (b) guidelines made under subsection (7).

*Civil penalty*

- (9) A relevant person must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant person who contravenes such a direction to pay a pecuniary penalty.

**22 Subsection 25(1)**

Omit “subsection 21(2) or 22(2)”, substitute “subsection 21(1) or 22(1)”.

**23 Subsection 25(2)**

Omit “subsection 23(2) or 24(2)”, substitute “subsection 23(1) or 24(1)”.

**24 Paragraph 25(3)(a)**

Omit “subsection 21(2) or 22(2)”, substitute “subsection 21(1) or 22(1)”.

**25 Paragraph 25(3)(b)**

Omit “subsection 23(2) or 24(2)”, substitute “subsection 23(1) or 24(1)”.

**26 Section 27**

Repeal the section, substitute:

**27 When directions under this Part cease to be in force**

- (1) Subject to subsection (2), a direction given under this Part remains in force until the end of the period of national liquid fuel emergency in which it was given unless it is:
- (a) sooner revoked; or
  - (b) sooner set aside by a court.

(2) If:

- (a) during a period (the *earlier period*) of national liquid fuel emergency, a Proclamation under subsection 16(1) declares that a national liquid fuel emergency will exist during a period (the *later period*) starting immediately after the end of the earlier period; and
- (b) a direction under this Part is in force immediately before the end of the earlier period (including because of one or more previous applications of this subsection);

the direction continues in force until the end of the later period unless it is:

- (c) sooner revoked; or
- (d) sooner set aside by a court.

**27 Subsection 29(1)**

Omit “authorized” (wherever occurring), substitute “authorised”.

**28 Subsection 29(2)**

After “subsection (1)”, insert “and subject to subsection (2A)”.

**29 Subsection 29(2)**

Omit “authorized”, substitute “authorised”.

**30 Subsection 29(2)**

After “State”, insert “, officers of the Australian Capital Territory”.

**31 After subsection 29(2)**

Insert:

- (2A) The Minister must not appoint a person as an authorised person unless the Minister is satisfied that the person has suitable qualifications and experience to properly exercise the powers of an authorised person.

**32 Subsection 29(3)**

Omit “authorized” (wherever occurring), substitute “authorised”.

**33 Subsection 29(4)**

Omit “authorized”, substitute “authorised”.

**34 Subsection 29(5)**

Repeal the subsection, substitute:

- (5) A person commits an offence if:
- (a) the person has been issued with an identity card under subsection (4); and
  - (b) the person ceases to be an authorised person; and
  - (c) the person does not return the identity card to the Minister, or to a person nominated under subsection (5AA), as soon as practicable after ceasing to be an authorised person.

Penalty: 1 penalty unit.

(5AA) The Minister may, by writing, nominate a person for the purposes of paragraph (5)(c).

**35 Subsection 29(6)**

Omit “authorized” (wherever occurring), substitute “authorised”.

**36 After section 29**

Insert:

**29A Authorised persons to carry and produce identity cards**

*Authorised person must carry card*

- (1) An authorised person must carry his or her identity card at all times when exercising powers as an authorised person.

*Authorised person must produce card on request*

- (2) An authorised person is not entitled to exercise any powers under this Part in relation to land or premises or a vehicle, ship or aircraft if:
- (a) the owner or occupier of the land or premises, or the owner or person in charge of the vehicle, ship or aircraft, has requested the authorised person to produce the authorised person’s identity card for inspection by the person making the request; and
  - (b) the authorised person fails to comply with the request.

**37 Subsection 30(1)**

Omit “authorized” (first occurring), substitute “authorised”.

**38 Subsection 30(1)**

Omit “exercise of a power conferred”, substitute “exercise of a power, or the performance of a function, conferred or imposed”.

**39 Subsection 30(1)**

Omit “relevant provision of, or an offence against, this Act”, substitute “civil penalty provision or an offence against this Act”.

**40 Paragraph 30(1)(b)**

Omit “authorized”, substitute “authorised”.

**41 At the end of subsection 30(1)**

Add:

Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for giving false or misleading information or documents.

**42 Subsection 30(2) (penalty)**

Repeal the penalty, substitute:

Penalty: 30 penalty units.

**43 Subsections 30(3) and (4)**

Repeal the subsections.

**44 Subsection 30(5)**

Omit all the words after “against”, substitute:

the person in any criminal proceedings other than:

- (a) proceedings for an offence against subsection (2); or
- (b) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (about false or misleading information or documents) that relates to this section.

**45 Subsection 30(7)**

Omit “authorized”, substitute “authorised”.

---

**46 Subsection 30(8)**

Omit “authorized” (wherever occurring), substitute “authorised”.

**47 Subsection 30(9)**

Omit “authorized” (wherever occurring), substitute “authorised”.

**48 Subsection 31(1)**

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

**49 Subsection 31(1)**

Omit “authorized person may, with such assistance as he thinks necessary”, substitute “authorised person may do any one or more of the following”.

**50 Paragraph 31(1)(a)**

Omit “with the consent of the occupier, in pursuance of a warrant granted under subsection (3), or in pursuance of subsection (5),”.

**51 Paragraph 31(1)(b)**

Omit “with the consent of the person (if any) in charge of the vehicle, ship or aircraft concerned, in pursuance of a warrant granted under subsection (3), or in pursuance of subsection (5),”.

**52 Paragraphs 31(1)(e), (f) and (g)**

Omit “matter”, substitute “article”.

**53 Paragraph 31(1)(g)**

Omit “or” (last occurring).

**54 After subsection 31(1)**

Insert:

(1A) However, an authorised person is not entitled to exercise a power under subsection (1) unless:

- (a) the occupier of the land or premises, or the person in charge of the vehicle, ship or aircraft, consents to the exercise of the power; or

Note: See also section 32A.



- (b) a warrant is in force under subsection (4) authorising the exercise of the power; or
- (c) subsection (6) authorises the exercise of the power.

### **55 Subsection 31(2)**

Omit “matter”, substitute “article”.

### **56 Subsections 31(3) to (6)**

Repeal the subsections, substitute:

#### *Warrants*

- (3) An authorised person may apply to a magistrate for a warrant under this section in relation to land or premises or a vehicle, ship or aircraft.
- (4) The magistrate may issue the warrant if the magistrate is satisfied, by information on oath or affirmation, that there are reasonable grounds for suspecting a person has contravened or is contravening a civil penalty provision or has committed or is committing an offence against this Act.
- (5) The warrant must:
  - (a) authorise an authorised person to exercise the powers set out in subsection (1) of this section and section 32 in relation to the land, premises, vehicle, ship or aircraft; and
  - (b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
  - (c) specify the day (not more than 7 days after the issue of the warrant) on which the warrant ceases to have effect; and
  - (d) state the purpose for which the warrant is issued.

#### *Emergency exercise of powers*

- (6) An authorised person may exercise the powers set out in subsection (1) of this section and section 32 in relation to land or premises or a vehicle, ship or aircraft if the person believes on reasonable grounds that:
  - (a) there is situated upon the land, or upon or in the premises, vehicle, ship or aircraft, any article or thing that may afford

evidence of a contravention of a civil penalty provision or an offence against this Act; and

- (b) the exercise of those powers is necessary to prevent the concealment, loss or destruction of the article or thing.
- (7) However, subsection (6) does not apply unless the powers set out in subsection (1) of this section and section 32 are exercised in circumstances of such seriousness and urgency as to require and justify the immediate exercise of those powers without the authority of a warrant issued under subsection (4) of this section.

*Stopping and detaining vehicles, ships or aircraft*

- (8) If an authorised person may enter a vehicle, ship or aircraft under subsection (1), the person may stop and detain the vehicle, ship or aircraft:
- (a) for that purpose; and
  - (b) for the purpose of exercising a power under paragraph (1)(c), (d), (e), (f), (g) or (h); and
  - (c) if the person may enter the vehicle, ship or aircraft in accordance with a warrant in force under subsection (4) or in accordance with subsection (6)—for the purpose of exercising a power under section 32.

*Availability of assistance and use of force*

- (9) An authorised person may obtain such assistance as is necessary and reasonable in the circumstances in:
- (a) exercising a power under subsection (1) with the consent of the occupier of the land or premises, or the person in charge of the vehicle, ship or aircraft; or
  - (b) exercising a power under subsection (8) because of the person being able to enter the vehicle, ship or aircraft with such consent.
- (10) An authorised person may obtain such assistance, and use such force against persons and things, as is necessary and reasonable in the circumstances in:
- (a) exercising a power under subsection (1) in accordance with a warrant in force under subsection (4) or in accordance with subsection (6); or

- (b) exercising a power under subsection (8) because of the person being able to enter the vehicle, ship or aircraft in accordance with a warrant in force under subsection (4) or in accordance with subsection (6); or
- (c) exercising a power under section 32.

### **57 After section 31**

Insert:

#### **31A Nature of powers conferred on magistrates**

- (1) A power conferred on a magistrate by section 31 is conferred on the magistrate in a personal capacity and not as a court or a member of a court. The magistrate need not accept the power conferred.
- (2) A magistrate exercising such a power has the same protection and immunity as if he or she were exercising that power as, or as a member of, the court of which the magistrate is a member.

### **58 Subsection 32(1)**

Omit “authorized person may seize any matter”, substitute “authorised person may seize any article”.

### **59 Subsection 32(1)**

Omit “relevant provision of, or an offence against, this Act”, substitute “civil penalty provision or an offence against this Act”.

### **60 Subsection 32(1)**

Omit “matter” (second and third occurring), substitute “article”.

### **61 After subsection 32(1)**

Insert:

- (1A) However, an authorised person is not entitled to exercise a power under subsection (1) unless:
  - (a) a warrant is in force under subsection 31(4) authorising the exercise of the power; or
  - (b) subsection 31(6) authorises the exercise of the power.

### **62 Subsection 32(2)**

---

Omit “authorize”, substitute “authorise”.

**63 Subsection 32(2)**

Omit “matter” (wherever occurring), substitute “article”.

**64 After section 32**

Insert:

**32A Consent**

- (1) Before obtaining the consent of a person for the purposes of paragraph 31(1A)(a), the authorised person must inform the person that the person may refuse consent.
- (2) A consent of a person is not effective for the purposes of paragraph 31(1A)(a) unless the consent is voluntary.
- (3) If an authorised person entered land or premises or a vehicle, ship or aircraft because of the consent of a person, the authorised person must leave the land, premises, vehicle, ship or aircraft if the person withdraws the consent.

**65 Section 33**

Repeal the section, substitute:

**33 Persons to provide authorised persons with reasonable facilities and assistance**

- (1) An authorised person may require:
  - (a) the owner or occupier of any land or premises entered by the authorised person under section 31; or
  - (b) the owner or person in charge of any vehicle, ship or aircraft entered by the authorised person under section 31;to provide the authorised person with reasonable facilities and assistance for the effective exercise of the authorised person’s powers under that section or section 32 in relation to the land, premises, vehicle, ship or aircraft.
- (2) A person commits an offence if:
  - (a) the person is subject to a requirement under subsection (1);and

- 
- (b) the person breaches the requirement.

Penalty for contravention of this subsection: 30 penalty units or imprisonment for 6 months, or both.

## **66 Subsection 34(1)**

Repeal the subsection, substitute:

- (1) If the Court is satisfied that a person has contravened a civil penalty provision, the Court may order the person to pay to the Commonwealth a pecuniary penalty.

### *Determining amount of pecuniary penalty*

- (1A) In determining the pecuniary penalty, the Court must have regard to all relevant matters, including:
- (a) the nature and extent of the contravention; and
  - (b) the consequences of the contravention; and
  - (c) the circumstances in which the contravention took place; and
  - (d) the previous conduct of the person.

### *Maximum pecuniary penalty*

- (1B) The pecuniary penalty payable under subsection (1) is not to exceed:
- (a) for a contravention of subsection 12(9), 17(8) or 20(7):
    - (i) by a person other than a body corporate—500 penalty units; or
    - (ii) by a body corporate—2,500 penalty units; and
  - (b) for a contravention of subsection 18(6) or 19(5):
    - (i) by a person other than a body corporate—300 penalty units; or
    - (ii) by a body corporate—1,500 penalty units; and
  - (c) for a contravention of subsection 13(9), 14(6) or (7) or 14A(6) or (7):
    - (i) by a person other than a body corporate—100 penalty units; or
    - (ii) by a body corporate—500 penalty units; and
  - (d) for a contravention of subsection 21(9), 22(9), 23(9) or 24(9):

- (i) by a person other than a body corporate—30 penalty units; or
- (ii) by a body corporate—150 penalty units.

Note: The heading to section 34 is replaced by the heading “**Civil penalty orders**”.

### **67 Subsection 34(2)**

Omit “relevant provisions of this Act”, substitute “civil penalty provisions”.

Note: The following heading to subsection 34(2) is inserted “*Conduct contravening more than one civil penalty provision*”.

### **68 Subsection 34(3)**

Repeal the subsection, substitute:

*Ancillary contraventions*

- (3) For the purposes of this section, a person is taken to have contravened a civil penalty provision if:
  - (a) the person has attempted to contravene the provision; or
  - (b) the person has aided, abetted, counselled or procured a person to contravene the provision; or
  - (c) the person has induced, or attempted to induce, a person, whether by threats or promises or otherwise, to contravene the provision; or
  - (d) the person has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the provision; or
  - (e) the person has conspired with others to contravene the provision.

### **69 Section 36**

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

Note: The heading to section 36 is altered by omitting “**relevant provisions of this Act**” and substituting “**civil penalty provisions**”.

### **70 Subsection 37(1)**

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

---

**71 Paragraph 37(2)(b)**

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

**72 Paragraph 38(1)(a)**

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

**73 Section 39**

Repeal the section.

**74 Subsection 40(1)**

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

Note: The heading to section 40 is altered by omitting “servants” and substituting “employees”.

**75 Subsection 40(1)**

Omit “a servant”, substitute “an employee”.

**76 Subsection 40(2)**

Omit “servant” (wherever occurring), substitute “employee”.

**77 Section 41**

Repeal the section, substitute:

**41 Making of guidelines**

To avoid doubt, guidelines under this Act may be made at any time (whether or not during a period of national liquid fuel emergency).

**41A Variation or revocation of instruments**

- (1) The following instruments may be varied or revoked in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*:
  - (a) a direction given under this Act;
  - (b) guidelines made under this Act;
  - (c) any other instrument made under this Act.

(2) Subsection (1) is in addition to any power conferred by this Act to vary or revoke such an instrument.

**78 Subsection 42(1)**

Omit “paragraph 11(3)(d)”, substitute “paragraph 11(1)(d)”.

**79 Section 43**

Repeal the section, substitute:

**43 Operation of the *Trade Practices Act 1974***

Anything that is done in compliance with a direction under this Act is authorised for the purposes of subparagraph 51(1)(a)(i) of the *Trade Practices Act 1974*.

Note: That subparagraph has the effect that anything so done is disregarded in deciding whether a person has contravened Part IV (Restrictive trade practices) of the *Trade Practices Act 1974*.

**80 Subsection 44(1) (definition of *reviewable decision*)**

Repeal the definition, substitute:

*reviewable decision* means a decision of the Minister:

- (a) under subsection 10(1); or
- (b) to revoke an instrument under subsection 10(1); or
- (c) under subsection 11(1); or
- (d) to revoke an instrument under subsection 11(1); or
- (e) under subsection 12(1) or (8); or
- (f) under subsection 13(6); or
- (g) under subsection (2) of this section.

**81 Subsection 44(7)**

Omit “, or a delegate of the Minister,”.

**82 Subsection 44(10)**

Repeal the subsection.

**83 Subsection 46(1)**

Omit “or III”.

Note: The heading to section 46 is altered by omitting “**or III**”.



---

**84 Subsection 46(2)**

Repeal the subsection, substitute:

- (2) In assessing the amount of compensation payable under subsection (1) in respect of loss, injury or damage suffered by a person, account is to be taken only of so much of the loss, injury or damage as the person is not, and is not likely to be, in a position to make good from the market supplied by the person.

**85 After section 46**

Insert:

**46A Exemption from suit—Ministers and delegates**

No civil action, suit or proceeding lies against the following persons:

- (a) the Minister;  
(b) a person to whom powers or functions are delegated under subsection 49(1) or (2);

in relation to anything done, or omitted to be done, reasonably and in good faith by the person in the exercise or performance, or the purported exercise or performance, of any power or function conferred or imposed by or under this Act.

**86 Subsection 47(1)**

Omit “section 17, 18, 19, 20, 21 or 23”, substitute “Part II or III”.

Note: The heading to section 47 is altered by adding at the end “—**relevant fuel industry corporations and relevant persons**”.

**87 Subsection 47(2)**

Omit “section 22 or 24”, substitute “Part II or III”.

**88 Subsections 49(1), (2) and (3)**

Repeal the subsections, substitute:

*Delegations by the Minister*

- (1) The Minister may, by writing, delegate to a person all or any of the Minister’s powers or functions under this Act, other than those under these provisions:

- (a) subsection 10(4), 11(5), 12(6), 13(3), 14(4), 14A(4), 17(5), 20(5), 21(7), 22(7), 23(7) or 24(7) (about making of guidelines);
- (b) subsection 13(1) (about directing the giving of bulk allocation procedures to the Minister);
- (c) subsection 14(1) or 14A(1) (about directing the maintaining or making available of statistical information relating to liquid fuels);
- (d) subsection (3) of this section (about giving agreement to a further delegation).

Note: Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* deal with delegations.

*Further delegations*

- (2) A person to whom powers or functions are delegated under subsection (1) may, by writing, delegate any of those powers or functions to another person.
- (3) However, a delegation under subsection (2) has no effect unless it is done with the Minister's agreement.
- (3A) Subject to subsection (3B) of this section, sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* apply to a delegation under subsection (2) of this section in the same way as they apply to a delegation under subsection (1) of this section.
- (3B) A power or function that is exercised or performed by a person under a delegation under subsection (2) is taken, for the purposes of this Act, to have been exercised or performed by the Minister.

**89 Subsection 49(4)**

After "Minister may", insert ", on behalf of the Commonwealth,".

Note: The following heading to subsection 49(4) is inserted "*Ministerial arrangements*".

**90 Subsection 49(4)**

After "for a State", insert "on behalf of that State".

**91 Subsection 49(4)**

After "powers", insert "or functions".

---

**92 After subsection 49(4)**

Insert:

- (4A) The Minister may, on behalf of the Commonwealth, enter into such arrangements with the Energy Minister for the Australian Capital Territory on behalf of that Territory as he or she considers to be appropriate to facilitate the delegation under this section of powers or functions under this Act to the Energy Minister for that Territory or to an officer of that Territory.

**93 Subsection 49(5)**

After “Minister may”, insert “, on behalf of the Commonwealth,”.

**94 Subsection 49(5)**

After “Northern Territory” (first occurring)”, insert “on behalf of that Territory”.

**95 Subsection 49(5)**

After “powers”, insert “or functions”.

**96 Subsection 49(6)**

Repeal the subsection.

**97 Section 50**

Repeal the section.

**98 Section 53**

Omit “or for the Northern Territory”, substitute “, the Energy Minister for the Australian Capital Territory or the Energy Minister for the Northern Territory”.

Note: The heading to section 53 is altered by omitting “**Northern**”.

**99 Transitional regulations**

- (1) The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Schedule.

**Schedule 1** Main amendments

---

- (2) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, regulations made under this item may be expressed to take effect before the day they are registered under that Act.

## **Schedule 2—Removing gender-specific language**

### *Liquid Fuel Emergency Act 1984*

**1 Subsection 6(1)**

After “his”, insert “or her”.

**2 Subsection 29(4)**

After “him”, insert “or her”.

**3 Subsection 30(1)**

After “he”, insert “or she”.

**4 Paragraphs 30(1)(a) and (b)**

After “him”, insert “or her”.

**5 Subsection 30(5)**

Omit “him”, substitute “the person”.

**6 Subsection 30(8)**

After “his”, insert “or her”.

**7 Subsection 30(9)**

After “he”, insert “or she”.

**8 Subsection 32(1)**

After “he”, insert “or she”.

**9 Subsection 38(2)**

After “his”, insert “or her”.

**10 Subsection 38(2)**

After “he”, insert “or she”.

**11 Subsection 42(1)**

After “he”, insert “or she”.

**12 Subsection 42(1)**

After “his”, insert “or her”.

**13 Subsection 42(1)**

After “him”, insert “or her”.

**14 Subsection 42(2)**

After “him”, insert “or her”.

**15 Subsection 42(2)**

After “he”, insert “or she”.

**16 Subsection 44(4)**

After “he”, insert “or she”.

**17 Subsection 44(5)**

After “he”, insert “or she”.

**18 Subsection 44(5)**

After “his” (wherever occurring), insert “or her”.

**19 Paragraphs 44(7)(a) and (b)**

After “he”, insert “or she”.

**20 Subsection 44(8)**

After “he”, insert “or she”.

**21 Subsections 49(4) and (5)**

After “he”, insert “or she”.

---

*[Minister's second reading speech made in—  
House of Representatives on 28 March 2007  
Senate on 12 June 2007]*

(62/07)

---

*Liquid Fuel Emergency Amendment Act 2007 No. 86, 2007 51*