

## EXPLANATORY STATEMENT

### *Liquid Fuel Emergency Act 1984*

### *Liquid Fuel Emergency Guidelines 2019*

#### **Legislative basis**

Sections 10, 11, 12, 13, 14, 14A, 17, 20, 21, 22, 23 and 24 of the *Liquid Fuel Emergency Act 1984* (the Act) require the Minister responsible for administering the Act, by legislative instrument, to make guidelines for the purposes of those sections of the Act.

#### **Purpose of the Instrument**

The *Liquid Fuel Emergency Guidelines 2019* (Guidelines) are a legislative instrument under the Act. The Guidelines are intended to provide the Minister with guidance on the matters which must and may be considered, and the requirements which must be met, when exercising the powers to plan for, and respond to, a national liquid fuel emergency under the Act. The Guidelines aim to ensure that, during an emergency, or in preparation for a potential emergency, essential and non-essential users in the Australian fuel market receive fuel in an equitable and transparent manner, based on available supplies.

The Guidelines repeal and replace the *Liquid Fuel Emergency Guidelines 2008*.

#### **Background**

Australia's dependence on liquid fuel makes it vulnerable to oil supply disruptions and Australian governments have acknowledged a clear responsibility to prepare contingency plans against a possible liquid fuels supply emergency. The current national arrangements are, where possible, to allow industry to manage fuel supply disruptions without government intervention.

Australia's State and Territory governments have constitutional responsibility for planning and co-ordinating the response to fuel shortages within their territorial boundaries, and have legislation and response plans in place to manage such emergencies.

The Australian Government is responsible for preparing for, and responding to, fuel supply disruptions of national significance. The Act provides the Minister with powers to manage a national liquid fuel emergency in consultation with State and Territory Ministers responsible for energy and the fuel industry. The Act gives the Minister:

- Planning powers that can be exercised before the declaration of a national liquid fuel emergency. These include the power to require fuel suppliers to stockpile fuel, develop emergency fuel allocation procedures, and maintain and provide statistical information.
- Emergency powers that can be exercised once the Governor-General has declared a national liquid fuel emergency. These include the powers to control the supply of fuels to bulk and retail customers, direct refinery operations and restrict bulk and retail sales of fuel across Australia.

The Minister's exercise of these powers is discretionary.

The emergency powers can only be exercised by the Minister after the Governor-General has declared a national liquid fuel emergency in response to an actual or potential liquid fuel shortage.

The Act is not intended to be used to manage minor or intermittent supply shortages. Before exercising powers under the Act, the Minister must consult with State and Territory Ministers.

The Act requires the Minister to make Guidelines covering matters such as:

- Bulk allocation, including identification of bulk customers, development of bulk allocation procedures and allocation to bulk customers;
- Identification of essential user activities;
- Accumulation and maintenance of fuel reserves;
- Maintenance and provision of fuel statistics;
- Refinery output; and
- Regulation of supply (retail rationing).

The term “bulk allocation” refers to an industry mechanism where the available fuel supply is provided to contracted customers at a proportion of their usual contracted volume, with spot market sales suspended. This is the primary industry mechanism for managing temporary supply shortfalls and the Minister may make directions for bulk allocation under the Act. The Guidelines set out the requirements for the Minister when approving and amending bulk allocation procedures, identifying bulk customers and making directions to commence or amend bulk allocation.

The term “essential user” refers to a person or organisation who the Minister has identified under subsection 11(1) of the Act. The Minister may only identify as essential users entities carrying on the activities specified in subsection 11(1) of the Act. Paragraph 11(1)(d) of the Act allows the Minister to identify additional essential user activities. The Act does not provide for any special treatment for essential users, but it is envisaged that in a declared emergency, essential users may be accorded special treatment such as being exempted from retail rationing.

The identification of essential user activities enables fuel suppliers and governments to develop emergency supply plans based on a reasonably firm knowledge of the entities who may be identified as essential users and the likely fuel needs of these entities. It allows fuel users to be aware of their status and, if appropriate, take action to mitigate the risks of limited liquid fuels during a national liquid fuel emergency.

The term “retail rationing” refers to the process where retail fuel customers, including motorists, have their access to fuel temporarily limited by government direction. Retail rationing can take a number of forms, including limits to the maximum volumes or values per transaction, temporal limitations where customers are only allowed to purchase fuel at specific times, and alternating access arrangements (often referred to as odds and evens systems). Retail rationing aims to preserve limited supplies and is generally utilised as a last resort.

## **Consultation**

The Department of the Environment and Energy undertook a fit-for-purpose review in 2018 of the Guidelines and the *Liquid Fuel Emergency (Activities – Essential Users) Determination*

2008. As part of this review, a targeted consultation paper was provided to stakeholders in August 2018. Fourteen responses were received from industry, government and peak bodies.

Further consultation was undertaken over November and December 2018 with the National Oil Supplies Emergency Committee (NOSEC), on issues raised by stakeholders in response to the consultation paper. The NOSEC is a COAG Energy Council working group comprised of representatives of industry, State and Territory governments and the Australian Government.

### **Statement of Compatibility with Human Rights (prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*)**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### *Overview of Legislative Instrument*

The *Liquid Fuel Emergency Act 1984* (the Act) establishes a framework for the Australian Government, in consultation with the State and Territory governments, to plan for, and respond to, nationally significant liquid fuel shortages. The Act provides the Minister responsible for administering the Act with the power, in a declared national liquid fuel emergency, to intervene in the liquid fuel market.

The *Liquid Fuel Emergency Guidelines 2019* (Guidelines) are a legislative instrument made under sections 10, 11, 12, 13, 14, 14A, 17, 20, 21, 22, 23 and 24 of the Act. The Guidelines provide the Minister with guidance on what must or may be considered, and what must be done (such as consultation), before exercising the planning and emergency powers in the Act.

#### *Human rights implications*

Interventions in the liquid fuel market through directions under the Act may have human rights implications. For example, a Ministerial direction to institute retail rationing to manage a shortage of petrol in a region may protect some individuals' right to work under the *International Covenant on Economic, Social and Cultural Rights* by ensuring they can obtain sufficient fuel for their commute and business travel. However, other individuals' capacity to enjoy the same right may be impaired if rationing is applied below the level of fuel they need for their commute or business travel.

In setting out the matters the Minister must consider before exercising powers under the Act, the Guidelines provide a process for any human rights implications to be considered and weighed against other factors. For example:

- Section 34 of the Guidelines requires the Minister to take into account a number of factors before deciding to issue a direction to a relevant fuel industry corporation in relation to retail rationing, which as noted above, can impact on the right to work. These considerations are the expected severity, type, impact and duration of the supply disruption; any relevant submissions given to the Minister during consultation; the bulk allocation procedures of relevant fuel industry corporations; and the expected fuel needs of essential users. The Minister may also take into account the expected impact of the direction on the broader community; Australia's national interests and international obligations; and any other relevant matter. This approach is intended to ensure that impacts on human rights and freedoms are factored into the Ministerial decision making process and weighed against other factors such as economic and national security implications. For example, while retail rationing could limit the right to work, it could also enable essential users such as

ambulances to continue to operate, protecting the right to medical attention under article 12(2)(d) of the *International Covenant on Economic, Social and Cultural Rights*.

- Paragraph 23(2)(d) of the Guidelines requires the Minister to take into account, before directing statistical information to be provided, whether any personal information (within the meaning of the *Privacy Act 1988*) will be collected, and if so, how it will be handled and protected. This ensures any impact on the right to privacy is considered, and weighed against other factors, before the supply of personal information is directed.

The Guidelines, by setting out the factors that must be considered before emergency powers can be exercised, assist in ensuring that any limitation in human rights that occurs as a result of ministerial directions under the Act is reasonable, necessary and proportionate.

### **Regulatory Impact**

The Office of Best Practice Regulation (OBPR) has confirmed that a Regulation Impact Statement is not required for the Guidelines. The OBPR reference is ID 24009.

## Details of the *Liquid Fuel Emergency Guidelines 2019*

### Part 1 – Preliminary

#### Section 1 – Name

1. Section 1 provides that the name of the instrument is the *Liquid Fuel Emergency Guidelines 2019* (the Guidelines).

#### Section 2 – Commencement

2. Section 2 provides that the Guidelines commence the day after the instrument is registered.

#### Section 3 – Authority

3. Section 3 provides that the Guidelines are made under the *Liquid Fuel Emergency Act 1984* (the Act). In particular, sections 10, 11, 12, 13, 14, 14A, 17, 20, 21, 22, 23 and 24 of the Act require the Minister to make the Guidelines.

#### Section 4 – Schedules

4. Section 4 is a machinery provision that allows each Schedule to operate according to its terms.

#### Section 5 – Definitions

5. Section 5 provides for definitions of terms used in the Guidelines.
6. *Act* means the *Liquid Fuel Emergency Act 1984*.
7. **bulk customer** means a person or organisation that is identified by the Minister as a bulk customer in accordance with subsection 10(1) of the Act.
8. **essential user** means a person or organisation that is identified as an essential user in an instrument under subsection 11(1) of the Act. This means an essential user of a particular refined liquid petroleum product in a particular State or Territory is a person or organisation who carries on activities in that State or Territory that are or include activities: related to the defence of Australia; related to the provision of that product as fuel for ships and aircraft engaged in trade or commerce (other than within a State or Territory); related to the export of that product from Australia; or activities determined under subsection 11(3) of the Act.
9. **liquid fuel emergency Ministers** means:
  - a. the Minister, being the Minister who is responsible for administering the *Liquid Fuel Emergency Act 1984*; and
  - b. each Energy Minister as defined in the Act. The result of this is that the following persons are liquid fuel emergency Ministers:
    - i. 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; and

- ii. 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
  - iii. 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; and
  - iv. 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
  - v. 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*.
10. The concept of ‘liquid fuel emergency Ministers’ is used in provisions of these Guidelines that deal with consultation. It is intended to ensure that in the event that the Minister responsible for administering the Act delegates one or more powers to a State or Territory Minister (delegated Minister), the delegated Minister will consult with all other relevant Ministers (i.e. the delegating Commonwealth Minister as well other State and Territory Energy Ministers).

## **Part 2 – Bulk customers of relevant fuel industry corporations or of relevant persons**

### **Section 6 – Simplified outline of this Part**

11. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 2.
12. Under subsection 10(1) of the Act the Minister may identify, by writing, a person or organisation as a bulk customer of a particular relevant fuel industry corporation or relevant person in relation to a particular refined liquid petroleum product.
13. Subsection 10(4) of the Act requires the Minister to make guidelines for the purposes of section 10. Subsection 10(3) of the Act provides that an instrument made under subsection 10(1) must be in accordance with any guidelines made under subsection 10(4) that are in force at the time the instrument is made.
14. Section 7 and 8 of the Guidelines set out the guidelines required by subsection 10(3) of the Act.

### **Section 7 – Minister must consult on what constitutes a bulk quantity**

15. Subsection 7(1) provides that, before making an instrument under subsection 10(1) of the Act, the Minister must invite relevant fuel industry corporations and relevant persons to provide submissions as to:
  - a. the quantity of the refined liquid petroleum product that should constitute a bulk quantity of the product; and
  - b. the persons or organisations who meet the criteria to be identified as a bulk customer under section 8 of the Guidelines.
16. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
17. There is no obligation on relevant fuel industry corporations or relevant persons to respond to the Minister's invitation for submissions. However, a failure to respond could result in the Minister not identifying as a bulk customer a person or organisation that the corporation or person considers should be accorded that status (most likely being their relevant customers).
18. Subsection 7(2) provides that the Minister must specify a timeframe by which submissions are to be provided by relevant fuel industry corporations and relevant persons, and that this timeframe must be reasonable.
19. What is a reasonable timeframe will depend on the wider context of the actual or potential liquid fuel emergency.
20. Subsection 7(3) requires that the Minister consider all relevant submissions in relation to a refined liquid petroleum product which are received within the specified timeframe.

## **Section 8 – Guidelines for identification of bulk customers**

21. Subsection 8(1) provides that the Minister must not identify a person or organisation as a bulk customer under subsection 10(1) of the Act other than as provided for in this section.
22. Subsection 8(2) provides that the Minister may identify a person or organisation as a bulk customer under subsection 10(1) of the Act if the Minister is satisfied that:
  - a. the person or organisation has a current contractual arrangement (which may consist of one contract or multiple contracts) to purchase bulk quantities of refined liquid petroleum product from a relevant fuel industry corporation or relevant person; and
  - b. the contractual arrangement is for a period of at least 3 months.
23. Subsection 8(3) prohibits the Minister from identifying a person or organisation as a bulk customer of refined liquid petroleum product if they have ceased, or no longer intend, to carry out the activities for which they contracted the supply of fuel.
  - a. For example, if a mining company has a long standing contract for the supply of diesel from a relevant fuel industry corporation, but had recently ceased its operations, then it would not be able to be identified as a bulk customer. This is the case even if the operations were ceased as a direct or indirect result of factors which have contributed or resulted from the liquid fuel emergency, such as high fuel prices.



## **Part 3 – Essential users of refined liquid petroleum products**

### **Section 9 – Simplified outline of this Part**

25. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 3.
26. Under subsection 11(1) of the Act the Minister may identify, in writing, a person or organisation as an essential user of a refined liquid petroleum product in a State or Territory if they undertake a specified activity. The specified activities are:
  - 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 11(3) of the Act.
27. Subsection 11(3) of the Act empowers the Minister to determine, by legislative instrument, additional specified activities for the purposes of subsection 11(1), if the Minister is satisfied that the activity is essential to the health, safety or welfare of the community.
28. Subsection 11(4) of the Act provides that a decision under subsection 11(1) to identify an essential user must be in accordance with these Guidelines.
29. These Guidelines are required under of the subsection 11(5) of the Act

### **Section 10 – Guidelines for determination of activities for the purposes of paragraph 11(1)(d) of the Act**

30. Section 10 sets out the guidelines which apply to a decision by the Minister under subsection 11(3) of the Act, on whether to determine an activity for the purposes of paragraph 11(1)(d) of the Act.
31. Section 10 provides that the Minister must take into account the following matters when making a determination for the purposes of paragraph 11(1)(d) of the Act:
  - a. the extent to which the activity is essential to the health, safety or welfare of the community; and
  - b. the extent to which the supply of a particular refined liquid petroleum is essential for the carrying out of that activity.

32. For example, if the activities of an organisation were essential to the welfare of the community, but it not require a supply of a particular refined liquid petroleum to undertake its activities, the Minister may not be satisfied that the activities met the criteria under section 10.

### **Section 11 – Guidelines for identification of essential users of refined liquid petroleum products**

33. Section 11 sets out the guidelines which apply to a decision by the Minister under subsection 11(1) of the Act, to identify essential users of refined liquid petroleum products.
34. Subsection 11(1) provides that the Minister must not identify a person or organisation as an essential user of a refined liquid petroleum product other than as set out in section 11.
35. Subsection 11(2) provides that the Minister may identify a person or organisation as an essential user under subsection 11(1) of the Act if:
- a. goods or services provided by the person or organisation in undertaking an activity mentioned in subsection 11(1) of the Act are essential for the preservation of the health, safety or welfare of the community; and
  - b. the person or organisation would not be able to undertake that activity without a continuing supply of that refined liquid petroleum product.
36. Subsection 11(3) clarifies that, for the purposes of paragraph (2)(a), goods or services are taken to be essential for the preservation of the health, safety or welfare of the community if a failure to provide them would be likely to impair substantially the health, safety or welfare of members of the community.
37. Subsection 11(4) makes clear that subsection 11(3) does not limit the meaning of the expression ‘essential for the preservation of the health, safety or welfare of the community’ for the purposes of subsection 11(2).
38. Subsection 11(5) provides that the Minister must take into account the following matters when deciding whether to identify a person or organisation as an essential user under subsection 11(1) of the Act:
- a. the expected severity, type, impact and duration of a liquid fuel supply disruption during a period of declared national liquid fuel emergency; or the expected severity, type, impact and duration of liquid fuel supply disruption during a potential period of national liquid fuel emergency that has yet to be declared under section 16 of the Act;
  - b. the established need of each category of person or organisation for the refined liquid petroleum product and the availability of that product to meet those needs; and
  - c. the likelihood that the person or organisation can be identified by relevant fuel industry corporations and relevant persons as an essential user.

39. Factors which may be relevant for the Minister to take into account in respect of each of the matters under subsection 11(5) will necessarily depend on the circumstances of each particular decision on whether to identify a person or organisation as an essential user.
40. When considering the expected severity, type, impact and duration of the liquid fuel supply disruption, factors which may be taken into account could include for example:
- a. whether the expected disruption is expected to impact fuel supplies in general, or only on specific types of fuel such as gasoline (petrol) and diesel;
  - b. how long the expected disruption is expected to impact upon Australia and other relevant countries; and
  - c. whether the expected disruption could disproportionately impact certain geographical regions of Australia or certain types of fuel consumers.
41. When considering the established need of each category of person or organisation for the refined liquid petroleum product and the availability of that product to meet those needs, factors which may be taken into account could include, for example:
- a. historical data (or reasonable estimates) on fuel consumption by entities performing essential activities in a state or territory;
  - b. the current estimate of fuel available to the market in each region and how this compares to historical consumption data; and
  - c. whether the fuel shortage or surrounding circumstances is expected to increase or decrease the fuel needs of particular essential users. For example, a supply disruption may increase fuel prices causing public transport patronage to also increase.
42. When considering the likelihood that the person or organisation can be identified by relevant fuel industry corporations and relevant persons as an essential user, factors which may be taken into account could include, for example:
- a. whether the person or organisation operates clearly marked facilities or vehicles. For example, a firetruck or defence facility should be easy to identify as an essential user; and
  - b. whether the person or organisation has, or can be issued with, a means of clear identification such as uniforms, professional identity cards or other evidence as to their status as an essential user.
43. It is envisaged that, where the Minister determines that it is unlikely that a person or organisation can be identified as an essential user by relevant fuel industry corporations and relevant persons that, the Minister would turn their mind to how to facilitate identification. For example, the Minister could issue a written document (such as a ration card) which could be used to identify the organisation or person as an essential user.
44. Subsection 11(7) provides that, to avoid doubt, the Minister may make a decision to identify, or refuse to identify, a person or organisation as an essential user at any other time.

45. This means that the Act does not limit the time when the Minister may identify a person or organisation to a period of liquid fuel emergency; the Minister may do so before or during an emergency.
46. Where no immediate supply disruption is considered likely, it is envisaged that, in determining whether to identify an essential user before an emergency, the Minister would take into account the expected severity, type, impact and duration of what is considered to be the most likely kinds of supply disruption.

## **Part 4 – Directions to relevant fuel industry corporations to maintain reserves etc. as part of contingency planning**

### **Section 12 – Simplified outline of this Part**

47. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 4.
48. Under subsection 12(1) of the Act, the Minister may direct a relevant fuel industry corporation to accumulate or maintain fuel reserves.
49. The Act provides that a direction under subsection 12(1) of the Act must:
  - a. be in accordance with any guidelines made under subsection 12(6) of the Act that are in force at the time the instrument is made (subsection 12(5) of the Act);
  - b. not be given during a period of national liquid fuel emergency (subsection 12(2) of the Act); and
  - c. not be given 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 under Part III of the Act (subsection 12(3) of the Act).
50. Subsection 12(6) of the Act requires the Minister to make guidelines for the purposes of section 12.

### **Section 13 – Guidelines for directions in relation to the maintenance of reserves etc. as part of contingency planning**

51. Section 13 sets out the guidelines which apply to a decision by the Minister under subsection 12(1) of the Act, to direct relevant fuel industry corporations to maintain or accumulate reserves of fuel, before and in preparation for a possible national liquid fuel emergency.
52. Subsection 13(1) of the Guidelines provides that, before making an instrument under subsection 12(1) of the Act, the Minister must:
  - a. inform relevant fuel industry corporations and other liquid fuel emergency Ministers that the Minister is proposing to give a direction under subsection 12(1) of the Act; and
  - b. invite relevant fuel industry corporations and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).
53. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
54. There is no obligation on relevant fuel industry corporations or other liquid fuel emergency Ministers to respond to the Minister's proposal.

55. What is a reasonable timeframe will depend on the wider context of the potential liquid fuel emergency.
56. Subsection 13(2) provides that the Minister must take into account the following matters when deciding whether to give a direction under subsection 12(1) of the Act:
- a. the expected severity, type, impact and duration of the liquid fuel supply disruption during a period of national liquid fuel emergency that may be declared under section 16 of the Act; and
  - b. any relevant submissions given to the Minister within the specified period.
57. Factors which may be relevant for the Minister to take into account in respect of each of the matters under subsection 13(2) will necessarily depend on the circumstances of each particular decision on whether to give a direction to maintain or accumulate reserves under section 12 of the Act.
58. When considering the expected severity, type, impact and duration of the liquid fuel supply disruption, factors which may be taken into account could include, for example:
- a. whether the expected disruption is expected to impact fuel supplies in general or only on specific types of fuel such crude oil and diesel;
  - b. how long the expected disruption is expected to impact upon Australia and other relevant countries; and
  - c. whether the expected disruption could disproportionately impact certain geographical regions of Australia or certain types of fuel consumers.
59. The Minister must also consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend on the circumstances of the expected disruption and the proposed direction. Matters which may be taken into account if raised could include, for example:
- a. the current volume of the liquid fuel stock held in Australia or a specific state or territory, or that could reasonably be expected to be held in Australia or a specific state or territory, by a relevant fuel industry corporation;
  - b. the maximum volume of stock that a relevant fuel industry corporation could reasonably be expected to maintain, or to accumulate and maintain;
  - c. a relevant fuel industry corporation's relative share (compared to other relevant fuel industry corporations) of the proposed stock reserve;
  - d. the expected time it will take the relevant fuel industry corporation to accumulate additional stocks of the liquid fuel;
  - e. the capacity and location of storage facilities that could be used by the corporation to store the proposed stock reserve;
  - f. the potential impact on a relevant industry fuel corporation or jurisdiction from the proposed direction. This could include potential financial, economic, competition or regulatory impacts; and

- g. the expected stock level required to maintain essential services in a jurisdiction in the event that the expected supply disruption occurs.
- 60. Subsection 13(3) provides that the Minister may also take into account the following matters when deciding whether to issue a direction under subsection 12(1) of the Act:
  - a. the expected impact of the proposed direction on the broader community;
  - b. the expected impact of the proposed direction in relation to Australia's national interests and international obligations; and
  - c. any other relevant matter.
- 61. When considering the expected impact of the proposed direction on the broader community, factors which may be taken into account could include, for example:
  - a. the length of the lead in time;
    - i. For example, requiring a relevant fuel industry corporation to accumulate stock relatively quickly could reduce available supply in the market in the short term, leading to an adverse impact on prices;
  - b. the fuel supply needs of essential users.
- 62. When considering the expected impact of the proposed direction in relation to Australia's national interests and international obligations, factors which may be taken into account could include, for example:
  - a. issues of national security; and
  - b. Australia's obligations as a signatory to the International Energy Agency *Agreement on an International Energy Program Treaty*.

## **Part 5 – Bulk allocation procedures of relevant fuel industry corporations**

### **Section 14 – Simplified outline of this Part**

63. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 5.
64. Under subsection 13(1) of the Act, the Minister may direct relevant fuel industry corporations to provide to him or her bulk allocation procedures that the corporation has developed to enable the corporation to allocate bulk supplies of relevant products in accordance with these Guidelines.
65. Subsection 13(3) of the Act provides that 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 persons who, or organisations that, in the event of a period of national liquid fuel emergency, would likely be, during the whole or part of that period, bulk customers of that class of relevant fuel industry corporations in relation to that product. That is, the Minister must make guidelines relating to the power to issue directions to develop bulk allocation procedures under section 13 of the Act.

### **Section 15 – Classes of relevant fuel industry corporations**

66. Section 15 specifies, as a class of corporations that are subject to guidelines under subsection 13(3) of the Act, relevant fuel industry corporations that, as a principal or substantial part of their activities, engage in the wholesaling of refined liquid petroleum products.
67. The term “wholesaling” is used to refer to relevant fuel industry corporations that supply fuel to bulk customers (that is, wholesale fuel) as part of their normal trading activities. It is envisaged that these wholesalers would generally be the same entities as those required to report wholesaling activities under the *Petroleum and Other Fuels Reporting Act 2017*.
68. The terminology “as a principal or substantial part of their activities” is intended to provide a wider scope than what was provided for under section 5.2 of the *Liquid Fuel Emergency Guidelines 2008*, which only applied to entities which engaged in the relevant activity as their “principal activity”. This expanded ambit has been introduced because the trading activities of fuel wholesalers have become increasingly diverse and, in some cases, wholesaling may now be only one aspect of a large, multifaceted business. In general, it is envisaged that where a wholesaling operation in relation to a refined liquid petroleum product is large enough to be captured by the reporting obligations in the *Petroleum and Other Fuels Reporting Act 2017* it would be considered a substantial part of that corporation’s activities.

### **Section 16 – Kinds of refined liquid petroleum products**

69. Section 16 specifies the kinds of products that are subject to the guidelines required to be made under subsection 13(3) of the Act. Those products are each of the liquid fuels defined as a refined liquid petroleum product in subsection 3(1) of the Act.



## **Section 17 – Guidelines for bulk allocation procedures**

70. Section 17 sets out the requirements for the development of bulk allocation procedures by the specified class of relevant fuel industry corporation (defined under section 15), who allocate bulk supplies of the specified kinds of refined liquid petroleum product (defined under section 16).
71. Subsection 17(1) provides that bulk allocation procedures developed by relevant fuel industry corporations must include a mechanism to enable the equitable allocation of the available product to bulk customers in such quantities as are specified in, or worked out in accordance with, a direction given by the Minister under subsection 21(1) of the Act.
72. Subsection 17(2) provides that the mechanism specified in subsection 17(1) must:
  - a. enable a reduction, by certain percentage or amount, of the quantity of the future supply of the bulk product to bulk customers; and
  - b. enable the continuing supply of the reduced volume of the future supply of the refined liquid petroleum product to bulk customers during a period of national liquid fuel emergency; and
  - c. enable further reductions or increases, by certain percentages or amounts, of the quantity of the future supply of the bulk refined liquid petroleum product to be supplied to a bulk customer, and the continuing supply of the varied volume of the future supply of the bulk product to a bulk customer during a period of national liquid fuel emergency; and
  - d. be able to be applied on a daily, weekly or monthly basis.
73. The term bulk product is intended to mean the specified refined liquid petroleum product supplied in bulk quantities to identified bulk customers.
74. As the bulk allocation procedure must be able to be applied on a daily, weekly or monthly basis, procedures which can only be applied on other bases, such as fortnightly or annual, would not meet the requirements of the Guidelines.
75. In the event that the Minister is not satisfied that a relevant fuel industry corporation's bulk allocation procedure meets the requirements set out in the Guidelines, subsection 13(6) of the Act requires the Minister to direct the relevant fuel industry corporation to make specific amendments to its procedures to enable the corporation to allocate bulk supplies of the product in accordance with the Guidelines and resubmit the amended procedures to the Minister.

## **Part 6 – Directions to relevant fuel industry corporations and relevant persons to maintain statistical information**

### **Section 18 – Simplified outline of this Part**

77. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 6.
78. Under subsection 14(1) of the Act, the Minister may direct each relevant fuel industry corporation and each relevant person included in a specified class of relevant fuel industry corporations to maintain statistical information on liquid fuels in their possession or under their control.
79. Subsection 14(3) of the Act provides that a decision under subsection 14(1) must be in accordance with these Guidelines.
80. These Guidelines are required under subsection 14(4) of the Act.

### **Section 19 – Classes of relevant fuel industry corporations**

81. Section 19 sets out, for the purposes of subsection 14(1) of the Act, the specified classes of relevant fuel industry corporations. These classes are relevant fuel industry corporations that as a principal or substantial part of their activities, engage in the:
  - a. production of liquid petroleum products;
    - i. Production refers to the extraction of products such as crude oil, condensate and natural gas liquids from an underground reservoir.
  - b. processing of liquid petroleum products;
    - i. Processing refers to a process from which products such as plant condensate (also referred to as natural gas liquid) are produced.
  - c. refining of liquid petroleum products;
    - i. Refining refers to the process where liquid petroleum products such as crude oil are turned into refined petroleum products such as diesel, gasoline and bitumen.
  - d. wholesaling of liquid petroleum products;
    - i. The meaning of wholesaling is described in relation to section 15.
  - e. retailing of refined liquid petroleum products;
    - i. Retailing refers to the retail sale of non-bulk quantities of liquid petroleum products either alone or in conjunction with other merchandise.
  - f. storage of liquid petroleum products.

- i. Storage refers to storing liquid petroleum product, including relevant fuel industry corporations which store fuel for third parties on commercial terms.

## Section 20 – Classes of relevant persons

82. Paragraph 14(1)(b) of the Act provides that the Minister may direct each relevant person included in a specified class of relevant persons, to maintain statistical information.
83. Section 20 sets out, for the purposes of paragraph 14(1)(b) of the Act, these classes of relevant persons. These classes are relevant persons that, as a principal or substantial part of their activities, engage in the:
- a. production of liquid petroleum products;
    - i. Production refers to the extraction of products such as crude oil, condensate and natural gas liquids from an underground reservoir.
  - b. processing of liquid petroleum products;
    - i. Processing refers to a process from which products such as plant condensate (also referred to as natural gas liquid) are produced.
  - c. refining of liquid petroleum products;
    - i. Refining refers to the process where liquid petroleum products such as crude oil are turned into refined petroleum products such as diesel, gasoline and bitumen.
  - d. wholesaling of liquid petroleum products;
    - i. The meaning of wholesaling is described in relation to section 15.
  - e. retailing of refined liquid petroleum products;
    - i. Retailing refers to the retail sale of non-bulk quantities of liquid petroleum products either alone or in conjunction with other merchandise.
  - f. storage of liquid petroleum products.
    - i. Storage refers to storing liquid petroleum product, including relevant fuel industry corporations which store fuel for third parties on commercial terms.
84. Section 3 of the Act defines a ‘relevant person’ as a person (other than a corporation) who is engaged in:
- a. the import into or export from Australia of liquid fuel, or
  - b. the sale of liquid fuel (in bulk or otherwise) in Australia,
- whether or not this activity is their sole or principal activity. It is intended that the both the activity of ‘wholesaling’ and ‘retailing’ be considered the sale of liquid fuel for the purposes of section 3 of the Act.
85. The Minister may only direct a person under section 20 who falls within one of the specified classes under section 20 and is a ‘relevant person’ for the purposes of the Act. For example, the Minister would not be able to direct to maintain statistical information

a person that engages in storage of liquid petroleum products, but does not engage in the import, export or sale (for example, wholesaling or retailing) of liquid petroleum.

## **Section 21 – Guidelines for directions in relation to the maintenance of statistical information**

86. Section 21 sets out the guidelines which apply to a decision by the Minister under subsection 14(1) of the Act, to direct relevant fuel industry corporations and relevant persons to maintain statistical information.
87. Subsection 21(1) provides that before making an instrument under subsection 14(1) of the Act, the Minister must:
- a. inform:
    - i. each relevant fuel industry corporation in a class specified in section 19;
    - ii. each relevant person in a class specified in section 20; and
    - iii. other liquid fuel emergency Ministers,that the Minister is proposing to give a direction under subsection 14(1) of the Act; and
  - b. invite those relevant fuel industry corporations, relevant persons and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).
88. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
89. There is no obligation on relevant fuel industry corporations, relevant persons or other liquid fuel emergency Ministers to respond to the Minister's proposal.
90. What is a reasonable timeframe will depend on the wider context of the potential liquid fuel emergency.
91. Subsection 21(2) provides that the Minister must take into account the following matters when deciding whether to issue a direction under subsection 14(1) of the Act:
- a. any relevant submissions given to the Minister within the specified period;
  - b. the current statistical information available to the Minister (including information given by those corporations or relevant persons under the *Petroleum and Other Fuels Reporting Act 2017*);
  - c. the manner and form in which the information would be required to be maintained and the extent to which this is consistent with any obligations of those corporations or relevant persons to report information under the *Petroleum and Other Fuels Reporting Act 2017*.
92. The Minister must consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend

on the statistical information proposed to be maintained. Matters which may be taken into account if raised could include, for example:

- a. whether the statistical information is necessary to enable the Government:
    - i. to plan for, and manage, a national liquid fuel emergency; and
    - ii. to comply with Australia's international obligations;
  - b. whether the relevant fuel industry corporation or relevant person is directly responsible for the statistical information that will be sought;
  - c. the capacity of the relevant fuel industry corporation or relevant person to maintain the specified statistical information; and
  - d. the expected cost of producing and maintaining the statistical information for relevant fuel industry corporations.
93. The Guidelines make explicit reference to the mandatory reporting obligation under the *Petroleum and Other Fuels Reporting Act 2017*. To minimise the regulatory burden that might be imposed on relevant fuel industry corporations or relevant persons that have to report under both the Act and the *Petroleum and Other Fuels Reporting Act 2017*, the Minister must take into account:
- a. the current statistical information available to the Minister; and
  - b. the manner and form in which the statistical information would be required to be maintained and the extent to which this is consistent with any the obligations under the *Petroleum and Other Fuels Reporting Act 2017*.
94. Subsection 21(3) provides that the Minister may take into account any other relevant matter when deciding whether to issue a direction under subsection 14(1) of the Act.
95. Potentially relevant matters which may be taken into account could include, for example:
- a. ensuring Australia complies with its international obligations.
    - i. For example, the International Energy Agency may require additional statistical information from Australia in the event of an international supply disruption.
  - b. ensuring the impact and effectiveness of efforts to manage the national liquid fuel emergency can be reviewed and evaluated.

## **Part 7 – Directions to relevant fuel industry corporations and relevant persons to make available statistical information**

### **Section 22 – Simplified outline of this Part**

97. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 7.
98. Under subsection 14A(1) of the Act, the Minister may direct a relevant industry fuel corporation or relevant person to make available specified statistical information which they have been directed to maintain under section 14 of the Act.
99. Subsection 14A(4) of the Act requires the Minister to make guidelines for the purposes of section 14A.

### **Section 23 – Guidelines for directions in relation to making statistical information available**

100. Section 23 sets out the guidelines which apply to a decision by the Minister under subsection 14A(1) of the Act, to direct relevant fuel industry corporations and relevant persons to make available statistical information.
101. Subsection 23(1) provides that, before making an instrument under subsection 14A(1) of the Act, the Minister must:
  - a. inform relevant fuel industry corporations, relevant persons and other liquid fuel emergency Ministers that the Minister is proposing to give a direction under subsection 14A(1) of the Act; and
  - b. invite the relevant fuel industry corporations, relevant persons and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).
102. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
103. There is no obligation on relevant fuel industry corporations, relevant persons and other liquid fuel emergency Ministers to respond to the Minister's proposal.
104. What is a reasonable timeframe will depend on the wider context of the potential liquid fuel emergency.
105. Subsection 23(2) provides that the Minister must take into account the following matters when deciding whether to issue a direction under subsection 14A(1) of the Act:
  - a. any relevant submissions given to the Minister within the specified period;
  - b. the current statistical information available to the Minister;
  - c. the purposes for which the information is expected to be used;

- d. whether personal information (within the meaning of the *Privacy Act 1988*) is likely to be collected;
  - e. the manner in which commercially sensitive information and personal information (if any) is likely to be handled and whether measures are in place to appropriately protect this information; and
  - f. the manner and form in which the information would be required to be made available and the extent to which this is consistent with any obligations of fuel industry corporations or relevant persons to make the information, or information of a similar kind, available under other laws.
106. The Minister must consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend on the statistical information proposed to be maintained. Matters which may be taken into account if raised could include, for example:
- a. whether the statistical information is necessary to enable the Government:
    - i. to plan for, and manage, a national liquid fuel emergency; and
    - ii. to comply with Australia's international obligations;
  - b. the capacity of the relevant fuel industry corporation or relevant person to provide the specified statistical information in an efficient and timely manner; and
  - c. how any commercially sensitive information will be provided to the Minister.
107. The Minister must consider the current statistical information available to them. This is intended to ensure that opportunities to use existing information sources and minimise the regulatory burden on relevant fuel industry corporations and relevant persons are considered.
108. The Minister must consider the purposes for which information is expected to be used. This is intended to ensure that the Minister considers how collected data is expected to be used by government agencies and others after it is provided to them.
109. Paragraph 23(2)(e) provides that the Minister must take into account how commercially sensitive and personal information will be handled and protected. It is envisaged that any commercially sensitive or personal information obtained under subsection 14A(1) of the Act will be treated confidentially, to the extent that doing so does not impede the effective management of a national liquid fuel emergency response. The Department responsible for the Act (currently the Department of the Environment and Energy) currently collects and securely stores commercially sensitive and personal information from relevant fuel industry corporations.
110. Paragraph 23(2)(f) provides that the Minister must take into account the manner and form in which information is to be provided and whether this is consistent with other reporting obligations. There are a range of reporting obligations on relevant fuel industry corporations associated with statistics, taxation and market monitoring. It is envisaged that where the required statistics can be provided through existing forms and systems that this will be considered by the Minister.



111. Subsection 23(3) provides that the Minister may take into account additional matters if they are relevant when deciding whether to issue a direction under subsection 14A(1) of the Act.
112. Potentially relevant matters which may be taken into account could include, for example:
  - a. ensuring Australia complies with its international obligations.
    - i. For example, the International Energy Agency may require additional statistical information from Australia in the event of an international supply disruption.
  - b. ensuring the impact and effectiveness of efforts to manage the national liquid fuel emergency can be reviewed and evaluated.

## **Part 8 – Directions to relevant fuel industry corporations to maintain reserves etc. during period of national liquid fuel emergency**

### **Section 24 – Simplified outline of this Part**

113. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 8.
114. Under subsection 17(1) of the Act, the Minister may direct relevant fuel industry corporations to accumulate or maintain specified quantities of specified fuels at specified locations during a national liquid fuel emergency.
115. Subsection 17(4) of the Act provides that a direction under subsection 17(1) must be in accordance with any guidelines made under section 17(5) that are in force at the time the direction is given

### **Section 25 – Guidelines for directions in relation to the maintenance of reserves etc. during period of national liquid fuel emergency**

116. Section 25 sets out the guidelines which apply to a decision by the Minister under subsection 17(1) of the Act, to direct relevant fuel industry corporations to maintain or accumulate reserves of fuel, during a period of national liquid fuel emergency.
117. Subsection 25(1) provides that, before making an instrument under subsection 17(1) of the Act, the Minister must:
  - a. inform relevant fuel industry corporations and other liquid fuel emergency Ministers that the Minister is proposing to give a direction under subsection 17(1); and
  - b. invite relevant fuel industry corporations and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).
118. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
119. There is no obligation on relevant fuel industry corporations or other liquid fuel emergency Ministers to respond to the Minister’s proposal.
120. What is a reasonable timeframe will depend on the wider context of the liquid fuel emergency.
121. Subsection 25(2) provides that the Minister must take into account the following matters in deciding whether to give a direction under subsection 17(1) of the Act:
  - a. the expected severity, type, impact and duration of the liquid fuel supply disruption during a period of national liquid fuel emergency that may be declared under section 16 of the Act; and
  - b. any relevant submissions given to them by within the specified period.

122. When considering the expected severity, type, impact and duration of the liquid fuel supply disruption, factors which may be taken into account could include, for example:
- a. how long the disruption is expected to impact on Australia;
  - b. the current, and expected, impacts of the supply disruption on essential users;
  - c. whether the disruption is disproportionately impacting certain geographical regions of Australia or certain types of fuel consumers; and
  - d. whether particular types of fuel are more critical, or more at risk, than others.
123. The Minister must also consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend on the circumstances of the expected disruption and the proposed direction. Matters which may be taken into account if raised could include, for example:
- a. the current volume of the liquid fuel stock held in Australia or a specific state or territory, or that could reasonably be expected to be held in Australia or a specific state or territory, by a relevant fuel industry corporation;
  - b. the maximum volume of stock that a relevant fuel industry corporation could reasonably be expected to maintain;
  - c. a relevant fuel industry corporation's relative share (compared to other corporations) of the proposed stock reserve;
  - d. the expected time it will take the relevant fuel industry corporation to accumulate additional stocks of the liquid fuel if they are currently or expected to fall below the proposed minimum volume;
  - e. the cost and regulatory burden that would be imposed on the corporation by the proposed direction;
  - f. the capacity and location of storage facilities that could be used by the corporation to store the proposed stock reserve;
  - g. the potential impact on a relevant industry fuel corporation or jurisdiction from the proposed direction. This could include potential financial, economic, competition or regulatory impacts; and
  - h. the expected stock level required to maintain essential services in the relevant jurisdiction until the supply disruption ceases.
124. It is important to note that this list is not intended to be comprehensive. Additional matters may be relevant to the Minister's decision.
125. Subsection 25(3) provides that the Minister may take into account the following matters in deciding whether to give a direction under subsection 17(1) of the Act:
- a. the expected impact of the proposed direction on the broader community;
  - b. the expected impact of the proposed direction in relation to Australia's national interests and international obligations;

- c. any other relevant matter.
126. When considering the expected impact of the proposed direction on the broader community, factors which may be taken into account could include, for example:
- a. the length of the lead in time; and
    - i. For example, requiring a relevant fuel industry corporation to accumulate stock relatively quickly could reduce available supply in the market in the short term, leading to an adverse impact on prices;
  - b. the fuel supply needs of essential users.
127. When considering the expected impact of the proposed direction in relation to Australia's national interests and international obligations, factors which may be taken into account could include, for example:
- a. issues of national security; and
  - b. Australia's obligations as a signatory to the International Energy Agency *Agreement on an International Energy Program Treaty*.

## **Part 9 – Directions to relevant fuel industry corporation as to output from refineries**

### **Section 26 – Simplified outline of this Part**

128. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 9.
129. Under subsection 20(1) of the Act, the Minister may direct a relevant fuel industry corporation as to its output from a refinery.
130. Subsection 20(2) of the Act provides that a direction under subsection 20(1) must not be given unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.
131. Subsection 20(4) of the Act provides that a direction under subsection 20(1) must be in accordance with any guidelines made under section 20(4) that are in force at the time the direction is given.

### **Section 27 – Guidelines for directions in relation to output from refineries**

132. Section 27 sets out the guidelines which apply to a decision by the Minister under subsection 20(1) of the Act, to direct a relevant fuel industry corporation that is engaged in producing or refining liquid fuel as to output from refineries during a period of national liquid fuel emergency. This means that a fuel industry corporation which does not engage in producing or refining liquid fuel cannot be directed under subsection 20(1) of the Act.
133. Subsection 27(1) provides that, before making an instrument under subsection 20(1) of the Act, the Minister must:
  - a. inform relevant fuel industry corporations and other liquid fuel emergency Ministers that the Minister is proposing to give a direction under subsection 20(1) of the Act; and
  - b. invite relevant fuel industry corporations and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).
134. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
135. There is no obligation on relevant fuel industry corporations or other liquid fuel emergency Ministers to respond to the Minister's proposal.
136. What is a reasonable timeframe will depend on the wider context of the liquid fuel emergency.
137. Subsection 27(2) provides that the Minister must take into account the following matters when deciding whether to issue a direction under subsection 20(1) of the Act:
  - a. the expected severity, type, impact and duration of the liquid fuel supply disruption during the period of national liquid fuel emergency; and

- b. any relevant submissions given to the Minister within the specified period.
138. When considering the expected severity, type, impact and duration of the liquid fuel supply disruption, potentially relevant factors which may be taken into account could include, for example:
- a. whether the expected disruption is expected to impact fuel supplies in general or only on specific types of refined fuels such as jet fuel and diesel;
  - b. how long the expected disruption is expected to impact upon Australia;
  - c. whether the expected disruption could disproportionately impact certain geographical regions of Australia or certain types of fuel consumers; and
  - d. the capacity of other refineries in Australia and overseas to address the supply disruption which has created the need for the proposed direction.
139. The Minister must also consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend on the circumstances of the disruption and the proposed direction. Matters which may be taken into account if raised could include, for example:
- a. the expected impact of the proposed direction on the relevant refinery, including:
    - i. the optimal settings for the refinery and, if relevant, how the proposed direction would deviate from these settings;
    - ii. if relevant, any costs or financial losses that are expected to result from the proposed direction; and
    - iii. if relevant, any potential risks to equipment, employees or refined liquid fuel outputs from the proposed direction and how these risks could be mitigated.
  - b. the expected impact of the proposed direction on the relevant fuel industry corporation, including:
    - i. a relevant fuel industry corporation's relative share (compared to other corporations) of the liquid fuel;
    - ii. a relevant fuel industry corporation's normal fuel production, distribution system and stockholding patterns in relation to liquid fuel;
    - iii. the capacity of the relevant fuel industry corporation to produce, store and distribute the specified fuel in the volume directed; and
    - iv. potential financial, economic, competition or regulatory impacts.
  - c. the expected availability of crude oil for the refinery during the period of national liquid fuel emergency;
  - d. whether the refining or import market would be able to meet the demand for a particular liquid fuel product without the exercise of powers under subsection 20(1) of the Act;

- e. any direction previously issued to the relevant fuel corporation under subsections 12(1) and 17(1) of the Act in relation to the current period of national liquid fuel emergency, and whether the proposed direction under subsection 20(1) of the Act will be consistent with those directions.
140. Subsection 27(3) provides that the Minister may take into account the following matters when deciding whether to issue a direction under subsection 20(1) of the Act:
- a. the expected impact of the proposed direction on the broader community;
  - b. the expected impact of the proposed direction in relation to Australia's national interests and international obligations; and
  - c. any other relevant matter.
141. When considering the expected impact of the proposed direction on the broader community, potentially relevant factors which may be taken into account could include, for example:
- a. potential impacts on vehicle operability, including engine and emission control technology; and
  - b. potential environmental and health impacts. This includes both the local air quality at areas near refineries as well as the air quality in regions whether the proposed directed fuel output would be consumed.
142. When considering the expected impact of the proposed direction in relation to Australia's national interests and international obligations, potentially relevant factors which may be taken into account could include, for example:
- a. issues of national security; and
  - b. Australia's obligations as a signatory to the International Energy Agency *Agreement on an International Energy Program Treaty*.

## **Part 10 – Directions with respect to allocation by relevant fuel industry corporations of liquid fuel to bulk customers**

### **Section 28 – Simplified outline of this Part**

143. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 10.
144. Under subsection 21(1) of the Act, the Minister may direct each relevant fuel industry corporation that, in the course of their 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 under subsection 21(1) of the Act.

145. Subsection 21(2) of the Act provides that a direction made under subsection 21(1) of the Act 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 of the Act.
146. Subsection 21(4) of the Act provides that a direction under subsection 21(1) of the Act must not be given unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.
147. Subsection 21(7) of the Act requires the Minister to make guidelines for the purposes of section 21 of the Act.
148. Subsection 21(6) of the Act provides that a direction under subsection 21(1) of the Act must be in accordance with any guidelines made under section 21(7) that are in force at the time the direction is given.

### **Section 29 – Guidelines for directions with respect to allocation by relevant fuel industry corporations of liquid fuel to bulk customers**

149. Section 29 sets out the guidelines which apply to a decision by the Minister under subsection 21(1) of the Act, to issue directions with respect to allocation by relevant fuel industry corporations of liquid fuel to bulk customers.
150. Subsection 29(1) provides that, before making an instrument under subsection 21(1) of the Act, the Minister must:
- a. inform each relevant fuel industry corporation as specified under subsection 21(1) of the Act and other liquid fuel emergency Ministers that the Minister is proposing to give a direction under subsection 21(1) of the Act; and
  - b. invite each relevant fuel industry corporation and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).



151. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
152. There is no obligation on relevant fuel industry corporations or other liquid fuel emergency Ministers to respond to the Minister's proposal.
153. What is a reasonable timeframe will depend on the wider context of the liquid fuel emergency.
154. Subsection 29(2) provides that the Minister must take into account the following matters when deciding whether to issue a direction under subsection 21(1) of the Act:
- a. the expected severity, type, impact and duration of the liquid fuel supply disruption during the period of national liquid fuel emergency;
  - b. any relevant submissions given to the Minister within the specified period;
  - c. the bulk allocation procedures of those relevant fuel industry corporations, as approved by the Minister under subsections 13(5) or 13(7) of the Act; and
  - d. the expected supply needs of essential users.
155. When considering the expected severity, type, impact and duration of the potential liquid fuel supply disruption, potentially relevant factors which may be taken into account could include, for example:
- a. whether the expected disruption is expected to impact fuel supplies in general or only on specific types of fuel such as jet fuel and diesel;
  - b. how long the expected disruption is expected to impact upon Australia and other relevant countries;
  - c. whether the expected disruption could disproportionately impact certain geographical regions of Australia or certain types of fuel consumers;
  - d. the expected impact on bulk customers from the direction and, if relevant, any previous directions with respect to bulk allocations; and
  - e. how the expected impact on bulk customers compares to the expected impact on customers reliant on spot and retail fuel sales.
156. The Minister must consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend on the circumstances of the disruption and the proposed direction. Matters which may be taken into account if raised could include, for example:
- a. the expected impact of the proposed direction on the relevant fuel industry corporation, including:
    - i. a relevant fuel industry corporation's relative share (compared to other corporations) of the market;

- ii. matters that may adversely affect the ability of the fuel industry corporation's to comply with the direction, including, but not limited to:
        - 1. the availability of transport;
        - 2. constraints on the supply of the liquid fuel which are beyond the fuel industry corporation's control; and
      - iii. potential financial, economic, competition or regulatory impacts.
157. Subsection 29(2)(c) requires the Minister to consider the relevant fuel industry corporation's bulk allocation procedure. The requirements relating to directions for the development of bulk allocation procedures under subsection 13(1) of the Act are set out under Part 5 of the Guidelines.
158. When assessing the needs of essential users, it is envisaged that the Minister would consider what quantity of specified types of liquid petroleum products would be necessary to maintain the provision of goods and services essential to the health, safety or welfare of the community, and if demand for those specified types of liquid petroleum products has or is expected to change during the national liquid fuel emergency.
159. For example, in the event of a natural disaster occurring after the commencement of a period of national liquid fuel emergency, it may be expected that there would be an increase in the level of demand from some essential users such as defence and state emergency services, in response to the increased demand for assistance.
160. Subsection 29(3) provides that the Minister may take into account the following matters when deciding whether to issue a direction under subsection 21(1) of the Act. These matters are:
- a. the expected impact of the proposed direction on the broader community;
  - b. the expected impact of the proposed direction in relation to Australia's national interests and international obligations; and
  - c. any other relevant matter.
161. When considering the expected impact of the proposed direction on the broader community, potentially relevant factors which may be taken into account could include, for example:
- a. the potential economic impacts that could result from reducing the supply of fuel to bulk customers. Potentially relevant economic impacts could include:
    - i. reductions in employment, tax revenue, exports;
    - ii. disruption to existing contractual and economic relationships; and
    - iii. an increased risk of personal and corporate bankruptcy.
  - b. how any fuel made available by reducing supplies to bulk customers could be utilised and the impact of doing so. For example, if additional fuel could be made available to essential users or for customers reliant on spot and retail sales and, if so, what the costs and benefits of doing so would be.

162. When considering the expected impact of the proposed direction in relation to Australia's national interests and international obligations, potentially relevant factors which may be taken into account could include, for example:
- a. issues of national security; and
  - b. Australia's obligations as a signatory to the International Energy Agency *Agreement on an International Energy Program Treaty*.

## **Part 11 – Directions with respect to allocation by relevant persons of liquid fuel to bulk customers**

### **Section 30 – Simplified outline of this Part**

163. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 11.
164. Under subsection 22(1) of the Act, the Minister may direct each relevant person that, in the course of their trading or commercial activities:
- i. ordinarily makes a specified kind of refined liquid petroleum product available for purchase in bulk in a state or territory; and
  - ii. ordinarily makes that product available for such purchase by persons or organisations that are bulk customers of the 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 under subsection 22(1) of the Act.
165. Subsection 22(2) of the Act sets out that a direction made under subsection 22(1) must specify that the product is to be made available for purchase in accordance with bulk allocation procedures specified in the direction.
166. Subsection 22(4) of the Act provides that a direction under subsection 22(1) must not be given unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.
167. Subsection 22(6) of the Act provides that a direction under subsection 22(1) must be in accordance with the guidelines.
168. These guidelines are required under subsection 22(7) of the Act.

### **Section 31 – Guidelines for directions with respect to allocation by relevant persons of liquid fuel to bulk customers**

169. Section 31 sets out the guidelines which apply to a decision by the Minister under subsection 22(1) of the Act, to direct with respect to allocation by relevant persons of liquid fuel to bulk customers.
170. Subsection 31(1) provides that before making an instrument under subsection 22(1) of the Act, the Minister must:
- a. inform each relevant person of the kind referred to in subsection 22(1) of the Act and other liquid fuel emergency Ministers that the Minister is proposing to give a direction under subsection 22(1); and
  - b. invite each relevant person and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).

171. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
172. There is no obligation on relevant persons or other liquid fuel emergency Ministers to respond to the Minister's proposal.
173. What is a reasonable timeframe will depend on the wider context of the liquid fuel emergency.
174. Subsection 31(2) provides that the Minister must take into account the following matters when deciding whether to issue a direction under subsection 22(1) of the Act:
- a. the expected severity, type, impact and duration of the liquid fuel supply disruption during the period of national liquid fuel emergency;
  - b. any relevant submissions given to the Minister within the specified period; and
  - c. the expected supply needs of essential users.
175. When considering the expected severity, type, impact and duration of the potential liquid fuel supply disruption, potentially relevant factors which may be taken into account could include, for example:
- a. whether the expected disruption is expected to impact fuel supplies in general or only on specific types of fuel such as jet fuel and diesel;
  - b. how long the expected disruption is expected to impact upon Australia and other relevant countries;
  - c. whether the expected disruption could disproportionately impact certain geographical regions of Australia or certain types of fuel consumers;
  - d. the expected impact on bulk customers from the direction and, if relevant, any previous directions with respect to bulk allocations; and
  - e. how the expected impact on bulk customers compares to the expected impact on customers reliant on spot and retail fuel sales.
176. The Minister must consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend on the circumstances of the disruption and the proposed direction. Matters which may be taken into account if raised could include, for example:
- a. the expected impact of the proposed direction on the relevant person, including:
    - i. the person's relative share (compared to other corporations and persons) of the market;
    - ii. matters that may adversely affect the ability of the person to comply with the direction, including, but not limited to:
      1. the availability of transport;

2. constraints on the supply of the liquid fuel which are beyond the person's control; and
  - iii. potential financial, economic, competition or regulatory impacts.
177. When assessing the needs of essential users, it is envisaged that the Minister would consider what quantity of specified types of liquid petroleum products would be necessary to maintain the provision of goods and services essential to the health, safety or welfare of the community, and whether demand for those specified types of liquid petroleum products has changed, or is expected to change, during the national liquid fuel emergency.
178. Subsection 31(3) provides that the Minister may take into account additional matters if they are relevant when deciding whether to issue a direction under subsection 22 (1) of the Act. These matters are:
- a. the expected impact of the proposed direction on the broader community;
  - b. the expected impact of the proposed direction in relation to Australia's national interests and international obligations; and
  - c. any other relevant matter.
179. When considering the expected impact of the proposed direction on the broader community, potentially relevant factors which may be taken into account could include, for example:
- a. the potential economic impacts that could result from reducing the supply of fuel to bulk customers. Potentially relevant economic impacts could include:
    - i. reductions in employment, tax revenue, exports;
    - ii. disruption to existing contractual and economic relationships; and
    - iii. an increased risk of personal and corporate bankruptcy.
  - b. how any fuel made available by reducing supplies to bulk customers could be utilised and the impact of doing so. For example, if additional fuel could be made available to essential users or for customers reliant on spot and retail sales and, if so, what the costs and benefits of doing so would be.
180. When considering the expected impact of the proposed direction in relation to Australia's national interests and international obligations, potentially relevant factors which may be taken into account could include, for example:
- a. issues of national security; and
  - b. Australia's obligations as a signatory to the International Energy Agency *Agreement on an International Energy Program Treaty*.

## **Part 12 – Directions to relevant fuel industry corporations regulating or prohibiting supply of liquid fuel**

### **Section 32 – Simplified outline of this Part**

182. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 12.
183. Under subsection 23(1) of the Act, the Minister may issue directions regulating or prohibiting the supply of refined liquid petroleum by relevant fuel industry corporations during a national liquid fuel emergency.
184. Subsection 23(3) of the Act provides prohibits the Minister from giving a direction under subsection 23(1) of the Act except for the purpose of dealing with an actual or likely shortage of refined liquid petroleum.
185. Subsection 23(4) of the Act prohibits the Minister from giving a direction under subsection 23(1) of the Act that only relates to supply of refined liquid petroleum to bulk customers of relevant fuel industry corporations. The power to issue directions in regards to the supply of fuel to bulk customers is provided at section 21 of the Act.
186. Subsection 23(6) of the Act provides that a direction under subsection 23(1) must be in accordance with the guidelines.
187. These guidelines are required under subsection 23(7) of the Act.

### **Section 33 – Kinds of directions that may be given**

188. Section 33 sets out examples of the kinds of directions that the Minister may give to relevant fuel industry corporations under subsection 23(1) of the Act in relation to regulating or prohibiting supply of liquid fuel. These include directions that:
- a. operate on a ration card basis, where under the direction, a corporation must not supply specified products to persons generally, or specified persons, unable to produce evidence of an entitlement to purchase that product;
  - b. operate on a maximum amount basis, where the direction specifies the maximum amount of a specified product that can be supplied by the relevant corporation to customers at any one time, or over a set period such as, a day or week. Some examples of this approach include volumetric maximums such as a limit of 50 litres per customer per day, and financial maximums such as a limit \$50 of fuel per customer per day;
  - c. operate on a temporal basis, where the direction specifies the period or periods of time during the day that specified products can be supplied by the relevant corporation to persons generally, or specified persons. For example, an ‘odds and evens’ approach where fuel can only be purchased on particular days depending on the last letter or number of a license plate.
189. Subsection 33(2) makes it clear that the list of directions in subsection 33(1) does not prevent other kinds of directions being given under section 23 of the Act.

### **Section 34 – Guidelines for directions to relevant fuel industry corporations regulating or prohibiting supply of liquid fuel**

190. Subsection 34(1) provides that, before making an instrument under subsection 23(1) of the Act during a period of national liquid fuel emergency, the Minister must:
- a. inform relevant fuel industry corporations and other liquid fuel emergency Ministers that the Minister is proposing to give a direction under subsection 23(1) of the Act; and
  - b. invite relevant fuel industry corporations and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).
191. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
192. There is no obligation on relevant fuel industry corporations or other liquid fuel emergency Ministers to respond to the Minister’s proposal.
193. What is a reasonable timeframe will depend on the wider context of the liquid fuel emergency.
194. Subsection 34(2) provides that the Minister must take into account the following matters when deciding whether to issue a direction under subsection 23(1) of the Act:
- a. the expected severity, type, impact and duration of the liquid fuel supply disruption during the period of national liquid fuel emergency;
  - b. any relevant submissions given to the Minister within the specified period;
  - c. the bulk allocation procedures of those relevant fuel industry corporations, as approved by the Minister under subsections 13(5) or 13(7) of the Act; and
  - d. the expected supply needs of essential users.
195. When considering the expected severity, type, impact and duration of the potential liquid fuel supply disruption, potentially relevant factors which may be taken into account could include, for example:
- a. whether the expected disruption is expected to impact fuel supplies in general or only on specific types of fuel such as crude oil and diesel;
  - b. how long the expected disruption is expected to impact upon Australia and other relevant countries;
  - c. whether the expected disruption could disproportionately impact certain geographical regions of Australia or certain types of fuel consumers; and
  - d. the potential for fuel supplies in one or more regions to be exhausted without the imposition of rationing.



196. The Minister must consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend on the circumstances of the disruption and the proposed direction. Matters which may be taken into account if raised could include, for example:
- a. The expected impact of the proposed direction on the relevant fuel industry corporation, including:
    - i. matters that may adversely affect the ability of the fuel industry corporation's to comply with the direction, including, but not limited to:
      1. their capacity to implement the proposed direction; and
      2. the expected impact of the proposed direction on their stock levels.
    - ii. potential financial, economic, competition or regulatory impacts.
  - b. Any existing rationing arrangements in the relevant state or territory and neighbouring regions.
  - c. Whether the proposed direction is in accordance with the preferred approach to rationing of the relevant state or territory.
197. Paragraph 34(2)(c) requires the Minister to consider the relevant fuel industry corporation's bulk allocation procedure when deciding whether to issue a direction. The requirements relating to the development of bulk allocation procedures are set out in section 13 of the Act and Part 5 of the Guidelines.
198. When considering expected supply needs of essential users, potentially relevant factors which may be taken into account could include, for example:
- a. the impacts of retail rationing may on the volumes of fuel able to be provided to essential users. For example, retail rationing may, in some cases, increase available supplies, ensuring essential activities can be performed for longer than would otherwise be the case;
  - b. historical data (or reasonable estimates) on fuel consumption by entities performing essential activities in a state or territory;
  - c. the current estimate of fuel available to the market in each region and how this compares to historical consumption data; and
  - d. whether the fuel shortage or surrounding circumstances is expected to increase or decrease the fuel needs of particular essential users. For example, a supply disruption may increase fuel prices causing public transport patronage to also increase.
199. Subsection 34(3) provides that the Minister may take into account the following matters when deciding whether to issue a direction under subsection 23(1) of the Act:
- a. the expected impact of the proposed direction on the broader community;
  - b. the expected impact of the proposed direction in relation to Australia's national interests and international obligations; and

- c. any other relevant matter.
200. When considering the expected impact of the proposed direction on the broader community, potentially relevant factors which may be taken into account could include, for example:
- a. the expected impact of the proposed rationing on motorists in general; and
  - b. the expected impact of the proposed rationing on vulnerable communities, in particular those heavily dependent on fuel use such those located in regional and remote communities.
201. When considering the expected impact of the proposed direction in relation to Australia's national interests and international obligations, potentially relevant factors which may be taken into account could include, for example:
- a. issues of national security; and
  - b. Australia's obligations as a signatory to the International Energy Agency *Agreement on an International Energy Program Treaty*.

## **Part 13 – Directions to relevant persons regulating or prohibiting supply of liquid fuel**

### **Section 35 – Simplified outline of this Part**

202. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 13.
203. Under subsection 24(1) of the Act, the Minister may issue directions regulating or prohibiting the supply of refined liquid petroleum by relevant persons during a national liquid fuel emergency.
204. Subsection 24(3) of the Act provides prohibits the Minister from giving a direction under subsection 24(1) except for the purpose of dealing with an actual or likely shortage of refined liquid petroleum.
205. Subsection 24(4) of the Act prohibits the Minister from giving a direction under subsection 24(1) that only relates to supply of refined liquid petroleum to bulk customers of relevant persons. The power to issue directions in regards to bulk customers is provided at section 22 of the Act.
206. Subsection 24(6) of the Act provides that a direction under subsection 24(1) must be in accordance with the guidelines.
207. These guidelines are required under subsection 24(7) of the Act.

### **Section 36 – Kinds of directions that may be given**

208. Section 36 sets out examples of the kinds of directions that the Minister may give to relevant persons under subsection 24(1) of the Act in relation to regulating or prohibiting supply of liquid fuel. These include directions which:
  - a. operate on a ration card basis, where under the direction, a relevant person must not supply specified products to persons generally, or specified persons, unable to produce evidence of an entitlement to purchase that product;
  - b. operate on a maximum amount basis, where the direction specifies the maximum amount of a specified product that can be supplied by the relevant person to customers at any one time, or over a set period such as, a day or week. Some examples of this approach include volumetric maximums such as a limit of 50 litres per customer per day, and financial maximums such as a limit \$50 of fuel per customer per day;
  - c. operate on a temporal basis, where the direction specifies the period or periods of time during the day that specified products can be supplied by the relevant corporation to persons generally, or specified persons. For example, an ‘odds and evens’ approach where fuel can only be purchased on particular days depending on the last letter or number of a license plate.
209. Subsection 36(2) makes it clear that the list of directions in subsection 36(1) does not prevent other kinds of directions being given under section 24 of the Act.

## **Section 37 – Guidelines for directions to relevant persons regulating or prohibiting supply of liquid fuel**

210. Subsection 37(1) provides that, during a period of national liquid fuel emergency, and before making an instrument under subsection 24(1) of the Act, the Minister must:
- a. inform relevant persons and other liquid fuel emergency Ministers that the Minister is proposing to give a direction under subsection 24(1); and
  - b. invite relevant persons and other liquid fuel emergency Ministers to provide submissions on the proposal within a period specified by the Minister (which must be a reasonable period).
211. It is envisaged that submissions would generally need to be in writing. However, it would be open to the Minister to accept verbal submissions if appropriate given that the consultation will occur in the context of a national liquid fuel emergency that may require urgent action.
212. There is no obligation on relevant persons or other liquid fuel emergency Ministers to respond to the Minister's proposal.
213. What is a reasonable timeframe will depend on the wider context of the liquid fuel emergency.
214. Subsection 37(2) provides that the Minister must take into account the following matters when deciding whether to issue a direction under subsection 24(1) of the Act:
- a. the expected severity, type, impact and duration of the liquid fuel supply disruption during the period of national liquid fuel emergency;
  - b. any relevant submissions given to the Minister within the specified period; and
  - c. the expected supply needs of essential users.
215. When considering the expected severity, type, impact and duration of the potential liquid fuel supply disruption, potentially relevant matters which may be taken into account could include, for example:
- a. whether the expected disruption is expected to impact fuel supplies in general or only on specific types of fuel such as crude oil and diesel;
  - b. how long the expected disruption is expected to impact upon Australia and other relevant countries;
  - c. whether the expected disruption could disproportionately impact certain geographical regions of Australia or certain types of fuel consumers; and
  - d. the potential for fuel supplies in one or more regions to be exhausted without the imposition of rationing.
216. The Minister must consider any relevant matter raised in a submission received during the specified period. What is a relevant matter is context dependent and so will depend on the circumstances of the disruption and the proposed direction. Matters which may be taken into account if raised could include, for example:

- a. The expected impact of the proposed direction on the relevant person, including:
    - i. matters that may adversely affect the person’s ability to comply with the direction, including, but not limited to:
      - 1. their capacity to implement the proposed direction; and
      - 2. the expected impact of the proposed direction on their stock levels.
    - ii. potential financial, economic, competition or regulatory impacts.
  - b. Any existing rationing arrangements in the relevant state or territory and neighbouring regions.
  - c. Whether the proposed direction is in accordance with the preferred approach to rationing of the relevant state or territory.
217. Subsection 37(3) provides that the Minister may take into account additional matters if they are relevant when deciding whether to issue a direction under subsection 24(1) of the Act. These matters are:
- a. the expected impact of the proposed direction on the broader community;
  - b. the expected impact of the proposed direction in relation to Australia’s national interests and international obligations; and
  - c. any other relevant matter.
218. When considering the expected impact of the proposed direction on the broader community, potentially relevant factors which may be taken into account could include, for example:
- a. the expected impact of the proposed rationing on motorists in general; and
  - b. the expected impact of the proposed rationing on vulnerable communities, in particular those heavily dependent on fuel use such those located in regional and remote communities.
219. When considering the expected impact of the proposed direction in relation to Australia’s national interests and international obligations, potentially relevant factors which may be taken into account could include, for example:
- a. issues of national security; and
  - b. Australia’s obligations as a signatory to the International Energy Agency *Agreement on an International Energy Program Treaty*.