



Australian Capital Territory

Fuels Control Act 1979 No 14

Republication No 3

Republication date: 14 January 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Fuels Control Act 1979* as in force on 14 January 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
12 September 2001



Australian Capital Territory

Fuels Control Act 1979

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Amendments incorporated to
12 September 2001



Australian Capital Territory

Fuels Control Act 1979

An Act relating to the distribution of certain fuels in the ACT

1 Short title

This Act may be cited as the *Fuels Control Act 1979*.

2 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

controller means the Controller of Fuels under section 3.

declared fuel means a fuel in relation to which a declaration under section 11 is in force.

fuel means petroleum, a petroleum product or a petrochemical.

inspector means an inspector under section 5.

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

petroleum means—

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of a hydrocarbon or hydrocarbons, whether in a gaseous, liquid or solid state, and 1 or more of the following, that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide.

petroleum product means—

- (a) any hydrocarbon or mixture of hydrocarbons produced by subjecting petroleum to a process of refining or produced from petroliferous minerals; or

- (b) any mixture of a hydrocarbon or hydrocarbons so produced with another substance or other substances.

prescribed business means a business of selling fuels, whether by wholesale or retail.

3 Controller of Fuels

- (1) There shall be a Controller of Fuels.
- (2) The chief executive shall create and maintain 1 or more offices in the public service the duties of which include performing the functions of the Controller of Fuels.
- (3) The controller shall be the public servant for the time being performing the duties of the public service office referred to in subsection (2).

4 Delegation

The controller may, by instrument, delegate any or all of his or her powers to a public servant.

5 Inspectors

- (1) There may be 1 or more inspectors for this Act.
- (2) An inspector shall perform such functions, subject to this Act, as the controller directs.
- (3) The chief executive shall create and maintain 1 or more offices in the public service the duties of which include performing the functions of an inspector.
- (4) An inspector shall be any public servant for the time being performing the duties of a public service office referred to in subsection (3).

5A Identity cards

- (1) The chief executive shall issue to an inspector an identity card that specifies the inspector's name and office, and on which appears a recent photograph of the inspector.
- (2) Upon ceasing to occupy, or to act in, an office of inspector, a person shall not, without reasonable excuse, fail to return his or her identity card to the chief executive.

Maximum penalty: 1 penalty unit.

6 Controller may make recommendations to the Minister

The controller may make recommendations to the Minister on any matter relating to the storage, supply or use of fuels in the ACT.

7 Person carrying on prescribed business to notify controller of business address etc

- (1) A person who carries on a prescribed business shall give to the controller a notice in writing setting out particulars of—
 - (a) the name of the person and the address and telephone number of the place or each place, as the case may be, at which the person carries on that business; and
 - (b) the kinds of fuel that are able to be stored at that place or at each of those places, as the case may be; and
 - (c) the quantity of each kind of fuel that is capable of being so stored at the place or at each of those places, as the case may be.
- (2) A person who, on the date of commencement of this Act, is carrying on a prescribed business shall give the notice required by subsection (1) not later than 14 days after that date.
- (3) A person who, after the date of commencement of this Act, commences to carry on a prescribed business shall give the notice required by subsection (1) not later than 14 days after the day on which he or she commences to carry on that business.

- (4) A person who has given a notice to the controller for the purpose of subsection (1) shall, not later than 14 days after a change occurs in any of the particulars stated in the notice, give to the controller a notice in writing setting out particulars of the change.
- (5) A person who ceases to carry on a prescribed business shall, not later than 14 days after the day on which he or she ceases to carry on that business, give to the controller a notice in writing stating that he or she has ceased to carry on that business and specifying the date on which he or she ceased to carry on the business.
- (6) A person who fails to give a notice in accordance with a provision of this section commits an offence.

Maximum penalty: 5 penalty units.

8 Controller may require information

- (1) The controller may, by notice in writing given to a person who carries on a prescribed business, require that person to give to the controller, in respect of each kind of fuel specified in the notice, particulars of—
 - (a) the quantity of fuel that is held by the person; and
 - (b) the amount of fuel sold by the person during the period specified in the notice; and
 - (c) the usual source of supply of the fuel.
- (2) Particulars given for the purpose of a requirement under subsection (1) shall—
 - (a) be given in writing; and
 - (b) be given as soon as is reasonably practicable after the requirement is made.
- (3) A person shall comply with a requirement made of him or her in accordance with subsection (1).

Maximum penalty: 50 penalty units.

9 Powers of inspector

- (1) Where a declaration under section 11 (1) is in force, an inspector may, at any reasonable hour of the day or night—
 - (a) inspect premises at which a prescribed business is carried on, and any books or documents at those premises that relate to that business; and
 - (b) inspect any receptacles or equipment on the premises; and
 - (c) inspect any vehicle that is on the premises, being a vehicle that is so constructed as to be capable of transporting fuel; and
 - (d) require the occupier, or person for the time being in charge of the premises, to inform him or her of the nature of the substance held in any receptacle or equipment on the premises; and
 - (e) require the occupier, or any person employed at the premises, in the presence of the inspector—
 - (i) to open any receptacle or equipment on the premises; and
 - (ii) to measure the contents of any such receptacle or equipment; and
 - (f) require the driver, or the person in charge, of a vehicle referred to in paragraph (c) to inform him or her whether the vehicle is carrying fuel and, if so, inform him or her of the nature of the fuel; and
 - (g) require the driver, or the person in charge, of a vehicle referred to in paragraph (c), in the presence of the inspector—
 - (i) to open any tank or receptacle on the vehicle; and
 - (ii) to measure the contents of the tank or receptacle.
- (2) Subject to subsection (3), a person shall comply with a requirement made by an inspector under subsection (1).

Maximum penalty: 50 penalty units.

- (3) An inspector who enters upon premises under this section is not authorised to remain on the premises if, on request by the occupier, or the person in charge, of the premises, the inspector does not produce his or her identity card.

10 Controller may require information from persons having storage capacity exceeding the prescribed capacity

- (1) The controller may, by notice in writing given to a person who is the occupier of premises on which there are storage facilities for fuel to a capacity exceeding the capacity specified in the notice, require that person to give to the controller, within the period specified in the notice, a notice in writing signed by the occupier and stating—
- (a) the capacity of those storage facilities; and
 - (b) the kind or kinds of fuel held in those storage facilities when the notice was signed; and
 - (c) the quantity of each kind of fuel so held when the notice was signed; and
 - (d) the usual rate of use of each kind of fuel held in those storage facilities; and
 - (e) the persons or class of persons who are the usual users of each kind of fuel held in those storage facilities.
- (2) A person shall comply with a requirement made of him or her in accordance with subsection (1).

Maximum penalty: 50 penalty units.

- (3) A notice under subsection (1) shall be given to a person by delivering it to the person personally or by leaving it with a person apparently over the age of 16 years at his or her last-known place of residence or business.
- (5) The controller may, in a notice under subsection (1), specify a different capacity for storage facilities on residential and commercial premises.

11 Declaration

- (1) Where there are reasonable grounds for believing—
- (a) that the maintenance of essential services in the ACT is, or is about to be, affected by a reduction of the supply of a fuel to the ACT; or
 - (b) that undue hardship is being suffered, or is likely to be suffered, by residents of the ACT by reason of a reduction of the supply of a fuel to the ACT; or
 - (c) that undue hardship is being suffered, or is likely to be suffered, by residents of the ACT by reason of difficulties in the distribution of a fuel within the ACT;

the Minister may, in writing, declare that an emergency exists in relation to that fuel.

- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

- (3) Unless it is sooner repealed, a declaration expires 28 days after the day it is notified under the *Legislation Act 2001*.

12 Powers of controller during emergency

- (1) Where a declaration under section 11 (1) is in force, the controller may, by instrument in writing given to a person who is carrying on a prescribed business either wholly or partly in the ACT, make any 1 or more of the following requirements:
- (a) a requirement that the person not sell a declared fuel specified in the instrument unless the quantity of that fuel that would remain in storage at the premises, or each of the premises, as the case may be, at which the person conducts his or her business in the ACT exceeds a quantity specified in the instrument;
 - (b) a requirement that the person not sell that fuel by retail to persons other than persons approved by the controller;

- (c) a requirement that the person not sell that fuel by retail to any person, except on such days and at such times as are specified in the instrument;
- (d) a requirement that the person sell that fuel by retail to the owner or driver of a motor vehicle—
 - (i) where the last number on the numberplates affixed to the motor vehicle is an even number—only on even numbered days of the month; and
 - (ii) where the last number on the numberplates affixed to the motor vehicle is an odd number—only on odd numbered days of the month;
- (e) a requirement that the person not refuse to sell that fuel by retail to any person who does not operate an account with, or who is not a regular customer of, the prescribed business carried on by the firstmentioned person;
- (f) a requirement that the person not display or exhibit on or near the premises at which he or she carries on the prescribed business any notice or sign containing the words ‘account customers only’ or ‘regular customers only’, either alone or in combination with any other words, or any other words indicating or implying that the person will sell fuel only to persons who operate an account with, or who are regular customers of, that business;
- (g) a requirement that the person not sell that fuel by wholesale except to such persons, and at such times and in such quantities, as the controller approves;
- (h) a requirement that the person not sell, to any person at one time, a quantity of that fuel exceeding a quantity specified in the instrument;
- (i) a requirement that the total quantity of that fuel sold by the person during a period specified in the instrument not exceed a quantity specified in the instrument;

- (j) a requirement that the person not remove that fuel from the ACT unless the quantity of that fuel that would remain in storage at the premises, or each of the premises, as the case may be, at which the person conducts his or her business in the ACT exceeds a quantity specified in the instrument.
- (2) A person shall not refuse or fail to comply with a requirement made by the controller under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

13 Expiration of requirements

- (1) Subject to subsection (2) and unless it is sooner revoked, a requirement made under section 12 (1) ceases to have effect when the declaration under section 11 (1) ceases to be in force.
- (2) Where—
 - (a) a declaration under section 11 (1) ceases to be in force; and
 - (b) a further declaration under that subsection is made immediately upon the expiration of the firstmentioned declaration in relation to the same fuel;

a requirement made under section 12 (1) while the firstmentioned declaration was in force remains in force as if it had been made after the secondmentioned declaration was made.

15 Inspector may inspect vehicle suspected of transporting fuel

- (1) Where there are reasonable grounds for believing that a vehicle is being used, or is so constructed as to be capable of being used, for the transport of fuel, an inspector may—
 - (a) inspect the vehicle and any receptacle or equipment on the vehicle; and
 - (b) require the driver of the vehicle to inform him or her of—

- (i) the nature of any substance being transported on the vehicle; and
 - (ii) the place where the substance was loaded on the vehicle; and
 - (iii) the person to whom, and the place at which, the substance is to be delivered.
- (2) For the purpose of inspecting a vehicle under subsection (1), an inspector may—
 - (a) require the driver of the vehicle to stop the vehicle; or
 - (b) require the driver of the vehicle to remove the vehicle to a place specified by the inspector; or
 - (c) require the driver of the vehicle to open any receptacle or equipment on the vehicle; or
 - (d) enter, at any reasonable hour of the day or night, any land or premises on which the vehicle is found.
- (3) The driver of a vehicle shall comply with any requirement made by an inspector under this section.

Maximum penalty: 50 penalty units.

16 Control of disposal of certain fuel brought into ACT

- (1) A person who brings declared fuel into the ACT shall not—
 - (a) dispose of that fuel in the ACT; or
 - (b) remove that fuel from the ACT;except in accordance with the directions of the controller.

Maximum penalty: 50 penalty units.
- (2) Subsection (1) does not apply to a person in relation to whom the controller has made a requirement under section 12.

17 Application

A power conferred on an inspector by section 15—

- (a) may only be exercised while a declaration under section 11 (1) is in force; and
- (b) where a declaration is made in relation to the supply of a fuel specified in the declaration—may be exercised only in respect of the fuel so specified; and
- (c) does not affect the exercise by the controller or an inspector of a power conferred by any other provision of this Act.

18 Obstruction of controller or an inspector

- (1) A person shall not obstruct, threaten or intimidate the controller in the exercise of a power or function vested in, or the discharge of a duty imposed on, the controller by this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person shall not obstruct, threaten or intimidate an inspector in the exercise of a power or function vested in, or the discharge of a duty imposed on, the inspector by this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

19 Service of notices

Subject to this Act, a notice or instrument that is required by this Act to be given to a person may be given—

- (a) sending it to him or her by post addressed to him or her at his or her last-known place of residence or business; or
- (b) in the case of a notice or instrument required to be given to a person carrying on a prescribed business—by delivering it to him or her personally or by leaving it with a person apparently

over the age of 16 years at his or her last-known place of residence or business.

20 Information not admissible in evidence

A statement in a notice given to the controller or any information given to the controller or to an inspector in compliance with a requirement made by the controller or an inspector under this Act is not admissible in evidence in a prosecution for an offence other than for an offence against this Act.

21 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
o = order	sub = substituted
om = omitted/repealed	SL = Subordinate Law
	<u>underlining</u> = whole or part not commenced

3 Legislation history

The *Fuels Control Act 1979* was originally the *Fuels Control Ordinance 1979*. It became an ACT Act on self-government (11 May 1989).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before self-government

Fuels Control Act 1979 No 14

notified 20 June 1979

commenced 20 June 1979

as amended by

Fuels Control (Amendment) Ordinance 1982 No 5

notified 4 March 1982

commenced 4 March 1982

Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1

notified 10 May 1989

s 1, s 2 commenced 10 May 1989 (s 2 (1))

remainder commenced 11 May 1989 (s 2 (2) and Cwlth Gaz 1989 No S164)

Legislation after self-government

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1

notified 15 December 1994 (Gaz 1994 No S280)

s 1, s 2 commenced 15 December 1994 (s 2 (1))

sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Legislation (Consequential Amendments) Act 2001 No 44 pt 160

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 160 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

Endnotes

4 Amendment history

4 Amendment history

Definitions for Act

s 2 def **controller** sub 1994 No 97 sch pt 1
def **inspector** sub 1994 No 97 sch pt 1

Controller of Fuels

s 3 sub 1994 No 97 sch pt 1

Delegation

s 4 am 1982 No 5; 1989 No 38 sch 1
sub 1994 No 97 sch pt 1

Inspectors

s 5 sub 1994 No 97 sch pt 1

Identity cards

s 5A ins 1994 No 97 sch pt 1
am 1998 No 54 sch

Person carrying on prescribed business to notify controller of business address etc

s 7 am 1998 No 54 sch

Controller may require information

s 8 am 1998 No 54 sch

Powers of inspector

s 9 am 1982 No 5; 1994 No 97 sch pt 1; 1998 No 54 sch

Controller may require information from persons having storage capacity exceeding the prescribed capacity

s 10 am 1982 No 5; 1998 No 54 sch

Declaration

s 11 am 2001 No 44 amdt 1.1862, amdt 1.1863

Powers of controller during emergency

s 12 am 1982 No 5; 1998 No 54 sch; pars renum R3 LA

Powers of inspector

s 14 om 1982 No 5

Inspector may inspect vehicle suspected of transporting fuel

s 15 am 1998 No 54 sch

Control of disposal of certain fuel brought into ACT

s 16 am 1998 No 54 sch

Obstruction of controller or an inspector

s 18 am 1998 No 54 sch

Service of notices

s 19 am 1982 No 5

Information not admissible in evidence

s 20 orig s 20 am 1989 No 38 sch
sub as s 21 2001 No 44 amdt 1.1864
pres (prev s 19A) ins 1982 No 5
renum 2001 No 44 amdt 1.1865

Regulation-making power

s 21 ins 2001 No 44 amdt 1.1864

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Republication No	Amendments to	Republication date
1	ord 1989 No 38	31 July 1991
2	Act 1998 No 54	31 March 1999

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