



Australian Capital Territory

# **Fair Trading (Fuel Prices) Act 1993**

**A1993-40**

**Republication No 2A**

**Effective: 12 July 2001 – 11 September 2001**

Republication date: 18 December 2019

Last amendment made by A2001-50

## About this republication

### The republished law

This is a republication of the *Fair Trading (Fuel Prices) Act 1993* effective from 12 July 2001 to 11 September 2001.

### 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](http://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 (Republication) Act 1996*, part 3, division 2 authorised 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 (Republication) Act 1996*, s 14 and s 16). 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.



Australian Capital Territory

# Fair Trading (Fuel Prices) Act 1993

## Contents

---

	Page
1 Short title	2
2 Interpretation	2
3 Commissioner may make recommendation to Minister	3
4 Minister may determine fuel prices	4
5 Price offences	5
6 Power to obtain information	6
7 Use of information	7
8 When a volume of fuel must be temperature converted	7
9 Section 8 must not be circumvented	8
12 Regulation-making power	9

## Endnotes

1 About the endnotes	10
2 Abbreviation key	10
3 Table of legislation	11
4 Amendment history	12
5 Earlier republications	13





Australian Capital Territory

## Fair Trading (Fuel Prices) Act 1993

---

An Act to make provision for the regulation of prices of certain fuels and for related purposes

---

## 1 Short title

This Act may be cited as the *Fair Trading (Fuel Prices) Act 1993*.

## 2 Interpretation

### (1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Interpretation Act 1967*, s 11G).

**base wholesale price**, in relation to a specified fuel, means the wholesale price payable for that fuel, excluding—

- (a) the amount per litre included in that price on account of freight charges in connection with the supply of that fuel; and
- (b) the amount per litre included in that price on account of any duty payable by the wholesaler under a law of the Commonwealth.

**commissioner** means the commissioner for fair trading.

**determination** means a determination by the Minister under subsection 4 (1).

**fuel** means leaded petrol, unleaded petrol or distillate.

**leaded petrol** means petrol other than unleaded petrol.

**price** includes a charge of any description.

**Prices Surveillance Authority** means the authority established under that name by the *Prices Surveillance Act 1983* (Cwlth).

**recommendation** means a recommendation by the commissioner under subsection 3 (1).

**regulated transfer** means a single consignment of a fuel that is—

- (a) at least 2,000L; and
- (b) delivered to or withdrawn from a place in the Territory under, or because of, an agreement for the sale, purchase or exchange of fuel.

**retail margin**, in relation to a specified fuel, means the amount included in the retail price that is equal to the difference between that price and the base wholesale price of that fuel, excluding the amount per litre included in the retail price on account of the freight charges in connection with the supply of that fuel.

**specified fuel** means the fuel that is specified in a recommendation or a determination, as the case requires.

**unleaded petrol** means petrol that—

- (a) contains not more than 0.013g of lead per L; and
  - (b) contains not more than 0.0013g of phosphorous per L; and
  - (c) contains not more than 0.10% of sulphur by weight or, while a determination under clause 6 of Schedule 2 to the *Environment Protection Act 1997* specifying a higher percentage is in force, not more than that percentage; and
  - (d) has a research octane number not less than 91.0; and
  - (e) has a motor octane number of not less than 82.0.
- (2) A reference to the **wholesale price** of a specified fuel shall be read as the price per litre payable on the sale of that fuel by wholesale.
  - (3) A reference to the **retail price** of a specified fuel shall be read as the price per litre payable on the sale of that fuel by retail.

### **3 Commissioner may make recommendation to Minister**

- (1) The commissioner may make a recommendation in writing to the Minister as to—
  - (a) the maximum base wholesale price of a specified fuel; and
  - (b) the maximum retail price of a specified fuel; and
  - (c) the maximum retail margin in relation to a specified fuel.

- (2) For the purpose of making a recommendation in relation to a particular fuel, the commissioner shall have regard to such matters as he or she considers to be relevant, including, any 1 or more of the following matters:
- (a) the wholesale price of that fuel that, for the purposes of subsection 22 (2) of the *Prices Surveillance Act 1983* (Cwlth), is the **relevant price** applicable to that fuel under that subsection;
  - (b) the price at which that fuel is being sold in the Territory, whether by wholesale or by retail;
  - (c) the price at which that fuel is being sold in any 1 or more of the State capital cities (and particularly Sydney), whether by wholesale or by retail;
  - (d) any consultations he or she has had with the Prices Surveillance Authority, the Motor Trades Association or representatives of the petroleum industry;
  - (e) submissions received from the bodies or representatives referred to in paragraph (d);
  - (f) information furnished to the commissioner in accordance with a requirement under subsection 6 (1);
  - (g) anomalies or disparities in relation to the price of a fuel arising in connection with any 1 or more of the matters referred to in paragraphs (a) to (f).

#### **4 Minister may determine fuel prices**

- (1) The Minister may, on the recommendation of the commissioner in relation to a specified fuel, by notice in the Gazette, determine—
- (a) the maximum base wholesale price of that fuel; and
  - (b) the maximum retail price of that fuel; and
  - (c) the maximum retail margin in relation to that fuel.



- (2) The Minister shall not determine a maximum base wholesale price of a specified fuel that is greater than the *relevant price* that, for the purposes of subsection 22 (2) of the *Prices Surveillance Act 1983* (Cwlth), is applicable to that fuel under that subsection.
- (3) A determination—
  - (a) takes effect on the day on which it is notified in the Gazette or on such later date and at such time (if any) as is specified in the notice; and
  - (b) ceases to have effect on the date (if any) specified in the notice.
- (4) The Minister may, by notice in the Gazette, amend or revoke a determination.
- (5) The Minister shall, as soon as practicable after making a determination, ensure that a copy of the notice of the determination is published in a newspaper circulating generally in the Territory and that such notice includes a statement of the date on which and time (if any) at which the determination takes effect.
- (6) A determination is a disallowable instrument.

## **5 Price offences**

- (1) Where the maximum base wholesale price of a specified fuel has been determined under paragraph 4 (1) (a), a person shall not, without reasonable excuse, sell or offer for sale, by wholesale, any such fuel at a price greater than that maximum base wholesale price.

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

- (2) Where the maximum retail price of a specified fuel has been determined under paragraph 4 (1) (b), a person shall not, without reasonable excuse, sell or offer for sale, by retail, any such fuel at a price greater than that maximum retail price.

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

- (3) Where the maximum retail margin in relation to a specified fuel has been determined under paragraph 4 (1) (c), a person shall not, without reasonable excuse, sell or offer for sale, by retail, any such fuel at a retail margin greater than that maximum retail margin.

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

## **6 Power to obtain information**

- (1) Where the commissioner believes, on reasonable grounds, that—
- (a) a person is a prescribed person; and
  - (b) that person is capable of furnishing information that the commissioner considers to be necessary in connection with making a recommendation in relation to a particular fuel;

the commissioner may by notice served on that person, require the person to furnish to the commissioner, within the time and in the manner specified in the notice, such information as is specified in the notice.

- (2) A person shall not—
- (a) without reasonable excuse, fail to comply with a notice under subsection (1); or
  - (b) in purported compliance with such a notice, knowingly furnish information that is false or misleading.

Maximum penalty:

- (a) for paragraph (a)—50 penalty units; or
- (b) for paragraph (b)—50 penalty units, imprisonment for 6 months or both.

- (3) In this section:

***prescribed person*** means—

- (a) a person, whether within or outside the Territory, who supplies fuel in the Territory; or

- (b) a person, whether within or outside the Territory, who is a party to an agreement, arrangement or understanding that may affect or be connected with the price, or supply, of fuel in the Territory.

*supply* means to supply (including resupply), or to offer to supply, by way of sale (whether by wholesale or by retail) or exchange.

## **7 Use of information**

- (1) Information furnished to the commissioner by a person in accordance with a requirement under subsection 6 (1) shall not, without reasonable excuse, be used otherwise than in connection with a recommendation or a determination under this Act.
- (2) A person who contravenes subsection (1) commits an offence.  
Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (3) Subsection (1) does not apply to the communication of information, or the production of a document, to a court for the purposes of proceedings for an alleged offence against paragraph 6 (2) (a) or (b).

## **8 When a volume of fuel must be temperature converted**

- (1) The volume of a fuel in a regulated transfer must be measured or calculated as if the fuel were at the temperature of 15°C.
- (2) A person must not, without reasonable excuse, authorise a regulated transfer in which—
  - (a) the volume of the fuel is measured or calculated contrary to subsection (1); or
  - (b) the price or value of the fuel transferred is fixed by reference to a volume measured or calculated contrary to subsection (1).

Maximum penalty (subsection (2)): 50 penalty units, imprisonment for 6 months or both.

**9 Section 8 must not be circumvented**

- (1) Section 8 applies even if there is an agreement or understanding to the contrary.
- (2) A provision in an agreement is void so far as it is inconsistent with section 8 or a right or remedy arising from the section.
- (3) Section 8 applies even if the proper law of the agreement is that of another jurisdiction.
- (4) Nothing in section 8 affects the operation of an agreement so far as it can operate consistently with that section.

**10 Record of temperature converted volume**

- (1) This section applies to a person (the *supplier*) who authorises the delivery of a regulated transfer of a fuel to another person (the *recipient*).
- (2) The supplier must ensure that at the time of the delivery, or as soon as practicable after the delivery, the recipient is given a statement that includes the following information:
  - (a) the kind of the fuel;
  - (b) the volume of the fuel loaded into a container (including, for example, a petrol tanker) for consignment to the recipient;
  - (c) the temperature of the fuel at the time it is loaded for consignment;
  - (d) the volume of the fuel loaded for consignment measured or calculated as if the fuel were at the temperature of 15°C;
  - (e) whether, after the fuel has been loaded for consignment, a quantity of fuel has been added to or removed from the consignment;
  - (f) any other information prescribed under the regulations for this paragraph.

- (3) A person must not, without reasonable excuse, contravene subsection (2).

Maximum penalty (for subsection (3)): 50 penalty units, imprisonment for 6 months or both.

- (4) This section does not prevent the volume of the fuel being measured or calculated as if the fuel were at the temperature of 15°C at the time of its delivery to the recipient.

**Example**

If only part of a single consignment of a fuel is delivered to the recipient, the volume supplied may be measured through or by a device that measures or calculates the volume of fuel delivered as if it were at the temperature of 15°C.

## **11 Charging for temperature conversion of fuel prohibited**

A person must not authorise the delivery of a regulated transfer of a fuel to another person if a charge or some other form of consideration is either directly or indirectly made or otherwise required for complying with—

- (a) section 8 (1) (When a volume of fuel must be temperature converted); or
- (b) section 10 (2) (Record of temperature converted volume).

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

## **12 Regulation-making power**

The Executive may make regulations, not inconsistent with this Act, prescribing all matters—

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

## 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 (Republication) Act 1996*, section 13 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	orig = original
amdt = amendment	p = page
ch = chapter	par = paragraph
cl = clause	prev = previous
def = definition	(prev...) = previously
dict = dictionary	prov = provision
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
ins = inserted/added	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
notfd = notified	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced

---

### 3 Table of legislation

**Fair Trading (Fuel Prices) Act 1993 No 40**

notified 29 June 1993 (Gaz 1993 No S111)  
commenced 29 June 1993

as amended by

**Environment Protection (Consequential Provisions) Act 1997 No 93  
sch 2**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 21 December 1997  
commenced 1 June 1998

**Tobacco Licensing (Amendment) Act 1998 No 18 sch 1**

notified 10 July 1998 (Gaz 1998 No S190)  
commenced 10 July 1998 (s 2)

**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  
commenced 9 December 1998 (Gaz 1998 No 49)

**Fair Trading (Fuel Prices) (Amendment) Act 1999 No 45**

notified 17 September 1999 (Gaz 1999 No S54)  
commenced 17 September 1999

**Law Reform (Miscellaneous Provisions) Act 1999 No 66 sch 3**

notified 10 November 1999 (Gaz 1999 No 45)  
commenced 10 November 1999

**Justice and Community Safety Legislation Amendment Act 2000  
(No 3) No 17 sch 1**

notified 1 June 2000 (Gaz 2000 No 22)  
commenced 1 June 2000

**Fair Trading (Fuel Prices) Amendment Act 2001 No 50**

notified 12 July 2001 (Gaz 2001 No 28)  
commenced 12 July 2001

## Endnotes

4 Amendment history

---

## 4 Amendment history

### Interpretation

s 2 def **base wholesale price** am 1998 No 18 sch 1  
def **commissioner** ins 2000 No 17 sch 1  
def **director** sub 1999 No 66 sch 3  
om 2000 No 17 sch 1  
def **recommendation** am 2000 No 17 sch 1  
def **regulated transfer** ins 1999 No 45 s 4  
def **retail margin** am 1998 No 18 sch 1  
def **unleaded petrol** am 1997 No 93 sch 2

### Commissioner may make recommendation to Minister

s 3 hdg am 2000 No 17 sch 1  
s 3 am 2000 No 17 sch 1

### Minister may determine fuel prices

s 4 am 2000 No 17 sch 1

### Price offences

s 5 am 1998 No 54 sch

### Power to obtain information

s 6 am 1998 No 54 sch; 2000 No 17 sch 1

### Use of information

s 7 am 1998 No 54 sch; 2000 No 17 sch 1

### When a volume of fuel must be temperature converted

s 8 ins 1999 No 45 s 5

### Section 8 must not be circumvented

s 9 ins 1999 No 45 s 5

### Record of temperature converted volume

s 10 ins 2001 No 50 s 5

### Charging for temperature conversion of fuel prohibited

s 11 ins 2001 No 50 s 5

### Regulation-making power

s 12 (prev s 8) renum as s 10 1999 No 45 s 6  
renum 2001 No 50 s 4



## 5 Earlier republications

Republication No	Amendments to	Republication date
1	Act 1999 No 45	17 September 1999
1A	Act 1999 No 66	10 November 1999
1B	Act 1999 No 66	10 November 1999
2	Act 2000 No 17	24 July 2000
2A	Act 2000 No 17	24 July 2000

© Australian Capital Territory 2019