

1992

**AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY**

FAIR TRADING (FUEL PRICES) BILL 1992

EXPLANATORY MEMORANDUM

**Circulated by authority of
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Attorney General**

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OUTLINE

This Bill is principally intended to allow a mechanism whereby petrol prices in the ACT can be regulated. The Bill provides that wholesale prices, retail prices and retail margins charged for petroleum products in the ACT can be monitored and if necessary a maximum imposed in each category.

Financial Considerations

Implementation of the Bill will not involve additional resources.

NOTES ON CLAUSES

Formal Clauses

Clause 1 is a formal requirement. It refers to the short title of the Bill.

The Bill will commence on the day it is notified in the Gazette.

Interpretation

Clause 2 defines various terms used in the Bill. In particular, the terms "fuel", "base wholesale price" and "retail margin" have the following meanings.

- . Fuel is defined as including leaded petrol, unleaded petrol or distillate.
- . The base wholesale price is the price at which fuel is purchased from the wholesaler, but excluding any freight charges and any franchise fees.
- . The retail margin is defined as being the difference between the retail price of a given fuel and the base wholesale price, less any freight charges and any franchise fees.

Director may make recommendation to Minister

Clause 3 allows the Director of Consumer Affairs to recommend to the Minister, a maximum base wholesale price, a maximum retail margin and/or a maximum retail price in relation to a specified fuel. It is intended that a recommendation might include any one or more of the prices or margins in respect of any one or more fuel types.

In making such a recommendation the Director can have regard to any matters which he or she considers to be relevant. Subclause 3(2) lists some specific matters which the Director may take into account, for example the wholesale and retail prices at which a given fuel is being sold in the Territory and in other capital cities, and any information or submissions which he or she has received as to relevant pricing practices.

Minister may determine fuel prices

Clause 4 provides that when the Director has made a recommendation, the Minister may make a determination fixing the maximum prices or margins.

The determination will take effect either on the day it is notified in the Gazette or the day, if any, specified in the notice. Further notification of the determination will be advertised in a Territory newspaper.

A determination is a disallowable instrument, which means that within 30 sitting days following the making of the determination the Legislative Assembly may decide that the determination should no longer have any effect.

Subclause 4(2) specifies that if the Minister determines a maximum base wholesale price that price cannot be greater than the base wholesale price for that fuel which is agreed between the wholesale suppliers and the Prices Surveillance Authority under the *Prices Surveillance Act 1983* of the Commonwealth.

Price Offences

Clause 5 makes it an offence to sell or offer for sale, any fuel at a price or margin greater than the price or margin specified in a current Ministerial determination.

Power to obtain information

Clause 6 gives the Director of Consumer Affairs power to require a person or a company to provide information which the Director considers to be relevant to the making of a recommendation to the Minister.

The Director can only exercise this power where the person is a party to an agreement or arrangement associated with the supply or price of fuel in the Territory. This includes a person who has merely offered to supply fuel in the Territory. The Director must also be satisfied that that person is capable of providing such information.

Subclause 6(2) provides that it is an offence to fail to comply with such a request without a reasonable excuse, or to knowingly provide false or misleading information.

Use of information

Clause 7 makes it an offence to use the information collected in accordance with clause 6, for any purpose other than in connection with making a recommendation or determination.

This clause does not apply in relation to providing information to a court in the course of proceedings concerning offences under subclause 6(2).

Clause 8 is a standard clause enabling regulations to be made for the purposes of the Act.