

AUSTRALIAN CAPITAL TERRITORY

No. 14 of 1979

An Ordinance relating to the distribution of certain fuels in the Australian Capital Territory

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this nineteenth day of June 1979.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

R. ELLICOTT
Minister of State for the Capital Territory

FUELS CONTROL ORDINANCE 1979

Short title

1. This Ordinance may be cited as the *Fuels Control Ordinance 1979*.¹

Interpretation

2. In this Ordinance, unless the contrary intention appears—

“Controller” means the Controller of Fuels;

“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 a person holding office under sub-section 5 (1);

“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;
- (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 one 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. For the purposes of this Ordinance, there shall be a Controller of Fuels who shall be appointed by the Minister. Controller of Fuels

4. (1) The Controller may, either generally or otherwise as provided by the instrument of delegation, by writing under his hand, delegate to a person any of his powers under this Ordinance, except this power of delegation. Delegation

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation and when so exercised shall, for the purposes of this Ordinance, be deemed to have been exercised by the Controller.

(3) A delegation under this section is revocable in writing at will and does not prevent the exercise of a power by the Controller.

5. (1) The Minister may appoint such inspectors as he considers necessary for the purposes of this Ordinance. Inspectors

(2) A person appointed under this section shall, subject to this Ordinance, perform such duties for the purposes of this Ordinance as the Controller directs.

(3) The Minister shall issue to each person appointed under this section a certificate certifying that that person is an inspector for the purposes of this Ordinance.

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

7. (1) A person who carries on a prescribed business shall give to the Controller a notice in writing setting out particulars of— Person carrying on prescribed business to notify Controller of business address, &c.

- (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;
 (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 Ordinance, is carrying on a prescribed business shall give the notice required by sub-section (1) not later than 14 days after that date.

(3) A person who, after the date of commencement of this Ordinance, commences to carry on a prescribed business shall give the notice required by sub-section (1) not later than 14 days after the day on which he commences to carry on that business.

(4) A person who has given a notice to the Controller for the purpose of sub-section (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 ceases to carry on that business, give to the Controller a notice in writing stating that he has ceased to carry on that business and specifying the date on which he ceased to carry on the business.

(6) A person who fails to give a notice in accordance with a provision of this section is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000 or imprisonment for a term not exceeding 6 months, or both.

Controller
may require
information

8. (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;
- (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 sub-section (1) shall—

- (a) be given in writing; and
- (b) be given as soon as is reasonable practicable after the requirement is made.

(3) A person shall comply with a requirement made of him in accordance with sub-section (1).

Penalty: \$1,000 or imprisonment for 6 months, or both.

Powers of
Inspector

9. (1) An inspector may, at any reasonable hour of the day—

- (a) inspect premises at which a prescribed business is carried on, and any books or documents at those premises that relate to that business;

- (b) inspect any receptacles or equipment on the premises;
- (c) inspect any vehicle that is on the premises, being a vehicle that is so constructed as to be capable of transporting fuel;
- (d) require the occupier, or person for the time being in charge of the premises, to inform him of the nature of the substance held in any receptacle or equipment on the premises;
- (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;
- (f) require the driver, or the person in charge, of a vehicle referred to in paragraph (c) to inform him whether the vehicle is carrying fuel and, if so, to inform him 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 sub-section (3), a person shall comply with a requirement made by an inspector in pursuance of sub-section (1).

Penalty: \$500 or imprisonment for 3 months, or both.

(3) An inspector who enters upon premises in pursuance of this section is not authorized to remain on the premises if, on request by the occupier, or the person in charge, of the premises, he does not produce a certificate issued to him for the purpose of sub-section 5 (3).

10. (1) The Controller may, by notice published in a daily newspaper published and circulating in the Territory, require any 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 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;
- (b) the kind or kinds of fuel held in those storage facilities when the notice was signed;
- (c) the quantity of each kind of fuel so held when the notice was signed;
- (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.

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

(2) A person who is the occupier of premises on which there are storage facilities for fuel of a capacity exceeding the capacity specified in or notice given under sub-section (1) shall comply with the requirement of the notice.

Penalty: \$1,000 or imprisonment for 6 months.

(3) It is a defence to a prosecution for an offence against sub-section (2) that—

- (a) the defendant was absent from the Territory throughout the period specified in the notice published by the Controller and had no employee in the Territory on the day on which the notice was published; or
- (b) the defendant was absent from Australia throughout the period specified in the notice published by the Controller.

(4) A statement in a notice given to the Controller for the purpose of this section is not admissible in evidence in a prosecution for an offence against the *Flammable Liquids Ordinance 1976*.

(5) The Controller may, in a notice under sub-section (1), specify a different capacity for storage facilities on residential and commercial premises.

Declaration

11. (1) Where there are reasonable grounds for believing—

- (a) that the maintenance of essential services in the Territory is, or is about to be, affected by a reduction of the supply of a fuel to the Territory;
- (b) that undue hardship is being suffered, or is likely to be suffered, by residents of the Territory by reason of a reduction of the supply of a fuel to the Territory; or
- (c) that undue hardship is being suffered, or is likely to be suffered, by residents of the Territory by reason of difficulties in the distribution of a fuel within the Territory,

the Minister may, by notice published in the *Gazette*, declare that an emergency exists in relation to that fuel.

(2) Unless it is sooner revoked, a declaration under sub-section (1) remains in force for the period of 28 days from and including the day on which the notice is published in the *Gazette*.

(3) A declaration may be made immediately upon the expiration of a previous declaration.

Powers of
Controller
of Fuels
during
emergency

12. (1) Where a declaration under sub-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 Territory, make any one 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 business in the Territory 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 wholesale except to such persons, and at such times and in such quantities, as the Controller approves;
- (d) 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;
- (e) 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;
- (f) a requirement that the person not remove that fuel from the Territory 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 business in the Territory 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 sub-section (1).

Penalty: \$1,000 or imprisonment for 6 months.

13. (1) Subject to sub-section (2) and unless it is sooner revoked, a requirement made under sub-section 12 (1) ceases to have effect when the declaration under sub-section 11 (1) ceases to be in force. Expiration of requirements

(2) Where—

- (a) a declaration under sub-section 11 (1) ceases to be in force; and
- (b) a further declaration under that sub-section is made immediately upon the expiration of the first-mentioned declaration in relation to the same fuel,

a requirement made under sub-section 12 (1) while the first-mentioned declaration was in force remains in force as if it had been made after the second-mentioned declaration was made.

14. The powers conferred on an inspector by section 9 may, while a declaration under sub-section 11 (1) is in force, be exercised at any time of the day or night. Powers of inspector

15. (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— Inspector may inspect vehicle suspected of transporting fuel

- (a) inspect the vehicle and any receptacle or equipment on the vehicle; and

- (b) require the driver of the vehicle to inform him of—
 - (i) the nature of any substance being transported on the vehicle;
 - (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 in pursuance of sub-section (1) an inspector may—

- (a) require the driver of the vehicle to stop the vehicle;
- (b) require the driver of the vehicle to remove the vehicle to a place specified by the inspector;
- (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.

Penalty: \$500 or imprisonment for 3 months, or both.

Control of disposal of certain fuel brought into the Territory

16. (1) A person who brings declared fuel into the Territory shall not—

- (a) dispose of that fuel in the Territory; or
- (b) remove that fuel from the Territory,

except in accordance with the directions of the Controller.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2) Sub-section (1) does not apply to a person in relation to whom the Controller has made a requirement under section 12.

Application

17. A power conferred on an inspector by section 15—

- (a) may only be exercised while a declaration under sub-section 11 (1) is in force;
- (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 Ordinance.

Obstruction of Controller or an inspector

18. (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 Ordinance.

Penalty: \$1,000 or 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 Ordinance.

Penalty: \$1,000 or imprisonment for 6 months, or both.

19. A notice or instrument that is required by this Ordinance to be given to a person may be given— Service of notices

- (a) sending it to him by post addressed to him at his 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 personally or by leaving it with a person apparently over the age of 16 years at his last known place of residence or business.

20. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters that are by this Ordinance required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance. Regulations

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 20 June 1979.