



Australian Capital Territory

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

**A1993-40**

**Republication No 2 (RI)**

**Effective: 1 June 2000 – 11 July 2001**

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## **About this republication**

### **The republished law**

This is a republication of the *Fair Trading (Fuel Prices) Act 1993* effective from 1 June 2000 to 11 July 2001.

### **Kinds of republications**

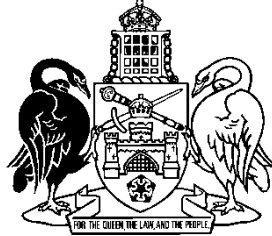
The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- 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.



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

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As in force on  
24 July 2000



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—

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- (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.

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- (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 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.

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### ENDNOTES

#### 1 About this republication

This is a republication of the *Fair Trading (Fuel Prices) Act 1993* as in force on 24 July 2000. It includes all amendments made to the Act up to Act 2000 No 17.

Amending laws are annotated in the table of legislation and table of amendments.

The Parliamentary Counsel's Office currently prepares 2 kinds of republications of ACT laws: authorised printed republications to which the *Legislation (Republication) Act 1996* applies and unauthorised electronic republications. The status of this republication appears on its cover and is indicated by its republication number.

A republication number without a letter (eg 1, 2, 3 etc) indicates that the republication is an authorised printed republication. A number with a letter (eg 1A, 1B, 1C etc) indicates that the republication is an unauthorised electronic republication.

Section 13 of the *Legislation (Republication) Act 1996* authorises the Parliamentary Counsel, in preparing a law for republication, to make textual amendments of a formal nature which the Parliamentary Counsel considers desirable in accordance with current legislative drafting practice. The amendments do not effect a substantive change in the law.

In preparing this republication, amendments have not been made under section 13.

Not all amendments made under section 13 are annotated in the table of amendments. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

#### 2 Abbreviation key

##### Key to abbreviations in tables

am = amended	pres = present
amdt = amendment	prev = previous
ch = chapter	(prev...) = previously
cl = clause	prov = provision
def = definition	pt = part
dict = dictionary	r = rule/subrule
div = division	reg = regulation/subregulation
exp = expires/expired	renum = renumbered
Gaz = Gazette	reloc = relocated
hdg = heading	R[X] = Republication No
ins = inserted/added	s = section/subsection
LR = Legislation (Republication) Act 1996	sch = schedule
mod = modified	sdiv = subdivision
No = number	sub = substituted
notfd = notified	SL = Subordinate Law
o = order	sp = spent
om = omitted/repealed	* = SL unless otherwise stated
orig = original	† = Act or Ordinance unless otherwise stated
p = page	
par = paragraph	

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**3 Table of legislation**

Act†	Year and number†	Gazette notification	Commencement	Transitional provisions
<i>Fair Trading (Fuel Prices) Act 1993</i>	1993 No 40	29 June 1993	29 June 1993	
<i>Environment Protection (Consequential Provisions) Act 1997</i>	1997 No 93	1 Dec 1997	ss 1 and 2: 1 Dec 1997 remainder: 1 June 1998	—
<i>Tobacco Licensing (Amendment) Act 1998</i>	1998 No 18	10 July 1998	10 July 1998 (see s 2)	—
<i>Statute Law Revision (Penalties) Act 1998</i>	1998 No 54	27 Nov 1998	ss 1 and 2: 27 Nov 1998 remainder: 9 Dec 1998 (see Gaz 1998 No 49 p 1078)	—
<i>Fair Trading (Fuel Prices) (Amendment) Act 1999</i>	1999 No 45	17 Sept 1999	17 Sept 1999	—
<i>Law Reform (Miscellaneous Provisions) Act 1999</i>	1999 No 66	10 Nov 1999	10 Nov 1999	—
<i>Justice and Community Safety Legislation Amendment Act 2000 (No 3)</i>	2000 No 17	1 June 2000	1 June 2000	—

**4 Table of amendments**

Provision	How affected†
s 2 .....	am 1997 No 93; 1998 No 18; 1999 No 45 s 4; 1999 No 66 s 6 sch 3; 2000 No 17 s 3 sch 1
hdg to s 3 .....	am 2000 No 17 s 3 sch 1
ss 3, 4 .....	am 2000 No 17 s 3 sch 1
s 5 .....	am 1998 No 54
ss 6, 7 .....	am 1998 No 54; 2000 No 17 s 3 sch 1
ss 8, 9 .....	ins 1999 No 45 s 5
s 10 .....	(prev s 8) renum 1999 No 45 s 6

**5 Table of earlier republications**

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

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**6 Penalties in this republication**

The penalties in this republication have been revised in accordance with the *Interpretation Act 1967*, s 63. The value of a penalty unit for an offence against this Act at the date of publication is, therefore—

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

See *Interpretation Act 1967*, s 33AA for additional information.