



Australian Capital Territory

Fair Trading (Fuel Prices) Act 1993 No 40

Republication No 3

Republication date: 12 September 2001

Last amendment made by Act 2001 No 70

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Fair Trading (Fuel Prices) Act 1993* as in force on 12 September 2001. 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

Fair Trading (Fuel Prices) Act 1993

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Amendments incorporated to
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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 *Legislation Act 1967*, s 155).

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 section 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 section 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 the *Environment Protection Act 1997*, schedule 2 clause 6 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 the *Prices Surveillance Act 1983* (Cwlth), section 22 (2) 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 section 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, in writing, 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 the *Prices Surveillance Act 1983* (Cwlth), section 22 (2) is applicable to that fuel under that subsection.

(3) A determination under subsection (1) is a disallowable instrument.

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

(4) The Minister must also publish the determination in a newspaper circulating generally in the ACT.

5 Price offences

(1) Where the maximum base wholesale price of a specified fuel has been determined under section 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 section 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 section 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 section 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 section 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: 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 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

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 (s 2 (1))
commenced 1 June 1998 (s 2 (3))

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 (s 2 (1))
commenced 9 December 1998 (s 2 (2) and 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 (s 2)

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

notified 10 November 1999 (Gaz 1999 No 45)
commenced 10 November 1999 (s 2)

**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 (s 2)

Fair Trading (Fuel Prices) Amendment Act 2001 No 50

notified 12 July 2001 (Gaz 2001 No 28)
commenced 12 July 2001 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 140
(as am by Act 2001 No 70 sch 1)**

notified 26 July 2001 (Gaz 2001 No 30)

Endnotes

4 Amendment history

s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 140 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

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; 2001 No 44 amdt 1.1616, amdt 1.1617

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
sub 2001 No 44 amdt 1.1618 (as sub by 2001 No 70 sch 1)

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	Act 1999 No 45	17 September 1999
2	Act 2000 No 17	24 July 2000

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