



Australian Capital Territory

# Fair Trading (Fuel Prices) Act 1993

A1993-40

**Republication No 5**

**Effective: 14 October 2015 – 25 August 2019**

Republication date: 14 October 2015

Last amendment made by [A2015-33](#)

## About this republication

### The republished law

This is a republication of the *Fair Trading (Fuel Prices) Act 1993* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 14 October 2015. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 14 October 2015.

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](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 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, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### 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 the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Fair Trading (Fuel Prices) Act 1993

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Fair Trading (Fuel Prices) Act 1993  
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Australian Capital Territory

## Fair Trading (Fuel Prices) Act 1993

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

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**1 Name of Act**

This Act is the *Fair Trading (Fuel Prices) Act 1993*.

**2 Dictionary**

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act.

*Note 2* A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

**2A Notes**

A note included in this Act is explanatory and is not part of this Act.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

**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](#).

- (4) The Minister must give additional public notice of the determination.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (4) is in addition to the requirement for notification on the legislation register as a disallowable instrument.

## 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](#).

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## Dictionary

(see s 2)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- commissioner for fair trading
- Minister (see s 162)
- person (see s 160)
- the Territory.

***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.

**retail price**, of a specified fuel, means the price per litre payable on the sale of the fuel by retail.

**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.

**wholesale price**, of a specified fuel, means the price per litre payable on the sale of the fuel by wholesale.

## 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 not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Fair Trading (Fuel Prices) Act 1993 A1993-40**

notified 29 June 1993 ([Gaz 1993 No S111](#))

commenced 29 June 1993

as amended by

#### **[Environment Protection \(Consequential Provisions\) Act 1997](#)**

##### **A1997-93 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 A1998-18 sch 1](#)**

notified 10 July 1998 ([Gaz 1998 No S190](#))

commenced 10 July 1998 (s 2)

#### **[Statute Law Revision \(Penalties\) Act 1998 A1998-54 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 A1999-45](#)**

notified 17 September 1999 ([Gaz 1999 No S54](#))

commenced 17 September 1999 (s 2)

#### **[Law Reform \(Miscellaneous Provisions\) Act 1999 A1999-66 sch 3](#)**

notified 10 November 1999 ([Gaz 1999 No 45](#))

commenced 10 November 1999 (s 2)

#### **[Justice and Community Safety Legislation Amendment Act 2000 \(No 3\) A2000-17 sch 1](#)**

notified 1 June 2000 ([Gaz 2000 No 22](#))

commenced 1 June 2000 (s 2)

#### **[Fair Trading \(Fuel Prices\) Amendment Act 2001 A2001-50](#)**

notified 12 July 2001 ([Gaz 2001 No 28](#))

commenced 12 July 2001 (s 2)

**Legislation (Consequential Amendments) Act 2001 A2001-44 pt 140  
(as am by A2001-70 sch 1)**

notified 26 July 2001 ([Gaz 2001 No 30](#))  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 140 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.42**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.42 commenced 12 April 2007 (s 2 (1))

**Red Tape Reduction Legislation Amendment Act 2015 A2015-33  
sch 1 pt 1.25**

notified LR 30 September 2015  
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))  
sch 1 pt 1.25 commenced 14 October 2015 (s 2)

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Name of Act

s 1 sub [A2007-3](#) amdt 3.230

#### Dictionary

s 2 defs reloc to dict [A2007-3](#) amdt 3.231  
sub [A2007-3](#) amdt 3.232  
def **director** sub [A1999-66](#) sch 3  
om [A2000-17](#) sch 1

#### Notes

s 2A ins [A2007-3](#) amdt 3.232

#### Commissioner may make recommendation to Minister

s 3 hdg am [A2000-17](#) sch 1

s 3 am [A2000-17](#) sch 1

#### Minister may determine fuel prices

s 4 am [A2000-17](#) sch 1; [A2001-44](#) amdt 1.1616, amdt 1.1617;  
[A2015-33](#) amdt 1.81

#### Price offences

s 5 am [A1998-54](#) sch

#### Power to obtain information

s 6 am [A1998-54](#) sch; [A2000-17](#) sch 1

#### Use of information

s 7 am [A1998-54](#) sch; [A2000-17](#) sch 1

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

s 8 ins [A1999-45](#) s 5

#### Section 8 must not be circumvented

s 9 ins [A1999-45](#) s 5

#### Record of temperature converted volume

s 10 ins [A2001-50](#) s 5

#### Charging for temperature conversion of fuel prohibited

s 11 ins [A2001-50](#) s 5

#### Regulation-making power

s 12 (prev s 8) renum as s 10 [A1999-45](#) s 6  
renum [A2001-50](#) s 4  
sub [A2001-44](#) amdt 1.1618 (as sub by [A2001-70](#) sch 1)

## Dictionary

dict

ins [A2007-3](#) amdt 3.233

def **base wholesale price** am [A1998-18](#) sch 1  
reloc from s 2 [A2007-3](#) amdt 3.231

def **commissioner** ins [A2000-17](#) sch 1  
reloc from s 2 [A2007-3](#) amdt 3.231

def **determination** reloc from s 2 [A2007-3](#) amdt 3.231

def **fuel** reloc from s 2 [A2007-3](#) amdt 3.231

def **leaded petrol** reloc from s 2 [A2007-3](#) amdt 3.231

def **price** reloc from s 2 [A2007-3](#) amdt 3.231

def **Prices Surveillance Authority** reloc from s 2 [A2007-3](#)  
amdt 3.231

def **recommendation** am [A2000-17](#) sch 1  
reloc from s 2 [A2007-3](#) amdt 3.231

def **regulated transfer** ins [A1999-45](#) s 4  
reloc from s 2 [A2007-3](#) amdt 3.231

def **retail margin** am [A1998-18](#) sch 1  
reloc from s 2 [A2007-3](#) amdt 3.231

def **retail price** ins [A2007-3](#) amdt 3.233

def **specified fuel** reloc from s 2 [A2007-3](#) amdt 3.231

def **unleaded petrol** am [A1997-93](#) sch 2  
reloc from s 2 [A2007-3](#) amdt 3.231

def **wholesale price** ins [A2007-3](#) amdt 3.233

## Endnotes

### 5 Earlier republications

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#### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	<a href="#">A1999-45</a>	17 September 1999
2	<a href="#">A2000-17</a>	24 July 2000
3	<a href="#">A2001-44</a>	12 September 2001
4	<a href="#">A2007-3</a>	12 April 2007

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