

Business Franchise (Tobacco and Petroleum Products) Regulations

I, THOMAS UREN, the Minister of State for Territories and Local Government, hereby make the following Regulations under the *Business Franchise (Tobacco and Petroleum Products) Ordinance 1984*.

Dated 1 August 1984.

TOM UREN
Minister of State for Territories
and Local Government

Citation

1. These Regulations may be cited as the Business Franchise (Tobacco and Petroleum Products) Regulations.

Interpretation

2. In these Regulations, "the Ordinance" means the *Business Franchise (Tobacco and Petroleum Products) Ordinance 1984*.

Determination of value of tobacco

3. (1) Subject to sub-regulation (2), the value to be attributed to tobacco is—

- (a) in the case of a value to be attributed for the purposes of an application for a wholesale tobacco merchant's licence or a group wholesale tobacco merchant's licence—the wholesale price payable to the applicant in respect of tobacco sold by him in the course of tobacco wholesaling by way of interstate trade during the relevant period; and
- (b) in the case of a value to be attributed for the purposes of an application for a retail tobacconist's licence—the wholesale price payable by the applicant in respect of tobacco sold by him by way of interstate trade during the relevant period.

(2) In determining the value of tobacco in accordance with sub-regulation (1), regard shall not be had to—

- (a) any amount that has been included in the price payable in respect of the tobacco in consideration of a licence fee;
- (b) the price payable in respect of tobacco sold by the holder of a warehouse licence granted under Part V of the *Customs Act 1901*, being tobacco sold in the warehouse to which the licence relates; or

- (c) the price payable in respect of tobacco sold to an airline, a shipping company, a service canteen or a person who is not a resident of Australia.
- (3) In sub-section (2), "service canteen" means—
 - (a) a canteen conducted by the Army and Air Force Canteen Board in pursuance of the Army and Air Force Canteen Service Regulations; or
 - (b) a canteen conducted in pursuance of the Navy (Canteens) Regulations.

Determination of value of petroleum products

- 4. The value to be attributed to petroleum products is—
 - (a) in the case of a value to be attributed for the purposes of an application for a petroleum wholesalers licence or a group petroleum wholesalers licence—the wholesale price payable to the applicant in respect of petroleum products sold by him in the course of petroleum wholesaling by way of interstate trade during the relevant period; and
 - (b) in the case of a value to be attributed for the purposes of an application for a petroleum retailers licence—the wholesale price payable by the applicant in respect of petroleum products sold by him by way of interstate trade during the relevant period,

other than any amount that has been included in the price payable in respect of petroleum products in consideration of a licence fee.

Keeping of records—tobacco

5. (1) The records to be kept by a person who carries on the business of selling tobacco by retail are as follows:

- (a) the name and address of each person from whom tobacco is purchased;
- (b) the date on which tobacco is purchased;
- (c) the quantity and value of each brand of tobacco purchased;
- (d) in relation to each sale by the person of tobacco, being a sale that the person knows or has reasonable cause to believe was made in the course of interstate trade—
 - (i) the name and address of the purchaser;
 - (ii) the date of the sale; and
 - (iii) the quantity of each brand of tobacco sold.

(2) In addition to the records required by sub-regulation (1) to be kept, the owner of a tobacco vending machine shall keep the following records in relation to tobacco vending machines owned by him:

- (a) the address of, and the name of the occupier of, each premises on which a tobacco vending machine is located;
- (b) the number of tobacco vending machines located on each premises;
- (c) the number of packets of each brand of tobacco sold by means of each vending machine in the period commencing on the 29th day of each month and ending on the 28th day of the following month;

(d) the total value of sales of tobacco made by each tobacco vending machine in each period referred to in paragraph (c).

(3) The records to be kept by a person carrying on the business of selling tobacco by wholesale are as follows:

(a) the value of tobacco sold each day, being tobacco sold otherwise than for the purposes of resale;

(b) the quantity of tobacco owned by the person at the end of each calendar month;

(c) the value of the tobacco referred to in paragraph (b);

(d) in relation to each sale of tobacco—

(i) the name and address of each purchaser;

(ii) the date of the sale; and

(iii) the quantity and value of each brand of tobacco sold.

(4) The records required to be kept—

(a) by sub-regulation (1) and paragraph (3) (d)—may be kept by means of invoices; and

(b) by sub-regulations (1) and (3) and paragraphs (2) (c) and (d)—shall be kept in chronological order.

Keeping of records—petroleum

6. (1) The records to be kept by a person who carries on petroleum retailing are as follows:

(a) a separate record in book form showing only the details of each purchase of motor spirit or diesel fuel made by the person;

(b) a separate record in book form of diesel fuel sold by the person for use otherwise than for propelling diesel engined road vehicles on roads, showing only, in respect of each sale—

(i) the name and, if known, the address of the purchaser;

(ii) the volume in litres of diesel fuel sold;

(iii) the price at which the diesel fuel was sold; and

(iv) the date of the sale;

(c) a separate record in book form showing only—

(i) the volume in litres of each grade of motor spirit; and

(ii) the volume in litres of diesel fuel,

sold by the person each day;

(d) a separate record in book form showing only—

(i) the volume in litres of each grade of motor spirit; and

(ii) the volume in litres of diesel fuel,

held in stock by the person at the end of each calendar month;

(e) a separate record in book form showing only, in respect of each sale by the person of diesel fuel or motor spirit (not being a sale referred to in paragraph (b)) that the person knows or has reasonable cause to believe was made in the course of interstate trade—

- (i) the name and address of the purchaser;
- (ii) the volume in litres of diesel fuel or of each grade of motor spirit, as the case requires; and
- (iii) the date of the sale.

(2) The details of a purchase of motor spirit or diesel fuel referred to in paragraph (1) (a) shall include—

- (a) the name and, if known, the address of the seller;
- (b) the price at which the motor spirit or diesel fuel was purchased;
- (c) the date of the purchase;
- (d) the volume in litres of the motor spirit or diesel fuel;
- (e) in the case of a purchase of motor spirit—the grade of the motor spirit; and
- (f) the address of the place to which the motor spirit or diesel fuel is delivered.

(3) The record to be kept by a person who carries on petroleum wholesaling is a record showing details of each sale of motor spirit or diesel fuel made by the person, including—

- (a) the name and, if known, the address of the purchaser;
- (b) the price at which the motor spirit or diesel fuel was sold;
- (c) the date of the sale;
- (d) the volume in litres of the diesel fuel or motor spirit;
- (e) in the case of a sale of motor spirit—the grade of the motor spirit; and
- (f) the address of the place to which the motor spirit or diesel fuel is delivered.

Furnishing of information

7. (1) A person who carries on the business of retailing tobacco (whether by way of a tobacco vending machine or otherwise) shall, within 7 days of any change in the name or place of business of the person from whom tobacco is obtained for resale by the first-mentioned person, notify the Commissioner in writing of the change.

Penalty: \$500.

(2) Sub-regulation (1) shall come into operation on 1 September 1984.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 7 August 1984.