Liquid Fuel Emergency Act 1984

Act No. 5 of 1984 as amended

This compilation was prepared on 3 July 2007
taking into account amendments up to Act No. 86 of 2007

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
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An Act to facilitate the management of liquid fuel that is, or is likely to be, in short supply

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1 Short title [see Note 1]

This Act may be cited as the Liquid Fuel Emergency Act 1984.

2 Commencement [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

- **aeroplane** means any machine or craft that can derive support in the atmosphere from the reactions of the air or from buoyancy but does not include an air-cushion vehicle.

- **Australia**, when used in a geographical sense, includes the external Territories.

- **Agreement** means the Agreement on an International Energy Program that was signed at Paris on 18 November 1974.

- **authority of the Commonwealth** means:
  (a) a body corporate established for a purpose of the Commonwealth by or under a law of the Commonwealth or a law of a Territory; or
  (b) an incorporated company in which the Commonwealth, or a body corporate referred to in paragraph (a), has a controlling interest.

- **contravention**, in relation to a relevant provision of this Act, includes a failure to comply with that relevant provision.

- **corporation** means a body corporate that:
  (a) is a foreign corporation;
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(b) is a trading corporation; or
(c) is incorporated in an internal Territory.

Court means the Federal Court of Australia.

document includes:
(a) a book, plan, paper, parchment, film or other material on which there is writing or printing, or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them;
(b) a disc, tape, paper, film or other device from which sounds or images are capable of being reproduced; and
(c) any other record of information.

Energy Minister means:
(a) in relation to a State—the Minister of the State who, under a law of that State, is responsible, or principally responsible, for the administration of emergency measures relating to any liquid fuel shortage that might affect that State;
(b) in relation to the Northern Territory—the person holding Ministerial office under section 36 of the Northern Territory (Self-Government) Act 1978 who, under a law of that Territory, is responsible, or principally responsible, for the administration of emergency measures relating to any liquid fuel shortage that might affect that Territory;
(c) in relation to the Australian Capital Territory (including the Jervis Bay Territory) and an external Territory (other than an external Territory referred to in paragraph (d))—the Minister for Territories; and
(d) in relation to the Australian Antarctic Territory and the Territory of Heard Island and McDonald Islands—the Minister for Science.

enter, in relation to a ship or an aircraft, includes board.

examine includes account, measure, weigh, grade or gauge.

foreign corporation means a foreign corporation to which paragraph 51(xx) of the Constitution is applicable, and includes a body corporate that is incorporated in an external Territory.

liquid fuel means liquid petroleum, a liquid petroleum product, a liquid petrochemical, methanol or ethanol.
**liquid petrochemical** means a substance that is a petrochemical and is in a liquid state at standard temperature and pressure.

**liquid petroleum** means a substance that is petroleum and is in a liquid state at:
(a) standard temperature and pressure; or
(b) a temperature and pressure prescribed for the purposes of this definition.

**liquid petroleum product** means any substance that is a petroleum product and is in a liquid state at:
(a) standard temperature and pressure; or
(b) a temperature and pressure prescribed for the purposes of this definition.

**offence against this Act** means:
(a) an offence against subsection 14(4) or (5), 29(5), 30(2) or (3) or 33(1) of this Act; or
(b) an offence against:
   (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
   (ii) subsection 86(1) of that Act by virtue of paragraph (a) of that subsection;
   being an offence that relates to an offence referred to in paragraph (a) of this definition.

**officer of the Northern Territory** means:
(a) an officer or employee of the Northern Territory;
(b) a member of the police force of the Northern Territory; or
(c) a person who constitutes, is a member of, or is employed by, an authority established by or under a law of the Northern Territory.

**officer of a State**, in relation to a State, means:
(a) an officer or employee of the State;
(b) a member of the police force of the State; or
(c) a person who constitutes, is a member of, or is employed by, an authority established by or under a law of the State.

**period of national liquid fuel emergency** means a period specified in a Proclamation made under subsection 16(1).
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"petrochemical" means a substance (not being a petroleum product), whether in a gaseous, liquid or solid state, 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 or mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
(b) any naturally occurring mixture of a hydrocarbon or hydrocarbons and of another substance or other substances, whether in a gaseous, liquid or solid state.

"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.

"price" includes a charge of any description.

"refined liquid petroleum product" means:
(a) a liquid petroleum product, being:
   (i) aviation gasoline;
   (ii) motor spirit;
   (iii) aviation turbine fuel;
   (iv) lighting kerosine;
   (v) heating oil;
   (vi) power kerosine;
   (vii) automotive distillate;
   (viii) industrial diesel fuel;
   (ix) liquid petroleum gas;
   (x) fuel oil;
   (xi) bitumen;
   (xii) naphtha;
   (xiii) lubricating oil; or
   (xiv) lubricating grease;
(b) a liquid petroleum product (other than a liquid petroleum product referred to in paragraph (a)) that is declared by the
regulations to be a refined liquid petroleum product for the purposes of this Act;
(c) methanol; or
(d) ethanol.

**relevant fuel industry corporation** means a corporation that:
(a) is engaged in the importation into Australia, or in the exportation from Australia, of liquid fuel;
(b) is engaged in the recovery of petroleum;
(c) is engaged in the refining or production of liquid fuel; or
(d) is engaged in the sale, in Australia, of liquid fuel, either in bulk or otherwise;
whether or not that activity constitutes the sole or principal activity in which the corporation is engaged.

**relevant liquid fuel**, in relation to a period of national liquid fuel emergency, means a liquid fuel the shortage or likely shortage of which resulted in the declaration of that national liquid fuel emergency.

**relevant person** means a person, other than a corporation, who:
(a) is engaged in the importation into Australia, or the exportation from Australia, of liquid fuel; or
(b) is engaged in the sale in Australia of liquid fuel, either in bulk or otherwise;
whether or not that activity constitutes the sole or principal activity in which the person is engaged.

**relevant provision of this Act** means subsection 12(5), 13(5), 14(2) or (3), 17(2), 18(2), 19(3), 20(2), 21(4), 22(4), 23(5) or 24(5).

**ship** means a vessel or boat of any description and includes:
(a) any floating structure; and
(b) any air-cushion vehicle.

**trading corporation** means a trading corporation to which paragraph 51(xx) of the Constitution is applicable.

(2) In this Act, a reference to standard temperature and pressure is a reference to a temperature of 15 degrees Celsius and a pressure of 101.325 kilopascals.
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(3) In this Act, a reference to trading or commercial activities is a reference to trading activities or commercial activities carried on within Australia or carried on between Australia and places outside Australia.

(4) The express references in this Act to corporations and bodies corporate shall not be taken to imply that references to persons do not also include references to persons who are not natural persons.

(5) For the purposes of this Act, in interpreting whether a purchase of a particular kind of refined liquid petroleum product is a purchase in bulk, regard shall be had to all relevant matters, including, but without limiting the generality of the foregoing, such matters (if any) as are prescribed in relation to refined liquid petroleum products of that kind.

4 Extension of Act to external Territories

This Act extends to every external Territory.

5 Act to bind Crown

(1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island, but nothing in this Act renders the Crown liable to be prosecuted for an offence.

(2) A direction under this Act has no effect to the extent that, but for this subsection, it would prevent the exercise of powers, or the performance of functions, of government of a State or of the Northern Territory.

6 Operation of Act

(1) The Minister shall not exercise his powers under all or any of the following provisions, namely, sections 12, 13, 17, 18, 19, 20, 21, 22, 23 or 24 except:

(a) for purposes related to the defence of Australia, including, but without limiting the generality of the foregoing, the purpose of ensuring the availability in Australia at all times of liquid fuel essential to the reasonable requirements of the community;

(b) for the purpose of giving effect to the Agreement;

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(c) for purposes in connection with all or any of the Territories;
(d) for the purpose of protecting the existence of Australia as a nation;
(e) for the purpose of ensuring that trade or commerce:
   (i) between Australia and places outside Australia;
   (ii) among the States; or
   (iii) engaged in by a corporation;
       may be carried on without obstruction or hindrance;
(f) to the extent that the Constitution permits, for the purpose of ensuring that trade or commerce:
   (i) between Australia and places outside Australia;
   (ii) among the States; or
   (iii) engaged in by a corporation;
       may be carried on in an efficient, competitive and profitable manner; or
(g) for the purpose of ensuring that the supply of goods or services by or to the Commonwealth or an authority or instrumentality of the Commonwealth may be carried on without obstruction or hindrance.

(2) In subsection (1), a reference to a corporation shall be construed as including a reference to any financial corporation to which paragraph 51(xx) of the Constitution is applicable including a body corporate that carries on as its sole or principal business the business of banking (other than State banking not extending beyond the limits of the State concerned) or insurance (other than State insurance not extending beyond the limits of the State concerned).

7 Additional operation of Act in relation to relevant fuel industry corporations

(1) Without prejudice to its effect apart from this subsection, this Act also has, by force of this subsection, the effect that it would have if section 6, subsection (2) of this section, sections 22 and 24 and subsection 47(2) were omitted.

(2) Without prejudice to its effect apart from this subsection, this Act also has, by force of this subsection, the effect that it would have if:
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(a) section 6, subsection (1) of this section, sections 22 and 24 and subsection 47(2) were omitted; and
(b) a direction under section 12, 13, 17, 18 or 20 applicable to a trading corporation had no effect to the extent that, but for this paragraph, the direction related to an act or thing done, or omitted to be done, by the corporation otherwise than for the purposes of its trading or commercial activities.

8 Additional operation of Act in relation to relevant persons

Without prejudice to its effect apart from this section, this Act also has, by force of this section, the effect that it would have if:

(a) each reference in sections 22 and 24 to the trading or commercial activities of a relevant person were, by express provision, confined to trading or commercial activities of that relevant person carried on:
   (i) between Australia and places outside Australia;
   (ii) among the States;
   (iii) within a Territory, between a State and a Territory, or between Territories; or
   (iv) by way of the supply of goods or services to the Commonwealth or an authority or instrumentality of the Commonwealth; and

(b) section 6 were omitted.

9 Minister may determine planning periods

(1) For the purposes of this Act, a reference to a planning period in relation to a period of national liquid fuel emergency is a reference to a period forming part of that period of national liquid fuel emergency that the Minister, by instrument in writing, determines in accordance with this section to be a planning period in relation to that period of national liquid fuel emergency.

(2) A period determined by the Minister under subsection (1) to be a planning period in relation to a period of national liquid fuel emergency shall commence on a date specified by the Minister in the determination and shall end on a date specified by the Minister in the determination or, if the period of national liquid fuel emergency terminates before the last-mentioned date, on the date on which the period of national liquid fuel emergency terminates.

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(3) As soon as practicable after the Minister makes a determination under subsection (1), he shall cause a copy of the determination:
   (a) to be published in the Gazette; and
   (b) to be served in a manner specified in the regulations upon the Energy Minister for each State and Territory.

10 Bulk customers of relevant fuel industry corporations or of relevant persons

(1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing:
   (a) specify guidelines to be observed in identifying persons who, or organizations which, have purchased in bulk, or who propose to purchase in bulk, a refined liquid petroleum product of a kind specified in the instrument from a relevant fuel industry corporation or from a relevant person as bulk customers of that corporation or that relevant person, as the case may be, in relation to that product;
   (b) vary guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection); and
   (c) revoke guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection).

(2) Without limiting the generality of subsection (1), guidelines specified under that subsection may relate to the likelihood that activities carried on by a person or organization before being identified as a bulk customer will continue to be carried on by that person or organization during the period in relation to which the identification has effect.

(3) The Minister may, by instrument in writing:
   (a) identify a person or an organization as a bulk customer of a relevant fuel industry corporation or of a relevant person in relation to a period of national liquid fuel emergency and to a particular refined liquid petroleum product; and
   (b) at any time revoke an instrument identifying a person or an organization in accordance with paragraph (a).
(4) The Minister shall not identify a person or an organization as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a period of national liquid fuel emergency and to a particular refined liquid petroleum product unless the person or organization is so identified in accordance with guidelines specified under subsection (1) that are in force, in relation to that product, immediately before the person or organization is so identified.

(5) The Minister shall not revoke an instrument identifying a person or an organization as a bulk customer of a relevant fuel industry corporation or of a relevant person in relation to a particular period of national liquid fuel emergency and to a particular refined liquid petroleum product unless he is satisfied that the person or organization has ceased to carry on activities by reason of which the person or organization could have been identified as such a bulk customer at the time when the instrument so revoked was made.

(6) For the purposes of this Act, a person or an organization identified as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a period of national liquid fuel emergency and to a particular refined liquid petroleum product shall be taken:

(a) if the person or organization was so identified before the commencement of that period—to be such a bulk customer for the duration of the period; or

(b) if the person or organization was so identified during the period—to have been such a bulk customer during that part of the planning period during which the person or organization was so identified that preceded the identification of the person or organization and to be such a bulk customer during the remainder of that planning period and during each succeeding planning period occurring during the period of national liquid fuel emergency.

(7) Where, after the commencement of a period of national liquid fuel emergency, the Minister revokes an instrument identifying a person or an organization as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to that period of national liquid fuel emergency and to a particular refined liquid petroleum product, that person or organization shall be taken, for the purposes of this Act, to have
ceased to be such a bulk customer with effect from the expiration of the planning period during which the instrument effecting the revocation was made.

(8) Where the Minister, by instrument in writing:
(a) identifies a person or an organization under this section as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a period of national liquid fuel emergency and to a particular refined liquid petroleum product; or
(b) revokes an instrument so identifying a person or an organization as such a bulk customer;
the Minister shall forthwith cause a copy of the first-mentioned instrument to be made available to the person or organization concerned.

11 Essential users, or high priority users, of refined liquid petroleum products

(1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing:
(a) specify guidelines to be observed in identifying, in relation to a refined liquid petroleum product of a kind specified in the instrument, persons or organizations as essential users, or high priority users, of that product in a State or Territory;
(b) vary guidelines specified by him under this subsection (including criteria varied by virtue of a previous application or previous applications of this subsection); and
(c) revoke guidelines specified by him under this subsection (including criteria varied by virtue of a previous application or previous applications of this subsection).

(2) Without limiting the generality of subsection (1), guidelines specified under that subsection for the identification of persons or organizations as essential users, or high priority users, of a refined liquid petroleum product of a particular kind in a State or Territory may relate to:
(a) activities carried on by those persons or organizations outside that State or Territory; and
(b) the likelihood that activities carried on by persons or organizations before being identified as essential users, or as
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high priority users, of that product in that State or Territory will continue to be carried on by those persons or organizations during the period in relation to which the identification has effect.

(3) The Minister may, by instrument in writing, identify a person or organization as an essential user, or as a high priority user, of a particular refined liquid petroleum product in a State or Territory if, and only if, the activities carried on by that person or organization, being activities by reason of which the person or organization could be identified as an essential user, or a high priority user, of that product in that State or Territory are, or include:

(a) activities related to the defence of Australia;
(b) activities related to the provision of that product as fuel for ships and aircraft engaged in trade or commerce:
   (i) between Australia and places outside Australia;
   (ii) among the States; or
   (iii) between a State and a Territory or between Territories;
(c) activities related to the export of that product from Australia;

or

(d) activities (other than the activities referred to in paragraph (a), (b) or (c)) that the Minister, by notice published in the Gazette, determines to be activities of national significance.

(4) Subject to subsection (5), a person or organization shall not be taken to have been identified for the purposes of subsection (6) as an essential user, or as a high priority user, of a particular refined liquid petroleum product in a State or Territory unless the person or organization is so identified by the Energy Minister for that State or Territory, or by the Minister, in accordance with guidelines specified under subsection (1) that are in force, in relation to that product, immediately before the person or organization is identified.

(5) An identification of a person or organization by the Energy Minister for a State or Territory as an essential user, or as a high priority user, of a particular refined liquid petroleum product in that State or Territory that would, but for this subsection, be taken to be an identification of the person for the purposes of subsection (6) shall not be taken to be an identification for those
purposes if at the time of the identification, the person could have been identified under subsection (3).

(6) For the purposes of this Act, a person or organization identified as an essential user, or a high priority user, of a particular refined liquid petroleum product in a particular State or Territory by the Energy Minister for that State or Territory, or by the Minister, shall be taken:

(a) if the person or organization was so identified at a time other than during any planning period and the identification is not revoked before the commencement of the planning period next following the identification—to be such an essential user, or such a high priority user, for the duration of that planning period; or

(b) if the person or organization was so identified during a planning period—to have been such an essential user, or high priority user, during that part of the planning period that preceded the identification of the person or organization, and to be such an essential user, or high priority user, as the case requires, during the remainder of that planning period.

(7) Where the Minister makes a decision identifying, or refusing to identify, a person or organization seeking identification as an essential user, or as a high priority user, of a particular refined liquid petroleum product in a State or Territory as such an essential user or as such a high priority user, he shall forthwith cause notice in writing of that decision to be made available:

(a) to that person or organization; and

(b) to the Energy Minister for that State or Territory.

(8) Where the Energy Minister for a Territory other than the Northern Territory makes a decision identifying, or refusing to identify, a person seeking identification as an essential user, or as a high priority user, of a particular refined liquid petroleum product in that Territory as such an essential user or as such a high priority user, the Energy Minister for that Territory shall forthwith cause notice in writing of that decision to be made available to that person or organization.

(9) Nothing in paragraph (3)(a), (b) or (c) shall be taken, by implication, to limit the generality of paragraph (3)(d).
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Section 11A

11A  Application of the *Criminal Code*

Chapter 2 (except Part 2.5) of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.
Part II—Contingency planning powers

12 Minister may direct relevant fuel industry corporations to maintain reserves etc.

(1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing:

(a) specify guidelines for determining, in relation to a liquid fuel of a particular kind:

(i) the quantity of reserve supplies of liquid fuel of that kind:

(A) that should be maintained in Australia by relevant fuel industry corporations at all times prior to the making of a declaration by the Governor-General that a national liquid fuel emergency will exist; or

(B) that should be accumulated in Australia by relevant fuel industry corporations prior to the making of such a declaration and thereafter be maintained in Australia by those corporations at all times prior to the making of such a declaration;

(ii) the places in Australia at which relevant fuel industry corporations that are required to maintain, or to accumulate and maintain, as the case requires, particular quantities of reserve supplies of liquid fuel of that kind, prior to the making by the Governor-General of a declaration that a national liquid fuel emergency will exist, should be required to keep the whole or any part of those reserve supplies; and

(iii) the period within which relevant fuel industry corporations that are required to accumulate, prior to the making of a declaration by the Governor-General that a national liquid fuel emergency will exist, at particular places, particular quantities of reserve supplies of liquid fuel of that kind should be required so to accumulate those quantities of reserve supplies;
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(b) vary guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection); and

(c) revoke guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection).

(2) The Minister may, at any time other than at a time during a period of national liquid fuel emergency, by instrument in writing served upon a relevant fuel industry corporation, direct that corporation:

(a) to maintain at all times after a date specified in the instrument, at such places in Australia as are specified in the instrument, such quantities as are specified in the instrument of reserve supplies of liquid fuel of a kind that is specified in the instrument; or

(b) to accumulate, by a date specified in the instrument, such quantities as are specified in the instrument of reserve supplies of liquid fuel of a kind specified in the instrument and at all times thereafter to maintain such quantities of reserve supplies of liquid fuel of that kind at such places in Australia as are specified in the instrument.

(3) The Minister shall not give a direction to a relevant fuel industry corporation under subsection (2) unless that direction is in accordance with guidelines that have been specified under subsection (1) and that are in force at the time when the direction was given.

(4) The Minister shall not give a direction under subsection (2) except for the purpose of ensuring that, if the Governor-General declares that a national liquid fuel emergency of a particular kind will exist, a relevant fuel industry corporation will be in a position to comply with any direction that could be given in relation to a national liquid fuel emergency of that kind under section 17, 18, 19, 20, 21 or 23.

(5) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction given to it under subsection (2).
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(6) The Minister may, in order to meet temporary circumstances, by instrument in writing, authorize a relevant fuel industry corporation (being a corporation that is required by an instrument under subsection (2) to maintain at a particular place a particular quantity of reserve supplies of liquid fuel of a particular kind) to maintain at that place during a period specified in the authority, such lesser quantity of reserve supplies of liquid fuel of that kind as is specified in the authority.

(7) The maintenance by a relevant fuel industry corporation of a quantity of reserve supplies of liquid fuel of a particular kind at a particular place at a particular time in accordance with an authority given to the corporation under subsection (6) shall be deemed to constitute compliance by the corporation with a direction given to it under subsection (2) in relation to the maintenance by the corporation of reserve supplies of liquid fuel of that kind at that place at that time.

13 Minister may direct relevant fuel industry corporations to develop bulk allocation procedures

(1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing:

(a) specify guidelines for the allocation, by relevant fuel industry corporations that are included within a class of relevant fuel industry corporations that is specified in the guidelines, of bulk supplies of a refined liquid petroleum product of a kind that is specified in the guidelines to persons who, or organizations that, in the event that the Governor-General declares that a national liquid fuel emergency will exist, will be likely to be, during the whole or a part of the period of the national liquid fuel emergency, bulk customers of those relevant fuel industry corporations in relation to that product;

(b) vary guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection); and

(c) revoke guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection).
Part II  Contingency planning powers

Section 13

(2) The Minister may, by instrument in writing published in the
Gazette, direct that each relevant fuel industry corporation that:
(a) is included in a class of relevant fuel industry corporations in
relation to which guidelines specified under subsection (1)
are in force; and
(b) supplies a refined liquid petroleum product of a kind
specified in those guidelines;
shall furnish to the Minister, by such date as is specified in the
instrument, in such form as is specified in the instrument,
particulars of procedures developed by the corporation to enable it
to allocate bulk supplies of that product in accordance with those
guidelines.

(3) Where particulars of procedures are, in accordance with
subsection (2) furnished to the Minister by a relevant fuel industry
corporation, the Minister shall, by instrument in writing served
upon the corporation:
(a) if he is satisfied that the procedures will enable the
corporation to allocate bulk supplies of the product in
accordance with the relevant guidelines, approve those
procedures; or
(b) if he is not so satisfied, for the purpose of ensuring that the
corporation will develop procedures that will enable it so to
allocate bulk supplies of the product, direct the corporation:
(i) to make such amendment or amendments of the
procedures developed by it as is specified in the
instrument; and
(ii) to furnish to him, by such date as is specified in the
instrument, in such form as is specified in the
instrument, particulars of the procedures as so amended.

(4) Where a relevant fuel industry corporation furnishes to the
Minister, in accordance with a direction applicable to that
corporation under paragraph (3)(b), particulars of procedures
amended in the manner specified in the direction, the Minister
shall, by instrument in writing served upon the corporation,
approve the procedures as so amended.

(5) A relevant fuel industry corporation shall not refuse or fail, without
reasonable excuse, to comply with a direction applicable to it under
subsection (2) or with a direction given to it under subsection (3) in
so far as that last-mentioned direction required particular procedures to be furnished to the Minister.

14 Minister may direct relevant fuel industry corporations and others to maintain statistical information

(1) For the purposes of this Act, the Minister may, at any time, by instrument in writing published in the Gazette, direct that each relevant fuel industry corporation included in a class of relevant fuel industry corporations specified in the instrument and each relevant person included in a class of relevant persons specified in the instrument shall:

(a) maintain, after such date as is specified in the instrument, in such form as is specified in the instrument, such statistical information relating to liquid fuels that are from time to time after that date in the possession, or under the control, of that corporation or person as is specified in the instrument in relation to that class of corporations or that class of persons, as the case requires; and

(b) if required to do so, by instrument signed by the Minister and served upon the corporation or person, as the case requires—make available to the Minister and to the Energy Minister for each State or Territory (if any) that is specified in the last-mentioned instrument, by such date after the date referred to in paragraph (a) as is specified in the last-mentioned instrument, such of the statistical information that that corporation or person is required, in pursuance of paragraph (a), to maintain as is specified in the last-mentioned instrument.

(2) A relevant fuel industry corporation shall not, without reasonable excuse:

(a) refuse or fail to maintain statistical information in accordance with the requirements of a direction under subsection (1) that is applicable to it; or

(b) refuse or fail to make statistical information available in accordance with an instrument served upon it in pursuance of such a direction.

(3) A relevant person shall not, without reasonable excuse:
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(a) refuse or fail to maintain statistical information in accordance with the requirements of a direction under subsection (1) that is applicable to him; or
(b) refuse or fail to make statistical information available in accordance with an instrument served upon the relevant person in pursuance of such a direction.

(4) A relevant fuel industry corporation shall not, in purported compliance with a direction under subsection (1) that is applicable to it or with an instrument served upon it in pursuance of such a direction, maintain or make available statistical information that is false or misleading in a material particular.

Penalty: $50,000.

(5) A relevant person shall not, in purported compliance with a direction under subsection (1) that is applicable to him or with an instrument served upon him in pursuance of such a direction, maintain or make available statistical information knowing that it is false or misleading in a material particular.

Penalty: $10,000, or imprisonment for 2 years, or both.

(6) The powers conferred by this section are in addition to, and not in derogation of, the powers conferred by section 30.

15 Minister may enter into arrangements for carrying out measures to enable the implementation of directions under sections 23 and 24

(1) The Minister may, on behalf of the Commonwealth, at any time, for the purpose of ensuring the effective operation of any directions that may be, or have been, given under sections 23 and 24, enter into such arrangements as he considers appropriate with a Minister of a State on behalf of that State, with a person holding Ministerial office under section 36 of the Northern Territory (Self-Government) Act 1978 on behalf of the Northern Territory, or with an authority established by or under a law of the Commonwealth or of a State or Territory for the carrying out of such measures (including preliminary measures) as he considers necessary to facilitate the implementation of such directions.
(2) An arrangement under subsection (1) may provide for the Commonwealth to reimburse the authority concerned with respect to the cost of the carrying out of the measures to which the arrangement relates.
Part III—Declaration of, and powers for dealing with, national liquid fuel emergency

16 Declaration of national liquid fuel emergency

(1) Subject to this section, the Governor-General may, by Proclamation, declare that a national liquid fuel emergency will exist during a period specified in the Proclamation.

(2) The Governor-General shall not make a Proclamation under subsection (1) unless:

(a) he is satisfied that it is necessary in the public interest to do so by reason that there is a shortage, or the likelihood of a shortage, of liquid fuel, being a shortage of such magnitude as to require the making of directions under all or any of the following provisions, namely, sections 17, 18, 19, 20, 21, 22, 23 and 24; and

(b) he is satisfied that the Minister has afforded the Energy Minister for each State and the Energy Minister for the Northern Territory a reasonable opportunity to consult with the Minister concerning the shortage, or likelihood of a shortage, as the case may be.

(3) Without limiting the generality of the matters to which the Governor-General is to have regard for the purposes of paragraph (2)(a), he shall have regard to the question whether the shortage, or the likelihood of a shortage, of the liquid fuel concerned is likely to be averted by the voluntary augmenting of supplies of the liquid fuel by relevant fuel industry corporations.

(4) The period specified in the Proclamation under subsection (1) shall be expressed to commence on a date not earlier than the date on which the Proclamation is published in the Gazette and shall not exceed 3 months.

(5) At any time during a period of national liquid fuel emergency specified in a Proclamation under subsection (1), the Governor-General may, and if he becomes satisfied that it is no longer in the public interest that that period of national liquid fuel emergency should continue, shall, by Proclamation, revoke the
first-mentioned Proclamation and, upon the revocation of the first-mentioned Proclamation, the period of national liquid fuel emergency terminates.

17 Minister may direct relevant fuel industry corporations to maintain reserves etc. during a national liquid fuel emergency

(1) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing served upon a relevant fuel industry corporation, direct that corporation:
   (a) to maintain, at all times after a date specified in the instrument, at such places in Australia as are specified in the instrument, such quantities as are specified in the instrument of reserve supplies of liquid fuel of a kind that is specified in the instrument; or
   (b) to accumulate, by a date specified in the instrument, such quantities as are specified in the instrument of reserve supplies of liquid fuel of a kind specified in the instrument and at all times after that date to maintain such quantities of reserve supplies of liquid fuel of that kind at such places in Australia as are specified in the instrument.

(2) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction given to it under subsection (1).

(3) The Minister may, in order to meet temporary circumstances, by instrument in writing, authorize a relevant fuel industry corporation (being a corporation that is required, by an instrument under subsection (1), to maintain at a particular place a particular quantity of reserve supplies of liquid fuel of a particular kind) to maintain at that place, during a period specified in the authority, such lesser quantity of reserve supplies of liquid fuel of that kind as is specified in the authority.

(4) The maintenance by a relevant fuel industry corporation of a quantity of reserve supplies of liquid fuel of a particular kind at a particular place at a particular time in accordance with an authority given to the corporation under subsection (3) shall be deemed to constitute compliance by the corporation with a direction given to
it under subsection (1) in relation to the maintenance by the corporation of liquid fuel of that kind at that place at that time.

(5) For all purposes of this Act, any direction in relation to liquid fuel of a particular kind that was given to a relevant fuel industry corporation under section 12 and was in force immediately before the proclamation of a national liquid fuel emergency shall be taken to continue in force, unless sooner revoked under subsection 33(3) of the Acts Interpretation Act 1901 or set aside by a court, after the making of that proclamation as if it had been given to the corporation under and in accordance with subsection (1) of this section and had related to the maintenance or to the accumulation and maintenance of reserve supplies of liquid fuel of that kind during the period of the national liquid fuel emergency or during so much of that period as it is, in accordance with its terms, capable of applying to.

(6) Notwithstanding anything contained in section 27, a direction continued in force during a period or periods of a national liquid fuel emergency by virtue of subsection (5) continues in force, unless sooner revoked under subsection 44(4) of this Act or subsection 33(3) of the Acts Interpretation Act 1901 or set aside by a court or by the Administrative Appeals Tribunal, after the expiration of that period or of the last of those periods as a direction under section 12.

18 Minister may direct transfer of liquid fuel

(1) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing served upon a relevant fuel industry corporation, direct that corporation to cause a specified quantity of liquid fuel of a specified kind that is held by the corporation at a place in Australia that is specified in the instrument to be transferred on or before such date as is specified in the instrument to another place in Australia that is specified in the instrument, being a place at which the corporation has adequate facilities to hold the quantity of liquid fuel to be transferred and not being a place that, in a case where:

(a) the first-mentioned place is situated in a State or the Northern Territory; and
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(b) the transfer is for purposes that do not include any or all of the following purposes:

(i) purposes related to the defence of Australia;

(ii) purposes related to the provision of fuel for ships and aircraft engaged in trade and commerce:

(A) between Australia and places outside Australia;

(B) among the States; or

(C) between a State and a Territory or between Territories;

(iii) purposes related to the export of liquid fuel from Australia;

(iv) purposes related to the carrying on of an activity to which paragraph 11(3)(d) applies;

is situated in the same State or Territory as the first-mentioned place.

(2) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction given to it under subsection (1).

19 Minister may direct release or sale of liquid fuel

(1) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing served upon a relevant fuel industry corporation, give to the corporation a direction that the corporation, in the course of its trading or commercial activities, shall take such measures as are necessary to make a specified quantity of liquid fuel of a specified kind available for purchase on or before such date as is specified in the instrument at such place as is specified in the instrument by a specified person or specified persons or by persons who are included in a specified class of persons.

(2) A direction given under subsection (1) to a relevant fuel industry corporation concerning a liquid fuel of a specified kind, may provide that the price at which that fuel is to be made available to a person in accordance with that direction shall be such price as is agreed upon by the corporation and that person or, in the absence of agreement, as is determined by a person nominated by the Minister, by instrument in writing, for the purpose.
Part III  Declaration of, and powers for dealing with, national liquid fuel emergency

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(3) A relevant fuel industry corporation shall not refuse or fail, without reasonable excuse, to comply with a direction given to it under subsection (1).

20 Minister may give directions as to output from refineries

(1) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing served upon a relevant fuel industry corporation that is engaged in the production or refining of liquid fuel, direct the corporation to produce in Australia, during a period specified in the instrument, a specified quantity of liquid fuel of a specified kind.

(2) A relevant fuel industry corporation shall not, without reasonable excuse, refuse or fail to comply with a direction given to it under subsection (1).

21 Minister may give directions with respect to allocation by corporations of liquid fuel to bulk customers

(1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing:

(a) specify guidelines for the calculation of the respective quantities of a refined liquid petroleum product of a kind specified in the instrument that, if the Governor-General declares that a national liquid fuel emergency will exist, would be required to be made available by relevant fuel industry corporations during each planning period in relation to that period of national liquid fuel emergency to persons who, or organizations which, are bulk customers of those corporations;

(b) vary guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection); and

(c) revoke guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection).
(2) During a period of national liquid fuel emergency the Minister may, for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel, by instrument in writing published in the Gazette, direct each relevant fuel industry corporation that ordinarily makes a refined liquid petroleum product of a specified kind available, in the course of its trading or commercial activities for purchase in bulk in a State or Territory by persons who are, or organizations that are, in relation to that product, bulk customers of the corporation, to make available for purchase in bulk in that State or Territory by those persons or organizations during a period that is specified in the instrument, being a planning period in relation to that period of national liquid fuel emergency, in accordance with bulk allocation procedures approved by the Minister under section 13:

(a) in the case of such of those persons or organizations (if any) as have been identified by the Energy Minister for that State or Territory, in relation to that planning period, as essential users, or high priority users, of that product in that State or Territory, such respective quantities of that product as:

(i) are calculated by or on behalf of the Energy Minister for that State or Territory in accordance with a manner specified in the instrument; and

(ii) are notified in writing, by or on behalf of the Energy Minister for that State or Territory, to that corporation;

(b) in the case of such of those persons or organizations (if any) as have been identified by the Minister or by a delegate of the Minister, in relation to that planning period, as essential users, or high priority users, of that product in that State or Territory, such respective quantities of that product as:

(i) are calculated by or on behalf of the Minister in accordance with a manner specified in the instrument; and

(ii) are notified in writing, by or on behalf of the Minister, to that corporation; or

(c) in the case of such of those persons or organizations (if any) as are persons to whom or organizations to which neither paragraph (a) nor (b) applies, such respective quantities of that product as:

(i) are calculated by or on behalf of the Minister in accordance with a manner specified in the instrument; and
(ii) are notified in writing, by or on behalf of the Minister, to that corporation.

(3) The Minister shall not specify a manner of calculation of a quantity of a refined liquid petroleum product for the purposes of a direction under subsection (2) that is not in accordance with guidelines that have been specified under subsection (1) in relation to that product and that are in force at the time when the direction is given.

(4) Where the Minister has, under subsection (2), directed relevant fuel industry corporations to make available for purchase by bulk customers of those corporations, during a specified period, in accordance with bulk allocation procedures approved by the Minister under section 13, quantities of a refined liquid petroleum product, any such corporation shall not, without reasonable excuse:

(a) refuse or fail to make that product available for purchase by such a bulk customer of that corporation, during that period, in accordance with that direction; or

(b) make that product available for purchase in bulk, during that period, by a person who is not, in relation to that product, a bulk customer of that corporation.

(5) Without limiting the generality of the expression reasonable excuse in subsection (4), it is a reasonable excuse, for the purposes of paragraph (4)(a), if the person in respect of whom, or the organization in respect of which, a contravention of that subsection is alleged to have been committed in relation to a particular refined liquid petroleum product refused or failed to produce to the relevant fuel industry corporation concerned a copy of the notice that was caused to be made available to the person or organization by the Minister under subsection 10(8) and stated the person or organization to be a bulk customer of that corporation in relation to that product.

(6) Without limiting the generality of the expression reasonable excuse in subsection (4), it is a reasonable excuse, for the purposes of paragraph (4)(a), if the person in respect of whom, or the organization in respect of which, a contravention of that subsection is alleged to have been committed in relation to a particular refined liquid petroleum product, being a person who is, or an organization that is, an essential user, or a high priority user, of that product in the State or Territory in which the contravention is alleged to have
been committed, refused or failed to produce to the relevant fuel industry corporation concerned:

(a) a copy of the notice that was caused to be made available to the person or organization by the Minister under subsection 10(8) and stated the person or organization to be a bulk customer of that corporation in relation to that product; and

(b) a copy of a notice that stated the person or organization to be such an essential user or such a high priority user, being a notice made available to that person or organization by the Energy Minister for that State or Territory or by the Minister.

(7) A manner of calculation of a quantity of a refined liquid petroleum product specified in an instrument under subsection (2) may be applicable generally to persons or organizations respectively referred to in each of paragraphs (2)(a), (b) and (c) or to persons or organizations included in classes of persons or organizations so referred to, being classes that are specified in the instrument.

22 Minister may give directions with respect to allocation by relevant persons of liquid fuel to bulk customers

(1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing:

(a) specify guidelines for the calculation of the respective quantities of a refined liquid petroleum product of a kind specified in the instrument that, if the Governor-General declares that a national liquid fuel emergency exists, will be required to be made available by relevant persons during each planning period in relation to that period of national liquid fuel emergency to persons who, or organizations which, are bulk customers of those relevant persons;

(b) vary guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection); and

(c) revoke guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection).

(2) During a period of national liquid fuel emergency the Minister may, for the purpose of dealing with a shortage or likely shortage
of relevant liquid fuel, by instrument in writing published in the \textit{Gazette}, direct each relevant person who ordinarily makes a refined liquid petroleum product of a specified kind available, in the course of his trading or commercial activities for purchase in bulk in a State or Territory by persons who are, or organizations that are, in relation to that product, bulk customers of the relevant person, to make available for purchase in bulk in that State or Territory by those persons or organizations during a period that is specified in the instrument, being a planning period in relation to that period of national liquid fuel emergency, in accordance with bulk allocation procedures specified in the instrument:

(a) in the case of such of those persons or organizations (if any) as have been identified by the Energy Minister for that State or Territory, in relation to that planning period as essential users, or high priority users, of that product in that State or Territory, such respective quantities of that product as:

(i) are calculated by or on behalf of the Energy Minister for that State or Territory in accordance with a manner specified in the instrument; and

(ii) are notified in writing, by or on behalf of the Energy Minister for that State or Territory, to that relevant person;

(b) in the case of such of those persons or organizations (if any) as have been identified by the Minister or by a delegate of the Minister, in relation to that planning period, as essential users, or high priority users, of that product in that State or Territory, such respective quantities of that product as:

(i) are calculated by or on behalf of the Minister in accordance with a manner specified in the instrument; and

(ii) are notified in writing, by or on behalf of the Minister, to that relevant person; or

(c) in the case of such of those persons or organizations (if any) as are persons to whom or organizations to which neither paragraph (a) nor (b) applies, such respective quantities of that product as:

(i) are calculated by or on behalf of the Minister in accordance with a manner specified in the instrument; and

(ii) are notified in writing, by or on behalf of the Minister, to that relevant person.
(3) The Minister shall not specify a manner of calculating a quantity of a refined liquid petroleum product for the purposes of a direction under subsection (2) that is not in accordance with guidelines that have been specified under subsection (1) in relation to that product and that are in force at the time when the direction is given.

(4) Where the Minister has, under subsection (2), directed relevant persons to make available for purchase by bulk customers of those relevant persons, during a specified period, in accordance with allocation procedures specified in the direction, quantities of a refined liquid petroleum product, any such relevant person shall not, without reasonable excuse:

(a) refuse or fail to make that product available for purchase by such a bulk customer of that relevant person, during that period, in accordance with the requirements of that direction;

(b) make that product available for purchase in bulk by such a bulk customer of that relevant person, during that period, otherwise than in accordance with that direction; or

(c) make that product available for purchase in bulk during that period by a person who is not, in relation to that product, a bulk customer of that relevant person.

(5) Without limiting the generality of the expression reasonable excuse in subsection (4), it is a reasonable excuse, for the purposes of paragraph (4)(a), if the person in respect of whom, or the organization in respect of which, a contravention of that subsection is alleged to have been committed in relation to a particular refined liquid petroleum product refused or failed to produce to the relevant person concerned a copy of the notice that was caused to be made available to the person or organization by the Minister under subsection 10(8) and stated the person or organization to be a bulk customer of that relevant person in relation to that product.

(6) Without limiting the generality of the expression reasonable excuse in subsection (4), it is a reasonable excuse, for the purposes of paragraph (4)(a), if the person in respect of whom, or the organization in respect of which, a contravention of that subsection is alleged to have been committed in relation to a particular refined liquid petroleum product, being a person who is, or an organization that is, an essential user, or a high priority user, of that product in the State or Territory in which the contravention is alleged to have
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been committed, refused or failed to produce to the relevant person concerned:

(a) a copy of the notice that was caused to be made available to the person or organization by the Minister under subsection 10(8) and stated the person or organization to be a bulk customer of that relevant person in relation to that product; and

(b) a copy of a notice that stated the person or organization to be such an essential user or such a high priority user, being a notice made available to that person or organization by the Energy Minister for that State or Territory or by the Minister.

(7) A manner of calculation of a quantity of a refined liquid petroleum product specified in an instrument under subsection (2) may be applicable generally to persons or organizations respectively referred to in each of paragraphs (2)(a), (b) and (c) or to persons or organizations included in classes of persons or organizations so referred to, being classes that are specified in the instrument.

23 Minister may give directions to corporations regulating or prohibiting supply of liquid fuel

(1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing:

(a) specify guidelines for the giving of directions, in the event of the Governor-General declaring that a national liquid fuel emergency will exist, regulating or prohibiting the supply by relevant fuel industry corporations, in the course of their trading or commercial activities, during each planning period in relation to that period of national liquid fuel emergency, of a refined liquid petroleum product of a kind specified in the instrument;

(b) vary guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection); and

(c) revoke guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection).
(2) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage, or likely shortage, of relevant liquid fuel, by instrument in writing published in the Gazette, give directions regulating or prohibiting the supply by relevant fuel industry corporations, in the course of their trading or commercial activities, during a period specified in the instrument, being a planning period in relation to that period of national liquid fuel emergency, of a refined liquid petroleum product of a kind specified in the instrument to persons generally or to persons included in a specified class of persons.

(3) The Minister shall not give a direction under subsection (2) with respect to the supply by relevant fuel industry corporations of a refined liquid petroleum product if the direction relates only to the supply of that product to persons who are bulk customers of those corporations.

(4) The Minister shall not give a direction under subsection (2) with respect to the supply of a refined liquid petroleum product unless the direction complies with guidelines that have been specified under subsection (1) in relation to that product and are in force at the time the direction is given.

(5) A relevant fuel industry corporation shall not, without reasonable excuse, contravene or fail to comply with a direction given to it under subsection (2).

24 Minister may give directions to relevant persons regulating or prohibiting supply of liquid fuel

(1) At any time (whether or not during a period of national liquid fuel emergency), the Minister may, by instrument in writing:

(a) specify guidelines for the giving of directions, in the event of the Governor-General declaring that a national liquid fuel emergency will exist, regulating or prohibiting the supply by relevant persons, in the course of their trading or commercial activities, during each planning period in relation to that period of national liquid fuel emergency, of a refined liquid petroleum product of a kind specified in the instrument;

(b) vary guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection); and
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(c) revoke guidelines specified by him under this subsection (including guidelines varied by virtue of a previous application or previous applications of this subsection).

(2) During a period of national liquid fuel emergency, the Minister may, for the purpose of dealing with a shortage, or likely shortage, of relevant liquid fuel, by instrument in writing published in the *Gazette*, give directions regulating or prohibiting the supply by relevant persons, in the course of their trading or commercial activities, during a period specified in the instrument, being a planning period in relation to that period of national liquid fuel emergency, of a refined liquid petroleum product of a kind specified in the instrument to persons generally or to persons included in a specified class of persons.

(3) The Minister shall not give a direction under subsection (2) with respect to the supply by relevant persons of a refined liquid petroleum product if the direction relates only to the supply of that product to persons who are bulk customers of those relevant persons.

(4) The Minister shall not give a direction under subsection (2) with respect to the supply of a refined liquid petroleum product unless the direction complies with guidelines that have been specified under subsection (1) in relation to that product and are in force at the time the direction is given.

(5) A relevant person shall not, without reasonable excuse, contravene a direction given under subsection (2).

25 Directions under section 21, 22, 23 or 24 not to regulate price

(1) A direction under subsection 21(2) or 22(2) requiring a refined liquid petroleum product to be made available for purchase in a State or Territory shall not make provision for the determination of the price, or the maximum price, at which persons to whom that direction is given:

(a) may make that product available for purchase in that State or Territory in accordance with that direction; or

(b) may make available for purchase services in connection with the making available for purchase of that product in that State or Territory in accordance with that direction.
(2) A direction under subsection 23(2) or 24(2) regulating or prohibiting the supply of a refined liquid petroleum product shall not make provision for the determination of the price, or the maximum price, at which persons to whom that direction is given:
   (a) may supply that product in accordance with that direction; or
   (b) may supply services in connection with the supply of that product in accordance with that direction.

(3) It is the intention of the Parliament that, without limiting the generality of section 51, this Act shall not apply to the exclusion of a law of a State or Territory in so far as that law makes:
   (a) in relation to a refined liquid petroleum product in respect of which a direction might be given under subsection 21(2) or 22(2)—provision of the kind referred to in subsection (1) of this section; or
   (b) in relation to a refined liquid petroleum product of a kind in respect of which a direction might be given under subsection 23(2) or 24(2)—provision of the kind referred to in subsection (2) of this section.

26 Certain directions to be published

As soon as practicable after the Minister has given a direction under section 21, 22, 23 or 24, the Minister shall cause a copy of the direction to be published in each State, in the Northern Territory and in the Australian Capital Territory in a newspaper circulating generally in that State or Territory.

27 Directions to cease to be in force when Proclamation ceases to be in force

(1) Subject to subsection (2), a direction given under this Part continues to be in force, unless sooner revoked under subsection 33(3) of the Acts Interpretation Act 1901 or set aside by a court, until the expiration of the period of national liquid fuel emergency during which it came into force.

(2) If, during a period of national liquid fuel emergency, a Proclamation under subsection 16(1) declares that a national liquid fuel emergency will exist during a period commencing immediately after the expiration of the first-mentioned period, any direction under this Part in force immediately before the expiration
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of the first-mentioned period (including a direction in force by virtue of a previous application or previous applications of this subsection) continues in force, unless revoked under subsection 33(3) of the Acts Interpretation Act 1901 or set aside by a court, until the expiration of the second-mentioned period.
Part IV—Enforcement

29 Appointment of authorised persons

(1) The Minister may, by instrument in writing, appoint a specified person, or persons included in a specified class of persons, to be an authorized person or authorized persons, as the case may be, for the purpose of the exercise by that person or those persons of the powers of an authorized person under this Act or of such of those powers as are specified in the instrument.

(2) Without limiting the generality of subsection (1), the Minister may appoint as authorized persons for the purposes of this Act, persons who are officers of a State or officers of the Northern Territory.

(3) All persons appointed under subsection (1) to be authorized persons shall be taken, for the purposes of the application of Part VI of the Crimes Act 1914 to and in relation to them in the exercise of their powers as authorized persons, to be Commonwealth officers within the meaning of that Act.

(4) The Minister may cause to be issued to an authorized person an identity card in a form approved by him by instrument in writing.

(5) Where a person in possession of an identity card issued to him under subsection (4) ceases to be an authorized person, he shall forthwith return the identity card to the Minister or a person nominated by the Minister by instrument in writing and, if he fails to do so, he is guilty of an offence punishable upon conviction by a fine not exceeding $100.

(5A) An offence against subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

(6) The Minister may issue a certificate stating that a person specified in the certificate was, at a time, or at all times during a period, specified in the certificate an authorized person for the purpose of the exercise of all of the powers of an authorized person under this Act or of such of those powers as are specified in the certificate and such a certificate is prima facie evidence of the matters certified.
Part IV Enforcement

Section 30

30 Power to require persons to furnish information and produce documents

(1) Where an authorized person has reason to believe that a person is capable of furnishing information or producing documents relating to a matter that is relevant to the exercise of a power conferred on the Minister by or under this Act or that constitutes, or may constitute, a contravention of a relevant provision of, or an offence against, this Act, he may, by notice in writing served on that person, require that person:
   (a) to furnish to him, by writing signed by that person or, in the case of a body corporate, by a competent officer of the body corporate, within the time and in the manner specified in the notice, any such information; or
   (b) to produce to him, or to any other authorized person specified in the notice, in accordance with the notice, any such documents.

(2) A person must not:
   (a) refuse to comply with a notice under this section; or
   (b) fail to comply with a notice under this section.

Penalty: $1,000.

(2A) Subsection (2) does not apply to the extent that the person is not capable of complying with the notice.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A), see subsection 13.3(3) of the Criminal Code.

(2B) An offence against paragraph (2)(b) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

(3) A person shall not, in purported compliance with a notice under this section, furnish information knowing that it is false or misleading in a material particular.

Penalty: $2,000 or imprisonment for 12 months.

(4) An offence against subsection (3) is punishable on summary conviction.

(5) A person is not excused from furnishing information or producing a document in pursuance of this section on the ground that the
Section 31

information or the production of the document might tend to incriminate the person or to render him liable to a pecuniary penalty in accordance with section 34, but the information or the production of the document is not admissible in evidence against the person:

(a) in the case of a person other than a body corporate—in any criminal proceedings other than proceedings under, or arising out of, this section; or

(b) in the case of a body corporate—in any criminal proceedings other than proceedings under, or arising out of, this Act.

(6) A person is not required to furnish information or produce a document containing information in pursuance of this section if there is in force a law of the Commonwealth prohibiting the person from disclosing the information or producing the document, whether the prohibition is absolute or is subject to exceptions or qualifications.

(7) An authorized person may inspect a document produced in pursuance of a notice under subsection (1) and may make copies of, or take extracts from, the document.

(8) An authorized person may, for the purposes of this Act, take, and retain for so long as is necessary for those purposes, possession of a document produced in pursuance of a notice under subsection (1) but the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the authorized person under his hand to be a true copy and the certified copy shall be received in all courts as evidence as if it were the original.

(9) Until such a certified copy of a document is supplied, the authorized person having possession of the document shall, at such times and place as he thinks appropriate, permit the person otherwise entitled to the document, or a person authorized by that person, to inspect and make copies of or take extracts from the document.

31 Inspection

(1) For the purposes of ascertaining whether a person has contravened or is contravening a relevant provision of this Act or has committed or is committing an offence against this Act, an
authorized person may, with such assistance as he thinks necessary:

(a) with the consent of the occupier, in pursuance of a warrant granted under subsection (3), or in pursuance of subsection (5), enter any land or premises;

(b) with the consent of the person (if any) in charge of the vehicle, ship or aircraft concerned, in pursuance of a warrant granted under subsection (3), or in pursuance of subsection (5), enter any vehicle, ship or aircraft;

(c) search any land, premises, vehicle, ship or aircraft;

(d) break open any hold or compartment or any container or other receptacle (including any place that could be used as a receptacle);

(e) inspect and examine any land, premises, vehicle, ship, aircraft, matter or thing;

(f) secure any land, premises, vehicle, ship, aircraft, matter or thing;

(g) take samples of any matter or thing (including parts of land, premises, vehicles, ships or aircraft); or

(h) take extracts from, and make copies of, any document.

(2) Samples of any matter or thing taken in accordance with subsection (1) shall be dealt with as prescribed.

(3) If, on an application made by an authorized person, a Justice of the Peace is satisfied, by information on oath or affirmation, that it is reasonably necessary that the authorized person should, for the purpose of exercising the powers of an authorized person under paragraphs (1)(c) to (1)(h) (inclusive) of this section or section 32, have access to the land, premises, vehicle, ship or aircraft to which the application relates, the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as he thinks necessary, to enter the land, premises, vehicle, ship or aircraft during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the powers of an authorized person under paragraphs (1)(c) to (1)(h) (inclusive) of this section or section 32.

(4) A warrant under subsection (3) shall specify a date after which the warrant ceases to have effect.
(5) An authorized person may enter any land, premises, vehicle, ship or aircraft on or in which he believes on reasonable grounds that there is situated any matter or thing that he believes on reasonable grounds will afford evidence of a contravention of a relevant provision of, or offence against, this Act if:
(a) he believes on reasonable grounds that the entry and the subsequent exercise of his powers under paragraphs (1)(c) to (h) (inclusive) of this section or section 32 is necessary to prevent the concealment, loss or destruction of any matter or thing that may afford evidence of a contravention of a relevant provision of, or an offence against, this Act; and
(b) the entry is made in circumstances of such seriousness and urgency as to require and justify immediate entry without the authority of a warrant issued under subsection (3) of this section.

(6) Where an authorized person enters a vehicle, ship or aircraft in accordance with paragraph (1)(b) of this section, he may, for that purpose and for the purpose of the subsequent exercise of his powers under paragraphs (1)(c) to (h) (inclusive) of this section or section 32, stop and detain the vehicle, ship or aircraft.

32 Seizure

(1) An authorized person may seize any matter or thing that he believes on reasonable grounds will afford evidence of the contravention of a relevant provision of, or an offence against, this Act and may retain the matter or thing until the expiration of 60 days after the seizure or, if proceedings in respect of which the matter or thing may afford evidence are instituted within that period, until those proceedings (including any appeal to a court in relation to those proceedings) are terminated.

(2) The Minister may authorize any liquid fuel, or any other matter or thing, seized under subsection (1) to be released to the owner, or to the person from whose possession the liquid fuel or the other matter or thing was seized, either unconditionally or on such conditions as are specified in the authority, including conditions as to the giving of security for payment of their value if they are forfeited under section 38.
Section 33

33 Persons to assist authorised persons

(1) Subject to subsection (2), the owner, or person in charge of any vehicle, ship or aircraft entered by an authorized person, and the owner or occupier of any land or premises entered by an authorized person, under section 31 shall if requested by the authorized person to do so, provide reasonable assistance to the authorized person for the purpose of the exercise of his powers under that section or section 32 in relation to that land, vehicle, ship or aircraft or those premises.

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

(2) Where an authorized person makes a request of a person under this section, the authorized person shall produce his identity card for inspection by that person and, if the authorized person fails to do so, that person is not obliged to comply with the request.

34 Pecuniary penalties

(1) If the Court is satisfied that a person has contravened a relevant provision of this Act, the Court may order the person to pay to the Commonwealth such pecuniary penalty in respect of each act or omission by the person not exceeding:

(a) in the case of a contravention of subsection 12(5), 17(2) or 20(2):
   (i) by a person other than a body corporate—$50,000; or
   (ii) by a body corporate—$250,000;
(b) in the case of a contravention of subsection 18(2) or 19(3):
   (i) by a person other than a body corporate—$30,000; or
   (ii) by a body corporate—$150,000;
(c) in the case of a contravention of subsection 13(5), 14(2) or (3):
   (i) by a person other than a body corporate—$10,000; or
   (ii) by a body corporate—$50,000; or
(d) in the case of a contravention of subsection 21(4), 22(4), 23(5) or 24(5):
   (i) by a person other than a body corporate—$3,000; or
   (ii) by a body corporate—$15,000;

as the Court determines to be appropriate having regard to all relevant matters including, but without limiting the generality of
the foregoing, the nature and extent of the act or omission, the consequences of the act or omission, the circumstances in which the act or omission took place and the previous conduct of the person.

(2) If conduct constitutes a contravention of 2 or more relevant provisions of this Act, a proceeding may be instituted under this Act against a person in relation to the contravention of any one or more of those provisions but a person is not liable to more than one pecuniary penalty under this section in respect of the same conduct.

(3) A reference in subsection (1) to a contravention of a particular relevant provision of this Act includes a reference to:
(a) a contravention of that provision arising by operation of Part 2.4 of the Criminal Code; or
(b) a contravention of a provision of Part 2.4 of the Criminal Code that relates to that provision.

35 Civil action for recovery of pecuniary penalties

(1) The Minister may institute a proceeding in the Court for the recovery on behalf of the Commonwealth of a pecuniary penalty referred to in section 34.

(2) A proceeding under subsection (1) may be commenced within 6 years after the contravention.

36 Criminal proceedings not to be brought for contraventions of relevant provisions of this Act

Criminal proceedings do not lie against a person by reason only that the person has contravened a relevant provision of this Act.

37 Injunctions

(1) Where a person has engaged, is engaging, or is proposing to engage in any conduct that constituted, constitutes or would constitute a contravention of a relevant provision of this Act, the Court may on the application of:
(a) the Minister; or
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(b) any person whose interests have been, are or would be affected by the conduct;

grant an injunction restraining the first-mentioned person from engaging in the conduct and, if, in the opinion of the Court, it is desirable to do so, requiring that person to do any act or thing.

(2) Where:

(a) a person has refused or failed, is refusing or failing or is proposing to refuse or fail to do an act or thing; and

(b) that refusal or failure is, or would be, a contravention of a relevant provision of this Act;

the Court may, on the application of:

(c) the Minister; or

(d) any person whose interests have been, are or would be affected by that refusal or failure;

grant an injunction requiring the first-mentioned person to do that act or thing.

(3) Where an application is made to the Court for an injunction under subsection (1), the Court may, if in the opinion of the Court it is desirable to do so, before considering the application, grant an interim injunction restraining the person from engaging in conduct of the kind referred to in that subsection pending the determination of the application.

(4) The Court may discharge or vary an injunction granted under subsection (1), (2) or (3).

(5) Where an application is made to the Court for the grant of an injunction restraining a person from engaging in conduct of a particular kind, the power of the Court to grant the injunction may be exercised:

(a) if the Court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or

(b) if it appears to the Court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any
person if the first-mentioned person engages in conduct of that kind.

(6) Where an application is made to the Court for a grant of an injunction requiring a person to do a particular act or thing, the power of the Court to grant the injunction may be exercised:

(a) if the Court is satisfied that the person has refused or failed to do that act or thing—whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or

(b) if it appears to the Court that, in the event that an injunction is not granted, it is likely that the person will refuse or fail to do that act or thing—whether or not the person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

(7) Where the Minister makes an application to the Court for the grant of an injunction under this section, the Court shall not require the Minister or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

38 Forfeiture

(1) Where a court:

(a) orders a person to pay a pecuniary penalty under section 34 in respect of a contravention by the person of a relevant provision of this Act;

(b) convicts a person of an offence against this Act; or

(c) makes an order under section 19B of the Crimes Act 1914 in relation to an offence against this Act;

the court may order the forfeiture to the Commonwealth of any article used or otherwise involved in the contravention or in the commission of the offence.

(2) The Minister may, by instrument in writing, direct that an article forfeited under this section be sold or otherwise disposed of upon such conditions (if any) as are specified in the instrument of direction and, pending his direction, the article shall be kept in such custody as he directs.
Part IV  Enforcement

Section 39

39  Indictable offences

(1) An offence against subsection 14(4) or (5) is an indictable offence.

(2) Notwithstanding that an offence referred to in subsection (1) is expressed to be an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence referred to in subsection (1), the penalty that the court may impose is:

(a) in the case of an offence against subsection 14(4)—a fine not exceeding $10,000; and

(b) in the case of an offence against subsection 14(5)—a fine not exceeding $2,000 or imprisonment for a period not exceeding 12 months, or both.

40  Conduct by servants or agents of bodies corporate

(1) Where, in a proceeding under section 34 or 37 in respect of any conduct engaged in by a body corporate, being conduct in relation to which a relevant provision of this Act applies, it is necessary to establish the intention of the body corporate, it is sufficient to show that a servant or agent of the body corporate by whom the conduct was engaged in had that intention.

(2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate or by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate shall be deemed, for the purposes of this Act, to have been engaged in also by the body corporate.

(3) In this section, a reference to engaging in conduct is a reference to doing or refusing to do any act or thing.
Part V—Miscellaneous

41 Parliament may disallow certain instruments made under this Act

(1) This section applies to an instrument made by the Minister under subsection 10(1), 11(1), 12(1), 13(1), 21(1), 22(1), 23(1) or 24(1).

(2) The Minister shall, as soon as practicable after making an instrument to which this section applies:
   (a) cause a copy of the instrument to be published in the Gazette;
   and
   (b) cause a copy of the instrument to be laid before each House of the Parliament.

(3) Subject to subsection (4), an instrument to which this section applies comes into force at the expiration of:
   (a) unless paragraph (b) applies—the fifteenth sitting day of the House of Representatives after a copy of the instrument is laid before that House; or
   (b) if the fifteenth sitting day of the Senate after a copy of the instrument is laid before the Senate is a later day than the day referred to in paragraph (a)—that fifteenth sitting day of the Senate.

(4) If either House of the Parliament, within 15 sitting days of a copy of an instrument to which this section applies has been laid before that House, passes a resolution disallowing the instrument, the instrument shall not come into force.

(5) If, before the expiration of 15 sitting days of a House of the Parliament after a copy of an instrument to which this section applies has been laid before that House:
   (a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and
   (b) at the time of the dissolution, expiry or prorogation, as the case may be:
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(i) a notice of motion disallowing the instrument has not been withdrawn and the motion has not been called on; or
(ii) a motion disallowing the instrument has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;

the copy of the instrument shall, for the purposes of subsections (3) and (4), be deemed to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation, as the case may be.

(6) Where an instrument to which this section applies is made during a period of national liquid fuel emergency:
   (a) the instrument comes into force forthwith;
   (b) subsections (3), (4) and (5) do not apply to the instrument; and
   (c) subsection (8) applies to the instrument.

(7) Where:
   (a) an instrument to which this section applies is made otherwise than during a period of national liquid fuel emergency;
   (b) a period of national liquid fuel emergency is declared to exist; and
   (c) on the commencement of that period the instrument had neither come into force under subsection (3) nor been disallowed under subsection (4);

then, on the commencement of that period:
   (d) the instrument comes into force;
   (e) subsections (3), (4) and (5) cease to apply to the instrument; and
   (f) subsection (8) applies to the instrument.

(8) If either House of the Parliament, in pursuance of a motion of which notice has been given within 15 sitting days after a copy of an instrument to which this subsection applies has been laid before that House, (whether the notice was given for the purposes of subsection (4) or of this subsection), passes a resolution disallowing that instrument, the instrument so disallowed shall thereupon cease to have effect.
(9) If, at the expiration of 15 sitting days after notice of a motion to disallow an instrument to which subsection (8) applies has been given in a House of the Parliament, being notice given within 15 sitting days after a copy of the instrument has been laid before that House:
   (a) the notice has not been withdrawn and the motion has not been called on; or
   (b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;
the instrument specified in the motion shall thereupon be deemed to have been disallowed.

(10) If, before the expiration of 15 sitting days after notice of a motion to disallow any instrument to which subsection (8) applies has been given in a House of the Parliament:
   (a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and
   (b) at the time of the dissolution, expiry or prorogation, as the case may be:
      (i) the notice has not been withdrawn and the motion has not been called on; or
      (ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;
the instrument shall, for the purposes of subsections (8) and (9), be deemed to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation, as the case may be.

(11) Where an instrument to which subsection (8) applies is disallowed, or is deemed to have been disallowed, under this section, the disallowance of the instrument has the same effect as a revocation of the instrument.

(12) Where:
   (a) an instrument to which subsection (8) applies (in this subsection referred to as the relevant instrument) is disallowed, or is deemed to have been disallowed, under this section; and
   (b) the relevant instrument revoked, in whole or in part, another instrument to which this section applies that was in force
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immediately before the relevant instrument came into operation;
the disallowance of the relevant instrument has the effect of
reviving that other instrument from and including the date of the
disallowance as if the relevant instrument had not been made.

(13) Where an instrument to which this section applies comes into
force, the Minister shall cause a notice to that effect to be
published in the Gazette.

(14) The Minister shall, before 1 July 1984, make at least one
instrument to which this section applies under each of the
subsections referred to in subsection (1) of this section.

42 Consultation between Ministers concerning emergency
procedures

(1) The Minister shall not make a determination for the purposes of
subsection 9(1) or paragraph 11(3)(d) or give a direction under
Part II or III unless he has given notice in a manner specified in the
regulations to the Energy Minister for each State or Territory of his
intention to make such a determination or give such a direction, as
the case may be, and has afforded a reasonable opportunity to the
Energy Minister for each State or Territory to consult with him
concerning the matters to which the determination or direction, as
the case may be, is to relate.

(2) The Minister may, by writing signed by him, issue a certificate
setting out such facts as he considers relevant with respect to a
matter referred to in subsection (1).

(3) A certificate purporting to be issued under subsection (2) is prima
facie evidence of the facts stated in it.

43 Application of other Acts to certain instruments under this Act

(2) Section 50 of the Acts Interpretation Act 1901 applies to an
instrument under subsection 13(2), 14(1), 21(2), 22(2), 23(2) or
24(2) in like manner as that section applies to regulations.

(3) An instrument referred to in subsection (1) shall be deemed to be a
statutory rule within the meaning of the Statutory Rules
Publication Act 1903 and, for the purposes of the application of

50 Liquid Fuel Emergency Act 1984
subsection 5(3B) of that Act to that instrument, the reference in that subsection of that Act to the Minister for Sport, Recreation and Tourism shall be read as a reference to the Minister administering this Act.

44 Reconsideration and review of decisions

(1) In this section, unless the contrary intention appears:

decision has the same meaning as it has in the Administrative Appeals Tribunal Act 1975.

reviewable decision means a decision of the Minister, or a delegate of the Minister, under subsection 10(3), 11(3), 12(2) or (6) or 13(3) or subsection (2) of this section.

(2) A person affected by a reviewable decision who is dissatisfied with the decision may, within the period of 3 days after the day on which the decision first comes to the notice of the person, or within such further period as the Minister (either before or after the expiration of that period), by notice in writing served on the person, allows, by notice in writing given to the Minister in a manner specified in the regulations, request the Minister to reconsider the decision.

(3) There shall be set out in the request the reasons for making the request.

(4) The Minister shall, within 14 days after the receipt of the request, reconsider the decision and may affirm or revoke the decision or vary the decision in such manner as he thinks fit.

(5) Where the Minister affirms, revokes, or varies a decision, he shall, by notice in writing served on the person who made the request, inform the person of the result of his reconsideration of the decision, set out the findings on material questions of fact, refer to the evidence or other material on which those findings were based and give his reasons for affirming, revoking or varying the decision, as the case may be.

(6) Applications may be made to the Administrative Appeals Tribunal for review of reviewable decisions that have been affirmed or varied under subsection (4).
Section 45

(7) Where the Minister, or a delegate of the Minister, makes a reviewable decision and gives to the person or persons whose interests are affected by the decision notification in writing of the making of the decision, that notice shall include a statement to the effect that a person affected by the decision:

(a) may, if he is dissatisfied with the decision, seek a reconsideration of the decision by the Minister in accordance with subsection (2); and

(b) may, subject to the Administrative Appeals Tribunal Act 1975, if he is dissatisfied with a decision made by the Minister upon that reconsideration affirming or varying the first-mentioned decision, make application to the Administrative Appeals Tribunal for review of the decision so affirmed or varied.

(8) Where the Minister makes a decision under subsection (4) affirming or varying a reviewable decision, the notice given under subsection (5) in relation to that decision shall include a statement to the effect that a person affected by the decision so affirmed or varied may, subject to the Administrative Appeals Tribunal Act 1975, if he is dissatisfied with the decision so affirmed or varied, make application to the Administrative Appeals Tribunal for review of the decision.

(9) Any failure to comply with the requirements of subsection (7) or (8) in relation to a decision does not affect the validity of the decision.

(10) Nothing in this section shall be taken by implication to affect the application of subsection 33(3) of the Acts Interpretation Act 1901 to a power conferred by this Act.

45 Compensation for acquisition of property

(1) Where, but for this subsection, the operation of a provision of this Act would result in the acquisition of property from a person by another person otherwise than on just terms, there is payable to the person by that other person such amount of compensation as is agreed upon between those persons, or, failing agreement, as is determined by a court of competent jurisdiction.

(2) Any damages or compensation recovered or other remedy given in proceedings that are instituted otherwise than by virtue of this
section shall be taken into account in assessing compensation payable in proceedings that are instituted under this section and that arise out of the same event or transaction.

(3) In this section, acquisition of property and just terms have the same respective meanings as in paragraph 51(xxxi) of the Constitution.

**46 Compensation for compliance with directions under Part II or III**

(1) Subject to this section, where a person suffers loss, injury or damage by reason of the compliance by the person with a direction under Part II or III, there is payable to the person by the Commonwealth such amount of compensation in respect of that loss, injury or damage as is agreed between the Commonwealth and the person or, failing agreement, as is determined by a court of competent jurisdiction.

(2) In assessing the amount of compensation payable under subsection (1) in respect of loss, injury or damage suffered by a person, account shall be taken only of so much of the loss, injury or damage:

(a) as is greater than the loss, injury or damage suffered by the community at large, or a substantial part of the community at large, in connection with dealing with, or in preparation for dealing with, a shortage or likely shortage of liquid fuel during a period of national liquid fuel emergency; and

(b) as the person is not, and is not likely to be, in a position to make good from the market supplied by the person.

(3) Compensation is not payable under subsection (1) in respect of loss, injury or damage suffered by a person unless the person lodges a claim for compensation with the Minister within 12 months, or such longer period (if any) as is prescribed, after the loss, injury or damage was suffered.

(4) Any damages or compensation recovered or other remedy given in proceedings that are instituted otherwise than by virtue of this section shall be taken into account in assessing compensation payable in proceedings that are instituted under this section and that arise out of the same event or transaction.
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47 Exemption from suit

(1) No action or proceeding lies against a relevant fuel industry corporation for, or in relation to, a breach of a contract entered into between that corporation and another person where, but for compliance by the corporation with a direction under section 17, 18, 19, 20, 21 or 23, the act or omission that is alleged to constitute the breach would not have occurred.

(2) No action or proceeding lies against a relevant person for, or in relation to, breach of a contract entered into between that relevant person and another person where, but for compliance by the relevant person with a direction under section 22 or 24, the act or omission that is alleged to constitute the breach would not have occurred.

(3) Nothing in this section shall be taken to affect a right to compensation conferred upon a person by section 45.

48 Jurisdiction of courts

(1) Jurisdiction is conferred on the Court with respect to matters arising under section 34 or 37 and that jurisdiction is exclusive of the jurisdiction of all other courts other than the jurisdiction of the High Court under section 75 of the Constitution.

(2) Subject to subsection (1), the Supreme Court of each State is invested with federal jurisdiction and jurisdiction is conferred on the Federal Court of Australia and, to the extent that the Constitution permits, on the Supreme Court of each Territory, with respect to all matters arising under this Act.

(3) The inferior courts of each State are invested with federal jurisdiction, and jurisdiction is conferred on the inferior courts of each Territory, within the limits, other than limits as to subject-matter, of their several jurisdictions, with respect to matters arising under section 45 or 46.

(4) An appeal lies to the Court from a judgment or order of a court of a State or Territory exercising jurisdiction under this Act.

(5) An appeal lies to the High Court, with special leave of the High Court, from a judgment or order referred to in subsection (4).
(6) Except as provided in subsection (4) or (5), no appeal lies from a judgment or order referred to in subsection (4).

(7) A reference in subsection (3) to an inferior court shall be read as a reference to:
   (a) a County Court, District Court or Local Court; or
   (b) a court of summary jurisdiction exercising civil jurisdiction; being a court having jurisdiction in actions for the recovery of debts up to an amount not less than the amount of compensation claimed.

49 Delegation

(1) The Minister may, either generally or as otherwise provided in the instrument of delegation, by writing signed by him, delegate to a person all or any of his powers under this Act or under any instrument made by him under Part II or III, other than:
   (a) his power to make an instrument under subsection 10(1), 11(1), 12(1), 13(1), 21(1), 22(1), 23(1) or 24(1);
   (b) his power to give a direction under subsection 13(2), 14(1), 21(2), 22(2), 23(2) or 24(2); or
   (c) this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or that instrument, as the case may be, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

(4) The Minister may enter into such arrangements with the Energy Minister for a State as he considers to be appropriate to facilitate the delegation under this section of powers under this Act to the Energy Minister for that State or to an officer of that State.

(5) The Minister may enter into such arrangements with the Energy Minister for the Northern Territory as he considers to be appropriate to facilitate the delegation under this section of powers under this Act to the Energy Minister for the Northern Territory or to an officer of the Northern Territory.

(6) Where, in accordance with arrangements entered into under subsection (4) or (5), the Energy Minister for a State or for the
Section 50

Northern Territory or an officer of a State or of the Northern Territory causes notice of the fact that he has, in the exercise, as delegate of the Minister, of the powers conferred on the Minister under section 10, identified a person or an organization as a bulk customer of a relevant fuel industry corporation or of a relevant person in relation to a refined liquid petroleum product to be made available to that person or organization, that notice shall, for all purposes of this Act, have the effect that it would have if it had been made available by the Minister in accordance with the requirements of that section.

50 Service

(1) For the purposes of this Act, a document may be served:
   (a) on a natural person:
      (i) by delivering it to the person personally; or
      (ii) by leaving it at, or by sending it by post to, the address of the place of residence or business of the person last known to the person serving the document; or
   (b) on a body corporate—by leaving it at, or sending it by post to, the registered office or a principal office of the body corporate or in such other manner as is prescribed.

(2) Nothing in subsection (1) affects the power of a court to authorize service of a document otherwise than as provided in that subsection.

51 Operation of State and Territory laws

This Act is not intended to affect the operation of a law of a State or Territory to the extent that the law is capable of operating concurrently with this Act.

52 Directions to prevail over inconsistent Commonwealth, State or Territory law

Subject to section 51, a direction under this Act has effect notwithstanding any law of the Commonwealth (other than this Act), or any law of a State or Territory, that is inconsistent with that direction.
Section 53

53 Act not to confer powers on State or Northern Territory Energy Ministers by implication

Nothing in this Act shall be taken, by implication, to confer a power upon the Energy Minister for a State or for the Northern Territory.

55 Repeal of Liquid Fuel (Defence Stocks) Act 1949

The Liquid Fuel (Defence Stocks) Act 1949 is repealed.

56 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing 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.
**Notes to the Liquid Fuel Emergency Act 1984**

**Note 1**

The *Liquid Fuel Emergency Act 1984* as shown in this compilation comprises Act No. 5, 1984 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information see Table A.

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Notes to the *Liquid Fuel Emergency Act 1984*

**Act Notes**

(a) The *Liquid Fuel Emergency Act 1984* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

(b) The *Liquid Fuel Emergency Act 1984* was amended by the *Evidence (Transitional Provisions and Consequential Amendments) Act 1995*, subsections 2(1) and (13) of which provide as follows:

(1) This Part and Parts 2 and 3 commence on the day on which this Act receives the Royal Assent.

(13) Section 27 of this Act and the Schedule to this Act commence:

(a) on the day on which sections 153 and 155 of the *Evidence Act 1995* commence; or

(b) if those sections commence on different days—the first day on which both of those sections are in force.

Sections 153 and 155 commenced on 18 April 1995.
### Table of Amendments

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Note 2

Liquid Fuel Emergency Amendment Act 2007 (No. 86, 2007)

The following amendments commence on 21 December 2007 unless proclaimed earlier:

Schedule 1

1 Subsection 3(1)
Insert:

civil penalty provision means subsection 12(9), 13(9), 14(6) or (7), 14A(6) or (7), 17(8), 18(6), 19(5), 20(7), 21(9), 22(9), 23(9) or 24(9).

2 Subsection 3(1) (definition of contravention)
Repeal the definition.

3 Subsection 3(1) (at the end of paragraph (a) of the definition of Energy Minister)
Add “and”.

4 Subsection 3(1) (after paragraph (a) of the definition of Energy Minister)
Insert:

(aa) in relation to the Australian Capital Territory—the person appointed as a Minister under section 41 of the Australian Capital Territory (Self-Government) Act 1988 who, under a law of that Territory, is responsible, or principally responsible, for the administration of emergency measures relating to any liquid fuel shortage that might affect that Territory; and

5 Subsection 3(1) (at the end of paragraph (b) of the definition of Energy Minister)
Add “and”.

62 Liquid Fuel Emergency Act 1984
6 Subsection 3(1) (paragraphs (c) and (d) of the definition of *Energy Minister*)

Repeal the paragraphs, substitute:

(c) in relation to the Jervis Bay Territory and an external Territory (other than an external Territory referred to in paragraph (d))—the Minister administering the *Jervis Bay Territory Acceptance Act 1915*; and

(d) in relation to the Australian Antarctic Territory and the Territory of Heard Island and McDonald Islands—the Minister administering the *Australian Antarctic Territory Acceptance Act 1933*.

7 Subsection 3(1) (definition of *offence against this Act*)

Repeal the definition, substitute:

*offence against this Act* means:

(a) an offence against subsection 14(8) or (9), 14A(8) or (9), 29(5), 30(2) or 33(2); or

(b) an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act; or

(c) an offence against:

(i) section 6 of the *Crimes Act 1914*; or

(ii) section 11.1, 11.4 or 11.5 of the *Criminal Code*;

that relates to an offence referred to in paragraph (a) or (b) of this definition.

8 Subsection 3(1)

Insert:

*officer of the Australian Capital Territory* means:

(a) an officer or employee of the Australian Capital Territory; or

(b) a member or special member of the Australian Federal Police providing police services in relation to the Australian Capital Territory; or

(c) a person who constitutes, is a member of, or is employed by, an authority established by or under a law of the Australian Capital Territory.
Note 2

9 Subsection 3(1)
   Insert:
   
   *penalty unit* has the meaning given by section 4AA of the *Crimes Act 1914*.

10 Subsection 3(1)
   Insert:
   
   *planning period*, in relation to a period of national liquid fuel emergency, means a period determined under subsection 9(1).

11 Subsection 3(1) (definition of *relevant provision of this Act*)
   Repeal the definition.

12 Subsection 5(1)
   Repeal the subsection, substitute:
   
   (1) This Act binds the Crown in each of its capacities.

   (1A) This Act does not make the Crown liable to be prosecuted for an offence.

13 Subsection 5(2)
   After “State”, insert “, of the Australian Capital Territory”.

14 Sections 9 to 11
   Repeal the sections, substitute:

9 Minister must determine planning periods
   
   (1) The Minister must, by legislative instrument, determine a period that forms part of a period of national liquid fuel emergency to be a planning period in relation to that period of national liquid fuel emergency.

   (2) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a determination under subsection (1) may be expressed to take effect before the day it is registered under that Act.
(3) If the period of national liquid fuel emergency terminates before the end of a planning period, the planning period ends at the same time.

(4) The Minister must, as soon as practicable after making a determination under subsection (1), give a copy of the determination to the Energy Minister for each State and Territory.

10 Bulk customers of relevant fuel industry corporations or of relevant persons

(1) The Minister may, by writing, identify a person or an organisation as a bulk customer of a particular relevant fuel industry corporation, or of a particular relevant person, in relation to a particular refined liquid petroleum product.

Instrument not a legislative instrument

(2) An instrument under subsection (1) is not a legislative instrument.

Guidelines

(3) An instrument under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the instrument is made.

(4) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

(5) Despite subsection 12(2) of the Legislative Instruments Act 2003, guidelines made under subsection (4) may be expressed to take effect before the day they are registered under that Act.

Limits on revocation

(6) The Minister must not revoke an instrument under subsection (1) unless he or she is satisfied that the person or organisation has ceased to carry on activities because of which the person or organisation was identified as such a bulk customer.
Note 2

Status as bulk customer during period of national liquid fuel emergency

(7) Subject to subsection (8), a person or an organisation identified as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a particular refined liquid petroleum product is taken for the purposes of this Act:

(a) if the identification is in force immediately before the start of a period of national liquid fuel emergency—to be such a bulk customer for all of that period; or

(b) if the identification occurs during a planning period in relation to a period of national liquid fuel emergency—to be such a bulk customer during:

(i) that part of the planning period that is after the identification; and

(ii) each later planning period in relation to that period of national liquid fuel emergency.

Effect of revocation during a period of national liquid fuel emergency

(8) If:

(a) the Minister revokes an instrument identifying a person or an organisation as a bulk customer of a particular relevant fuel industry corporation or of a particular relevant person in relation to a particular refined liquid petroleum product; and

(b) the revocation occurs during a period of national liquid fuel emergency;

that person or organisation is taken, for the purposes of this Act, to cease to be such a bulk customer at the end of the planning period in which the revocation was made.

Notice of decisions

(9) If the Minister makes a decision:

(a) identifying, or refusing to identify, a person or organisation as a bulk customer of a relevant fuel industry corporation, or of a relevant person, in relation to a particular refined liquid petroleum product; or

(b) revoking the identification of a person or organisation as such a bulk customer;
the Minister must, as soon as practicable after making the decision, give notice of the decision to that person or organisation.

11 Essential users of refined liquid petroleum products

(1) The Minister may, by writing, identify a person or organisation as an essential user of a particular refined liquid petroleum product in a particular State or Territory if, and only if, the activities carried on by that person or organisation in that State or Territory are or include:

(a) activities related to the defence of Australia; or

(b) activities related to the provision of that product as fuel for ships and aircraft engaged in trade or commerce:
   (i) between Australia and places outside Australia; or
   (ii) among the States; or
   (iii) between a State and a Territory or between Territories; or

(c) activities related to the export of that product from Australia; or

(d) activities determined under subsection (3).

Instrument not a legislative instrument

(2) An instrument under subsection (1) is not a legislative instrument.

Determination of activities

(3) The Minister may, by legislative instrument, determine activities for the purposes of paragraph (1)(d). The Minister must not determine an activity unless the Minister is satisfied that it is essential to the health, safety or welfare of the community.

Guidelines

(4) An instrument under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the instrument is made.

(5) The Minister must, by legislative instrument, make guidelines for the purposes of this section.
Note 2

When instruments take effect

(6) Despite subsection 12(2) of the Legislative Instruments Act 2003, the following instruments may be expressed to take effect before the day they are registered under that Act:
(a) an instrument under subsection (3);  
(b) guidelines made under subsection (5).

Limits on revocation

(7) The Minister must not revoke an instrument under subsection (1) unless he or she is satisfied that the person or organisation has ceased to carry on activities because of which the person or organisation was identified as such an essential user.

Status as essential user during period of national liquid fuel emergency

(8) Subject to subsection (9), a person or organisation identified as an essential user of a particular refined liquid petroleum product in a particular State or Territory is taken for the purposes of this Act:
(a) if the identification is in force immediately before the start of a period of national liquid fuel emergency—to be such an essential user for all of that period; or
(b) if the identification occurs during a planning period in relation to a period of national liquid fuel emergency—to be such an essential user during:
(i) that part of the planning period that is after the identification; and
(ii) each later planning period in relation to that period of national liquid fuel emergency.

Effect of revocation during a period of national liquid fuel emergency

(9) If:
(a) the Minister revokes an instrument identifying a person or an organisation as an essential user of a particular refined liquid petroleum product in a particular State or Territory; and
(b) the revocation occurs during a period of national liquid fuel emergency;
that person or organisation is taken, for the purposes of this Act, to cease to be such an essential user at the end of the planning period in which the revocation was made.

Notice of decisions

(10) If the Minister makes a decision:
(a) identifying, or refusing to identify, a person or organisation as an essential user of a particular refined liquid petroleum product in a State or Territory; or
(b) revoking the identification of a person or organisation as such an essential user;
the Minister must, as soon as practicable after making the decision, give notice of the decision to that person or organisation and to the Energy Minister for that State or Territory.

15 Sections 12 to 15

Repeal the sections, substitute:

12 Minister may direct relevant fuel industry corporations to maintain reserves etc.

(1) The Minister may, by writing, direct a relevant fuel industry corporation:
(a) to maintain at all times after a specified day, at specified places in Australia, specified quantities of reserve supplies of a specified kind of liquid fuel; or
(b) to accumulate, by a specified day, specified quantities of reserve supplies of a specified kind of liquid fuel and to maintain, at all times after that day, such quantities of reserve supplies of liquid fuel of that kind at specified places in Australia.

(2) The Minister must not give a direction under subsection (1) during a period of national liquid fuel emergency.

Note: Section 17 deals with giving directions of a kind mentioned in subsection (1) of this section during a period of national liquid fuel emergency.
Notes to the *Liquid Fuel Emergency Act 1984*

**Note 2**

*Purpose of direction*

(3) The Minister must not give a direction under subsection (1) unless it is for the purpose of ensuring that, in the event of a period of national liquid fuel emergency, the relevant fuel industry corporation will be in a position to comply with any direction that could be given to it during that period under Part III.

*Direction not a legislative instrument*

(4) A direction under subsection (1) is not a legislative instrument.

*Guidelines*

(5) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.

(6) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

(7) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, guidelines made under subsection (6) may be expressed to take effect before the day they are registered under that Act.

*Variation of quantities*

(8) If:

(a) a relevant fuel industry corporation is required by a direction under subsection (1) to maintain at a particular place a particular quantity of reserve supplies of liquid fuel of a particular kind; and

(b) the Minister is satisfied that particular temporary circumstances exist;

the Minister may, in order to meet those circumstances, vary in writing the direction to specify a lesser quantity of reserve supplies of liquid fuel of that kind that the corporation needs to maintain at that place during a specified period.

*Civil penalty*

(9) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1) (including such a direction as varied under subsection (8)).
Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

Notice of decisions

(10) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

(11) The Minister must give notice of a variation under subsection (8) to the relevant fuel industry corporation. The variation comes into effect when the notice is given.

Relationship with section 17

(12) If:

(a) a direction (the earlier direction) given to a relevant fuel industry corporation under subsection (1) is in force; and

(b) a direction (the later direction) is given to the corporation under subsection 17(1);

then the earlier direction ceases to be in force at the time the later direction comes into force.

13 Minister may direct relevant fuel industry corporations to develop bulk allocation procedures

(1) The Minister may direct each relevant fuel industry corporation that:

(a) is included in a class of relevant fuel industry corporations in relation to which guidelines under subsection (3) are in force; and

(b) supplies a refined liquid petroleum product of a kind specified in those guidelines;

to give to the Minister, in a specified form and by a specified day, particulars of procedures the corporation has developed to enable it to allocate bulk supplies of that product in accordance with those guidelines.

(2) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the Legislative Instruments Act 2003 applies to the direction.
Guidelines

(3) The Minister must, by legislative instrument, make guidelines relating to a specified class of relevant fuel industry corporations allocating bulk supplies of a specified kind of refined liquid petroleum product to:
   (a) persons who in the event of a period of national liquid fuel emergency; or
   (b) organisations that in the event of a period of national liquid fuel emergency;

would be likely to be, during the whole or a part of that period, bulk customers of that class of relevant fuel industry corporations in relation to that product.

When instruments take effect

(4) Despite subsection 12(2) of the Legislative Instruments Act 2003, the following instruments may be expressed to take effect before the day they are registered under that Act:
   (a) a direction given under subsection (1);
   (b) guidelines made under subsection (3).

Approval of procedures

(5) If:
   (a) a relevant fuel industry corporation gives particulars of procedures to the Minister under subsection (1); and
   (b) the Minister is satisfied that the procedures will enable the corporation to allocate bulk supplies of the product in accordance with the guidelines;

the Minister must, by writing, approve those procedures.

Amendment of procedures

(6) If:
   (a) a relevant fuel industry corporation gives particulars of procedures to the Minister under subsection (1); and
   (b) the Minister is not satisfied that the procedures will enable the corporation to allocate bulk supplies of the product in accordance with the guidelines;

the Minister must, by writing, direct the corporation to:
(c) make specified amendments of the procedures; and
(d) give to the Minister, in a specified form and by a specified day, particulars of the procedures as so amended.

(7) If a relevant fuel industry corporation gives particulars of the procedures as so amended to the Minister under subsection (6), the Minister must, by writing, approve the procedures as so amended.

Certain instruments are not legislative instruments

(8) The following are not legislative instruments:
   (a) an approval under subsection (5) or (7);
   (b) a direction under subsection (6).

Civil penalty

(9) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1) or (6).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

Notice of decisions

(10) The Minister must give notice of an approval under subsection (5) or (7) to the relevant fuel industry corporation.

(11) The Minister must give notice of a direction under subsection (6) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

14 Minister may direct relevant fuel industry corporations and relevant persons to maintain statistical information

(1) The Minister may direct:
   (a) each relevant fuel industry corporation included in a specified class of relevant fuel industry corporations; and
   (b) each relevant person included in a specified class of relevant persons;

to maintain, in a specified form and after a specified day, specified statistical information relating to liquid fuels that come into the possession or under the control of that corporation or person after that day.
(2) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the Legislative Instruments Act 2003 applies to the direction.

Guidelines

(3) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.

(4) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

When instruments take effect

(5) Despite subsection 12(2) of the Legislative Instruments Act 2003, the following instruments may be expressed to take effect before the day they are registered under that Act:
   (a) a direction given under subsection (1);
   (b) guidelines made under subsection (4).

Civil penalties

(6) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

(7) A relevant person must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant person that contravenes such a direction to pay a pecuniary penalty.

Criminal offences

(8) A relevant fuel industry corporation commits an offence if:
   (a) a direction is in force under subsection (1) in relation to the corporation; and
   (b) the corporation maintains statistical information; and
   (c) the corporation does so knowing that the information is false or misleading in a material particular; and
(d) the information is maintained in compliance or purported compliance with the direction.

Penalty: 500 penalty units.

Note: Section 14B sets out some procedural matters relating to the prosecution of this offence.

(9) A relevant person commits an offence if:
   (a) a direction is in force under subsection (1) in relation to the person; and
   (b) the person maintains statistical information; and
   (c) the person does so knowing that the information is false or misleading in a material particular; and
   (d) the information is maintained in compliance or purported compliance with the direction.

Penalty for contravention of this subsection: 100 penalty units, or imprisonment for 2 years, or both.

Note: Section 14B sets out some procedural matters relating to the prosecution of this offence.

14A Minister may direct relevant fuel industry corporations and relevant persons to make available statistical information

(1) The Minister may, by writing, direct a relevant fuel industry corporation or a relevant person to make available:
   (a) to the Minister and each Energy Minister (if any) specified in the direction; and
   (b) by the day specified in the direction;
   such of the statistical information that the corporation or person is required to maintain under section 14 as is specified in the direction.

   Direction not a legislative instrument

(2) A direction under subsection (1) is not a legislative instrument.

   Guidelines

(3) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
(4) The Minister must, by legislative instrument, make guidelines for
the purposes of this section.

(5) Despite subsection 12(2) of the Legislative Instruments Act 2003,
guidelines made under subsection (4) may be expressed to take
effect before the day they are registered under that Act.

Civil penalties

(6) A relevant fuel industry corporation must not, without reasonable
excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry
corporation that contravenes such a direction to pay a pecuniary
penalty.

(7) A relevant person must not, without reasonable excuse, contravene
a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant person that
contravenes such a direction to pay a pecuniary penalty.

Criminal offences

(8) A relevant fuel industry corporation commits an offence if:
(a) a direction is in force under subsection (1) in relation to the
corporation; and
(b) the corporation makes available statistical information; and
(c) the corporation does so knowing that the information is false
or misleading in a material particular; and
(d) the information is made available in compliance or purported
compliance with the direction.

Penalty: 500 penalty units.

Note: Section 14B sets out some procedural matters relating to the
prosecution of this offence.

(9) A relevant person commits an offence if:
(a) a direction is in force under subsection (1) in relation to the
person; and
(b) the person makes available statistical information; and
(c) the person does so knowing that the information is false or
misleading in a material particular; and
(d) the information is made available in compliance or purported
compliance with the direction.
Penalty: 100 penalty units, or imprisonment for 2 years, or both.

Note: Section 14B sets out some procedural matters relating to the prosecution of this offence.

Notice of decision

(10) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation or relevant person. The direction comes into force when the notice is given.

14B Prosecution of offences against section 14 or 14A

Indictable offences

(1) An offence against subsection 14(8) or (9) or 14A(8) or (9) is an indictable offence.

Court of summary jurisdiction may determine the charge

(2) However, if a person is charged with such an offence, a court of summary jurisdiction may, with the consent of the defendant and the prosecutor and if the court is satisfied that it is proper to do so, determine the charge summarily.

What penalty court of summary jurisdiction may impose

(3) If, in accordance with subdivision (2), a court of summary jurisdiction convicts a person of an offence referred to in subsection (1), the penalty that the court may impose is:

(a) for an offence against subsection 14(8) or 14A(8)—a fine not exceeding 100 penalty units; and

(b) for an offence against subsection 14(9) or 14A(9)—a fine not exceeding 20 penalty units or imprisonment for a period not exceeding 12 months, or both.

15 Minister may enter into arrangements to enable directions under sections 23 and 24 to be implemented

(1) The Minister may, on behalf of the Commonwealth and for the purpose of ensuring the effective operation of any directions that may be, or have been, given under sections 23 and 24, enter into arrangements with:

(a) a Minister of a State on behalf of that State; or
Note 2

(b) a person appointed as a Minister under section 41 of the *Australian Capital Territory (Self-Government) Act 1988* on behalf of the Australian Capital Territory; or

(c) a person holding Ministerial office under section 36 of the *Northern Territory (Self-Government) Act 1978* on behalf of the Northern Territory; or

(d) an authority established by or under a law of the Commonwealth or of a State or Territory;

for the carrying out of such measures (including preliminary measures) as the Minister considers necessary to facilitate the implementation of such directions.

(2) An arrangement under subsection (1) may provide for reimbursement by the Commonwealth of the cost of the carrying out of the measures to which the arrangement relates.

16 Paragraph 16(2)(a)

Omit “he”, substitute “the Minister”.

17 Paragraph 16(2)(b)

Omit “he is satisfied that the Minister”, substitute “the Minister is satisfied that he or she”.

18 Paragraph 16(2)(b)

After “State”, insert “, the Energy Minister for the Australian Capital Territory”.

19 Subsection 16(3)

Omit “Governor-General is to have regard for the purposes of paragraph (2)(a), he”, substitute “Minister is to have regard for the purposes of paragraph (2)(a), he or she”.

20 Subsection 16(5)

Omit “he”, substitute “the Minister”.

21 Sections 17 to 24

Repeal the sections, substitute:
17 Minister may direct relevant fuel industry corporations to maintain reserves etc.

(1) During a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation:
   (a) to maintain at all times after a specified day, at specified places in Australia, specified quantities of reserve supplies of a specified kind of liquid fuel; or
   (b) to accumulate, by a specified day, specified quantities of reserve supplies of a specified kind of liquid fuel and to maintain, at all times after that day, such quantities of reserve supplies of liquid fuel of that kind at specified places in Australia.

Purpose of direction

(2) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

Direction not a legislative instrument

(3) A direction under subsection (1) is not a legislative instrument.

Guidelines

(4) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.

(5) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

(6) Despite subsection 12(2) of the Legislative Instruments Act 2003, guidelines made under subsection (5) may be expressed to take effect before the day they are registered under that Act.

Variation of quantities

(7) If:
   (a) a relevant fuel industry corporation is required by a direction under subsection (1) to maintain at a particular place a particular quantity of reserve supplies of liquid fuel of a particular kind; and...
Note 2

(b) the Minister is satisfied that particular temporary circumstances exist;
the Minister may, in order to meet those circumstances, vary in writing the direction to specify a lesser quantity of reserve supplies of liquid fuel of that kind that the corporation needs to maintain at that place during a specified period.

Civil penalty

(8) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1) (including such a direction as varied under subsection (7)).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

Notice of decisions

(9) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

(10) The Minister must give notice of a variation under subsection (7) to the relevant fuel industry corporation. The variation comes into effect when the notice is given.

18 Minister may direct transfer of liquid fuel

(1) During a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation to cause a specified quantity of liquid fuel of a specified kind that is held by the corporation at a specified place (the old place) in Australia to be transferred by a specified day to another specified place (the new place) in Australia.

(2) The new place:
   (a) must be a place at which the corporation has adequate facilities to hold the quantity of liquid fuel to be transferred; and
   (b) if the old place is situated in a State, the Australian Capital Territory or the Northern Territory and the transfer is for purposes that do not include any or all of the purposes
Note 2

mentioned in subsection (3)—must not be situated in the same State or Territory as the old place.

(3) The purposes are as follows:
(a) purposes related to the defence of Australia;
(b) purposes related to the provision of fuel for ships and aircraft engaged in trade and commerce:
   (i) between Australia and places outside Australia; or
   (ii) among the States; or
   (iii) between a State and a Territory or between Territories;
(c) purposes related to the export of liquid fuel from Australia;
(d) purposes related to the carrying on of an activity to which paragraph 11(1)(d) applies.

Purpose of direction

(4) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

Direction not a legislative instrument

(5) A direction under subsection (1) is not a legislative instrument.

Civil penalty

(6) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

Notice of decision

(7) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

19 Minister may direct liquid fuel to be available for purchase

(1) During a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation, in the course of its trading or commercial activities, to take such
Note 2

measures as are necessary to make a specified quantity of liquid fuel of a specified kind available for purchase on or before a specified day at a specified place by one or more specified persons.

Purpose of direction

(2) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

Direction may deal with price

(3) A direction given under subsection (1) to a relevant fuel industry corporation may provide that the price at which the liquid fuel is to be made available to a person in accordance with that direction is to be:

(a) such price as is agreed upon by the corporation and that person; or

(b) in the absence of such agreement—such price as is determined by a specified person by arbitration.

Direction not a legislative instrument

(4) A direction under subsection (1) is not a legislative instrument.

Civil penalty

(5) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

Notice of decision

(6) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.

20 Minister may give directions as to output from refineries

(1) During a period of national liquid fuel emergency, the Minister may, by writing, direct a relevant fuel industry corporation that is engaged in producing or refining liquid fuel to produce in
Australia, during a specified period, a specified quantity of liquid fuel of a specified kind.

Purpose of direction

(2) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

Direction not a legislative instrument

(3) A direction under subsection (1) is not a legislative instrument.

Guidelines

(4) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.

(5) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

(6) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, guidelines made under subsection (5) may be expressed to take effect before the day they are registered under that Act.

Civil penalty

(7) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

Notice of decision

(8) The Minister must give notice of a direction under subsection (1) to the relevant fuel industry corporation. The direction comes into force when the notice is given.
21 Minister may give directions with respect to allocation by corporations of liquid fuel to bulk customers

(1) During a period of national liquid fuel emergency, the Minister may direct each relevant fuel industry corporation that, in the course of its trading or commercial activities:

(a) ordinarily makes a specified kind of refined liquid petroleum product available for purchase in bulk in a State or Territory; and

(b) ordinarily makes that product available for such purchase by persons or organisations that are bulk customers of the corporation in relation to that product;

to make that product available for purchase in bulk in that State or Territory by those persons or organisations in such quantities as are specified in, or worked out in accordance with, the direction.

(2) A direction under subsection (1) must specify that the product is to be made available for purchase in accordance with bulk allocation procedures approved by the Minister under section 13.

Limitations on directions

(3) A direction under subsection (1) has effect in relation to one or more planning periods, in relation to the period of national liquid fuel emergency, that are specified in the direction. However, the direction has no effect in relation to any part of a planning period that occurs before the day on which the direction takes effect.

(4) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

Direction is a legislative instrument

(5) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the Legislative Instruments Act 2003 applies to the direction.

Guidelines

(6) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.
(7) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

“When instruments take effect”

(8) Despite subsection 12(2) of the Legislative Instruments Act 2003, the following instruments may be expressed to take effect before the day they are registered under that Act:
   (a) a direction given under subsection (1);
   (b) guidelines made under subsection (7).

“Civil penalty”

(9) A relevant fuel industry corporation must not, without reasonable excuse:
   (a) contravene a direction in force under subsection (1); or
   (b) make the kind of refined liquid petroleum product covered by a direction in force under subsection (1) available for purchase in bulk, during a period covered by the direction, by a person who is not a bulk customer of the corporation in relation to that product.

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

“Reasonable excuses”

(10) It is a reasonable excuse for the purposes of paragraph (9)(a) if the person or organisation in respect of which the contravention is alleged to have occurred:
   (a) is not an essential user of the refined liquid petroleum product concerned in the State or Territory concerned at the time of the alleged contravention; and
   (b) refused or failed to produce to the relevant fuel industry corporation concerned a copy of the notice given to the person or organisation under subsection 10(9) stating the person or organisation to be a bulk customer of the corporation in relation to that product.

(11) It is a reasonable excuse for the purposes of paragraph (9)(a) if the person or organisation in respect of which the contravention is alleged to have occurred:
(a) is an essential user of the refined liquid petroleum product concerned in the State or Territory concerned at the time of the alleged contravention; and
(b) refused or failed to produce to the relevant fuel industry corporation concerned a copy of the following notices:
   (i) the notice given to the person or organisation under subsection 10(9) stating the person or organisation to be a bulk customer of the corporation in relation to that product;
   (ii) the notice given to the person or organisation under subsection 11(10) stating the person or organisation to be an essential user of that product in that State or Territory.

(12) Subsections (10) and (11) do not limit subsection (9).

22 Minister may give directions with respect to allocation by relevant persons of liquid fuel to bulk customers

(1) During a period of national liquid fuel emergency, the Minister may direct each relevant person who, in the course of the person’s trading or commercial activities:
   (a) ordinarily makes a specified kind of refined liquid petroleum product available for purchase in bulk in a State or Territory; and
   (b) ordinarily makes that product available for such purchase by persons or organisations that are bulk customers of the relevant person in relation to that product;

to make that product available for purchase in bulk in that State or Territory by those persons or organisations in such quantities as are specified in, or worked out in accordance with, the direction.

(2) A direction under subsection (1) must specify that the product is to be made available for purchase in accordance with bulk allocation procedures specified in the direction.

Limitations on directions

(3) A direction under subsection (1) has effect in relation to one or more planning periods, in relation to the period of national liquid fuel emergency, that are specified in the direction. However, the
direction has no effect in relation to any part of a planning period that occurs before the day on which the direction takes effect.

(4) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

**Direction is a legislative instrument**

(5) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the direction.

**Guidelines**

(6) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.

(7) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

**When instruments take effect**

(8) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, the following instruments may be expressed to take effect before the day they are registered under that Act:
   
   (a) a direction given under subsection (1);
   
   (b) guidelines made under subsection (7).

**Civil penalty**

(9) A relevant person must not, without reasonable excuse:

   (a) contravene a direction in force under subsection (1); or
   
   (b) make the kind of refined liquid petroleum product covered by a direction in force under subsection (1) available for purchase in bulk, during a period covered by the direction, by a person who is not a bulk customer of the relevant person in relation to that product.

Note: Under section 34, the Court may order a relevant person that contravenes such a direction to pay a pecuniary penalty.
Note 2

Reasonable excuses

(10) It is a reasonable excuse for the purposes of paragraph (9)(a) if the person or organisation in respect of which the contravention is alleged to have occurred:

(a) is not an essential user of the refined liquid petroleum product concerned in the State or Territory concerned at the time of the alleged contravention; and

(b) refused or failed to produce to the relevant person concerned a copy of the notice given to the person or organisation under subsection 10(9) stating the person or organisation to be a bulk customer of the relevant person in relation to that product.

(11) It is a reasonable excuse for the purposes of paragraph (9)(a) if the person or organisation in respect of which the contravention is alleged to have occurred:

(a) is an essential user of the refined liquid petroleum product concerned in the State or Territory concerned at the time of the alleged contravention; and

(b) refused or failed to produce to the relevant person concerned a copy of the following notices:

(i) the notice given to the person or organisation under subsection 10(9) stating the person or organisation to be a bulk customer of the relevant person in relation to that product;

(ii) the notice given to the person or organisation under subsection 11(10) stating the person or organisation to be an essential user of that product in that State or Territory.

(12) Subsections (10) and (11) do not limit subsection (9).

23 Minister may give directions to corporations regulating or prohibiting supply of liquid fuel

(1) During a period of national liquid fuel emergency, the Minister may give directions regulating or prohibiting the supply by relevant fuel industry corporations, in the course of their trading or commercial activities, of specified refined liquid petroleum products to persons generally or to specified persons.
Limitations on directions

(2) A direction under subsection (1) has effect in relation to one or more planning periods, in relation to the period of national liquid fuel emergency, that are specified in the direction. However, the direction has no effect in relation to any part of a planning period that occurs before the day on which the direction takes effect.

(3) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

(4) The Minister must not give a direction under subsection (1) that relates only to the supply of refined liquid petroleum products to persons who are bulk customers of relevant fuel industry corporations.

Direction is a legislative instrument

(5) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the Legislative Instruments Act 2003 applies to the direction.

Guidelines

(6) A direction under subsection (1) must be in accordance with any guidelines made under this section.

(7) The Minister must, by legislative instrument, make guidelines for the purposes of this section.

When instruments take effect

(8) Despite subsection 12(2) of the Legislative Instruments Act 2003, the following instruments may be expressed to take effect before the day they are registered under that Act:
   (a) a direction given under subsection (1);
   (b) guidelines made under subsection (7).

Civil penalty

(9) A relevant fuel industry corporation must not, without reasonable excuse, contravene a direction in force under subsection (1).
Note 2

Note: Under section 34, the Court may order a relevant fuel industry corporation that contravenes such a direction to pay a pecuniary penalty.

24 Minister may give directions to relevant persons regulating or prohibiting supply of liquid fuel

(1) During a period of national liquid fuel emergency, the Minister may give directions regulating or prohibiting the supply by relevant persons, in the course of their trading or commercial activities, of specified refined liquid petroleum products to persons generally or to specified persons.

Limitations on directions

(2) A direction under subsection (1) has effect in relation to one or more planning periods, in relation to the period of national liquid fuel emergency, that are specified in the direction. However, the direction has no effect in relation to any part of a planning period that occurs before the day on which the direction takes effect.

(3) The Minister must not give a direction under subsection (1) unless it is for the purpose of dealing with a shortage or likely shortage of relevant liquid fuel.

(4) The Minister must not give a direction under subsection (1) that relates only to the supply of refined liquid petroleum products to persons who are bulk customers of relevant persons.

Direction is a legislative instrument

(5) A direction given under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the Legislative Instruments Act 2003 applies to the direction.

Guidelines

(6) A direction under subsection (1) must be in accordance with any guidelines made under this section that are in force at the time the direction is given.

(7) The Minister must, by legislative instrument, make guidelines for the purposes of this section.
When instruments take effect

(8) Despite subsection 12(2) of the Legislative Instruments Act 2003, the following instruments may be expressed to take effect before the day they are registered under that Act:
   (a) a direction given under subsection (1);
   (b) guidelines made under subsection (7).

Civil penalty

(9) A relevant person must not, without reasonable excuse, contravene a direction in force under subsection (1).

Note: Under section 34, the Court may order a relevant person who contravenes such a direction to pay a pecuniary penalty.

22 Subsection 25(1)

Omit “subsection 21(2) or 22(2)”, substitute “subsection 21(1) or 22(1)”.

23 Subsection 25(2)

Omit “subsection 23(2) or 24(2)”, substitute “subsection 23(1) or 24(1)”.

24 Paragraph 25(3)(a)

Omit “subsection 21(2) or 22(2)”, substitute “subsection 21(1) or 22(1)”.

25 Paragraph 25(3)(b)

Omit “subsection 23(2) or 24(2)”, substitute “subsection 23(1) or 24(1)”.

26 Section 27

Repeal the section, substitute:

27 When directions under this Part cease to be in force

(1) Subject to subsection (2), a direction given under this Part remains in force until the end of the period of national liquid fuel emergency in which it was given unless it is:
   (a) sooner revoked; or
   (b) sooner set aside by a court.
Note 2

(2) If:
   (a) during a period (the earlier period) of national liquid fuel emergency, a Proclamation under subsection 16(1) declares that a national liquid fuel emergency will exist during a period (the later period) starting immediately after the end of the earlier period; and
   (b) a direction under this Part is in force immediately before the end of the earlier period (including because of one or more previous applications of this subsection);

   the direction continues in force until the end of the later period unless it is:
   (c) sooner revoked; or
   (d) sooner set aside by a court.

27 Subsection 29(1)
Omit “authorized” (wherever occurring), substitute “authorised”.

28 Subsection 29(2)
After “subsection (1)”, insert “and subject to subsection (2A)”.

29 Subsection 29(2)
Omit “authorized”, substitute “authorised”.

30 Subsection 29(2)
After “State”, insert “, officers of the Australian Capital Territory”.

31 After subsection 29(2)
Insert:

(2A) The Minister must not appoint a person as an authorised person unless the Minister is satisfied that the person has suitable qualifications and experience to properly exercise the powers of an authorised person.

32 Subsection 29(3)
Omit “authorized” (wherever occurring), substitute “authorised”.

33 Subsection 29(4)
Omit “authorized”, substitute “authorised”.

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34 **Subsection 29(5)**

Repeal the subsection, substitute:

(5) A person commits an offence if:

(a) the person has been issued with an identity card under subsection (4); and

(b) the person ceases to be an authorised person; and

(c) the person does not return the identity card to the Minister, or to a person nominated under subsection (5AA), as soon as practicable after ceasing to be an authorised person.

Penalty: 1 penalty unit.

(5AA) The Minister may, by writing, nominate a person for the purposes of paragraph (5)(c).

35 **Subsection 29(6)**

Omit “authorized” (wherever occurring), substitute “authorised”.

36 **After section 29**

Insert:

29A **Authorised persons to carry and produce identity cards**

*Authorised person must carry card*

(1) An authorised person must carry his or her identity card at all times when exercising powers as an authorised person.

*Authorised person must produce card on request*

(2) An authorised person is not entitled to exercise any powers under this Part in relation to land or premises or a vehicle, ship or aircraft if:

(a) the owner or occupier of the land or premises, or the owner or person in charge of the vehicle, ship or aircraft, has requested the authorised person to produce the authorised person’s identity card for inspection by the person making the request; and

(b) the authorised person fails to comply with the request.

37 **Subsection 30(1)**
Notes to the *Liquid Fuel Emergency Act 1984*

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**Note 2**

Omit “authorized” (first occurring), substitute “authorised”.

38 **Subsection 30(1)**

Omit “exercise of a power conferred”, substitute “exercise of a power, or the performance of a function, conferred or imposed”.

39 **Subsection 30(1)**

Omit “relevant provision of, or an offence against, this Act”, substitute “civil penalty provision or an offence against this Act”.

40 **Paragraph 30(1)(b)**

Omit “authorized”, substitute “authorised”.

41 **At the end of subsection 30(1)**

Add:

Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for giving false or misleading information or documents.

42 **Subsection 30(2) (penalty)**

Repeal the penalty, substitute:

Penalty: 30 penalty units.

43 **Subsections 30(3) and (4)**

Repeal the subsections.

44 **Subsection 30(5)**

Omit all the words after “against”, substitute:

the person in any criminal proceedings other than:

(a) proceedings for an offence against subsection (2); or

(b) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (about false or misleading information or documents) that relates to this section.

45 **Subsection 30(7)**

Omit “authorized”, substitute “authorised”.

46 **Subsection 30(8)**

Omit “authorized” (wherever occurring), substitute “authorised”.

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Note 2

47 **Subsection 30(9)**
Omit “authorized” (wherever occurring), substitute “authorised”.

48 **Subsection 31(1)**
Omit “relevant provision of this Act”, substitute “civil penalty provision”.

49 **Subsection 31(1)**
Omit “authorized person may, with such assistance as he thinks necessary”, substitute “authorised person may do any one or more of the following”.

50 **Paragraph 31(1)(a)**
Omit “with the consent of the occupier, in pursuance of a warrant granted under subsection (3), or in pursuance of subsection (5),”.

51 **Paragraph 31(1)(b)**
Omit “with the consent of the person (if any) in charge of the vehicle, ship or aircraft concerned, in pursuance of a warrant granted under subsection (3), or in pursuance of subsection (5),”.

52 **Paragraphs 31(1)(e), (f) and (g)**
Omit “matter”, substitute “article”.

53 **Paragraph 31(1)(g)**
Omit “or” (last occurring).

54 **After subsection 31(1)**
Insert:

(1A) However, an authorised person is not entitled to exercise a power under subsection (1) unless:

(a) the occupier of the land or premises, or the person in charge of the vehicle, ship or aircraft, consents to the exercise of the power; or

Note: See also section 32A.

(b) a warrant is in force under subsection (4) authorising the exercise of the power; or

(c) subsection (6) authorises the exercise of the power.
Note 2

55 **Subsection 31(2)**

Omit “matter”, substitute “article”.

56 **Subsections 31(3) to (6)**

Repeal the subsections, substitute:

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**Warrants**

(3) An authorised person may apply to a magistrate for a warrant under this section in relation to land or premises or a vehicle, ship or aircraft.

(4) The magistrate may issue the warrant if the magistrate is satisfied, by information on oath or affirmation, that there are reasonable grounds for suspecting a person has contravened or is contravening a civil penalty provision or has committed or is committing an offence against this Act.

(5) The warrant must:

(a) authorise an authorised person to exercise the powers set out in subsection (1) of this section and section 32 in relation to the land, premises, vehicle, ship or aircraft; and

(b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

(c) specify the day (not more than 7 days after the issue of the warrant) on which the warrant ceases to have effect; and

(d) state the purpose for which the warrant is issued.

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**Emergency exercise of powers**

(6) An authorised person may exercise the powers set out in subsection (1) of this section and section 32 in relation to land or premises or a vehicle, ship or aircraft if the person believes on reasonable grounds that:

(a) there is situated upon the land, or upon or in the premises, vehicle, ship or aircraft, any article or thing that may afford evidence of a contravention of a civil penalty provision or an offence against this Act; and

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(b) the exercise of those powers is necessary to prevent the concealment, loss or destruction of the article or thing.

(7) However, subsection (6) does not apply unless the powers set out in subsection (1) of this section and section 32 are exercised in circumstances of such seriousness and urgency as to require and justify the immediate exercise of those powers without the authority of a warrant issued under subsection (4) of this section.

**Stopping and detaining vehicles, ships or aircraft**

(8) If an authorised person may enter a vehicle, ship or aircraft under subsection (1), the person may stop and detain the vehicle, ship or aircraft:

(a) for that purpose; and

(b) for the purpose of exercising a power under paragraph (1)(c), (d), (e), (f), (g) or (h); and

(c) if the person may enter the vehicle, ship or aircraft in accordance with a warrant in force under subsection (4) or in accordance with subsection (6)—for the purpose of exercising a power under section 32.

**Availability of assistance and use of force**

(9) An authorised person may obtain such assistance as is necessary and reasonable in the circumstances in:

(a) exercising a power under subsection (1) with the consent of the occupier of the land or premises, or the person in charge of the vehicle, ship or aircraft; or

(b) exercising a power under subsection (8) because of the person being able to enter the vehicle, ship or aircraft with such consent.

(10) An authorised person may obtain such assistance, and use such force against persons and things, as is necessary and reasonable in the circumstances in:

(a) exercising a power under subsection (1) in accordance with a warrant in force under subsection (4) or in accordance with subsection (6); or

(b) exercising a power under subsection (8) because of the person being able to enter the vehicle, ship or aircraft in
accordance with a warrant in force under subsection (4) or in accordance with subsection (6); or
(c) exercising a power under section 32.

57 After section 31
Insert:

31A Nature of powers conferred on magistrates
(1) A power conferred on a magistrate by section 31 is conferred on the magistrate in a personal capacity and not as a court or a member of a court. The magistrate need not accept the power conferred.

(2) A magistrate exercising such a power has the same protection and immunity as if he or she were exercising that power as, or as a member of, the court of which the magistrate is a member.

58 Subsection 32(1)
Omit “authorized person may seize any matter”, substitute “authorised person may seize any article”.

59 Subsection 32(1)
Omit “relevant provision of, or an offence against, this Act”, substitute “civil penalty provision or an offence against this Act”.

60 Subsection 32(1)
Omit “matter” (second and third occurring), substitute “article”.

61 After subsection 32(1)
Insert:

(1A) However, an authorised person is not entitled to exercise a power under subsection (1) unless:
(a) a warrant is in force under subsection 31(4) authorising the exercise of the power; or
(b) subsection 31(6) authorises the exercise of the power.

62 Subsection 32(2)
Omit “authorize”, substitute “authorise”.

Notes to the Liquid Fuel Emergency Act 1984

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63 Subsection 32(2)
Omit “matter” (wherever occurring), substitute “article”.

64 After section 32
Insert:

32A Consent

(1) Before obtaining the consent of a person for the purposes of paragraph 31(1A)(a), the authorised person must inform the person that the person may refuse consent.

(2) A consent of a person is not effective for the purposes of paragraph 31(1A)(a) unless the consent is voluntary.

(3) If an authorised person entered land or premises or a vehicle, ship or aircraft because of the consent of a person, the authorised person must leave the land, premises, vehicle, ship or aircraft if the person withdraws the consent.

65 Section 33
Repeal the section, substitute:

33 Persons to provide authorised persons with reasonable facilities and assistance

(1) An authorised person may require:
   (a) the owner or occupier of any land or premises entered by the authorised person under section 31; or
   (b) the owner or person in charge of any vehicle, ship or aircraft entered by the authorised person under section 31;
   to provide the authorised person with reasonable facilities and assistance for the effective exercise of the authorised person’s powers under that section or section 32 in relation to the land, premises, vehicle, ship or aircraft.

(2) A person commits an offence if:
   (a) the person is subject to a requirement under subsection (1); and
   (b) the person breaches the requirement.
Note 2

Penalty for contravention of this subsection: 30 penalty units or imprisonment for 6 months, or both.

66 Subsection 34(1)

Repeal the subsection, substitute:

(1) If the Court is satisfied that a person has contravened a civil penalty provision, the Court may order the person to pay to the Commonwealth a pecuniary penalty.

Determining amount of pecuniary penalty

(1A) In determining the pecuniary penalty, the Court must have regard to all relevant matters, including:
   (a) the nature and extent of the contravention; and
   (b) the consequences of the contravention; and
   (c) the circumstances in which the contravention took place; and
   (d) the previous conduct of the person.

Maximum pecuniary penalty

(1B) The pecuniary penalty payable under subsection (1) is not to exceed:
   (a) for a contravention of subsection 12(9), 17(8) or 20(7):
      (i) by a person other than a body corporate—500 penalty units; or
      (ii) by a body corporate—2,500 penalty units; and
   (b) for a contravention of subsection 18(6) or 19(5):
      (i) by a person other than a body corporate—300 penalty units; or
      (ii) by a body corporate—1,500 penalty units; and
   (c) for a contravention of subsection 13(9), 14(6) or (7) or 14A(6) or (7):
      (i) by a person other than a body corporate—100 penalty units; or
      (ii) by a body corporate—500 penalty units; and
   (d) for a contravention of subsection 21(9), 22(9), 23(9) or 24(9):
      (i) by a person other than a body corporate—30 penalty units; or
(ii) by a body corporate—150 penalty units.

Note: The heading to section 34 is replaced by the heading “Civil penalty orders”.

67 Subsection 34(2)

Omit “relevant provisions of this Act”, substitute “civil penalty provisions”.

Note: The following heading to subsection 34(2) is inserted “Conduct contravening more than one civil penalty provision”.

68 Subsection 34(3)

Repeal the subsection, substitute:

Ancillary contraventions

(3) For the purposes of this section, a person is taken to have contravened a civil penalty provision if:

(a) the person has attempted to contravene the provision; or
(b) the person has aided, abetted, counselled or procured a person to contravene the provision; or
(c) the person has induced, or attempted to induce, a person, whether by threats or promises or otherwise, to contravene the provision; or
(d) the person has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the provision; or
(e) the person has conspired with others to contravene the provision.

69 Section 36

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

Note: The heading to section 36 is altered by omitting “relevant provisions of this Act” and substituting “civil penalty provisions”.

70 Subsection 37(1)

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

71 Paragraph 37(2)(b)
Note 2

Omit “relevant provision of this Act”, substitute “civil penalty provision”.

72 Paragraph 38(1)(a)
Omit “relevant provision of this Act”, substitute “civil penalty provision”.

73 Section 39
Repeal the section.

74 Subsection 40(1)
Omit “relevant provision of this Act”, substitute “civil penalty provision”.

Note: The heading to section 40 is altered by omitting “servants” and substituting “employees”.

75 Subsection 40(1)
Omit “a servant”, substitute “an employee”.

76 Subsection 40(2)
Omit “servant” (wherever occurring), substitute “employee”.

77 Section 41
Repeal the section, substitute:

41 Making of guidelines
To avoid doubt, guidelines under this Act may be made at any time (whether or not during a period of national liquid fuel emergency).

41A Variation or revocation of instruments
(1) The following instruments may be varied or revoked in accordance with subsection 33(3) of the Acts Interpretation Act 1901:
   (a) a direction given under this Act;
   (b) guidelines made under this Act;
   (c) any other instrument made under this Act.

(2) Subsection (1) is in addition to any power conferred by this Act to vary or revoke such an instrument.
78 Subsection 42(1)
Omit “paragraph 11(3)(d)”, substitute “paragraph 11(1)(d)”.  

79 Section 43
Repeal the section, substitute:

43 Operation of the Trade Practices Act 1974

Anything that is done in compliance with a direction under this Act is authorised for the purposes of subparagraph 51(1)(a)(i) of the Trade Practices Act 1974.

Note: That subparagraph has the effect that anything so done is disregarded in deciding whether a person has contravened Part IV (Restrictive trade practices) of the Trade Practices Act 1974.

80 Subsection 44(1) (definition of reviewable decision)
Repeal the definition, substitute:

reviewable decision means a decision of the Minister:
(a) under subsection 10(1); or
(b) to revoke an instrument under subsection 10(1); or
(c) under subsection 11(1); or
(d) to revoke an instrument under subsection 11(1); or
(e) under subsection 12(1) or (8); or
(f) under subsection 13(6); or
(g) under subsection (2) of this section.

81 Subsection 44(7)
Omit “, or a delegate of the Minister,”.

82 Subsection 44(10)
Repeal the subsection.

83 Subsection 46(1)
Omit “or III”.

Note: The heading to section 46 is altered by omitting “or III”.

84 Subsection 46(2)
Repeal the subsection, substitute:
Note 2

(2) In assessing the amount of compensation payable under subsection (1) in respect of loss, injury or damage suffered by a person, account is to be taken only of so much of the loss, injury or damage as the person is not, and is not likely to be, in a position to make good from the market supplied by the person.

85 After section 46

Insert:

46A Exemption from suit—Ministers and delegates

No civil action, suit or proceeding lies against the following persons:
(a) the Minister;
(b) a person to whom powers or functions are delegated under subsection 49(1) or (2);

in relation to anything done, or omitted to be done, reasonably and in good faith by the person in the exercise or performance, or the purported exercise or performance, of any power or function conferred or imposed by or under this Act.

86 Subsection 47(1)

Omit “section 17, 18, 19, 20, 21 or 23”, substitute “Part II or III”.

Note: The heading to section 47 is altered by adding at the end “—relevant fuel industry corporations and relevant persons”.

87 Subsection 47(2)

Omit “section 22 or 24”, substitute “Part II or III”.

88 Subsections 49(1), (2) and (3)

Repeal the subsections, substitute:

Delegations by the Minister

(1) The Minister may, by writing, delegate to a person all or any of the Minister’s powers or functions under this Act, other than those under these provisions:
(a) subsection 10(4), 11(5), 12(6), 13(3), 14(4), 14A(4), 17(5), 20(5), 21(7), 22(7), 23(7) or 24(7) (about making of guidelines);
(b) subsection 13(1) (about directing the giving of bulk allocation procedures to the Minister);
(c) subsection 14(1) or 14A(1) (about directing the maintaining or making available of statistical information relating to liquid fuels);
(d) subsection 3 of this section (about giving agreement to a further delegation).

Note: Sections 34AA, 34AB and 34A of the Acts Interpretation Act 1901 deal with delegations.

Further delegations

(2) A person to whom powers or functions are delegated under subsection (1) may, by writing, delegate any of those powers or functions to another person.

(3) However, a delegation under subsection (2) has no effect unless it is done with the Minister’s agreement.

(3A) Subject to subsection (3B) of this section, sections 34AA, 34AB and 34A of the Acts Interpretation Act 1901 apply to a delegation under subsection (2) of this section in the same way as they apply to a delegation under subsection (1) of this section.

(3B) A power or function that is exercised or performed by a person under a delegation under subsection (2) is taken, for the purposes of this Act, to have been exercised or performed by the Minister.

89 Subsection 49(4)

After “Minister may”, insert “, on behalf of the Commonwealth,”.

Note: The following heading to subsection 49(4) is inserted “Ministerial arrangements”.

90 Subsection 49(4)

After “for a State”, insert “on behalf of that State”.

91 Subsection 49(4)

After “powers”, insert “or functions”.

92 After subsection 49(4)

Insert:
Note 2

(4A) The Minister may, on behalf of the Commonwealth, enter into such arrangements with the Energy Minister for the Australian Capital Territory on behalf of that Territory as he or she considers to be appropriate to facilitate the delegation under this section of powers or functions under this Act to the Energy Minister for that Territory or to an officer of that Territory.

93 Subsection 49(5)
After “Minister may”, insert “, on behalf of the Commonwealth,”.

94 Subsection 49(5)
After “Northern Territory” (first occurring)”, insert “on behalf of that Territory”.

95 Subsection 49(5)
After “powers”, insert “or functions”.

96 Subsection 49(6)
Repeal the subsection.

97 Section 50
Repeal the section.

98 Section 53
Omit “or for the Northern Territory”, substitute “, the Energy Minister for the Australian Capital Territory or the Energy Minister for the Northern Territory”.

Note: The heading to section 53 is altered by omitting “Northern”.

Schedule 2

1 Subsection 6(1)
After “his”, insert “or her”.

2 Subsection 29(4)
After “him”, insert “or her”.

3 Subsection 30(1)
After “he”, insert “or she”.

106 Liquid Fuel Emergency Act 1984
4 Paragraphs 30(1)(a) and (b)
   After “him”, insert “or her”.

5 Subsection 30(5)
   Omit “him”, substitute “the person”.

6 Subsection 30(8)
   After “his”, insert “or her”.

7 Subsection 30(9)
   After “he”, insert “or she”.

8 Subsection 32(1)
   After “he”, insert “or she”.

9 Subsection 38(2)
   After “his”, insert “or her”.

10 Subsection 38(2)
    After “he”, insert “or she”.

11 Subsection 42(1)
    After “he”, insert “or she”.

12 Subsection 42(1)
    After “his”, insert “or her”.

13 Subsection 42(1)
    After “him”, insert “or her”.

14 Subsection 42(2)
    After “him”, insert “or her”.

15 Subsection 42(2)
    After “he”, insert “or she”.

16 Subsection 44(4)
    After “he”, insert “or she”.

Note 2

17 Subsection 44(5)
   After “he”, insert “or she”.

18 Subsection 44(5)
   After “his” (wherever occurring), insert “or her”.

19 Paragraphs 44(7)(a) and (b)
   After “he”, insert “or she”.

20 Subsection 44(8)
   After “he”, insert “or she”.

21 Subsections 49(4) and (5)
   After “he”, insert “or she”.

As at 3 July 2007 the amendments are not incorporated in this compilation.
Table A

Application, saving or transitional provisions


4 Application of amendments

(1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.

(2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Liquid Fuel Emergency Amendment Act 2007 (No. 86, 2007)

The following provision commences on 21 December 2007 unless proclaimed earlier:

Schedule 1

99 Transitional regulations

(1) The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Schedule.

(2) Despite subsection 12(2) of the Legislative Instruments Act 2003, regulations made under this item may be expressed to take effect before the day they are registered under that Act.