

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 11 September 1985

(Minister representing the Minister for Industry, Technology and Commerce)

A BILL

FOR

An Act to amend the *States Grants (Petroleum Products) Act 1965*, and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 1. (1) This Act may be cited as the *States Grants (Petroleum Products) Amendment Act 1985*.

 (2) The *States Grants (Petroleum Products) Act 1965*¹ is in this Act referred to as the Principal Act.

Commencement

10 2. (1) Sections 1 and 2 shall come into operation on the day on which this Act receives the Royal Assent.

 (2) Sub-sections 3 (2) and (3) shall be deemed to have come into operation on 1 January 1984.

 (3) The remaining provisions of this Act shall come into operation on a day to be fixed by Proclamation.

Provisions of scheme

3. (1) Section 5 of the Principal Act is amended by inserting after sub-section (4) the following sub-sections:

“(4A) The scheme may contain a provision requiring a registered distributor of eligible petroleum products included in a specified class of registered distributors of eligible petroleum products (including a distributor registered before the provision comes into effect) to comply with such conditions as are specified in the scheme in relation to that class. 5

“(4B) The scheme shall not permit the registration under the scheme of a distributor of eligible petroleum products included in a class of distributors of eligible petroleum products specified in a provision contained in the scheme in accordance with sub-section (4A) unless the person authorised to register distributors is satisfied that the distributor is capable of complying with the conditions (if any) that will be applicable to the distributor under such a provision on the registration of the distributor. 10 15

“(4C) The scheme may contain a provision requiring a claim for payment of an amount in accordance with the scheme made by a registered distributor of eligible petroleum products included in a specified class of registered distributors of eligible petroleum products to be accompanied by such declarations (including declarations made by a person other than the claimant) and other documents (if any) as are specified in the scheme in relation to that class.” 20

(2) Section 5 of the Principal Act is amended—

(a) by inserting before sub-section (5) the following sub-sections:

“(4D) The scheme shall provide that a person shall be deemed not to be a registered distributor of eligible petroleum products at any time when— 25

- (a) in a case where the person is an incorporated company— the person is, or is related to another company that is, the owner or operator of a mini-refinery; or 30
- (b) in any other case—the person is the owner or operator of a mini-refinery.

“(4E) For the purposes of sub-section (4D), the question whether incorporated companies are related to each other shall be determined in the same manner as the question whether corporations within the meaning of the *Companies Act 1981* are related to each other would be determined under that Act.”; 35

- (b) by omitting from paragraph (5) (a) “and” (last occurring);
- (c) by inserting after paragraph (5) (a) the following paragraph:

“(aa) shall provide for the payment by the State to registered distributors of eligible petroleum products, in respect of 40

the sale by them at a place to which the scheme applies of any eligible petroleum products that—

- 5 (i) are produced at a mini-refinery located at that place; and
(ii) are not for delivery to another place, of amounts ascertained in accordance with the scheme; and”;

(d) by adding at the end the following sub-section:

“(8) In this section—

10 ‘mini-refinery’ means a refinery that is not able to carry out refining processes on more than 238,500 litres of petroleum daily;

‘petroleum’ means petroleum oil or petroleum gas.”.

15 (3) A scheme formulated in relation to a State for the purposes of the *States Grants (Petroleum Products) Act 1965* and in force at any time after 31 December 1983 and before the day fixed under sub-section 2 (3) of this Act shall be deemed to have included the provisions required by sub-section 5 (4D) and paragraph 5 (5) (aa) of that Act as amended by sub-section (2) of this section.

20 4. After section 8 of the Principal Act the following section is inserted:

False declarations accompanying claims for payment

“8A. (1) Where—

- 25 (a) pursuant to a provision included in a scheme in accordance with sub-section 5 (4C), a claim for payment of an amount in accordance with the scheme in respect of the sale and delivery of eligible petroleum products is accompanied by a declaration made by a person in charge of a ship;
(b) the declaration relates to the delivery of those eligible petroleum products by or to the ship; and
30 (c) the declaration is, to the knowledge of the person, false or misleading in a material particular,
the person is guilty of an offence.

35 “(2) An offence against sub-section (1) is an indictable offence, and, subject to this section, is punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years, or both.

“(3) Notwithstanding that an offence referred to in sub-section (2) is 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.

40 “(4) Where, in accordance with sub-section (3), a court of summary jurisdiction convicts a person of an offence referred to in sub-section (2),

the penalty that the court may impose is a fine not exceeding \$2,000 or imprisonment for a period not exceeding 1 year, or both.

“(5) This section is not intended to affect the operation of a law of a State to the extent that that law is capable of operating concurrently with this section.

“(6) In this section, ‘ship’ means a vessel or boat of any description.”.

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NOTE

1. No. 27, 1965, as amended. For previous amendments, see No. 153, 1965; No. 90, 1969; No. 112, 1973; No. 12, 1978; No. 80, 1982; No. 102, 1983; and No. 39, 1985.