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**LIQUEFIED PETROLEUM GAS (SUBSIDY) ACT 1980**

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## LIQUEFIED PETROLEUM GAS (SUBSIDY) ACT 1980

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No. 68 of 1980

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AN ACT relating to the granting of financial assistance to the State in connection with the prices, when sold for certain non-commercial uses, of liquefied petroleum gas and gas produced by the use of liquefied petroleum gas or naphtha.

[Royal Assent 28 October 1980]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**—This Act may be cited as the *Liquefied Petroleum Gas (Subsidy) Act* 1980. Short title.

**2**—This Act shall be deemed to have commenced on 28th March 1980. Commencement.

**3**—(1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“authorized officer” means a person appointed under section 6;

- “ Commonwealth Act ” means the *Liquefied Petroleum Gas (Grants) Act* 1980 of the Commonwealth as amended and in force for the time being;
- “ Commonwealth Minister ” means the Minister of State of the Commonwealth for the time being administering the Commonwealth Act;
- “ eligible gas ” means—
- (a) liquefied petroleum gas; or
  - (b) eligible reticulation gas;
- “ eligible reticulation gas ” means gas supplied to premises by means of pipes, being gas the production of which involves the use of liquefied petroleum gas or naphtha;
- “ eligible use ”, in relation to liquefied petroleum gas or eligible reticulation gas, means—
- (a) the use of the gas at residential premises in preparing and cooking food and drink for, in providing heating, air-conditioning, hot water, or similar amenities for, or in meeting other domestic requirements of, residents of the premises;
  - (b) the use of the gas at a hospital, nursing home, or other institution providing medical or nursing care, not being an institution conducted for the profit, direct or indirect, of a person; or
  - (c) the use of the gas at a school, not being a school conducted for the profit, direct or indirect, of an individual or individuals;
- “ records ” includes accounts, books, minutes, registers, deeds, writings, or documents compiled, recorded, or stored in written form or on microfilm, or by electronic process, or in any other manner or by any other means;
- “ registered distributor ” means—
- (a) a registered distributor of liquefied petroleum gas; or
  - (b) a registered distributor of eligible reticulation gas;
- “ registered distributor of eligible reticulation gas ” means a distributor of eligible reticulation gas who is registered as such a distributor in accordance with the scheme;

“registered distributor of liquefied petroleum gas” means a distributor of liquefied petroleum gas who is registered as such a distributor in accordance with the scheme;

“residential premises” means—

- (a) premises used as a house; or
- (b) other premises at which at least one person resides,

but does not include—

- (c) premises used to conduct the business of a hotel, motel, or boarding-house, or a similar business;
- (d) premises used as a hospital, nursing home, or other institution providing medical or nursing care;
- (e) premises used as a boarding-school; or
- (f) premises referred to in paragraph (b) that are included in a class of premises declared by the Commonwealth Minister, by notice published in the *Commonwealth of Australia Gazette*, to be a class of premises that are not residential premises for the purposes of the Commonwealth Act;

“scheme” means the scheme, as in force from time to time, formulated by the Commonwealth Minister in relation to the State for the purposes of the Commonwealth Act.

(2) A reference in this Act to liquefied petroleum gas sold for eligible use includes a reference to liquefied petroleum gas that, by virtue of a provision of the scheme, is deemed to have been sold for eligible use.

(3) A reference in this Act to an Act of another State includes a reference to a law of the Northern Territory.

4—The State shall pay to a registered distributor an amount calculated in accordance with the scheme from the financial assistance granted to the State by the Commonwealth under that scheme. Calculation of subsidy.

Advance on  
account of  
subsidy.

**5**—The Minister may authorize an advance on account of a payment under this Act to be made in accordance with the scheme to a registered distributor on such terms and conditions (including conditions with respect to the giving of the benefit of the amount of the advance to purchasers from the distributor of eligible gas for eligible use) as the Minister thinks fit.

Authorized  
officers.

**6**—(1) The Minister may appoint persons to be authorized officers for the purposes of this Act.

(2) A person may be appointed to be an authorized officer for the purposes of this Act notwithstanding that he is an officer of the Commonwealth.

(3) An officer of the Commonwealth shall not be appointed to be an authorized officer for the purposes of this Act without the consent of the Commonwealth Minister.

Claims for  
payment.

**7**—A claim by a registered distributor for a payment under this Act shall—

- (a) be made to an authorized officer; and
- (b) be in accordance with the regulations made under this Act.

Certificates.

**8**—(1) An authorized officer shall examine each claim for a payment under this Act made to him and shall, if he is satisfied that an amount is payable to the claimant, give a certificate in writing to that effect.

(2) An authorized officer who is examining a claim for a payment under this Act may give a certificate in writing—

- (a) that a specified person sold a specified quantity of liquefied petroleum gas for eligible use on a specified date;
- (b) that a specified quantity of liquefied petroleum gas or naphtha was purchased by, delivered to, or used in the production of eligible reticulation gas by, a specified person on a specified date; or
- (c) that a specified person sold a specified quantity of eligible reticulation gas for eligible use, or sold a specified quantity of eligible reticulation gas, during a specified period.

(3) Where an authorized officer is satisfied that an amount paid to a person under this Act (including an amount paid by way of an advance) was not payable to the person or exceeded the amount that was payable to the person, he may give a certificate in writing that the amount paid or the amount of the excess, as the case may be, is an overpayment to that person by the State.

(4) The Auditor-General shall treat a certificate under this section as correct in all respects.

(5) For the purposes of this Act, a document purporting to be a certificate referred to in this section shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

**9**—Where a certificate is given under section 8 (1), the Minister Payments. shall authorize an amount equal to the amount specified in the certificate to be paid to the person in respect of whom the certificate was given.

**10**—(1) Where an amount paid to a person under this Act Overpayments. (including an amount paid by way of an advance) was not payable to the person, or exceeded the amount that was payable to the person, that amount is an overpayment to that person by the State which that person is liable to repay to the State and is recoverable in a court of competent jurisdiction as a debt due to the State.

(2) In proceedings in a court against a person for the recovery of an amount by reason that it is an overpayment to the person by the State, a certificate under section 8 (3) that the amount is such an overpayment is evidence that that amount is such an overpayment.

**11**—An authorized officer may require a registered distributor Securities. to give security for an amount determined by the authorized officer by bond, guarantee, or cash deposit, or by all or any of those methods, for—

(a) compliance by him with the provisions of this Act and the regulations; or

(b) for the purposes of an undertaking given by him for the purposes of this Act or the regulations,

and the distributor is not entitled to a payment under this Act unless he gives that security.

Preservation of records, &c.

**12**—(1) A person who receives a payment under this Act in respect of the sale of any liquefied petroleum gas shall keep or cause to be kept records relating to that sale until the expiration of not less than 12 months after the date of making the claim in respect of which the payment was made.

(2) A person who receives a payment under this Act in respect of the purchase by him of any liquefied petroleum gas or naphtha delivered to him during a period shall keep or cause to be kept records relating to that purchase or to the production or sale by him of eligible reticulation gas during that period until the expiration of not less than 2 years after the date of making the claim in respect of which the payment was made.

(3) A person referred to in subsection (1) or subsection (2) who fails to comply with the requirements of those subsections is guilty of an offence against this Act and is liable on summary conviction to a penalty not exceeding \$1 000.

Stocktaking and inspection of accounts, &c.

**13**—(1) For the purposes of this Act or an Act of another State relating to subsidy for the sale of liquefied petroleum gas or the purchase of liquefied petroleum gas or naphtha, an authorized officer may at all reasonable times—

(a) enter any premises of a registered distributor;

(b) enter the premises of a person who is registered as a distributor of liquefied petroleum gas or a distributor of eligible reticulation gas in accordance with a scheme formulated by the Commonwealth Minister in relation to another State or the Northern Territory for the purposes of the Commonwealth Act; or

(c) enter a vehicle used by such a distributor or person for the carriage of any liquefied petroleum gas,

and may inspect the records relating to the sale of liquefied petroleum gas, the production or sale of eligible reticulation gas, or the purchase of liquefied petroleum gas or naphtha.

(2) The occupier of any premises or any person in charge of a vehicle referred to in subsection (1) shall provide the authorized officer with all reasonable facilities and assistance for the effective exercise of his powers under this section.

(3) For the purposes of this Act, an authorized officer may, at all reasonable times, enter any premises to which eligible gas has been or is supplied by a registered distributor, being gas in relation to which a claim for payment under this Act has been made.



(4) A person who obstructs, molests, or hinders an authorized officer in the exercise of his powers under this section is guilty of an offence against this Act and is liable on summary conviction to a penalty not exceeding \$500.

(5) Any occupier or person referred to in subsection (2) who fails to comply with the provisions of that subsection is guilty of an offence against this Act and is liable on summary conviction to a penalty not exceeding \$500.

**14**—(1) An authorized officer may, by notice signed by him, require a person whom he believes to be capable of giving information relevant to a claim for a payment under this Act or an Act of another State relating to subsidy in respect of the sale of liquefied petroleum gas or the purchase of liquefied petroleum gas or naphtha to—

Power to require a person to answer questions and produce documents.

(a) appear before him at the time and place specified in the notice; and

(b) answer questions and produce to him such records in relation to the claim as are referred to in the notice.

(2) The authorized officer may make and retain copies of, or take extracts from, any records produced pursuant to this section.

(3) A person is not excused from answering a question or producing any records when required so to do under this section on the ground that the answer to the question, or the production of the records, might tend to incriminate him or make him liable to a penalty, but his answer to any such question is not admissible in evidence against him in proceedings other than proceedings for an offence against section 16 (1) (c) or section 16 (3).

**15**—An authorized officer may examine, on oath or affirmation, a person appearing before him pursuant to section 14 and, for that purpose, may administer an oath or affirmation to that person.

Power to examine on oath.

**16**—(1) A person shall not, without reasonable excuse, refuse or fail—

Offences.

(a) to attend before an authorized officer;

(b) to be sworn or make an affirmation; or

(c) to answer a question or produce any records,

when so required in pursuance of this Act.

Penalty: \$1 000.

(2) A person shall not—

(a) obtain, or attempt to obtain, a payment under this Act that, to the knowledge of the person, is not payable; or

(b) obtain, or attempt to obtain, a payment under this Act by means of a statement that, to the knowledge of the person, is false or misleading or by means of a document that, to the knowledge of the person, contains information that is false or misleading.

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

(3) A person shall not make to an authorized officer a statement that, to the knowledge of the person, is false or misleading in a material particular.

Penalty: \$1 000.

Order by  
court to refund  
payment.

**17—**(1) Where a person is convicted of an offence against section 16 (2), the court may, in addition to imposing a penalty under that section, order that person to refund to the State the amount of any payment obtained pursuant to that subsection.

(2) Where a court makes an order under subsection (1), a certificate signed by the appropriate officer of the court specifying—

(a) the amount ordered to be refunded; and

(b) the person by whom the amount is payable,

may be filed in a court of competent jurisdiction and is thereupon enforceable in all respects as a final judgment of that court.

(3) Proceedings in relation to an offence against this Act shall not be commenced later than one year after the time when the offence is alleged to have been committed.

Delegation.

**18—**(1) The Minister may, by instrument in writing, delegate the exercise of such of his powers under this Act (other than this power of delegation) as are specified in the instrument of delegation, and may, by instrument in writing, revoke wholly or in part any such delegation.

(2) A power, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any of the powers delegated, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding any delegation under this section, the Minister may continue to exercise all or any of the powers delegated.

(5) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Minister and shall be deemed to have been done by or to the Minister.

(6) An instrument purporting to be signed by a delegate of the Minister in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Minister and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Minister under this section.

**19**—The Governor may make regulations for the purposes of this <sup>Regulations.</sup> Act and, in particular, for or in respect of—

- (a) the manner in which a claim for payment under this Act may be made;
- (b) the information to be furnished by a claimant in connection with a claim for payment under this Act; and
- (c) penalties not exceeding \$200 for an offence against any of the regulations.

