
**PETROLEUM PRODUCTS BUSINESS FRANCHISE
LICENCES ACT 1981**

TABLE OF PROVISIONS

PART I—PRELIMINARY

1. Short title.
2. Interpretation.
3. Membership of a group of petroleum products merchants.
4. Grouping of corporations.
5. Grouping where employees used in another business.
6. Grouping of commonly controlled businesses.
7. Smaller groups subsumed into larger groups.
8. Beneficiaries under discretionary trusts.
9. Crown bound.

PART II—ADMINISTRATION

10. Registrar of Petroleum Products Business Franchise Licences.
11. Appointment and employment of officers for the purposes of this Act.
12. Inspectors.
13. Powers, &c., of inspectors.
14. Special powers of Registrar with respect to dealings with petroleum products.
15. Protection for Registrar, &c.

PART III—LICENCES

16. Offences relating to sale of petroleum products.
17. Application for licence.

18. Issue, &c., of licence.
19. Effect of licence.
20. Licence fees.
21. Value of petroleum products.
22. Adjustment of fee.
23. Registers of holders of licences to be kept.
24. Amendment of licence.
25. Transfer of licence.
26. Renewal of licence.
27. Licence deemed to be revoked if fee not paid.
28. Surrender of licence.
29. Assessment and recovery of unpaid fee from unlicensed person.

**PART IV—APPEALS AND
OBJECTIONS**

30. Appeal against refusal of application for licence.
31. Appeal against refusal of application for renewal of licence.
32. Objection to and appeal against assessment of licence fee.
33. Objection to and appeal against reassessment.
34. Objection to and appeal against assessment of unlicensed persons.

PART V—MISCELLANEOUS

35. Records to be kept.
36. Invoices to be issued, &c.
37. Petroleum products vending machines.
38. Disclosure of information.
39. False or misleading statements.
40. Evidence.

41. Proceedings on prosecutions.
42. Offences by bodies corporate.
43. Service of documents by the Registrar.
44. Regulations.

SCHEDULE 1—RELEVANT
PERIODS FOR CLASS A
LICENCES



**PETROLEUM PRODUCTS BUSINESS FRANCHISE
LICENCES ACT 1981**

No. 60 of 1981

AN ACT to make provision for the issue of licences to be known as petroleum products business franchise licences, to prohibit the sale of certain petroleum products except by a person who is enfranchised to sell petroleum products by such a licence, and to enact consequential or ancillary provisions.

[Royal Assent 30 November 1981]

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:—

PART I

PRELIMINARY

1—This Act may be cited as the *Petroleum Products Business Franchise Licences Act 1981*. Short title.

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

“ class A licence ” means a class A licence referred to in section 19 (1) and in force under this Act;

- “ class B licence ” means a class B licence referred to in section 19 (2) and in force under this Act;
- “ diesel fuel ” means a liquid which is a derivative of petroleum or oil shale, being a liquid which is or can be used to operate a diesel engine, and includes any substance added to the liquid, but does not include—
- (a) any such liquid which is used or for use for a purpose or class of purposes prescribed in the regulations for the purpose of this definition; or
 - (b) any liquid which is prescribed in the regulations for the purpose of this definition and which would be diesel fuel if it were not so prescribed;
- “ functions ” includes duties;
- “ inspector ” means an inspector referred to in section 12;
- “ licensee ” means the holder for the time being of a petroleum products business franchise licence;
- “ motor spirit ” means a liquid which is a derivative of petroleum or oil shale, being a liquid which would, if tested in an Abel Pinsky closed test apparatus, have a flash point of less than 23° Celsius, and includes any substance added to the liquid, but does not include—
- (a) aviation gasoline;
 - (b) solvents;
 - (c) special boiling point spirits; or
 - (d) any liquid prescribed in the regulations for the purposes of this definition and which would be motor spirit if it were not so prescribed;
- “ petroleum products ” means motor spirit or diesel fuel;
- “ petroleum products business franchise licence ” or “ licence ” means a class A or class B licence issued and in force under this Act;
- “ powers ” includes authorities;
- “ premises ” includes any building or structure (including a building or structure that is of a temporary nature, or that is capable of being moved or transported) and also includes any vehicle, vessel, or aircraft;
- “ public street ” means any street, road, lane, thoroughfare, or bridge which is open for the use of motor vehicles by members of the public;

- “ record ” includes book, account, deed, writing, or document and any other source of information compiled, recorded, or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means;
- “ register ” means a register kept under section 23;
- “ Registrar ” means the Registrar of Petroleum Products Business Franchise Licences referred to in section 10;
- “ the regulations ” means regulations made and in force under this Act;
- “ relevant period ”, in relation to a class A licence which, if issued, would expire at the end of a month specified in column 1 of Schedule 1, means the month last past specified opposite that first-mentioned month in column 2 of that Schedule;
- “ value ”, in relation to any petroleum products sold, means the value of those products as calculated in accordance with section 21;
- “ vending machine ” means any machine, device, or contrivance that is constructed so as to dispense liquids from a container connected to the machine, device, or contrivance by an operation that involves the insertion in the machine, device, or contrivance of money, a token, or similar object;
- “ vessel ” includes a hovercraft;
- “ voting share ”, in relation to a corporation, means an issued share in the corporation, other than—
- (a) a share to which, in no circumstances, is there attached a right to vote; or
 - (b) a share to which there is attached a right to vote only in one or more of the following circumstances:—
 - (i) during a period during which a dividend (or part of a dividend) in respect of the share is in arrear;
 - (ii) on a proposal to reduce the share capital of the corporation;
 - (iii) on a proposal that affects rights attached to the share;
 - (iv) on a proposal to wind up the corporation;

- (v) on a proposal for the disposal of the whole of the property, business, and undertaking of the corporation;
- (vi) during the winding up of the corporation.

(2) A reference in this Act to—

- (a) a person who sells petroleum products; or
- (b) a person who carries on the business of selling petroleum products,

does not extend to a person who, as an agent or employee of a person referred to in paragraph (a) or (b), sells petroleum products or carries on such a business.

(3) A reference in this Act to intrastate trade is a reference to trade carried on in the State which is not trade, commerce, or intercourse among the States within the meaning of section 92 of the Constitution of the Commonwealth.

(4) Where pursuant to a sale made outside the State petroleum products are delivered in the course of intrastate trade within the State, that sale shall, for the purposes of this Act, be deemed to have been made within the State.

(5) A reference in this Act to a holder of a class A licence that is issued on behalf of members of a group includes a reference to each person whose name is, under section 18 (7), specified in the licence.

(6) A reference in this Act to premises includes a part of the premises.

(7) A reference in this Act to the issue of a licence or a licence that is issued, includes a reference to the renewal of a licence or, as the case may be, to a licence that is renewed.

(8) A reference in this Act to a corporation being related to another corporation is a reference to a corporation that is deemed, by virtue of section 6 (5) of the *Companies Act* 1962, to be related to that other corporation for the purposes of that Act.

Membership
of a group of
petroleum
products
merchants.

3—(1) For the purposes of this Act, a person is a member of a group of persons who carry on businesses of selling petroleum products if—

- (a) that person is one of the persons who constitute a group for the purposes of this Act;

- (b) one or more members of the group sells, or intends to sell, petroleum products; and
- (c) there is not in force a determination under subsection (2) or (3) by the Registrar that that person is not a member of the group.

(2) The Registrar may, by writing under his hand, determine that a person who would, but for the determination, be a member of a group for the purposes of this Act is not a member of the group of persons who carry on businesses of selling petroleum products if he is satisfied that that person—

- (a) has continuously carried on a business of selling petroleum products independently of the group;
- (b) will continue to carry on that business independently of the group; and
- (c) is not subject to control by any other member of the group.

(3) The Registrar may, by writing under his hand, determine that a person who would, but for the determination, be a member of a group for the purposes of this Act is not a member of any group for the purposes of this Act if he is satisfied that the person is not carrying on and has no intention of carrying on a business of selling petroleum products.

(4) A determination made under subsection (2) or (3) shall come into force at the time when it is made and shall continue in force until it is revoked by the Registrar and notice of the revocation has been served on the person in respect of whom the determination was made.

(5) Notice of a determination under subsection (2) shall be given by the Registrar to the person in respect of whom the determination was made and to all the members of the group concerned.

(6) Notice of a determination under subsection (3) shall be published in the *Gazette*.

(7) The Registrar may at any time revoke a determination made under subsection (2) or (3).

(8) Notice of the revocation of a determination made under subsection (2) or (3) shall be given by the Registrar to the person in respect of whom the determination was made and all members of the group in respect of which the determination was made who he considers are carrying on a business of selling petroleum products.

Grouping of corporations.

4—For the purposes of this Act, corporations constitute a group if they are related to each other.

Grouping where employees used in another business.

5—For the purposes of this Act, if—

(a) an employee of an employer, or 2 or more employees of an employer, performs or perform duties solely or mainly for or in connection with a business carried on by that employer and another person or other persons or by another person or other persons; or

(b) an employer has, in respect of the employment of, or the performance of duties by, one or more of his employees, an agreement, arrangement, or undertaking (whether formal or informal, whether expressed or implied, and whether or not the agreement, arrangement, or undertaking includes provisions in respect of the supply of goods or services or goods and services) with another person or other persons relating to a business carried on by that other person or those other persons, whether alone or together with another person or other persons,

that employer and—

(c) each such other person; or

(d) both or all of those other persons,

constitute a group.

Grouping of commonly controlled businesses.

6—(1) A reference in this section to 2 businesses does not include a reference to 2 businesses both of which are owned by the same person, not being a trustee, or by the trustee or trustees of a trust.

(2) For the purposes of this Act, where the same person has, or the same persons have together, a controlling interest, as referred to in subsection (3), in each of 2 businesses, the persons who carry on those businesses constitute a group.

(3) For the purposes of subsection (2), the same person has, or the same persons have together, a controlling interest in each of 2 businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business:—

- (a) a person has, or persons have together, a controlling interest in a business that is carried on by a corporation if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors of the corporation, are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions, or wishes of that person or of those persons acting together;
- (b) a person has, or persons have together, a controlling interest in a business that is carried on by a corporation that has a share capital if that person or those persons acting together could (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, half or more than half of the voting power attached to voting shares issued by the corporation;
- (c) a person has, or persons have together, a controlling interest in a business that is carried on by a partnership if that person or those persons—
 - (i) owns, or own together (whether beneficially or not), half or more than half of the capital of the partnership; or
 - (ii) is, or are together, entitled (whether beneficially or not) to half or more than half of the profits of the partnership;
- (d) a person has, or persons have together, a controlling interest in a business that is carried on under a trust if that person (whether or not as the trustee of another trust) is the beneficiary, or those persons (whether or not as the trustees of another trust) are together the beneficiaries, in respect of half or more than half of the value of the interests in the trust first mentioned in this paragraph;

(e) a person has a controlling interest in a business if, whether or not he is a trustee of a trust, he is the sole owner of the business, or persons, being 2 or more trustees of a trust, have a controlling interest in a business if they are the owners of the business.

(4) Where a corporation has a controlling interest under subsection (3) in a business, it shall be deemed to have a controlling interest in any other business in which another corporation that is related to it has a controlling interest.

(5) Where—

(a) a person has, or persons have together, a controlling interest under subsection (3) in a business; and

(b) the person or persons who carry on that business has or have such a controlling interest in another business,

the person or persons referred to in paragraph (a) shall be deemed to have a controlling interest in that other business.

(6) Where—

(a) a person is a beneficiary under a trust; or

(b) 2 or more persons together are beneficiaries under a trust,

in respect of half or more than half of the value of the interests in that trust and the trustee or trustees of that trust has or have under subsection (3) a controlling interest in a business, that beneficiary or those beneficiaries shall, for the purposes of subsection (3), be deemed to have a controlling interest in that business.

Smaller groups
subsumed into
larger groups.

7—(1) Notwithstanding any other provision of this Act (except subsection (2)), where a person is, whether or not by virtue of this subsection, a member of 2 or more groups (each of which is in subsection (2) referred to as a smaller group), all of the members of those groups constitute, for the purposes of this Act, one group.

(2) Except for the purpose of determining whether a group is constituted under subsection (1), a group which, but for this subsection, would be a smaller group ceases to be a group if its members are members of a group constituted under subsection (1).

8—A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and any other person, may benefit under that trust shall be deemed, for the purposes of this Act, to be a beneficiary in respect of half or more than half of the value of the interest in that trust.

Beneficiaries
under dis-
cretionary
trusts.

9—This Act binds the Crown not only in right of this State but also, so far as the legislative power of Parliament permits, binds the Crown in all of its other capacities.

Crown bound.

PART II

ADMINISTRATION

10—(1) For the purposes of administering the provisions of this Act, there shall be a Registrar of Petroleum Products Business Franchise Licences who shall be appointed under, and hold office subject to, the *Public Service Act 1973*.

Registrar of
Petroleum
Products
Business
Franchise
Licences.

(2) The office of Registrar may be held in conjunction with any other office of the Public Service.

(3) The Registrar may, from time to time, direct or authorize a person for the time being appointed under section 11 to perform or exercise the functions or powers of the Registrar under this Act, or such of those functions or powers as may be specified in the direction or authorization, and, where any such person is so directed or authorized, a reference in this Act to the Registrar includes a reference to that person.

(4) No person shall be concerned to inquire whether a person directed or authorized under subsection (3) is entitled to perform or exercise the functions or powers of the Registrar under this Act.

11—(1) The Registrar may, by writing under his hand, appoint any assessor for the time being appointed under the *Stamp Duties Act 1931* or any officer of the Treasury to be an officer for the purposes of this Act.

Appointment
and employ-
ment of officers
for the purposes
of this Act.

(2) In addition to the Registrar and persons appointed under subsection (1), such other officers and employees as may be required for the purposes of this Act may be appointed and employed under and subject to the *Public Service Act 1973*.

(3) An appointment under subsection (2) may be held in conjunction with any other appointment as an officer or employee of the Public Service.

Inspectors.

12—(1) The Registrar may, by warrant under his hand, authorize any person who is for the time being appointed under section 11, or who is an authorized officer within the meaning of section 3 (1) of the *Traffic Act* 1925, to be an inspector for the purposes of this Act.

(2) The Registrar shall be deemed to be an inspector and may exercise the powers conferred on an inspector by this Act.

Powers, &c., of inspectors.

13—(1) For the purposes of this Act, an inspector, on production of his warrant of authorization as such, may at any reasonable time and with such assistants as he considers necessary—

- (a) enter and remain in any premises at which, or at which he reasonably suspects, a business of distributing, selling, or purchasing petroleum products is or has been carried on or which, or which he reasonably suspects, is being or has been used for the storage or custody of any record relating to the distribution, sale, or purchase of petroleum products;
- (b) request any person found in or on any premises which, or which he reasonably suspects, are or have been used for the distribution, sale, or purchase of petroleum products or for the storage or custody of any record relating to the distribution, sale, or purchase of petroleum products or in or on which, or in or on which he reasonably suspects, petroleum products are or have been stored for sale—
 - (i) to produce any record which relates to, or which the inspector reasonably suspects relates to, the distribution, sale, or purchase of petroleum products and which, at the time of the request, is in the possession or under the control of that person;
 - (ii) to produce a statement, written in the English language, setting out the particulars contained in any such record that are not written or not written in the English language; and
 - (iii) to answer any question with respect to any such record or statement or the distribution, sale, or purchase of petroleum products;

- (c) inspect, or take copies of, or make notes in respect of, any record or statement referred to in this subsection or any part of any such record or statement; and
- (d) inspect any equipment or container installed or kept on premises which he has entered in accordance with paragraph (a), being equipment or a container which is or are apparently used for storing or dispensing petroleum products and, on making just payment, take samples of any liquid which he reasonably suspects is a petroleum product.

(2) Whenever the Registrar exercises a power conferred by subsection (1) in his capacity as an inspector, it shall be sufficient for the purposes of that subsection if he produces evidence of his appointment as Registrar.

(3) Any person who—

- (a) prevents or attempts to prevent an inspector from exercising any power conferred on him by subsection (1);
- (b) hinders or obstructs an inspector in the exercise of any such power; or
- (c) fails to comply with a request of an inspector under subsection (1) (b),

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$250 or to imprisonment for a term not exceeding 3 months, or both, and, in the case of an offence under paragraph (c), to an additional penalty not exceeding \$50 for every day during which the offence continues.

(4) A person is not guilty of an offence under subsection (3) (c) by reason of his failure to answer any question referred to in subsection (1) (b) (iii) if he proves to the satisfaction of the court before which he is prosecuted for the offence that he did not know, and could not with reasonable diligence have ascertained, the answer to the question.

(5) A person is not excused from answering any question if required to do so under subsection (1) (b) on the ground that the answer might tend to incriminate him or make him liable to a penalty, but the information provided by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (3) or section 39.

(6) Where an answer to a question referred to in subsection (1) (b) (iii) or any information whatever is given to an inspector by an officer of a corporation within the meaning of the *Companies Act* 1962 which is carrying on or has carried on a business of selling petroleum products, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, binding on and admissible in evidence against the corporation, unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.

(7) The provisions of subsection (6) are in addition to any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

Special powers
of Registrar
with respect to
dealings with
petroleum
products.

14—(1) In this section, a reference to dealing with petroleum products includes a reference to distributing, selling, and purchasing petroleum products.

(2) The Registrar may serve on—

- (a) a person who is carrying on, or has carried on, or is or was concerned in, a business of dealing with petroleum products; or
- (b) a person who, as agent or employee of a person referred to in paragraph (a), has or has had duties or provides or has provided services in connection with a business so referred to,

an instrument in writing requiring that person to provide the Registrar in writing, within such period as is specified in the instrument or such further period as the Registrar may allow, with—

- (c) a statement of such particulars with respect to those products, or any of them, as are so specified; and
- (d) if the Registrar thinks fit, a certificate signed by a person registered or qualified for registration under the *Companies Act* 1962 as a company auditor, certifying that the statement is correct.

(3) Any person who fails to comply with any requirement made of him under subsection (2) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$2 500.

(4) A person is not guilty of an offence under subsection (3) if the court hearing the charge is satisfied—

- (a) that the defendant could not, by the exercise of reasonable diligence, have complied with the requirement to which the charge relates; or
- (b) that the defendant complied with that requirement to the extent of his ability to do so.

15—(1) Where the Registrar, an inspector, or any officer or employee for the time being appointed under section 11 does or purports to do, or omits or purports to omit to do, any act or thing in good faith for the purpose of administering or executing this Act, he shall not be personally subjected to any action, liability, claim, or demand in respect of that act or omission. Protection for Registrar, &c.

(2) Subsection (1) does not preclude the Crown from being subject to any action, liability, claim, or demand to which the Crown could, but for that subsection, have been subject.

PART III

LICENCES

16—(1) On or after 1st January 1982, a person shall not carry on a business of selling petroleum products purchased otherwise than from the holder of a licence under a sale made under the authority of that licence unless he is the holder of a class A licence. Offences relating to sale of petroleum products.

Penalty: \$500 for every day on which the person carries on the business.

(2) On or after 1st January 1982, a person shall not carry on a business of selling petroleum products purchased from the holder of a licence under a sale made under the authority of that licence unless he is the holder of a class B licence.

Penalty: \$250 for every day on which the person carries on the business.

(3) The holder of a licence shall not carry on a business of selling petroleum products on premises that are not specified in the licence as premises authorized to be used for that business.

Penalty: \$250.

(4) Where petroleum products are sold on premises otherwise than by a licensee, the occupier of the premises shall, for the purposes of this section, be deemed to have sold those products, unless he establishes—

- (a) that the sale took place without his knowledge or connivance; and
- (b) that he took all such steps as are reasonable in the circumstances to prevent the sale being made.

(5) In any prosecution relating to a charge for an offence against subsection (1) or (2), the defendant has a defence to that charge if he satisfies the court that, although he did not hold a licence authorizing him to carry on a business of selling petroleum products at a time alleged in the charge, he had, before that time, made an application for such a licence in accordance with this Act and tendered payment of the fee payable under section 20 in respect of such a licence and the Registrar had not refused to issue a licence of the kind applied for.

(6) In any prosecution relating to a charge for an offence against subsection (1) or (2), the defendant has a defence to that charge if he satisfies the court that none of the petroleum products sold by him in carrying on a business of selling such products was sold in the course of intrastate trade.

(7) Notwithstanding the foregoing provisions of this section, it shall be lawful—

- (a) for the holder of a class A licence to sell under the authority of that licence petroleum products purchased from the holder of a class A licence or class B licence; and
- (b) for the holder of a class B licence to sell under the authority of that licence petroleum products that were, before 1st January 1982, purchased from and delivered by a person declared under section 20 to be or to have been an approved petroleum products merchant.

(8) Where a person manufactures petroleum products in Tasmania, nothing in this Act requires him to hold a licence for the purpose of selling those products to the holder of a class A licence for the purposes of resale.

17—(1) Any person who carries on or proposes to carry on a business of selling petroleum products, or who is a member of a group that carries on such a business, may make an application for a class A licence or a class B licence.

Application
for licence.

(2) An application under this section shall—

- (a) be in writing in a form provided by the Registrar;
- (b) specify the name of the applicant and the address of the premises at which he carries on or proposes to carry on a business of selling petroleum products or, in the case of an application made on behalf of a group of persons who carry on businesses of selling petroleum products, the names of the members of the group and the addresses of the premises at which they carry on or propose to carry on such a business; and
- (c) contain such particulars relating to the business of selling petroleum products carried on or proposed to be carried on by the applicant, or, in the case of an application for a licence made on behalf of a group of persons who carry on businesses of selling petroleum products, by the members of the group, as may be directed by the form.

(3) Where, as a result of not being satisfied as to the particulars provided in an application under this section, the Registrar serves on the applicant an instrument under section 14 requiring the applicant to provide him with a statement of further particulars in respect of the application, he may decline to proceed with the application until the applicant has provided him with such a statement and, where any such statement is so provided, he may refuse to issue the licence applied for, and the requirement shall be deemed not to have been complied with, until he is satisfied as to the particulars contained in the statement.

18—(1) Where an application is made under section 17 for a class A licence, the Registrar shall—

Issue, &c.,
of licence.

- (a) if the application is in accordance with that section and the applicant has complied with any requirement under section 14 made in relation to the application; and
- (b) on payment by the applicant of the fee payable under section 20 in respect of a licence of the kind applied for,

issue to the applicant a class A licence.

(2) Where an application is made under section 17 for a Class B licence, the Registrar shall—

(a) if the application is in accordance with that section and the applicant has complied with any requirement under section 14 made in relation to the application;

(b) if the applicant—

(i) satisfies the Registrar that he has not at any time during the period of 12 months preceding the date of the application purchased petroleum products for the purpose of his business of selling petroleum products from a person other than—

(a) the holder of a licence; or

(b) where any part of that period of 12 months precedes 1st January 1982—a person declared under section 20 to be or to have been an approved petroleum products merchant; and

(ii) enters into an undertaking in writing with the Registrar that he will not, during the period on and from the date on which the application was made until the end of the period to which a class B licence would, if issued to him, be in force, purchase petroleum products for the purposes of his business of selling petroleum products from a person other than the holder of a licence; and

(c) on payment by the applicant of the fee payable under section 20 in respect of a class B licence,

issue to the applicant a class B licence.

(3) Where, on an application under section 17, the Registrar refuses to issue a class A licence, he—

(a) shall serve on the applicant a notice in writing of the refusal and the reasons for it; and

(b) where payment of the fee payable under section 20 has been made—shall, unless the applicant agrees in writing to that amount being held in credit for him, refund that fee to the applicant.

(4) Where, on an application under section 17, the Registrar refuses to issue a class B licence, he—

- (a) shall serve on the applicant a notice in writing of the refusal and the reasons for it;
- (b) if the reason for the refusal is that the applicant failed to satisfy the Registrar as referred to in subsection (2) (b) (i) or to enter into an undertaking referred to in subsection (2) (b) (ii), shall—
 - (i) include in the notice a statement to the effect that he would, on payment of the fee payable under section 20 in respect of a class A licence, be prepared to issue to the applicant such a licence; and
 - (ii) specify in the notice the amount of the fee so payable; and
- (c) where payment of the fee payable in respect of the licence to which the application relates has been made—shall, unless the applicant agrees in writing to the amount of the fee being held in credit for him, refund that amount to the applicant.

(5) Where a notice served on an applicant under subsection (4) includes a statement in accordance with paragraph (b) of that subsection, the Registrar shall, on payment by the applicant of the fee specified in the notice, issue to the applicant a class A licence.

(6) When issuing a licence under this section, the Registrar shall cause to be specified in the licence particulars identifying the premises which are to be used for or in connection with the business authorized by the licence.

(7) When issuing a licence to a group, the Registrar shall cause the name of each person who is a member of the group and on whose behalf the application for the licence was made to be specified in the licence, and each such person shall be regarded as a joint holder of the licence.

19—(1) A class A licence—

- (a) authorizes the holder of the licence to carry on a business of selling petroleum products purchased otherwise than from the holder of a licence; and

Effect of
licence

- (b) has force on and from the date specified in the licence as the date for the licence to come into force until (unless the licence ceases to be in force earlier) the last day of the month for which it is issued,

and such a licence may, in accordance with section 26, be renewed for successive periods of 1 month.

(2) A class B licence—

- (a) authorizes the holder of the licence to carry on at the premises specified in the licence a business of selling petroleum products purchased from the holder of a licence; and

- (b) has force on and from the date specified in the licence as the date for the licence to come into force until (unless the licence ceases to be in force earlier)—

(i) in the case of a licence that comes into force on or before 31st January 1983—31st January 1983; or

(ii) in the case of a licence that comes into force on and from a date after that date—31st January next following the date on which the licence comes into force,

and such a licence may, in accordance with section 26, be renewed for successive periods of 12 months ending on 31st January.

Licence fees.

20—(1) Subject to this section, the fee payable in respect of a licence is as follows:—

- (a) where the licence is a class A licence—a fee of \$50 and an amount equal to—

(i) 4·5 per cent of the value of motor spirit sold by the applicant or, where the applicant is, or was during the relevant period a member of a group, by the members of the group during the relevant period; and

(ii) 4·5 per cent of the value of diesel fuel so sold;

- (b) where the licence is a class B licence—a fee of \$50.

(2) In determining the amount of the fee for a class A licence, there shall be disregarded—

(a) in relation to a relevant period expiring before 1st January 1982—the value of any petroleum products sold during that period by the applicant or, as the case may be, by a member of the applicant's group where—

- (i) the applicant or member was declared under subsection (11) to have been an approved petroleum products merchant at the time of the sale;
- (ii) the purchaser was also declared under that subsection to have been an approved petroleum products merchant at that time; and
- (iii) the petroleum products were purchased for the purpose of reselling them;

(b) in relation to a relevant period beginning on or after 1st January 1982—the value of any petroleum products sold during that period by the applicant or, as the case may be, by a member of the applicant's group where—

- (i) the applicant or member was the holder of a class A licence at the time of the sale;
- (ii) the purchaser was also the holder of a class A licence at that time; and
- (iii) the petroleum products were purchased for the purpose of reselling them;

(c) the value of any petroleum products sold by the applicant or, as the case may be, a member of the applicant's group during the relevant period for delivery and consumption outside this State; and

(d) the value of any diesel fuel sold by the applicant or, as the case may be, a member of the applicant's group during the relevant period that is to be used otherwise than for propelling motor vehicles on public streets.

(3) Where an applicant for a class A licence or a renewal of such a licence was, at any time during the relevant period for the licence in relation to which the application or application for renewal is made, a member of a group of persons carrying on businesses of selling petroleum products, the petroleum products sold by the applicant in the course of a business of selling petroleum products during

that relevant period shall, for the purposes of subsection (1) (a), be deemed to have included any petroleum products sold by the other member or, if more than one, all of the other members of the group in the course of such a business during that period, unless the applicant satisfies the Registrar that a fee for a class A licence has been paid to the Registrar after having been assessed in respect of the sale of those petroleum products during that relevant period.

(4) Where—

- (a) an application for a class A licence or a renewal of any such licence is made on behalf of all or any of the members of a group of persons carrying on businesses of selling petroleum products; and
- (b) any member of the group referred to in paragraph (a) was, at any time during the relevant period for the licence in relation to which the application or application for renewal is made, a member of another group of persons carrying on businesses of selling petroleum products (any one or more of the members of which is not a member of the group referred to in paragraph (a)),

the petroleum products sold by members of the first-mentioned group in the course of carrying on a business of selling petroleum products during that relevant period shall, for the purposes of subsection (1) (a), be deemed to have included any petroleum products sold by any of the members of the other group in the course of carrying on a business of selling petroleum products during that period, unless the applicant satisfies the Registrar that a fee for a class A licence has been paid to the Registrar after having been assessed in respect of the sale of petroleum products during that relevant period.

(5) Where—

- (a) an application is made for a class A licence; and
- (b) the applicant or the group of which he is a member did not carry on the business in respect of which the application for the licence was made during the whole of the relevant period,

the fee payable in respect of the licence shall be such amount as is assessed by the Registrar as being just and reasonable in the circumstances of the case, having regard to the petroleum products that

would, in the opinion of the Registrar, have been sold by the applicant or the members of the group had he or those members been carrying on that business during the whole of that period.

(6) Where—

- (a) an application is made for a class A licence;
- (b) the applicant or the group of which he is a member carried on the business in respect of which the application for the licence was made during the whole of the relevant period; and
- (c) the Registrar is of the opinion that he cannot for any reason accurately ascertain the fee that should be payable under subsection (1),

the fee payable in respect of the licence shall be such amount as is assessed by the Registrar as being just and reasonable in the circumstances of the case, having regard to the petroleum products that were, in the opinion of the Registrar, sold by the applicant or the members of the group during that period.

(7) A fee payable in respect of a licence under subsection (5) or (6) is payable by the applicant for the licence.

(8) Where a fraction of a cent remains after calculating the amount that would, but for this subsection, be the fee payable in respect of a licence, the fee shall be that amount less that fraction of a cent.

(9) Where in relation to an application for a licence or the renewal of a licence the applicant has paid an amount in excess of that payable under this section in respect of the licence, the Registrar shall immediately refund the excess amount to the applicant, unless the applicant signs an acknowledgement in writing agreeing to the Registrar's holding the excess amount in credit for him.

(10) The fact that an applicant for a licence or the renewal of a licence may lodge an objection or appeal, or proposes to lodge an objection or appeal, under Part IV does not absolve him from making payment of the fee payable under this section before the issue of the licence.

(11) Where it appears to the Registrar that a person was before 1st January 1982 engaged in a business of selling petroleum products or was a member of a group so engaged and that the person might, if this Act had then been in force, reasonably have been expected to have been the holder of a licence, the Registrar may, by instrument

in writing, declare the person to be or to have been an approved petroleum products merchant for the purposes of this section and of sections 16 and 18 and may, by a similar instrument, revoke the declaration.

Value of
petroleum
products.

21—(1) For the purposes of enabling the amount of the fee for a class A licence to be assessed—

- (a) the value of motor spirit sold during the relevant period shall be calculated by reference to the value per litre determined for motor spirit by order in force at the commencement of the calendar month during which the licence, if issued, would be in force; and
- (b) the value of diesel fuel sold during the relevant period shall be calculated by reference to the value per litre determined for diesel fuel by order in force at the commencement of the calendar month during which the licence, if issued, would be in force.

(2) Subject to the succeeding provisions of this section, the Minister may, by order published in the *Gazette*, determine a value per litre for motor spirit and a value per litre for diesel fuel for the purposes of subsection (1).

(3) For the purpose of making an order under subsection (2), the value per litre of motor spirit and diesel fuel shall be the gross amount (including duty) for which a litre of motor spirit or diesel fuel would, in the opinion of the Minister, ordinarily be purchased by retailers of petroleum products, but, without limiting the generality of those words, the value per litre of motor spirit or diesel fuel may be determined as being the value per litre on the first day of the relevant period as calculated on the basis of the average of the Hobart metropolitan list price to retailers of motor spirit or, as the case may be, diesel fuel published by the major wholesalers of petroleum products carrying on intrastate business in Tasmania.

(4) Notwithstanding anything in this section to the contrary, where the amount that would be determined by order under subsection (2) as the value per litre of motor spirit or diesel fuel does not exceed the value per litre of that product as last so determined by such percentage as is for the time being prescribed for the purpose of this subsection, the value per litre of that product shall be determined as being the amount that was last so determined as the value per litre of that product.

(5) An order under subsection (2) shall come into force on the commencement of a calendar month specified in the order and shall have effect in substitution for any previous determination.

(6) Where an order is in force under this section, any further order that would, but for this subsection, come into force before the expiration of 3 months from and including the day on which the first-mentioned order came into force, shall have no effect.

(7) The provisions of section 47 (4) to (7) of the *Acts Interpretation Act* 1931 apply to an order made for the purposes of this section in the same way as they apply to regulations within the meaning of that Act.

(8) In this section, a reference to the Minister is a reference to the Minister for the time being charged with the administration of the *Transport Act* 1981.

22—(1) Where it appears to the Registrar that the fee assessed in respect of a class A licence was assessed incorrectly, he may, at any time, whether or not the licence is still in force, reassess the fee in respect of the licence in accordance with the principles set out in section 20. ^{Adjustment of fee.}

(2) Where an applicant for a licence or the renewal of a licence has made a statement that is false or misleading in a material respect in or in relation to the application and it appears to the Registrar that the statement resulted in the fee paid for the licence or renewal of the licence being less than the fee that should have been paid, the Registrar may, at any time, whether or not the licence is still in force, reassess the fee in respect of the licence in accordance with the principles set out in section 20.

(3) Subject to subsection (6), where on a reassessment of a fee under subsection (1) the fee is reduced, the Registrar shall, as soon as practicable thereafter, cause the amount overpaid to be refunded to the person who is or was the holder of the licence concerned or, where the licence is or was held by a group of persons carrying on businesses of selling petroleum products, to the persons who are or were members of the group in such proportions as appear to the Registrar to be just and equitable.

(4) Subject to subsection (7), where on a reassessment of a fee under subsection (1) or (2) the fee is increased—

(a) the Registrar shall serve on the person who is or was the holder of the licence or, where the holder of the licence

is or was a group of persons carrying on businesses of selling petroleum products, on each person who is or was a member of the group a notice of reassessment; and

(b) the additional amount payable by virtue of the reassessment shall be due and payable—

(i) by the person on whom the notice is served; or

(ii) where notices are served on 2 or more persons, by each of those persons in such proportion as may be specified in the notice served on him,

within 14 days after the date on which the notice is served.

(5) An amount which is due and payable by a person under subsection (4) and which is unpaid may be recovered by the Registrar in a court of competent jurisdiction as a debt due to the Crown.

(6) Where an amount is required to be refunded under subsection (3) and, during the period for which the licence concerned has been or was in force, the licence has been held successively by 2 or more persons or, as the case may be, by 2 or more groups of persons, the amount to be refunded shall be refunded to those persons or groups of persons in proportion to the periods, in days, for which they respectively held the licence.

(7) Where an additional amount is payable under subsection (4) and, during the period for which the licence concerned has been or was in force, the licence has been held successively by 2 or more persons or, as the case may be, by 2 or more groups of persons, the additional amount is payable by those persons or groups of persons in proportion to the periods, in days, for which they respectively held the licence.

Registers of holders of licences to be kept.

23—(1) The Registrar shall cause to be kept for the purposes of this Act a register of class A licences and a register of class B licences.

(2) The Registrar shall enter or cause to be entered in the registers kept under subsection (1) such particulars relating to licences referred to in that subsection and to the holders of those licences as may be prescribed in the regulations.

(3) Any member of the public attending at the office of the Registrar during the hours that that office is ordinarily open for business may request to inspect either of the registers kept under subsection (1), and, where any such request is made, it is the duty of the Registrar to comply with the request.

24—If at any time while a licence is in force the holder of the licence lodges with the Registrar an instrument in writing in a form approved by him requesting him to amend the licence by adding to, substituting, or deleting from the licence particulars of the premises specified in the licence, the Registrar shall, if satisfied as to the truth of the statements contained in the instrument, make the amendment requested. Amendment of licence.

25—(1) A licensee and any person to whom the licensee proposes to transfer his licence may, by application in a form approved by the Registrar accompanied by the prescribed fee (if any), jointly request the Registrar to enter in his records the transfer of the licence to that person on and from such day as is specified in the application. Transfer of licence.

(2) On receipt of the application and the prescribed fee (if any), the Registrar shall endorse the transfer on the licence and record particulars of the transfer in the appropriate register, and the licence shall be deemed to be transferred on and from the date specified in the application.

26—(1) Subject to this section, the holder of a class A licence may, at any time before the expiry of the licence, apply to the Registrar for the renewal of the licence for a further period of 1 month. Renewal of licence.

(2) Subject to this section, the holder of a class B licence may, at any time before the expiry of the licence, apply to the Registrar for the renewal of the licence for a further period of 12 months.

(3) An application under this section shall—

- (a) be in writing in a form provided by the Registrar;
- (b) specify the name of the applicant and the address of the premises at which he carries on a business of selling petroleum products or, in the case of an application for the renewal of a licence made on behalf of a group, the names of the members of the group and the addresses of the premises at which they carry on businesses of selling petroleum products; and

- (c) contain such particulars relating to the business of selling petroleum products carried on by the applicant, or, in the case of an application for the renewal of a licence made on behalf of a group, by the members of the group, as may be directed by the form.

(4) Where, as a result of not being satisfied as to the particulars provided in an application under this section, the Registrar serves on the applicant an instrument under section 14 requiring the applicant to provide him with a statement of further particulars in respect of the application, he may decline to proceed with the application until the applicant has provided him with such a statement, and where any such statement is so provided, he may refuse to renew the licence, and the requirement shall be deemed not to have been complied with, until he is satisfied as to the particulars contained in the statement.

(5) Where an application is made under subsection (1) for the renewal of a class A licence, the Registrar shall—

- (a) if the application is in accordance with this section and the applicant has complied with any requirement under section 14 made in relation to the application; and
- (b) on payment by the applicant of the fee payable under section 20 in respect of such a licence,

renew the licence for a further period of 12 months expiring (unless it ceases to be in force earlier) on 31st January next following the issue of the licence.

(6) Where an application is made under subsection (2) for a class B licence, the Registrar shall—

- (a) if the application is in accordance with this section;
- (b) if the applicant—
 - (i) satisfies the Registrar that he has not since the licence was issued or, if previously renewed, since it was last renewed, purchased petroleum products for the purposes of his business of selling petroleum products from a person other than the holder of a licence; and

(ii) enters into a further undertaking with the Registrar that he will not during the period on and from that on which the renewal would, if granted, come into force until the end of the period of renewal, purchase petroleum products for the purposes of his business of selling petroleum products from a person other than the holder of a licence; and

(c) on payment by the applicant of the fee payable under section 20 in respect of a class B licence,

renew the licence for a further period of 12 months expiring (unless it ceases to be in force earlier) on 31st January next following the issue of the licence.

(7) Where—

(a) an application is made under subsection (1) for the renewal of a class A licence that has, since the date of its issue or, if it has previously been renewed, the date of its last renewal, been transferred in accordance with section 25; and

(b) the relevant period for the application is a period during which the transferor carried on a business of selling petroleum products,

any petroleum products sold by that transferor during the relevant period shall, for the purposes of section 20, be deemed to have been sold by the applicant.

(8) Where, on an application under subsection (1) for the renewal of a class A licence, the Registrar refuses to renew the licence, he—

(a) shall serve on the applicant a notice in writing of the refusal and the reasons for it; and

(b) where payment of the fee payable under section 20 has been made in respect of the renewal—shall, unless the applicant signs an acknowledgement in writing agreeing to the amount of the fee being held in credit for him, refund that amount to the applicant.

(9) Where, on an application under subsection (2) for the renewal of a class B licence, the Registrar refuses to renew the licence, he—

- (a) shall serve on the applicant a notice in writing of the refusal and the reasons for it;
- (b) if the reason for the refusal is that the applicant failed to satisfy the Registrar as referred to in subsection (6) (b) (i) or to enter into an undertaking referred to in subsection (6) (b) (ii), shall—
 - (i) include in the notice a statement to the effect that he would, on payment of the fee payable under section 20 in respect of a class A licence, be prepared to issue to the applicant a licence of that kind; and
 - (ii) specify in the notice the amount of the fee so payable; and
- (c) where payment of the fee payable in respect of the licence to which the application relates has been made—shall, unless the applicant signs an acknowledgment in writing agreeing to the amount of the fee being held in credit for him, refund that amount to the applicant.

(10) Where a notice served on an applicant under subsection (9) includes a statement in accordance with paragraph (b) of that subsection, the Registrar shall, on payment by the applicant of the fee specified in the notice, issue to the applicant a class A licence.

(11) Where a person who is the holder of a licence has applied for the renewal of the licence in accordance with this section and tenders or pays the fee payable under section 20 in respect of the renewal before the expiry of the licence, but the Registrar has not renewed the licence before that expiry, that person shall nevertheless be deemed to continue to be the holder of that licence.

Licence deemed to be revoked if fee not paid.

27—Where any amount that is due and payable under section 22 in respect of a licence is not paid within the period specified in the notice of reassessment served on the holder of the licence in accordance with that section, the licence shall cease to be in force immediately on the expiry of that period.

28—A holder of a class B licence may, at any time, by notice in writing to the Registrar, inform the Registrar that he wishes to surrender the licence, and on receipt by the Registrar of the notice and the licence, the licence shall cease to be in force.

Surrender of licence.

29—(1) Where a person was required by this Act to hold a licence in respect of any period, but did not do so, that person is liable to pay to the Registrar an amount equal to the fee which would have been payable if he had applied for and been issued a licence in accordance with this Act.

Assessment and recovery of unpaid fee from unlicensed person.

(2) The Registrar may assess the amount referred to in subsection (1) as if the person had applied for a licence.

(3) As soon as practicable after making an assessment under subsection (2), notice of the assessment shall be served by the Registrar on the person.

(4) Subject to subsection (5), where an amount assessed under subsection (2) is unpaid, that amount may be recovered by the Registrar in a court of competent jurisdiction as a debt due to the Crown.

(5) Proceedings may not be commenced for the purpose of recovering an amount assessed under subsection (2) until—

- (a) if the person to whom the assessment relates does not lodge an objection to the assessment under section 34—the expiration of 1 month after service of notice of the assessment under subsection (3);
- (b) if that person lodges such an objection to the assessment but does not appeal under section 34 against the determination of the Registrar under that section—the expiration of the period during which an appeal could have been made;
- (c) if that person appeals under section 34 against the determination of the Registrar under that section and the appeal is determined in favour of the Registrar—the determination of the appeal; or
- (d) if that person lodges an objection under section 34 or appeals under that section but withdraws the objection or appeal—the withdrawal of the objection or appeal.

PART IV

APPEALS AND OBJECTIONS

Appeal against refusal of application for licence.

30—(1) Where, on an application for a licence, the Registrar refuses to issue the licence, the person who made the application may, within such period as may be prescribed, appeal to the Supreme Court against the refusal.

(2) If, on the hearing of an appeal under subsection (1), the Supreme Court is satisfied that in all the circumstances of the case a licence of the kind to which the appeal relates ought to have been issued, it shall make an order directing that, subject to the payment of the appropriate licence fee, a licence of that kind be issued to the appellant to be in force on and from such date as is specified in the order.

(3) The Registrar shall give effect to any order made by the Supreme Court under subsection (2).

(4) Subject to this section, an appeal under subsection (2) shall be instituted, heard, and determined in accordance with rules of court of the Supreme Court.

(5) For the purposes of this section, a reference in subsection (1) to refusing to issue a licence includes a reference to refusing to issue a licence in the circumstance referred to in section 17 (3).

Appeal against refusal of application for renewal of licence.

31—(1) Where, on an application for the renewal of a licence, the Registrar refuses to renew the licence, the applicant for renewal may appeal against the refusal to the Supreme Court.

(2) The provisions of section 30 (2) to (4), with any necessary modifications, apply to and in respect of an appeal under subsection (1) of this section in the same way as they apply to and in respect of an appeal against a refusal to issue a licence.

(3) For the purposes of this section, a reference in subsection (1) to refusing to renew a licence includes a reference to refusing to renew a licence in the circumstance referred to in section 26 (4).

Objection to and appeal against assessment of licence fee.

32—(1) Where the holder of a class A licence who has paid the fee assessed in respect of his licence in accordance with section 20 is dissatisfied with the assessment on the ground that the fee has been incorrectly assessed, he may, within 1 month after the issue of the licence, lodge an objection in writing with the Registrar against the assessment.

(2) As soon as practicable after an objection is lodged with him under subsection (1), the Registrar shall determine the objection either by confirming the assessment of the fee to which the objection relates or by increasing or reducing it, and shall serve on the holder of the licence concerned a notice of the determination in writing.

(3) If—

- (a) a holder of a licence on whom a notice is served under subsection (2) is not satisfied with the determination as set out in the notice; or
- (b) a holder of a licence has not, within 1 month after lodging an objection under subsection (1), been served under subsection (2) with a notice setting out the Registrar's determination of the objection,

that licensee may appeal to the Supreme Court on the ground referred to in subsection (1) against the Registrar's determination or, as the case may be, against the assessment of the fee.

(4) An appeal under subsection (3) may be lodged—

- (a) where the licensee concerned is not satisfied with the determination of his objection as set out in the notice served on him under subsection (2)—within 1 month after that licensee was served with the notice; or
- (b) where the licensee concerned has not, within 1 month after lodging an objection under subsection (1), been served with a notice of determination in respect of the objection—within 2 months after that licensee lodged the objection,

and such an appeal may be lodged in the circumstances specified in paragraph (a) notwithstanding that the licensee could have previously lodged such an appeal in the circumstances specified in paragraph (b).

(5) On the hearing of an appeal under subsection (3), the Supreme Court may make an order confirming or varying the determination or assessment appealed against, and, in making an order varying that determination or assessment, the Court shall have regard to the provisions of section 20.

(6) The Supreme Court may make such ancillary orders for the purpose of giving effect to an order under subsection (5) as it considers just and equitable.

(7) The decision of the Supreme Court on an appeal under subsection (3) is conclusive.

(8) Subject to this section, an appeal under subsection (3) shall be instituted, heard, and determined in accordance with rules of court of the Supreme Court.

(9) Where—

- (a) on an objection or appeal under this section, the Registrar or, as the case may be, the Supreme Court upholds the objection or appeal either wholly or in part;
- (b) the whole of the amount of the fee (if any) as determined on the objection or appeal has been paid; and
- (c) the amount of fee as so determined is less than the amount of fee originally paid,

the Registrar shall refund to the person who lodged the objection or appeal the difference between the amounts referred to in paragraph (c).

Objection to
and appeal
against
reassessment.

33—(1) Where a notice of reassessment is served on a person under section 22 requiring him to pay an additional amount, he may, within 1 month after service of the notice, lodge an objection in writing with the Registrar on the ground that the additional amount is incorrectly assessed or that it is not payable.

(2) As soon as practicable after an objection is lodged with him under subsection (1), the Registrar shall determine the objection by confirming, varying, or quashing the reassessed fee, and shall serve on the person who lodged the objection a notice of the determination in writing.

(3) If—

- (a) a person on whom a notice is served under subsection (2) is not satisfied with the determination as set out in the notice; or
- (b) a person has not, within 1 month after lodging an objection under subsection (1), been served under subsection (2) with a notice setting out the Registrar's determination of the objection,

that person may, on the ground referred to in subsection (1), appeal to the Supreme Court against the Registrar's determination or, as the case may be, against his reassessment of the fee.

(4) An appeal under subsection (3) may be lodged—

- (a) where the person concerned is not satisfied with the determination of his objection as set out in the notice served on him under subsection (2)—within 1 month after that person was served with the notice; or
- (b) where the person concerned has not, within 1 month after lodging an objection under subsection (1), been served with a notice of determination in respect of the objection—within 2 months after that person lodged the objection,

and such an appeal may be lodged in the circumstances specified in paragraph (a) notwithstanding that the appellant could have previously lodged such an appeal in the circumstances specified in paragraph (b).

(5) On the hearing of an appeal under subsection (3), the Supreme Court may make an order confirming, varying, or quashing the determination or reassessment appealed against, and, in making an order varying that determination or reassessment, the Court shall have regard to the provisions of section 20.

(6) The Supreme Court may make such ancillary orders for the purpose of giving effect to an order under subsection (5) as it considers just and equitable.

(7) The decision of the Supreme Court on an appeal under subsection (3) is conclusive.

(8) Subject to this section, an appeal under subsection (3) shall be instituted, heard, and determined in accordance with rules of court of the Supreme Court.

34—(1) A person on whom a notice of assessment is served under section 29 (3) may, within 1 month after service of the notice, lodge an objection in writing with the Registrar against the assessment on the ground that the fee was incorrectly assessed by the Registrar in terms of section 20 or that he was not a person required to hold a licence in respect of the period to which the assessment relates.

Objection to and appeal against assessment of unlicensed persons.

(2) As soon as practicable after an objection is lodged with him under subsection (1), the Registrar shall determine the objection, either by confirming the assessment of the fee to which the objection relates or by quashing or varying it, and serve on the person who lodged the objection a notice of the determination in writing.

(3) If—

- (a) a person on whom a notice is served under subsection (2) is not satisfied with the determination as set out in the notice; or
- (b) a person has not, within 1 month after lodging an objection under subsection (1), been served under subsection (2) with a notice setting out the Registrar's determination of the objection,

that person may appeal to the Supreme Court on a ground referred to in subsection (1) against the Registrar's determination or, as the case may be, against the assessment of the fee.

(4) An appeal under subsection (3) may be lodged—

- (a) where the person concerned is not satisfied with the determination of his objection as set out in the notice served on him under subsection (2)—within 1 month after that person was served with the notice; or
- (b) where the person concerned has not, within 1 month after lodging an objection under subsection (1), been served with a notice of determination in respect of the objection—within 2 months after that person lodged the objection,

and such an appeal may be lodged in the circumstances specified in paragraph (a) notwithstanding that the appellant could have previously lodged such an appeal in the circumstances specified in paragraph (b).

(5) On the hearing of an appeal under subsection (3), the Supreme Court may make an order confirming, quashing, or varying the determination or assessment appealed against, and, in making an order varying that determination or assessment, the Court shall have regard to the provisions of section 20 as if the appellant had at the relevant time been the holder of a licence.

(6) The Supreme Court may make such ancillary orders for the purpose of giving effect to an order under subsection (5) as it considers just and equitable.

(7) The decision of the Supreme Court on an appeal under subsection (3) is conclusive.

(8) Subject to this section, an appeal under subsection (3) shall be instituted, heard, and determined in accordance with rules of court of the Supreme Court.

PART V

MISCELLANEOUS

35—(1) A person who carries on in Tasmania a business of selling petroleum products shall— Records to be kept.

- (a) keep in the prescribed form and manner records containing such particulars as may be prescribed relating to petroleum products that are acquired, held, or sold for the purposes of or in the course of that business; and
- (b) preserve each of those records for a period of 6 years after the last entry was made in it.

(2) Except where the Registrar has given approval to keep records required to be kept under subsection (1) at a place outside Tasmania, a person who carries on a business as referred to in that subsection shall—

- (a) keep those records in Tasmania;
- (b) notify the Registrar in writing of the address of the place in Tasmania at which the records are kept or proposed to be kept—
 - (i) if the person is carrying on such a business at the commencement of this Act—within 2 months after that commencement; or
 - (ii) if he is not carrying on such a business at the commencement of this Act—within 2 months after he commences to carry on such a business; and
- (c) where the place at which the records are kept is subsequently changed to another place in Tasmania—notify the Registrar in writing of the address of the new place at which the records are kept within 14 days after the change takes place.

(3) A person who carries on a business as referred to in subsection (1) shall not keep records required to be kept under that subsection at a place outside Tasmania unless the Registrar has previously given approval in writing to that person authorizing him to keep those records at that place and the approval remains in force.

(4) The Registrar may, by notice in writing served on the person concerned, at any time revoke an approval referred to in subsection (3), whereupon that person shall, within 14 days after the service of that notice, cause the records required to be kept under subsection (1) to be removed to a place in Tasmania and notify the Registrar in writing of the address of that place.

(5) A person who carries on in Tasmania a business of selling petroleum products who—

(a) fails to comply with subsection (1), (2), or (4); or

(b) contravenes subsection (3),

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000.

(6) This section does not apply so as to require the preservation of records—

(a) in respect of which the Registrar has notified the person carrying on the business that preservation is not required; or

(b) of a company which has gone into liquidation and which has been finally dissolved,

and does not apply to an invoice to which section 36 applies.

Invoices to be
issued, &c.

36—(1) Subject to subsection (2), every person who is the holder of a class A licence shall—

(a) issue to every person to whom he sells petroleum products in the course of intrastate trade an invoice in respect of the sale of those petroleum products specifying—

(i) the name and address of the purchaser of the petroleum products;

(ii) the quantity of petroleum products sold; and

(iii) the total consideration for the sale of the petroleum products; and

(b) endorse or cause to be endorsed on every such invoice the words “LICENSED PETROLEUM WHOLESALE” followed by the number of his licence.

(2) Subsection (1) does not apply in the case of a sale of petroleum products that are not sold for the purpose of resale by the purchaser, but, in any legal proceedings relating to the alleged failure of a person to comply with that subsection, the onus of proving that those products were not sold for that purpose is on that person.

(3) If the holder of a class A licence fails to comply with subsection (1), he is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(4) A person shall not issue an invoice which bears—

(a) the words “LICENSED PETROLEUM WHOLESALER” (or words of similar effect) unless he is the holder of a class A licence; or

(b) the words “PETROLEUM PRODUCTS CLASS A BUSINESS FRANCHISE LICENCE” or “PETROLEUM WHOLESALER’S LICENCE” (or words of similar effect) followed by a number unless he is the holder of a class A licence bearing that number.

(5) Any person who contravenes subsection (4) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(6) Every person who is the holder of a class A licence shall keep at a place in Tasmania notified to the Registrar or at a place outside Tasmania notified to and approved by the Registrar a copy of every invoice issued by him under subsection (1) for a period of not less than 6 years from the date of issue.

(7) If the holder of a class A licence fails to comply with subsection (6), he is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(8) If, within the period specified in subsection (6), a person ceases to be the holder of a class A licence or a group of which he is a member ceases to be the holder of such a licence, that subsection shall continue to apply to him for the remainder of the period as if he were the holder of a class A licence and shall be construed accordingly.

37—(1) Where a vending machine from which petroleum products can be obtained is kept on any premises, the occupier of the premises shall, unless he is the holder of a licence, ensure that the owner of the machine is the holder of such a licence.

Petroleum
products
vending
machines.

(2) The occupier of premises on which there is kept a vending machine from which petroleum products can be obtained shall, unless he is the holder of a licence, ensure that there is affixed to the machine a plate specifying the prescribed particulars of the holder of the licence in respect of the machine.

(3) An occupier of premises who fails to comply with subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$250.

(4) For the purposes of subsection (1), where a vending machine referred to in that subsection is leased or hired from the owner, the reference in that subsection to the owner shall be construed as a reference to the lessee or hirer of the machine.

Disclosure of information.

38—(1) Except as provided by subsection (3) and subject to subsection (4), a person shall not disclose any information or publish any record or part of any record obtained by him in connection with the administration or execution of this Act, unless the disclosure or publication is made—

- (a) with the consent of the person from whom the information or record was obtained (being a person entitled or authorized to give that consent);
- (b) in connection with the administration or execution of this Act; or
- (c) for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings.

(2) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$2 500.

(3) The Registrar may communicate any matter which comes to his knowledge in the performance or exercise of his functions under this Act to an officer or authority engaged in administering or executing a law of another State or a Territory of the Commonwealth relating to the licensing of persons to carry on businesses of selling petroleum products.

(4) Subsection (1) does not prevent the disclosure of information or the publication of a record in accordance with any lawful requirement of the Commonwealth Statistician.

False or misleading statements.

39—(1) Subject to subsection (3), any person who—

- (a) makes an application under this Act; or
- (b) makes an answer whether orally or in writing to a question put to him pursuant to this Act by the Registrar or by or before the Supreme Court,

that is false or misleading in a material respect is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000 or to imprisonment for a term not exceeding 3 months, or both.

(2) Subject to subsection (3), any person who—

- (a) in providing any information;
- (b) in giving any notification; or
- (c) in keeping any record,

pursuant to this Act, makes any statement or representation that is false or misleading in a material respect is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000 or to imprisonment for a term not exceeding 3 months, or both.

(3) It is a defence to a charge under subsection (1) or (2) if it is proved that, at the time the application, answer, statement, or representation was made, the defendant believed on reasonable grounds that it was neither false nor misleading.

40—(1) A certificate purporting to be signed by the Registrar ^{Evidence.} certifying—

- (a) that a person specified in the certificate was an inspector at a time or during a period so specified;
- (b) that a person specified in the certificate was or was not the holder of a licence at a time or during a period so specified;
- (c) that any specified assessment or reassessment of a fee in respect of a licence, or any specified assessment under section 29, has been made in accordance with this Act; or
- (d) that the amount of any specified fee payable under this Act has not been paid on the date on which it was due to be paid and, where appropriate, that that amount had not been paid at the time when the certificate was issued,

is admissible in any proceedings under this Act and shall, until the contrary is established, be evidence of the matters so certified.

(2) A certificate purporting to be signed by an inspector certifying that a liquid found at premises specified in the certificate was motor spirit or diesel fuel is admissible in any proceedings under this Act and shall, until the contrary is established, be evidence of the matter so certified.

(3) If in any proceedings for an offence against section 16 (1) or (2) it is proved that the defendant sold a petroleum product, that person shall, for the purposes of those proceedings, be presumed to have been carrying on a business of selling petroleum products unless he satisfies the court to the contrary.

(4) If in any proceedings for an offence against section 16 it is proved that a container on particular premises contained a liquid, that the liquid in the container was motor spirit or diesel fuel, and that other liquid drawn or dispensed from the same container was sold to a person, it shall be conclusively presumed for the purposes of those proceedings that the liquid which was sold was motor spirit or, as the case may be, diesel fuel.

(5) The presence on any premises of a vending machine from which petroleum products may be obtained shall be deemed to constitute evidence that the occupier of those premises has sold petroleum products by means of the machine.

Proceedings on prosecutions.

41—(1) Proceedings for an offence against this Act may be commenced at any time within a period of 3 years after the time when the offence is alleged to have been committed.

(2) A complaint in respect of an offence against this Act may be made in the name of the Registrar by any officer of the Public Service employed in the administration or execution of this Act and authorized to make complaints on behalf of the Registrar, and any prosecution instituted in the name of the Registrar shall, in the absence of evidence to the contrary, be deemed to have been instituted by his authority.

(3) An officer referred to in subsection (2) may appear on behalf of the Registrar in any proceedings for an offence against this Act.

Offences by bodies corporate.

42—(1) Where an offence against this Act is committed by a body corporate, every person concerned in the management of that body corporate shall be deemed also to have committed the offence and may be convicted of the offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

(2) A person referred to in subsection (1) may be convicted of an offence under that subsection whether or not the body corporate is charged with or convicted of the offence.

43—(1) Any notice or other document required or authorized by this Act to be served or given by the Registrar shall be deemed to have been duly served or given—

Service of documents by the Registrar.

(a) where the person on or to whom the notice or document is to be served or given is not a body corporate—

(i) if delivered personally to that person or if left at the place of residence or business of that person, whether in or out of Tasmania, last known to the Registrar; or

(ii) if sent by prepaid letter post, addressed to that person at his place of residence or business in or out of Tasmania last known to the Registrar; or

(b) where the person on or to whom the notice or document is to be served or given is a body corporate—

(i) if delivered personally to the Secretary of the body corporate or if left at its registered office or its principal office of business in Tasmania last known to the Registrar; or

(ii) if sent by prepaid letter post, addressed to the body corporate at its registered office or its principal place of business in Tasmania last known to the Registrar.

(2) Service of a notice or document in accordance with subsection (1) (a) (ii) or (b) (ii) shall, unless the contrary is established, be deemed to have been effected at the time when it would be delivered in the ordinary course of post.

(3) A reference in subsection (1) to the registered office of a body corporate includes a reference to a registered office that is outside Tasmania.

(4) The provisions of this section are in addition to the provisions of section 362 of the *Companies Act* 1962.

Regulations.

44—(1) The Governor may make regulations for carrying out or giving effect to this Act and, in particular, may make regulations for or with respect to—

(a) requiring persons, or persons belonging to classes of persons, specified in the regulations—

(i) to make returns in such form and manner and containing such information relating to sales, purchases, or stocks of, or dealings with, petroleum products, as is indicated by the regulations; and

(ii) to lodge the returns with the Registrar within such time as may be so specified; and

(b) the display and production of licences by the holders of the licences.

(2) The regulations may provide for a contravention of, or failure to comply with, any provision of the regulations to be an offence and for the imposition of a penalty not exceeding \$500 for such an offence.

(3) Regulations may be made so as to apply differently to or in respect of different classes of persons or different classes of petroleum products or according to such other different factors as may be specified in the regulations.

Expiry.

45—This Act shall expire on 31st December 1982.

SCHEDULE 1

Section 2 (1)

RELEVANT PERIODS FOR CLASS A LICENCES

Column 1	Column 2
January	November
February	December
March	January
April	February
May	March
June	April
July	May
August	June
September	July
October	August
November	September
December	October

