

LIQUID FUEL (EMERGENCY PROVISIONS).

13° GEO. VI., No. CVII.

No. 21 of 1949.

AN ACT relating to liquid fuel.

[Assented to 12th October, 1949.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Liquid Fuel (Emergency Provisions) Act, 1949*.

Construction.

2. (1) This Act shall be read and construed so as not to exceed the legislative power of the State, the intention being, that when any enactment herein contained would, but for this section, have been construed as being in excess of that power, it shall, nevertheless, be a valid enactment to the extent to which it is not in excess of that power.

(2) (a) In this subsection, any reference to an Act includes a reference to any delegated legislation in force under that Act.

(b) If, during the operation of this Act, any Act of the Parliament of the Commonwealth comes into operation, the provisions of which are inconsistent or in conflict with those of this Act, the provisions of this Act shall, by force of this section, be suspended during the operation of that Act.

Interpretation.

3. In this Act, unless the context requires otherwise—

“container” means any drum or other container used or suitable for use in connection with the acquisition, supply, provision, distribution, possession, custody, use and movement of liquid fuel;

- “delegated legislation” includes any proclamation, regulation, Invoked Regulation as amended from time to time, order, notice, direction or requirement, in operation under the provisions of this Act;
- “diesel oil fuel” means petroleum distillate or residual, either crude or refined, suitable for use in compression ignition engines, and includes diesel oil fuel distilled from coal-tar;
- “fuel oil” means crude petroleum distillate or residual product of petroleum suitable for use in burners for the production of heat or steam;
- “Invoked Regulations” means the printed matter which is set out on pages 207 to 223, inclusive, of the Manual of Defence Transitional Legislation, Second Edition, published by the Commonwealth and which purports to be National Security (Liquid Fuel) Regulations, with the omissions and amendments indicated in the Schedule to this Act;
- “kerosene” means petroleum distillate normally marketed as kerosene, and includes lighting kerosene and power kerosene;
- “lighting kerosene” means petroleum distillate normally marketed as lighting kerosene;
- “liquid fuel” includes motor spirit, kerosene, diesel oil fuel, fuel oil and lubricating oil;
- “local authority” means the council of a municipal district constituted under the Municipal Corporations Act, 1906-1947 or the Board of a Road District constituted under the Road Districts Act, 1919-1948;
- “lubricating oil” means petroleum or other oils or mixtures of oils suitable for the lubrication of moving parts of machinery and includes petroleum greases and compounds of oils with other substances to form lubricating grease and mixtures of oils with plastics;
- “motor spirit” means liquid petroleum products or similar hydrocarbons distilling completely below 225°C. and suitable for use as fuel in internal combustion engines and includes motor benzole and power alcohol.

“power kerosene” means petroleum distillate normally marketed as “power kerosene” and suitable for use as fuel in internal combustion engines with spark ignition.

Proclamation
as to
emergency.

4. (1) Whenever it appears to the Governor, that, from any cause, the supply, provision or distribution of liquid fuel is or is likely to be interrupted or dislocated or become less than is sufficient for the reasonable requirements of the community, the Governor may, from time to time, exercise all or any of the powers conferred on him by or under the provisions of this Act and do and perform all such acts, matters and things as are necessary or expedient for carrying into effect the purposes of this Act.

(2) The Governor may, from time to time, by proclamation declare that on and after the date of the publication of the proclamation or a later date specified therein, the provisions of section five of this Act, shall have effect.

Regulations.

5. (1) So long as any proclamation made, pursuant to the provisions of the last preceding section, remain unrevoked, the Governor may make such regulations as he thinks fit, for or without respect to—

- (a) regulating the acquisition, supply, provision, distribution, possession, custody, use and movement of liquid fuel and containers;
- (b) regulating or prohibiting the use of consumption of liquid fuel and the use of containers;
- (c) authorising the taking of possession or control and the disposal or use of any liquid fuel and containers;
- (d) requiring persons to place their liquid fuel and containers at the disposal of the State as may appear to be necessary or expedient for securing the supply or provision of liquid fuel and containers for such users or industries as the Governor declares essential;
- (e) the appointment of any local authority or other person to exercise such functions as may be prescribed for the purposes of this Act or the regulations;

- (f) the conferring or imposing upon any such local authority or person so appointed, of such powers and duties as appear necessary or expedient to carry into effect the purposes of this Act or the regulations;
- (g) requiring any person to disclose any information in his possession as to liquid fuel and containers;
- (h) authorising the entry upon or search of, any premises;
- (i) prescribing generally, all such matters or things as are necessary or expedient to be prescribed, for or incidental to the carrying into effect for the purposes of this Act or the regulations.

(2) Without prejudice to the generality of the provisions of the last preceding subsection, the regulations may authorise the Minister, any local authority or other person, to operate, control, regulate and direct, the acquisition, supply, provision, distribution, possession, custody, use and movement of liquid fuel and containers.

(3) The regulations—

- (a) may be made so as to apply or have operation throughout the whole or any part of the State;
- (b) may be made so as to operate for any period of time specified therein;
- (c) may be of general operation or a specially limited operation, according to any specified times, places, circumstances, conditions or restrictions.

(4) The Clerk of the Executive Council shall cause to be posted to each member of the Legislative Assembly and to each member of the Legislative Council, a copy of all regulations so soon as may be, after the publication thereof in the *Gazette*, pursuant to section thirty-six of the Interpretation Act, 1919-1948, but non-observance of the requirements of this subsection shall not affect the validity of any regulation.

(5) Every regulation shall, unless it sooner expires or is revoked, continue in operation until the proclamation under the authority of which it was made, is revoked; but the expiration or revocation of any

Continuation
of operation
of
regulations.

such regulation, shall not be deemed to have affected the previous operation thereof, or the validity of any action taken thereunder or to affect any penalty, forfeiture or punishment incurred in respect of any offence committed against such regulation or affect any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if such regulation had not expired or had not been revoked.

(6) No regulation made under this Act shall be deemed to be invalid on the ground that it delegates to or confers on the Governor, the Minister, a local authority, or any other person, any discretionary authority.

Invoked
Regulations

6. (1) The Governor may, from time to time, by proclamation, declare that on and after the date of the publication of the proclamation or a later date specified therein, the provisions of the Invoked Regulations shall have effect as the law of the State, and so long as any proclamation so made, remains unrevoked, those provisions shall, subject to the provisions of this section, have effect accordingly.

(2) The Governor may, on the recommendation of the Commonwealth Minister of State for Shipping and Fuel, make regulations for the purpose of amending or revoking the Invoked Regulations, and for making other provisions relating to the rationing of liquid fuel as defined in the Invoked Regulations or to any matter incidental thereto.

Powers
relating to
proclamation.

7. Power given by this Act to make any proclamation, includes power from time to time—

- (a) to revoke the proclamation absolutely in whole or in part;
- (b) to revoke the proclamation absolutely in whole or in part and to substitute another proclamation in its stead;
- (c) to vary the proclamation.

Effect of Act.

8. This Act and any delegated legislation shall, subject to the provisions of this Act, have effect, notwithstanding anything, whether express or implied, in any

other Act or in any law, proclamation or regulation or in any judgment, award or order of any court or tribunal or in any contract or agreement whether oral or written or in any deed, document, security or writing whatsoever, except an award or agreement made under the provisions of the Industrial Arbitration Act, 1912-1948.

9. All powers given by or under this Act and any delegated legislation, shall be in aid of and not in derogation of any other powers exercisable apart from this Act or the delegated legislation.

Powers to be in aid of other powers.

10. Where any acts have been done before the commencement of any delegated legislation, and, by virtue of that delegated legislation, the acts would have been valid and lawful if the delegated legislation had been in force when they were done, the acts shall be deemed to have been validly done under the authority of the delegated legislation.

Validation of acts done in anticipation of delegated legislation.

11. No action, claim or demand, shall lie or be made or allowed by, or in favour of, any person, except in respect of any personal injury sustained by him against His Majesty or any responsible Minister of the Crown or any officer, local authority or other person acting in the execution of this Act or any delegated legislation for or in respect of any damage, loss or injury sustained or alleged to be sustained by reason of the passing of this Act, or its operation, or of anything done or purporting to be done under this Act or any delegated legislation.

Exemption from liability.

12. (1) Any expenditure incurred by or on behalf of the Crown in the carrying out of the provisions of this Act and any delegated legislation, shall be paid out of moneys provided by Parliament.

Finance.

(2) The Treasurer may, from moneys provided by Parliament for the purpose or from moneys made available to the State by the Parliament of the Commonwealth of Australia, upon terms which are not inconsistent with the application of those moneys for the purpose, make grants or advances to any local authority or other person for or towards meeting the expenditure incurred by the local authority or other person in the exercise of any powers, authorities, duties or functions

conferred or imposed upon it or him by or under this Act or the delegated legislation, but no such grant or advance shall be made by the Treasurer except upon the recommendation of the Minister and every such grant or advance shall be made upon such terms and subject to such conditions as the Minister may determine.

13. (1) The provisions of this section shall come into operation on the passing of this Act, notwithstanding that a proclamation has not been made under section four or section six of this Act and shall be in addition to, and not in derogation of, any other of the provisions of this Act.

(2) (a) In this section—

“appointed time” means any time appointed by notice;

“excess” means any quantity of liquid fuel in excess of that fixed by notice;

“return day” means the return day appointed by notice;

“notice” means notice given by the Minister in writing.

(b) For the purposes of this section, notice may be given to—

(i) any particular person;

(ii) all or any persons included in a class of persons;

(iii) all or any persons in any area;

(iv) persons generally;

and may be given to—

(i) any person, by delivering it by hand or by sending it by post in a letter addressed to him at his last known or usual place of abode or place of business;

(ii) any body or association of persons, by delivering it by hand to the secretary or other appropriate officer of the body or association, or by sending it by post in a letter addressed to him at the last known or usual place of business of the body or association; or

(iii) persons generally, or to persons included in a class of persons, or to persons in any area, by publication of the notice in the *Gazette*.

(c) By notice, the Minister may, from time to time, require any person who has any excess at the appointed time, to furnish to the Minister at the address specified

in the notice not later than the return day or within such further time as the Minister allows, a return setting forth—

- (i) the quantity and description of the excess at the appointed time;
- (ii) the name of the owner of the excess;
- (iii) the type and size of containers of the excess;
- (iv) the place where the excess was located;
- (v) the name, address and occupation of the person furnishing the return; and
- (vi) the name, address and occupation of the person from whom the person furnishing the return, acquired the excess.

(d) By notice, the Minister may, from time to time, require any person, in this paragraph referred to as the supplier, who has at any time supplied any liquid fuel, in this paragraph referred to as the supply, to any other person, in this paragraph referred to as the recipient, to furnish to the Minister at the address specified in the notice, not later than the return day, or within such further time as the Minister allows, a return setting forth—

- (i) the quantity and description of the supply;
- (ii) the date when and place where the supply was delivered to the recipient;
- (iii) the name, address and occupation of the supplier and the recipient;
- (iv) the type and size of the containers of the supply;
- (v) the cost paid by the recipient to the supplier for—

(I) the supply;

(II) the containers of the supply.

(3) A person shall not make, in a return furnished in pursuance of this section, any statement which is false or misleading in any particular.

(4) (a) The Minister may, by notice—

- (i) prohibit the person having any excess, from acquiring all or any liquid fuel until that excess is used in such manner, at such rate of consumption, and subject to such conditions, if any, as the Minister shall specify;

- (ii) take possession or control and dispose of or use or direct the use of, any excess and its containers;

(iii) delegate the exercise of the power conferred upon him by the last preceding subparagraph, to any local authority or other person.

(b) Where any liquid fuel or container is taken from any person pursuant to the provisions of the last preceding paragraph, the Minister shall pay to the person an amount equal to the cost paid for it by that person, and if there is any dispute as to that cost, the dispute shall be referred to Arbitration, pursuant to the provisions of the Arbitration Act, 1895.

(c) Where any person is prohibited from acquiring liquid fuel, pursuant to the provisions of subparagraph (i) of paragraph (a) of this subsection, the Minister shall cause the notice to be—

(i) served upon the person, and if the person acquires thereafter liquid fuel contrary to the notice, or does not observe any other term of the notice, he commits an offence against this Act;

(ii) published in the *Gazette*, and any person who supplies thereafter, liquid fuel to the person so prohibited, contrary to the notice, commits an offence against this Act.

(d) The Minister may, by notice, from time to time, revoke or alter any notice given under the provisions of this section and substitute others for any revoked.

(5) (a) Any person authorised in writing by the Minister, may at any time in the day or night enter into and search any premises or vessel or part thereof, where there is any liquid fuel, or where liquid fuel is supposed to be, and, if necessary for that purpose, may break into and use force to enter such premises or vessel or part thereof and may break open any containers or other things in which any liquid fuel is supposed to be.

(b) A person shall not hinder or obstruct any person so authorised in the exercise or attempted exercise of any power conferred by the last preceding paragraph.

(6) (a) The Minister and any person authorised in writing by him, may require any person to furnish any information either orally or in writing, or to produce any accounts, books or documents, relating to transactions in, or in connection with, any stocks of liquid fuel, and may take away copies of or extracts from, any accounts, books or documents so produced.

(b) No person shall be excused from furnishing any information, or producing any accounts, books or documents, when required so to do in pursuance of the provisions of this subsection, on the ground that that furnishing or production might tend to criminate him or make him liable to a penalty; but the information furnished by him, or obtained from the production by him of accounts, books or documents, under this subsection, shall not be admissible in evidence against him in any civil or criminal proceedings, other than a proceeding in respect of a contravention of this Act or the delegated legislation.

(c) A person, when lawfully required in pursuance of this subsection, to furnish any information or produce any accounts, books or documents in his possession or control, shall not—

- (i) refuse or fail to furnish the information or to produce the accounts, books or documents; or
- (ii) furnish any information which is false or misleading in any particular.

14. (1) Any person who contravenes or fails to comply with any provision of this Act or any delegated legislation, or requirement made or given by or under this Act or any delegated legislation, is guilty of an offence against this Act and is liable, for a first offence to a fine not exceeding two hundred pounds, and for a second or subsequent offence, to a fine not exceeding five hundred pounds, or to imprisonment for not more than twelve months.

Offences.

15. All proceedings for offences against this Act shall be disposed of summarily before a court of petty sessions holden before a stipendiary, police, or resident magistrate.

Proceedings
for offences.

16. This Act shall continue in operation until the thirty-first day of December, one thousand nine hundred and fifty and no longer.

Expiration.

SCHEDULE.

NATIONAL SECURITY (LIQUID FUEL) REGULATIONS.

Omissions and Amendments Referred to in Section 3.

1. Regulation 4—

Omit the definition of "District Authority."

Amend the definition of "Liquid Fuel Control Board" so as to read as follows:—

"A Liquid Fuel Control Board" means a board by that name appointed for the State by the Commonwealth Minister.

Omit the definition of "the Australian Capital Territory."

Amend the definitions of "the Board," "the Controller," "the Deputy Controller," and "the Minister" so as to read as follows:—

"the Board" means the Commonwealth Liquid Fuel Control Board appointed by the Commonwealth Minister or some other authority of the Commonwealth;

"the Controller" means the Controller of Liquid Fuel appointed by the Commonwealth Minister or some other authority of the Commonwealth;

"the Deputy Controller" means the Deputy Controller of Liquid Fuel appointed by the Commonwealth Minister or some other authority of the Commonwealth;

"the Commonwealth Minister" means the Commonwealth Minister of State for Shipping and Fuel.

2. Omit regulations 5 to 13, inclusive.

3. Regulation 14—

Omit "or the Liquid Fuel Control Authority for the Australian Capital Territory, or a District Authority," in the sixth and seventh lines.

Omit "or Authority" in the ninth line.

4. Regulation 15—

Omit "(other than subregulation (6) of regulation 9)".

Omit "have absolute control" and substitute "to the extent provided by orders under this regulation, have control".

Omit "if it appears to the Board to be necessary so to do in the interests of the defence of the Commonwealth" in lines six, seven and eight.

5. Omit regulation 15A.

6. Regulation 16—

Omit "Commonwealth (other than the Northern Territory)" and insert "State".

7. Omit regulation 17.

8. Regulation 22—

Omit subregulation (5).

9. Omit regulation 23.

10. Regulation 24—
Omit "Commonwealth (other than the Northern Territory)" in subregulation (1) and insert "State".
11. Regulation 25—
Omit "or where the business has branches in more than one state or Territory, at more than one branch" in the second third and fourth lines, and "or branch" in the fifth line.
12. Regulation 29—
Omit "or where the business has branches in more than one State or Territory, at more than one branch" in the second, third and fourth lines, and "or branch" in the fifth line of subregulation (2).
13. Regulation 30—
Omit "28" in subregulation (1) and substitute "29".
14. Omit regulation 32.
- 14A. Regulation 34—
Add the following subregulations:—
 - (3) Where the Board decides to revoke a license pursuant to the provisions of this regulation, the Board shall cause written notice of its decision to be given to the license holder.
 - (4) Within seven days of receipt of the notice, the license holder may appeal to the magistrate of a Local Court against the decision.
 - (5) The magistrate may confirm reverse or vary the decision and make such order as to the costs of the appeal as he shall consider just and his determination shall be final.
15. Regulation 35—
Omit "and upon his paying a fee of two shillings and sixpence".
16. Regulation 51—
Insert in subregulation (1), after paragraph (a), the following paragraph:—
 - (aa) alter or deface any ration ticket or licence, or any addition to or endorsement on, a ration ticket or licence;Insert in paragraph (c) of subregulation (1), after "licence" last occurring, "or any altered ration ticket or licence".
Add the following subregulation:—
 - (4) A ration ticket or licence shall be deemed to be altered if any addition or endorsement authorised to be made thereto or thereon under these Regulations, whether the addition or endorsement is in accordance with the requirements of these Regulations or not, is removed, erased, obliterated, added to, or otherwise altered.