



Western Australia

## **Liquefied Petroleum Gas Subsidy Act 1980**

This Act was repealed by the *Statutes (Repeals and Minor Amendments) Act 2003* s. 10(1) (No. 74 of 2003) as at 15 Dec 2003 (see s. 2).



## Liquefied Petroleum Gas Subsidy Act 1980

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## Liquefied Petroleum Gas Subsidy Act 1980

**An Act to subsidise the cost of liquefied petroleum gas and certain other gas when used for certain purposes.**

**1. Short title**

This Act may be cited as the *Liquefied Petroleum Gas Subsidy Act 1980*<sup>1</sup>.

**2. Commencement**

This Act shall be deemed to have come into operation on 28 March 1980.

**3. Interpretation**

In this Act, unless the contrary intention appears —

***authorised officer*** means a person appointed to be an authorised officer under section 6;

***Commonwealth Act*** means the *Liquefied Petroleum Gas (Grants) Act 1980* of the Parliament of the Commonwealth or, if that Act is amended, that Act as so amended;

***Commonwealth Minister*** means the Minister of State of the Commonwealth for the time being administering the Commonwealth Act;

***eligible gas*** means —

- (a) liquefied petroleum gas; or
- (b) eligible reticulation gas;

***eligible reticulation gas*** means gas supplied to premises by means of pipes, being gas the production of which involves the use of liquefied petroleum gas or naphtha;

**eligible use**, in relation to eligible gas, means —

- (a) the use of the gas at residential premises in providing food and drink for, in providing heating, air-conditioning, hot water or similar amenities for, or in meeting other domestic requirements of residents of the premises;
- (b) the use of the gas at a hospital; nursing home or other institution providing medical or nursing care, not being an institution conducted for the profit, direct or indirect, of a person;
- (c) the use of the gas at a school, not being a school conducted for the profit, direct or indirect, of an individual or individuals; or
- (d) any other use of the gas outside a natural gas area, not being —
  - (i) use in a prescribed industry; or
  - (ii) use in the propulsion of a vehicle, other than a works truck;

**industry** means a primary, secondary, or tertiary industry, and includes a field of governmental activity, of public or community services (including health and educational services) or of entertainment, sport or recreation;

**natural gas area** means a part of Australia that is, by virtue of a declaration in force under section 3A(1) of the Commonwealth Act, a natural gas area for the purposes of that Act;

**prescribed industry** means an industry that is, by virtue of a declaration in force under section 3B(1) of the Commonwealth Act, a prescribed industry for the purposes of that Act;

**registered distributor** means —

- (a) a registered distributor of liquefied petroleum gas; or
- (b) a registered distributor of eligible reticulation gas;

**registered distributor of eligible reticulation gas** means a distributor of eligible reticulation gas who is registered as such a distributor in accordance with the scheme;

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

**residential premises** means —

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

but does not include —

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

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

**section** means section of this Act;

**subsection** means subsection of the section in which the term appears.

**use**, in relation to liquefied petroleum gas or eligible reticulation gas, does not include sale or exchange;

**works truck** means —

- (a) a fork-lift truck; or
- (b) any other vehicle designed for use at a factory, warehouse, dock, airport or similar place in transporting

goods over short distances or in otherwise handling goods.

- (2) A reference in this Act to liquefied petroleum gas sold for eligible use shall be read as including a reference to liquefied petroleum gas that, by virtue of a provision of the scheme, is deemed to have been sold for eligible use.
- (2a) A reference in this Act to liquefied petroleum gas sold for eligible use shall be read as not including a reference to any liquefied petroleum gas that, by virtue of a determination under a provision of the scheme, is deemed to have been sold otherwise than for eligible use.
- (2b) A reference in this Act to eligible reticulation gas sold for eligible use shall be read as not including a reference to any eligible reticulation gas that, by virtue of a determination under a provision of the scheme, is deemed to have been sold otherwise than for eligible use.
- (3) A reference in this Act to an Act of another State shall be read as including a reference to a law of the Northern Territory.

**4. Calculation of subsidy**

There are payable, in accordance with this Act, to registered distributors amounts ascertained in accordance with the scheme.

**5. Advance on account of subsidy**

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

**6. Authorised officers**

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.



- (2) A person may be appointed to be an authorised officer under subsection (1) notwithstanding that he is an officer of the Commonwealth.
- (3) An officer of the Commonwealth shall not be appointed to be an authorised officer under subsection (1) without the consent of the Commonwealth Minister.

**7. Claims for payments**

A claim by a registered distributor for a payment under this Act shall be made to an authorised officer and in accordance with the regulations made under this Act.

**8. Certificates**

- (1) An authorised officer shall examine each claim for a payment under this Act made to him and shall, if he is satisfied that an amount is payable to the claimant, give a certificate in writing to that effect.
- (2) An authorised officer who is examining a claim for a payment under this Act may give a certificate in writing —
  - (a) that a specified person sold a specified quantity of liquefied petroleum gas for eligible use on a specified date;
  - (b) that a specified quantity of liquefied petroleum gas or naphtha was purchased by, delivered to, or used in the production of eligible reticulation gas by, a specified person on a specified date; or
  - (c) that a specified person sold a specified quantity of eligible reticulation gas for eligible use, or sold a specified quantity of eligible reticulation gas, during a specified period.
- (3) When an authorised officer is satisfied that an amount paid to a person under this Act (including an amount paid by way of an advance) was not payable to the person or exceeded the amount that was payable to the person, he may give a certificate in

writing that the amount paid or the amount of the excess, as the case may be, is an overpayment to that person by the State.

- (4) The Auditor General of the State shall treat a certificate under this section as correct in all respects.
- (5) For the purposes of this Act, a document purporting to be a certificate referred to in this section shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

**9. Payments**

When a certificate is given under section 8(1), the Minister shall authorise an amount equal to the amount specified in the certificate to be paid to the person in respect of whom the certificate was given.

**10. Overpayments**

- (1) When an amount paid to a person under this Act (including an amount paid by way of an advance) was not payable to the person or exceeded the amount that was payable to the person, that amount is an overpayment to the person by the State which the person is liable to repay to the State and the State may seek to recover that amount in a court of competent jurisdiction as a debt due to the State.
- (2) In proceedings in a court against a person for the recovery of an amount by reason that it is an overpayment to the person by the State, a certificate under section 8(3) that the amount is such an overpayment is *prima facie* evidence that the amount is such an overpayment.

**11. Securities**

An authorised officer may require a registered distributor to give security in an amount determined by the authorised officer by bond, guarantee or cash deposit, or by all or any of those methods, for compliance by him with the provisions of this Act

or for the purposes of an undertaking given by him for the purposes of this Act; and the distributor is not entitled to a payment under this Act unless he gives security accordingly.

**12. Preservation of accounts etc.**

- (1) A person who receives a payment under this Act in respect of the sale of any liquefied petroleum gas shall preserve the accounts, books, documents and other records relating to that sale until the expiration of 12 months after the date of making the claim in respect of which the payment was made.
- (2) A person who receives a payment under this Act in respect of the purchase by him of any liquefied petroleum gas or naphtha delivered to him during a period shall preserve the accounts, books, documents and other records relating to that purchase or to the production or sale by him of eligible reticulation gas during that period until the expiration of 2 years after the date of making the claim in respect of which the payment was made.
- (3) A person who fails to comply with the requirements of subsection (1) or (2) shall be guilty of an offence against this Act and shall be liable, on conviction, to a penalty of not more than \$1 000.

**13. Stocktaking and inspection of accounts etc.**

- (1) For the purpose of this Act or an Act of another State relating to subsidy for the sale of liquefied petroleum gas or the purchase of liquified petroleum gas or naphtha, an authorised officer may at all reasonable times enter any premises of a registered distributor or of a person who is registered as a distributor of liquefied petroleum gas or a distributor of eligible reticulation gas in accordance With a scheme formulated by the Commonwealth Minister in relation to another State or the Northern Territory for the purposes of the Commonwealth Act or any vehicle used by such a distributor or person for the carriage of any liquefied petroleum gas and may inspect the accounts, books, documents and other records relating to the

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sale of liquefied petroleum gas, the production or sale of eligible reticulation gas or the purchase of liquefied petroleum gas or naphtha.

- (2) The occupier of any premises or any person in charge of any vehicle referred to in subsection (1) shall provide the authorised officer with all reasonable facilities and assistance for the effective exercise of his powers under this section.
- (3) For the purposes of this Act, an authorised officer may, at all reasonable times, enter any premises to which eligible gas has been or is supplied by a registered distributor, being gas in relation to which a claim for payment under this Act has been made, and may inspect the books, documents or other records relating to the purchase or use of the gas.
- (4) A person who obstructs, molests or hinders an authorised officer in the exercise of his powers under this section shall be guilty of an offence against this Act and liable, on conviction, to a penalty of not more than \$500.

*[Section 13 amended by No. 1 of 1981 s. 4.]*

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

- (1) An authorised officer may, by notice signed by him, require a person whom he believes to be capable of giving information relevant to a claim for a payment under this Act or an Act of another State relating to subsidy in respect of the sale of liquefied petroleum gas or the purchase of liquefied petroleum gas or naphtha to attend before him at the time and place specified in the notice and there to answer questions and produce to him such accounts, books, documents and other records in relation to the claim as are referred to in the notice.
- (2) The authorised officer may make and retain copies of, or take extracts from, any accounts, books, documents or other records produced in pursuance of this section.

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

**15. Power to examine on oath**

- (1) An authorised officer may examine, on oath or affirmation, a person attending before him in pursuance of section 14 and, for that purpose, may administer an oath or affirmation to that person.
- (2) The oath or affirmation to be made by a person for the purpose of subsection (1) is an oath or affirmation that the answers he will give to questions asked him will be true.

**16. Offences**

- (1) A person shall not, without reasonable excuse, refuse or fail —
- (a) to attend before an authorised officer;
  - (b) to be sworn or make an affirmation; or
  - (c) to answer a question or produce an account, book, document or other record,

when so required in pursuance of this Act.

Penalty: \$1 000.

- (2) A person shall not —
- (a) knowingly obtain or attempt to obtain a payment under this Act that is not payable; or
  - (b) obtain or attempt to obtain a payment under this Act by means of a statement that he knows to be false or misleading or by means of a document which to his

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knowledge contains information that is false or misleading.

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

- (3) A person shall not make to an authorised officer a statement that is false or misleading in a material particular.

Penalty: \$1 000.

- (4) When a person is convicted of an offence against subsection (2), the court may, in addition to imposing a penalty under that subsection, order that person to refund to the State the amount of any payment under this Act wrongfully obtained.

- (5) When a court has made an order under subsection (4), a certificate signed by the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom that amount is payable may be filed in a court having a civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

- (6) Proceedings in relation to an offence against this Act shall not be commenced later than one year after the commission of the offence.

**17. Delegation**

- (1) The Minister may, either generally or otherwise as provided in the instrument of delegation, by writing under his hand delegate all or any of his powers under this Act (except this power of delegation).
- (2) A power delegated under subsection (1) may be exercised by the delegate in accordance with the instrument of delegation.
- (3) A delegation under this section is revocable at will by the Minister and does not prevent the exercise of a power by him.

**18. Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or in respect of —
  - (a) the manner in which claims for payment under this Act shall be made;
  - (b) the information to be furnished by claimants in connection with claims for payments under this Act; and
  - (c) penalties not exceeding \$200 for offences against the regulations.
- (2) Regulations made under subsection (1) may provide that they shall be deemed to have come into operation on 28 March 1980 or on any date after that date but before the date of publication of those regulations in the *Gazette* and, if they so provide, shall be deemed to have come into operation accordingly.

### Notes

- <sup>1</sup> This reprint is a compilation as at 21 November 2003 of the *Liquefied Petroleum Gas Subsidy Act 1980* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

#### Compilation table

Short title	Number and year	Assent	Commencement
<i>Liquefied Petroleum Gas Subsidy Act 1980</i>	39 of 1980	5 Nov 1980	28 Mar 1980 (see s. 2)
<i>Liquefied Petroleum Gas Subsidy Amendment Act 1981</i>	1 of 1981	18 May 1981	s. 3: 30 Sep 1980 (see s. 2(1)); s. 1 and 2: 18 May 1981; s. 4: 15 Jun 1981 (see s. 2(2))

**Reprint 1: The *Liquefied Petroleum Gas Subsidy Act 1980* as at 21 Nov 2003** (includes amendments listed above)

**This Act was repealed by the *Statute (Repeals and Minor Amendments) Act 2009* s. 3(1)(e) (No. 46 of 2009) as at 4 Dec 2009 (see s. 2(b))**

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
authorised officer .....	3
Commonwealth Act .....	3
Commonwealth Minister .....	3
eligible gas .....	3
eligible reticulation gas .....	3
eligible use .....	3
industry .....	3
natural gas area .....	3
prescribed industry.....	3
registered distributor .....	3
registered distributor of eligible reticulation gas .....	3
registered distributor of liquefied petroleum gas .....	3
residential premises.....	3
scheme .....	3
section .....	3
subsection .....	3
use .....	3
works truck .....	3