Western Australia

Petroleum Retailers Rights and Liabilities Act 1982

This Act was repealed by the *Petroleum Retailers Rights and Liabilities Repeal Act 2025* s. 3(1) (No. 16 of 2025) on 1 Nov 2025 (see s. 2(b)).

Western Australia

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Western Australia

Petroleum Retailers Rights and Liabilities Act 1982

An Act with respect to the rights and liabilities of certain persons selling motor fuel by retail and for other purposes.

[Long title amended: No. 11 of 2001 s. 4.]

1. Short title

This Act may be cited as the *Petroleum Retailers Rights and Liabilities Act 1982* [1].

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation [1].

3. Terms used

(1) In this Act unless the context otherwise requires —

authorised officer means a person designated as an authorised officer under section 12;

bulk storage means a storage tank or a number of storage tanks for motor fuel installed at a site;

Commissioner has the meaning given by section 3 of the *Petroleum Products Pricing Act 1983*;

Department has the meaning given by section 3 of the *Petroleum Products Pricing Act 1983*;

dispensing equipment means —

(a) in relation to petrol or diesel fuel, a pump that transfers motor fuel from any bulk storage into the part of a road vehicle designed to hold that kind of motor fuel for use in the propulsion of that vehicle;

(b) in relation to LPG fuel, a device that transfers LPG fuel from any bulk storage into the part of a road vehicle designed to hold LPG fuel for use in the propulsion of that vehicle;

landlord means, in relation to a site at which the retailer is a tenant, the person who has granted to the retailer the right to occupy the site;

motor fuel means LPG (liquefied petroleum gas), petrol or diesel fuel used in propelling a road vehicle;

primary supplier, in relation to a particular kind and, where applicable, grade of motor fuel, means the person, if any, from whom the retailer would, but for this Act, be obliged to purchase more than 50% of that kind and, where applicable, grade of motor fuel for the site concerned;

retailer means a person who sells motor fuel by retail at a site;

section means a section of this Act;

site means premises at which motor fuel is sold by retail and is usually dispensed through dispensing equipment;

subsection means a subsection of the section in which that term is used;

tenant means, in relation to a site, a retailer whose right to occupy the site at which motor fuel is sold is not as the owner of the site but derives through another person.

(2) Nothing in this Act shall apply to a site which is being lawfully operated by a prescribed corporation within the meaning of the *Petroleum Retail Marketing Sites Act 1980* [2] of the Commonwealth in accordance with that Act.

(3) Nothing in this Act shall apply to or in relation to a site which is primarily used for and in connection with the wholesaling of motor fuel.

[Section 3 amended: No. 57 of 1997 s. 39(10); No. 11 of 2001 s. 5; No. 28 of 2006 s. 129.]

3A. Contracts not terminated or breached

Nothing in this Act, or done under this Act, causes an agreement to be terminated or amounts to a breach of contract.

[Section 3A inserted: No. 11 of 2001 s. 6.]

4. Retailer's rights

(1) A retailer at a site may —

(a) purchase motor fuel, for resale at the site, from a supplier other than the primary supplier for that kind and, where applicable, grade of motor fuel for that site; and

(b) if, under paragraph (a) or otherwise, the retailer is lawfully able to purchase motor fuel for resale at the site from a supplier other than the primary supplier for that kind and, where applicable, grade of motor fuel for that site —

(i) use, for the storage of that motor fuel, any bulk storage at the site that is suitable; and

(ii) use, for the dispensing of that motor fuel, any dispensing equipment on the site that is suitable.

(1a) Subsection (1) applies subject to this section but, except as stated in subsection (1b), despite —

(a) any Act or law affecting the contractual relationship between a landlord and a tenant; or

(b) any agreement to the contrary, whether made between the primary supplier and the retailer or not.

(1b) Subsection (1)(a) does not apply if a purchase under that paragraph would be contrary to an agreement that was entered into before 10 February 2001.

(1c) An agreement resulting from the modification, continuation, or renewal of an agreement entered into before 10 February 2001 is to be considered, when applying subsection (1b), to have been entered into on the day on which it was most recently modified, continued, or renewed, but —

(a) a modification is not to be taken into consideration if it had no necessary connection with the duration of the agreement; and

(b) a modification, continuation, or renewal is not to be taken into consideration if the retailer was the only party who had a choice about whether the modification, continuation, or renewal would be made.

(1d) Nothing in this section limits any right that the retailer may, independently of this section, have to purchase motor fuel, for resale at the site, from a supplier other than the primary supplier for that kind and, where applicable, grade of motor fuel for that site.

(2) A right conferred on the retailer by subsection (1) is not exercisable until 7 days after notice in writing of the intention to exercise it has been given —

(a) if it is a right conferred by subsection (1)(a), to the retailer's primary supplier, if any, for the kind and, where applicable, grade of motor fuel concerned;

(b) if it is a right conferred by subsection (1)(b), to the retailer's landlord, if the retailer is a tenant, and to the retailer's primary supplier, if any, for the kind and, where applicable, grade of motor fuel concerned.

(3) Where a retailer exercises his right under subsection (1) he shall ensure that —

(a) so far as is practicable he has motor fuel of each kind and, where applicable, grade that he is obliged to purchase from his primary supplier available for sale at the site;

(b) where in any 6 month period —

(i) he purchases motor fuel of a particular kind and, where applicable, grade from one supplier, other than his primary supplier for that kind and, where applicable, grade of motor fuel, he purchases at least as much motor fuel of that kind and, where applicable, grade from his primary supplier as he purchases from that other supplier;

(ii) he purchases motor fuel of a particular kind and, where applicable, grade from more than one supplier, other than his primary supplier for that kind and, where applicable, grade of motor fuel, he purchases at least as much motor fuel of that kind and, where applicable, grade from his primary supplier as the total amount of motor fuel of that kind and, where applicable, grade that he purchases from those other suppliers;

(c) any dispensing equipment on the site that is used to dispense motor fuel other than motor fuel supplied by the primary supplier for the kind and, where applicable, grade of fuel dispensed does not, and any bulk storage on the site that is not underground and is used to store motor fuel other than motor fuel supplied by the primary supplier for the kind and, where applicable, grade of fuel stored does not, display the name or business name of the primary supplier or any colours or distinguishing symbol or motif identifying, commonly associated with, or controlled by the primary supplier;

(d) a permanent register is maintained containing the prescribed particulars of any purchase of motor fuel;

(e) forthwith on the receipt of any motor fuel, there be entered in the register maintained for the purposes of paragraph (d) the prescribed particulars of such receipt;

(f) the Commissioner or an authorised officer is allowed to inspect and take extracts from the register maintained by a retailer for the purposes of paragraph (d);

(g) so far as is practicable any bulk storage that he uses pursuant to that right does not contain any motor fuel that has been supplied to the site by his primary supplier;

(h) so far as is practicable any bulk storage that he uses pursuant to that right does not contain a mixture of different kinds or grades of motor fuel, but may contain a mixture of different brands of motor fuel;

(i) all dispensing equipment on the site is fitted with sealed volume totalizers which record the total amount of fuel dispensed by the equipment.

Penalty: $20 000.

(3a) For the purposes of deciding whether a retailer has, as required by subsection (3)(a), ensured, so far as is practicable, that motor fuel that the retailer is obliged to purchase from the primary supplier is available for sale at the site, the lack of availability of storage is not relevant if more than one kind or, where applicable, grade of motor fuel is being stored, under subsection (1)(b)(i), in bulk storage provided at the site for the storage of motor fuel purchased from the primary supplier.

(4) Subsection (3)(b) does not apply for a particular kind or grade of motor fuel in any 6 month period if —

(a) the primary supplier has not, as reasonably requested by the retailer, supplied the reasonable requirements of the retailer for that kind or grade of motor fuel in that period; and

(b) after the failure to supply —

(i) the retailer has given the primary supplier notice in writing that it is intended to rely on this subsection if the supply requested is not made within a further time reasonably specified in the notice; and

(ii) the primary supplier does not make the supply within that further time.

(4a) For the purposes of deciding whether a person has, as required by subsection (3)(g) or (h), ensured, so far as is practicable, that bulk storage does not contain a particular motor fuel, the lack of availability of other storage is not relevant.

(5) If a provision of an agreement —

(a) requires a retailer to display the name or business name of the primary supplier of a kind or grade of motor fuel or any colour or distinguishing symbol or motif identifying or commonly associated with or controlled by the primary supplier on all items of dispensing equipment or on bulk storage that is not underground; or

(b) restricts the rights of the retailer to use or maintain or paint dispensing equipment operated in accordance with this Act; or

(c) permits the landlord, if the retailer is a tenant, or a primary supplier to paint or affix signs, symbols or motifs to or write on dispensing equipment being operated, or bulk storage being used, by the retailer in accordance with this Act,

the provision is to the extent that it restricts or modifies or purports to restrict or modify the exercise of the retailer's rights under this Act void and of no effect.

(6) Where a retailer exercises his right under subsection (1) the retailer shall display on any dispensing equipment used to dispense motor fuel of the kind and, where applicable, grade

concerned purchased from a person other than the primary supplier a notice that conforms to the regulations.

Penalty: $20 000.

(7) Any person who makes a false entry in or in any other manner falsifies a register referred to in subsection (3) is guilty of an offence against this Act.

Penalty for an offence under subsection (7): $20 000.

[Section 4 amended: No. 11 of 2001 s. 7, 15, 16(1) and 17(3).]

5. Exercise of retailer's rights

(1) For the purposes of exercising a right under section 4, a retailer at a site —

(a) may, with the permission of the landlord of the site if the retailer is a tenant, install additional bulk storage; and

(b) may —

(i) with the permission of the owner of any bulk storage, if the retailer does not own it, isolate from the bulk storage any other bulk storage; and

(ii) with the permission of the landlord of the site if the retailer is a tenant and, if neither the retailer nor the landlord owns the bulk storage to which the dispensing equipment is to be connected, the permission of the owner of the bulk storage, install additional dispensing equipment; and

(iii) with the permission of the owner of the dispensing equipment, if the retailer does not own it, connect any existing dispensing equipment to any bulk storage installed by the retailer;

and

(c) may, with the permission of the owner of the dispensing equipment, if the retailer does not own it, replace any dispensing equipment connected to any existing bulk storage.

(2) A retailer at a site intending to exercise a right under subsection (1) that is exercisable only with another person's permission may give to the other person notice in writing of his intention together with details of his proposal, including, where subsection (1)(a) or (1)(b) applies, plans and specifications.

(3) A person who receives notice under subsection (2) shall, within 28 days after receipt of the notice —

(a) give permission to the retailer to exercise the right; or

(b) refuse to give permission, or give permission subject to any condition, and state the ground upon which permission is refused or any condition is imposed.

(4) Where a person fails to comply with the requirements of subsection (3), the permission shall be deemed to have been given.

(4a) A retailer who, under subsection (3), is refused permission to exercise a right under subsection (1) is deemed to have been given that permission if —

(a) the person who refused to give permission concedes that the refusal was unreasonable; or

(b) the Commissioner has determined under subsection (9) that the refusal was unreasonable.

(4b) A retailer who, under subsection (3), is given permission to exercise a right under subsection (1) subject to any condition —

(a) is deemed to have been given that permission unconditionally if —

(i) the person who gave permission concedes that any condition was unreasonable; or

(ii) the Commissioner has determined under subsection (9) that any condition was unreasonable without specifying conditions to which the retailer and the person giving permission have agreed;

(b) if the Commissioner has determined under subsection (9) that any condition was unreasonable but specifies conditions to which the retailer and the person giving permission have agreed, is deemed to have been given that permission subject to those conditions.

(4c) A determination of the Commissioner does not take effect for the purposes of subsection (4a) or (4b) unless —

(a) the time within which an application for a review of the determination may be made under subsection (10) has elapsed without an application having been made; or

(b) although an application for a review of the determination was made under subsection (10), the application has been withdrawn or has been finally disposed of without a finding that the refusal or condition that the Commissioner found to be unreasonable was reasonable.

(4d) For the purposes of subsection (4c), an application is not finally disposed of until —

(a) the time fixed for applying for leave to appeal under section 105 of the *State Administrative Tribunal Act 2004* has passed without an application having been made; or

(b) leave to appeal has been refused; or

(c) leave to appeal has been granted and the time fixed for instituting an appeal has passed without an appeal having been instituted; or

(d) an appeal has been instituted and has been withdrawn or finally disposed of.

(5) A retailer at a site shall not exercise a right under subsection (1) until the relevant permission has been given or is deemed to have been given nor contrary to any condition to which the permission is subject.

(6) Where a retailer at a site has exercised a right under this section, he shall —

(a) ensure that any work carried out pursuant to the exercise of such right complies with all Acts, regulations, local laws, by-laws or other requirements of any government, local government, authority or other governing body and that the work is executed in a safe and workmanlike manner and, subject to this paragraph, in accordance with any relevant proposal given under subsection (2); and

(b) forthwith after exercising the right, reinstate the site so as to ensure that it is able to continue to be operated safely and properly and that it shall, as far as is practicable, retain the appearance which it had prior to the exercise of that right.

Penalty: $20 000.

(7) Where a retailer exercises a right under this section with the permission of another person he shall indemnify that person and hold that person harmless against all claims, suits, loss or damage which the person may suffer by reason of the workmanship or materials employed in the exercise of such right or arising in respect of or from the use of the bulk storage or dispensing equipment, as the case may be, affected by that exercise.

(7a) Where a retailer exercises a right under this section with the permission of another person the retailer has no claim or suit against that person in relation to any loss or damage which the retailer or another person may suffer by reason of the workmanship or materials employed in the exercise of such right or arising in respect of or from the use of the bulk storage

or dispensing equipment, as the case may be, affected by that exercise.

(8) The retailer shall —

(a) take out and maintain insurance against his indemnity liability under subsection (7), such insurance to be for an amount, in respect of any one occurrence which may give rise to the liability, which is prescribed by the regulations; and

(b) upon being so requested by the person indemnified, produce adequate evidence to show that such insurance has been taken out and remains current.

Penalty: $20 000.

(9) Any dispute arising in relation to an exercise of a right under this section or to the reasonableness of a refusal by a person to give permission for the exercise of a right or to the reasonableness of a condition subject to which permission is given shall be determined by the Commissioner.

(10) A retailer or other person referred to in this section who is aggrieved by a determination of the Commissioner made under subsection (9) may apply to the State Administrative Tribunal for a review of the determination within 7 days of that determination.

[Section 5 amended: No. 14 of 1996 s. 4; No. 11 of 2001 s. 8, 15, 16, 17(1) and (3); No. 55 of 2004 s. 923.]

6. Retailer's liability

(1) Where a retailer exercises his right under this Act to use dispensing equipment that has been installed and maintained by the landlord, if the retailer is a tenant, or a primary supplier of any kind or grade of motor fuel for the site he shall be liable to pay to the landlord or primary supplier as the case requires 100% of the cost incurred by the landlord or primary supplier in the maintenance of the dispensing equipment while it is being

used for the dispensing of motor fuel supplied otherwise than by the primary supplier.

(2) Dispensing equipment shall be deemed to have been used by a retailer for the dispensing of motor fuel supplied otherwise than by the primary supplier from the day upon which notice in writing to the primary supplier of his intention to so use the equipment took effect until he has given notice in writing to the primary supplier that he has ceased to so use the equipment.

[Section 6 amended: No. 11 of 2001 s. 9 and 16(1).]

7. Landlord not to impose charges or limitations

(1) A landlord of, or a primary supplier of any kind or grade of motor fuel for, a site shall not, by reason only that the retailer exercises or purports or attempts to exercise any right under this Act, impose any charge (other than a charge authorised by this Act) or remove or threaten to remove any benefit or privilege enjoyed by the retailer.

Penalty: $20 000.

(2) Subsection (1) does not apply in relation to the imposition of a charge or removal, or threatened removal, of a benefit or privilege if —

(a) the imposition, removal or threatened removal relates to a matter which is referred to in section 20 of the *Petroleum Retail Marketing Franchise Act 1980* [2] of the Commonwealth; or

(b) the benefit or privilege removed or threatened to be removed was given primarily to promote the sale of motor fuel supplied by the primary supplier; or

(c) the benefit or privilege removed related to the terms of payment required of a class or classes of retailers and was removed pursuant to a general variation of such terms for all members of that class or those classes.

(3) In determining whether a contravention of subsection (1) has been committed regard shall not be had to any act or thing that is or is of a kind specifically authorised or approved by the regulations.

[Section 7 amended: No. 11 of 2001 s. 10, 16(1) and 17(2).]

8. Compensation

(1) Where a person suffers loss or damage by reason of another person contravening or failing to comply with a provision of this Act or the regulations, the second-mentioned person is liable to compensate the first-mentioned person who may recover the amount of the compensation by action in the Supreme Court.

(2) An action under subsection (1) may be commenced at any time within 3 years after the day on which the cause of action accrued.

(3) A certified copy of a court order convicting a person for contravening or failing to comply with a provision of this Act or the regulations shall be evidence of such contravention or failure to comply in any proceedings for compensation brought under this Act.

(4) In any proceedings for compensation brought under this Act the standard of proof required for establishing each element of the first-mentioned person's case shall be the same as that required for the proof of a fact in issue in civil proceedings generally.

9. Supreme Court orders

(1) The Supreme Court may, on the application of any person, make one or more of the following orders —

(a) an order restraining a person from engaging in conduct that constitutes or would constitute a contravention of the provisions of this Act or the regulations; or

(b) an order directing a person to comply with an obligation imposed by this Act or the regulations; or

(c) such other or ancillary orders as the Court thinks fit to ensure observance of this Act or the regulations.

(2) If, in the opinion of the Supreme Court it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).

(3) The Supreme Court may rescind or vary an order granted under subsection (1) or (2).

(4) The Supreme Court may grant an order under subsection (1) or (2) restraining a person from engaging in conduct of a certain kind, whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind and whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to a person if the first-mentioned person engages in conduct of that kind.

*[**10.** Deleted: No. 11 of 2001 s. 11.]*

11. Service

(1) For the purposes of this Act, a document may be served —

(a) on a natural person —

(i) by delivering it to the person personally; or

(ii) by leaving it at, or by sending it by registered post and addressed to the person at the address of the place of residence or business of the person last known to the person serving the document;

or

(b) on a body corporate — by leaving it at, or sending it by registered post addressed to the body corporate at the registered office or a principal office of the body corporate; or

(c) in such other manner as is prescribed.

(2) Nothing in subsection (1) affects the power of the Supreme Court or a court to authorise service of a document otherwise than as provided in that subsection.

12. Minister may designate authorised officer

The Minister or the Commissioner may designate any officer of the Public Service of the State as an authorised officer for the purposes of this Act.

[Section 12 amended: No. 1 of 1985 s. 29; No. 11 of 2001 s. 12.]

13. Regulations

(1) The Governor may make regulations for or with respect to any matter or thing which by this Act is authorised or required to be prescribed to give effect to this Act.

(2) The regulations may make contravention of any of their provisions an offence and may provide for a penalty for the offence not exceeding a fine of $20 000 for an individual or $100 000 for a body corporate.

[Section 13 amended: No. 11 of 2001 s. 13.]

14. Review of Act

(1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 3 years from the commencement of Part 2 of the *Petroleum Legislation Amendment Act 2001*.

(2) In the course of the review the Minister is to consider and have regard to any matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.

(3) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to cause it to be laid before each House of Parliament.

[Section 14 inserted: No. 11 of 2001 s. 14.]

Notes

[1] This is a compilation of the *Petroleum Retailers Rights and Liabilities Act 1982* and includes the amendments made by the other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
Petroleum Retailers Rights and Liabilities Act 1982	105 of 1982	24 Nov 1982	1 Jan 1983 (see s. 2 and *Gazette* 31 Dec 1982 p. 4969)
Acts Amendment (Consumer Affairs) Act 1985 Pt. VII	1 of 1985	8 Mar 1985	8 Mar 1985 (see s. 2(3))
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Statutes (Repeals and Minor Amendments) Act 1997 s. 39(10)	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Petroleum Legislation Amendment Act 2001 Pt. 2	11 of 2001	13 Jul 2001	1 Jan 2002 (see s. 2(1) and *Gazette* 31 Dec 2001 p. 6761)
Reprint of the *Petroleum Retailers Rights and Liabilities Act 1982* as at 22 Nov 2002 (includes amendments listed above)			
State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 100 [3]	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7130)
Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 4 Div. 18 [4]	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and *Gazette* 27 Jun 2006 p. 2347)
Reprint 2: The *Petroleum Retailers Rights and Liabilities Act 1982* as at 7 Nov 2014 (includes amendments listed above)			
This Act was repealed by the *Petroleum Retailers Rights and Liabilities Repeal Act 2025* s. 3(1) (No. 16 of 2025) on 1 Nov 2025 (see s. 2(b))			

[2] Repealed by the *Petroleum Retail Legislation Repeal Act 2006* (Cwlth) (No. 2006/113).

[3] The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

[4] The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 4 Div. 23 is a transitional provision that is of no further effect.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
authorised officer	3(1)
bulk storage	3(1)
Commissioner	3(1)
Department	3(1)
dispensing equipment	3(1)
landlord	3(1)
motor fuel	3(1)
primary supplier	3(1)
retailer	3(1)
section	3(1)
site	3(1)
subsection	3(1)
tenant	3(1)

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