

Western Australia

**Petroleum Products Pricing Amendment Act  
2000**

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As at 04 Dec 2000

No. 73 of 2000

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# Petroleum Products Pricing Amendment Act 2000

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## CONTENTS

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1.	Short title	1
2.	The Act amended	2
3.	Section 3 amended	2
4.	Section 6 amended	3
5.	Section 7 amended	4
6.	Section 12 amended	4
7.	Section 19 amended	4
8.	Part IIIA inserted	5
	<b>Part IIIA — Special provisions about motor fuel</b>	
	<b>Division 1 — Before retail sale</b>	
	22A. Definitions	5
	22B. Price at terminal to be displayed and Commissioner to be notified of changes	6
	22C. Previous month's average price to be displayed	6
	22D. Maximum price to be displayed	7
	22E. Price to be compared to maximum price fixed	7
	22F. Information that supplier is to provide	9
	22G. Obligation to supply from declared terminal	9
	<b>Division 2 — Retail sale</b>	
	22H. Definitions	11
	22I. Regulations to require retailers to display prices	11
	22J. Retailer to notify change of price	11
9.	Section 25 amended	12
10.	Sections 27A and 27B inserted	13

Contents

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	27A.	Further powers of Commissioner to obtain information	13	
	27B.	Publication by Commissioner of information	14	
11.		Part V Division 2 inserted		14
		<b>Division 2 — Infringement notices</b>		
	31A.	Infringement notices	14	
	31B.	Giving of notice	14	
	31C.	Content of notice	15	
	31D.	Extension of time	15	
	31E.	Withdrawal of notice	16	
	31F.	Benefit of paying modified penalty	16	
	31G.	Application of penalties collected	16	
	31H.	Appointment of authorised persons	16	
12.		Schedule 1 inserted		17
		<b>Schedule 1 — Certain exclusions from definition of “petroleum product”</b>		
13.		Minor amendments		24
14.		Penalties amended		24

Western Australia

# **Petroleum Products Pricing Amendment Act 2000**

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**No. 73 of 2000**

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**An Act to amend the *Petroleum Products Pricing Act 1983*.**

[Assented to 4 December 2000]

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Petroleum Products Pricing Amendment Act 2000*.

**2. The Act amended**

The amendments in this Act are to the *Petroleum Products Pricing Act 1983*\*

[\* *Act No. 1 of 1983.*

*For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, pp. 188-9.]*

**3. Section 3 amended**

(1) Section 3(1) is amended as follows:

(a) by inserting before the definition of “motor fuel” the following definition —

“ **“LPG”** means liquefied petroleum gas; ”;

(b) in the definition of “motor fuel”, by inserting after “petrol” the following —

“ , LPG, ”;

(c) by deleting the definition of “petroleum product” and inserting instead the following definitions —

“

**“petroleum”** means —

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium, and carbon dioxide;

“**petroleum product**” means a product derived from petroleum, but not petroleum itself, except that it does not include —

- (a) a product listed in Schedule 1; or
  - (b) a product that is excluded from this definition by an order under subsection (4),
- and it includes LPG (whether motor fuel or not, and whether or not the LPG is petroleum);

”.

(2) After section 3(3), the following subsection is inserted —

“

- (4) The Minister may, by an order published in the *Gazette*, exclude a product derived from petroleum but not listed in Schedule 1 from the definition of “petroleum product” in subsection (1), and may subsequently amend or revoke the order by another order published in the *Gazette*.

”.

#### 4. Section 6 amended

Section 6(1) is amended as follows:

- (a) by deleting “The object of this Act is” and inserting instead —

“ The objects of this Act are ”;

- (b) by deleting the full stop after paragraph (b) and inserting instead a comma;
- (c) by inserting at the end of the subsection the following —

“

to provide for the transparency of pricing of petroleum products, and to make additional provisions about motor fuel prices.

”.

**5. Section 7 amended**

Section 7(1)(b) is amended by deleting “the scheme of price control established under”.

**6. Section 12 amended**

After section 12(2), the following subsection is inserted —

“

- (2a) An order fixing a maximum price for the sale of motor fuel may apply to a particular terminal, as defined in Part IIIA.

”.

**7. Section 19 amended**

Section 19(2)(b) is deleted and the following paragraph is inserted instead —

“

(b) either —

- (i) if the offence arose out of the defendant refusing or failing to supply motor fuel from a place that was a declared terminal, as defined in Part IIIA, the person who demanded to be supplied was not a reseller or a prescribed person as referred to in section 22G; or
- (ii) if subparagraph (i) does not apply, the defendant was a wholesale trader in the controlled petroleum products demanded, and the person who demanded to be supplied was not a manufacturer or a retail trader in them or in any goods made or partly made from them;

”.



8. **Part IIIA inserted**

After Part III, the following Part is inserted —

“

**Part IIIA — Special provisions about motor fuel**

**Division 1 — Before retail sale**

**22A. Definitions**

(1) In this Division —

“**declared terminal**” means a terminal designated under subsection (2) as a declared terminal for the purposes of this Division;

“**displayed price**” means the price displayed under section 22B;

“**kind of motor fuel**” refers to the type of motor fuel and, if there are different grades of a particular type of motor fuel, each grade is a different kind of motor fuel;

“**offer**” has, in addition to its ordinary meaning, the meaning given by subsection (3);

“**supplier**” means a person who supplies motor fuel to a reseller;

“**terminal**” means a place at which motor fuel any of which a supplier intends to supply to resellers is held.

(2) The Commissioner may, by an order published in the *Gazette*, designate a terminal as a declared terminal for the purposes of this Division, and may subsequently amend or revoke the order by another order published in the *Gazette*.

(3) A supplier is to be considered as offering to make a supply of motor fuel from a declared terminal at any

time when a person demanding that supply in accordance with section 22G would be entitled under section 22G to purchase the motor fuel as demanded.

**22B. Price at terminal to be displayed and Commissioner to be notified of changes**

- (1) A supplier of motor fuel from a declared terminal is required to display at the place of sale, so as to be clearly legible to anyone to whom motor fuel of the kind concerned is to be supplied, the price that would apply if it were to make a wholesale sale of motor fuel to a reseller who —
  - (a) was not the subject of any agreement or arrangement affecting price; and
  - (b) took delivery of the motor fuel at the terminal from which it was supplied.
- (2) Subsection (1) requires a price to be displayed for each kind of motor fuel supplied or offered to be supplied from the terminal.
- (3) Whenever a price that subsection (1) requires to be displayed is changed, the supplier is required to notify the Commissioner, in accordance with the regulations, of the price change.

Penalty: in the case of an individual, \$4 000 and, in the case of a body corporate, \$10 000.

**22C. Previous month's average price to be displayed**

- (1) A supplier of motor fuel from a declared terminal is required to display at the terminal, so as to be clearly legible to anyone to whom motor fuel is supplied at the terminal, the weighted average price, calculated in accordance with the regulations, for each kind of motor fuel supplied from the terminal during the previous month.

- (2) In subsection (1) —
- “**previous month**” means, unless the regulations provide otherwise, the most recent calendar month that has been expired for at least 7 days;
- “**calendar month**” means January, February, or any of the 10 other named months of the calendar year.
- (3) The price that this section requires to be displayed is to be displayed as near as practicable to the price displayed under section 22B.
- Penalty: in the case of an individual, \$4 000 and, in the case of a body corporate, \$10 000.

**22D. Maximum price to be displayed**

If the price for the supply of a kind of motor fuel from a declared terminal is the subject of an order under section 12, the supplier is required to display at the terminal, so as to be clearly legible to anyone to whom motor fuel of the kind concerned is to be supplied, the maximum price fixed by the order.

Penalty: in the case of an individual, \$4 000 and, in the case of a body corporate, \$10 000.

**22E. Price to be compared to maximum price fixed**

- (1) If a supplier makes a supply of any kind of motor fuel from a declared terminal to a purchaser who —
- (a) is not the subject of any agreement or arrangement affecting price; and
  - (b) takes delivery of the motor fuel at the terminal from which it is supplied,

(in this section called a “**relevant supply**”) and the supply is the subject of an order under section 12, the supplier is required to show in the invoice for the supply —

- (c) the displayed price; and
  - (d) the maximum price fixed by the order.
- (2) If the price for a relevant supply of a kind of motor fuel from a declared terminal is not the subject of an order under section 12 but the price for a relevant supply of that kind of motor fuel from another declared terminal is the subject of an order under section 12, the supplier is required to show in the invoice for a relevant supply of any motor fuel of that kind —
- (a) the displayed price;
  - (b) the maximum price fixed by the order; and
  - (c) if the displayed price exceeds the maximum price fixed by the order for the other terminal, any details as to the difference between those prices that the regulations require to be shown.
- (3) If the maximum price is fixed under section 12 for 2 or more other terminals, the supplier may choose between them for the purpose of complying with subsection (2) unless the Commissioner directs the supplier in writing as to which of them to use.
- (4) If a displayed price for any motor fuel is such that subsection (2)(c) would require the supplier to give details of the displayed price in the invoice for the supply of any of the motor fuel, the supplier is required to give the Commissioner, in accordance with the regulations, the same details.

Penalty: in the case of an individual, \$4 000 and, in the case of a body corporate, \$10 000.

**22F. Information that supplier is to provide**

- (1) If a supplier of motor fuel from a declared terminal supplies or offers to supply any of that motor fuel for a price any component of which is for —
  - (a) delivery of the fuel;
  - (b) use of a brand;
  - (c) a credit facility; or
  - (d) anything else connected with the sale of the motor fuel,the supplier is required to provide, in writing, details of the amount of each of those components, and what it is for, to a person reasonably requesting that information.
- (2) The supplier is required to include those details in the invoice for any sale for a price that includes any of those components.
- (3) A supplier is required to provide, in writing, to anyone reasonably requesting it, any other information that this Division —
  - (a) requires the supplier to display at the place of sale; or
  - (b) would require the supplier to disclose in the invoice of a sale.

Penalty: in the case of an individual, \$4 000 and, in the case of a body corporate, \$10 000.

**22G. Obligation to supply from declared terminal**

- (1) A reseller or a prescribed person who —
  - (a) demands that the supplier of motor fuel from a declared terminal sell to the person making the demand a quantity of any of that motor fuel; and

- (b) tenders payment of the price at which the motor fuel is for the time being for sale,  
is entitled to purchase motor fuel from the terminal, as demanded, unless the supplier gives the person making the demand, in writing, good reason for refusing to comply with the demand.
- (2) If a supplier refuses to sell a person motor fuel under subsection (1), the person (in this section called “**the aggrieved person**”) may apply to the Commissioner for a decision as to whether the supplier properly refused under subsection (1).
- (3) If the Commissioner, after giving the supplier and the aggrieved person an opportunity to be heard on the question, decides that the supplier did not properly refuse and the aggrieved person was entitled to purchase motor fuel as demanded, the Commissioner may order the supplier to pay the aggrieved person an amount of compensation determined by the Commissioner, which may include an amount for costs involved in making the application.
- (4) A copy of a decision of the Commissioner, certified by the Commissioner to be a true copy, may be lodged with the clerk of a Local Court in accordance with the rules of court (which may include provision for the payment of a lodging fee) upon which —
- (a) the clerk is to register the decision; and
  - (b) the payment of any money ordered by that decision to be paid may be enforced as if it were required by an order of the Local Court.

---

**Division 2 — Retail sale**

**22H. Definitions**

In this Division —

**“kind of motor fuel”** refers to the type of motor fuel and, if there are different grades of a particular type of motor fuel, each grade is a different kind of motor fuel;

**“standard retail price”** means the price at which the motor fuel concerned is offered for retail sale to a customer who is not the subject of any agreement or arrangement affecting price.

**22I. Regulations to require retailers to display prices**

- (1) The regulations may require a person who offers motor fuel for retail sale to display at the place of sale, so as to be clearly legible to passing motorists, the standard retail price at which each kind of motor fuel is currently offered for sale at the place.
- (2) If a kind of motor fuel is not available for retail sale at a particular place except in accordance with an existing agreement or arrangement between the customer and the retailer, subsection (1) does not apply to the sale of that kind of motor fuel at that place.
- (3) The regulations may include provision as to the displaying of the price and the information to be displayed.

**22J. Retailer to notify change of price**

- (1) A person who offers motor fuel for retail sale on a particular day at a particular place commits an offence under this section if the standard retail price at which any motor fuel is offered for sale at that place differs from the standard retail price at which motor fuel of

that kind was last offered for sale before that day,  
except if —

- (a) the person has notified the Commissioner of the price under subsection (2); and
- (b) it is the most recent price for that kind of fuel of which the person has notified the Commissioner.

Penalty: in the case of an individual, \$4 000 and, in the case of a body corporate, \$10 000.

- (2) A person intending to offer motor fuel for retail sale at a particular place may, before the day on which it is to be offered for sale, notify the Commissioner of the standard retail price at which the person intends to offer it for sale.
- (3) The regulations may provide for the time within which, and the manner and form in which, notification may be given under subsection (2).
- (4) In subsections (1) and (2) —  
“**day**” means a period of 24 hours commencing immediately after midnight.
- (5) Subsection (1) does not apply to a place that is specified in the regulations to be a place to which that subsection does not apply.

”.

**9. Section 25 amended**

Section 25(2) is amended by deleting “paragraph (a) or (c) of subsection (1)” and inserting instead the following —

“ subsection (1)(a) ”.



**10. Sections 27A and 27B inserted**

After section 27 the following sections are inserted —

“

**27A. Further powers of Commissioner to obtain information**

- (1) This section applies if the Commissioner requires information for any of the objects or purposes of this Act other than for the purposes of an inquiry or investigation under this Act.
- (2) The Commissioner may by notice in writing require any person engaged in the sale or supply of a petroleum product to furnish, within a specified time and in a specified manner and form, a return setting forth to the best of the knowledge and ability of that person such particulars as to price or otherwise relating to the petroleum product as are specified in that notice.
- (3) The notice may require a return that it requires to be furnished to be verified by statutory declaration.
- (4) A return furnished by a person under this section is not admissible in evidence in any proceedings against the person other than proceedings in respect of an offence against this Act.
- (5) A person who is required by notice given under this section to furnish a return is not to —
  - (a) fail or refuse to comply with any of the requirements of that notice; or
  - (b) wilfully furnish any information that is false or misleading in a material particular.

Penalty: in the case of an individual, \$4 000 and, in the case of a body corporate, \$10 000.

- (6) Nothing in this section limits the power to make regulations requiring persons to provide information.

**27B. Publication by Commissioner of information**

If the Commissioner considers that it will assist in achieving the objects and purposes of this Act, the Commissioner may publish, as the Commissioner considers appropriate, any information obtained under, or in the course of the administration of, this Act.

”.

**11. Part V Division 2 inserted**

- (1) After the heading to Part V, the following Division heading is inserted —

“ **Division 1 — General provisions** ”.

- (2) At the end of Part V, the following Division is inserted —

“

**Division 2 — Infringement notices**

**31A. Infringement notices**

In this Division —

“**authorised person**” in section 31B, 31C, 31D or 31E means a person appointed under section 31H by the Commissioner to be an authorised person for the purposes of the section in which the term is used;

“**prescribed**” means prescribed by regulations.

**31B. Giving of notice**

- (1) An authorised person who has reason to believe that a person has committed a prescribed offence under this Act may, within 21 days after the alleged offence is

believed to have been committed, give an infringement notice to the alleged offender.

- (2) An offence under section 15, 16, 19, or 20 cannot be prescribed under this section.

**31C. Content of notice**

- (1) An infringement notice is to be in the prescribed form and is to —
  - (a) contain a description of the alleged offence;
  - (b) advise that if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to an authorised person within a period of 28 days after the giving of the notice; and
  - (c) inform the alleged offender as to who are authorised persons for the purposes of receiving payment of modified penalties.
- (2) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice is to be the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.
- (3) The modified penalty that may be prescribed for an offence is not to exceed 20% of the maximum penalty that could be imposed for that offence by a court.

**31D. Extension of time**

An authorised person may, in a particular case, extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.

**31E. Withdrawal of notice**

- (1) An authorised person may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.
- (2) If an infringement notice is withdrawn after the modified penalty has been paid, the amount is to be refunded.

**31F. Benefit of paying modified penalty**

- (1) Subsection (2) applies if the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed and the notice has not been withdrawn.
- (2) If this subsection applies it prevents the bringing of proceedings and the imposition of penalties to the same extent that they would be prevented if the alleged offender had been convicted by a court of, and punished for, the alleged offence.
- (3) Payment of a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

**31G. Application of penalties collected**

An amount paid as a modified penalty is, subject to section 31E(2), to be dealt with as if it were a penalty imposed by a court as a penalty for an offence.

**31H. Appointment of authorised persons**

- (1) The Commissioner may, in writing, appoint officers or classes of officers to be authorised persons for the purposes of section 31B, 31C, 31D or 31E or for the

purposes of 2 or more of those sections, but a person who is authorised to give infringement notices under section 31B is not eligible to be an authorised person for the purposes of any of the other sections.

- (2) The Commissioner is to issue to each person who is authorised to give infringement notices under this Division a certificate of that person's authorisation, and the authorised person is to produce the certificate whenever required to do so by a person to whom an infringement notice has been or is about to be given.
- (3) In this section —  
“**officer**” means an officer referred to in section 5(2)(a) or (b).

”.

**12. Schedule 1 inserted**

At the end of the Act the following Schedule is inserted —

“

**Schedule 1 — Certain exclusions from definition of “petroleum product”**

[s. 3(1)]

*Chemical fertilisers*

Ammonia aqua, fertiliser grade  
Ammonium nitrate  
Ammonium nitrate, liquid  
Ammonium phosphate fertiliser  
Ammonium sulphate  
Anhydrous ammonia fertiliser  
Chemical fertilisers  
Chemical fertilisers, mixed  
Fertilisers, leaf or foliage type  
Nitrate of soda fertiliser  
Phosphate, ground  
Potash fertilisers  
Prilled ammonium nitrate

Sodium nitrate fertiliser  
Superphosphate  
Urea, fertiliser grade

***Industrial gases***

Acetylene gas  
Argon  
Carbon dioxide gas  
Carbon monoxide  
Dry ice  
Helium  
Hydrogen  
Neon  
Nitrogen  
Nitrous oxide  
Oxygen

***Synthetic resins and rubber***

Acrylic resins  
Acrylonitrile-butadiene-styrene  
Alkyd resins  
Allyl plastics  
Aminoaldehyde resins  
Carbon black  
Casein, hardened  
Cellulose acetate  
Cellulose nitrate  
Cellulosic resins  
Coal tar resins  
Cresol formaldehyde  
Epoxy resins  
Ethyl cellulose  
Fluorocarbon resins  
Gelatin, chemically hardened  
Melamine formaldehyde resins  
Methylstyrene  
Phenol formaldehyde  
Phenol resins  
Plastics raw materials  
Polyamide resins

Polyester resins  
Polyethylene resins  
Polymethacrylate  
Polypropylene resins  
Polystyrene  
Polyurethane resins  
Polyvinyl acetate  
Polyvinyl chloride compounds  
Polyvinyl chloride resins (polymer)  
Protein, hardened  
Resin esters  
Styrene butadiene resins  
Styrene butylene resins  
Styrene resins  
Synthetic resins  
Synthetic rubber  
Urea formaldehyde resins  
Urea resins  
Urethane resins  
Vinyl chloride copolymers  
Vinyl resins  
Vulcanised fibre

*Organic industrial chemicals*

Acetaldehyde  
Acetic acid  
Acetic anhydride  
Acetin  
Acetone  
Acetone redistilling or re-refining  
Acetylsalicylic acid  
Acids, organic  
Alcohol, absolute  
Alcohol, industrial  
Amyl acetate  
Amyl alcohol  
Aniline dyes  
Aniline oil  
Ascorbic acid  
Azo dyes

B.H.C.  
Butadiene  
Butyl acetate  
Butyl alcohol  
Carbolic acid  
Carbon bisulphide  
Carbon disulphide  
Carbon tetrachloride  
Chemical colours, organic  
Chloroform  
Citric acid  
Cresylic acid  
Cuprene, organic  
Cyclic plasticisers  
D.D.T.  
Dibutyl phthalate  
Di-iso-oxytl phthalate  
Dye intermediates  
Dyes  
Dyestuffs  
Ethyl acetate  
Ethyl alcohol  
Ethyl formate  
Ethylene  
Ethylene oxide  
Fatty acids  
Fluorocarbons  
Formaldehyde  
Industrial chemicals, organic  
Lactic acids  
Lake colours  
Methanol  
Methyl alcohol  
Methyl methacrylate  
Methylated spirits  
Naphtha, crude  
Natural resins  
Nitrobenzene  
Nitrocellulose  
Nitromethane



Nitroparaffins  
Oil treating compounds  
Oleic acid  
Oxalic acid  
Phenol  
Phthalic anhydride esters  
Pigments, organic  
Plasticisers  
Polymeric plasticisers  
Power alcohol  
Rennin  
Rosin  
Spirits, non-potable  
Stearine pitch  
Stearate or stearic acid  
Tannic acid  
Tanning compounds, organic  
Tannins  
Tartaric acid  
T.D.E.  
Thinners, paint, redistilling or re-refining  
Toluol  
Trichloroethylene  
Tricresyl phosphate  
Turpentine  
Turpentine, mineral  
Urea  
Vinyl acetate monomer  
White spirit, non-potable  
Wood alcohol  
Xylol

***Inorganic industrial chemicals***

Acids, inorganic  
Alkalis  
Aluminium sulphate  
Ammonia  
Ammonium persulphate  
Barium sulphate, precipitated  
Bone char

**s. 12**

---

Boracic acid  
Borax  
Boric acid  
Cadmium pigments  
Calcium arsenate  
Calcium carbide  
Calcium chloride  
Carbide  
Charcoal  
Chemical colours, inorganic  
Chloride of lime  
Chlorine  
Chrome oxide  
Chromium green oxide  
Copper sulphate  
Cuprene, inorganic  
Degreasing compounds  
Glaubers salt  
Graphite, artificial  
Hydrochloric acid  
Hydrofluoric acid  
Hydrogen peroxide  
Hydrogen sulphide  
Industrial chemicals, inorganic  
Lampblack  
Lead arsenate  
Lead chromate  
Litharge  
Lithopone  
Muriatic acid  
Nitre cake  
Nitric acid  
Phosphoric acid  
Phosphorus  
Pigments, inorganic  
Potassium carbonate  
Potassium hydroxide  
Prussian blue  
Red lead  
Salt cake

Salt refining  
Silicates  
Soda ash  
Sodium alginate  
Sodium aluminate  
Sodium antimonate  
Sodium benzoate  
Sodium bicarbonate  
Sodium bisulphate  
Sodium borate  
Sodium carbonate  
Sodium cyanide  
Sodium hydroxide  
Sodium metasilicate  
Sodium  
Sodium peroxide  
Sodium silicate  
Sodium sulphate  
Sodium sulphide  
Sulphur compounds  
Sulphur dioxide  
Sulphuric acid  
Tanning compounds, inorganic  
Titanium dioxide  
Titanium pigments  
Ultramarine  
Vitreous enamel frits  
Water treating compounds  
Waterproofing compounds  
White lead  
Zinc chloride  
Zinc oxide

***Other products***

Crude oil  
Liquefied natural gas  
Natural gas  
Natural sales gas  
Natural gas condensate  
Ethane

”.

**13. Minor amendments**

In each place listed in the Table to this section “object” is deleted and the following is inserted instead —

“ objects ”.

**Table**

- s. 4(3)(b)
- s. 19(2)(c)(iii)
- s. 20(2)(b)(iii)

**14. Penalties amended**

(1) The penalties specified under the provisions identified in the Table to this subsection are amended —

- (a) by deleting “\$2 000” and inserting instead —  
“ \$4 000 ”; and
- (b) by deleting “\$5 000” and inserting instead —  
“ \$10 000 ”.

**Table**

- |          |          |
|----------|----------|
| s. 11(1) | s. 18(3) |
| s. 14(1) | s. 19(1) |
| s. 14(2) | s. 20(1) |
| s. 15    | s. 21    |
| s. 16(1) | s. 27(5) |
| s. 17    |          |

(2) The penalties specified under the provisions identified in column 1 of the Table to this subsection are amended by deleting the amounts shown in column 2 and inserting instead the amounts shown in column 3.

**Table**

<i>column 1</i> provision	<i>column 2</i> amount deleted	<i>column 3</i> amount inserted
s. 25(1)	\$2 000	\$4 000
s. 26	\$2 000	\$4 000
s. 33(1)	\$5 000	\$10 000

(3) Section 34(a) is amended as follows:

(a) in subparagraph (i), by deleting “\$500” and inserting instead —

“ \$1 000 ”;

(b) in subparagraph (ii), by deleting “\$1 000” and inserting instead —

“ \$2 000 ”.

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