

Western Australia

Petroleum Products Pricing Act 1983

Petroleum Products Pricing Regulations 2000

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Petroleum Products Pricing Regulations 2000

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Western Australia

Petroleum Products Pricing Act 1983

Petroleum Products Pricing Regulations 2000

Part 1 — Preliminary

[Heading inserted in Gazette 11 Jul 2001 p. 3459.]

1. Citation

These regulations may be cited as the *Petroleum Products Pricing Regulations 2000*¹.

2. Commencement

These regulations come into operation on 1 January 2001 unless they are published in the *Gazette* after that day, in which case they come into operation on the day on which they are published in the *Gazette*¹.

Part 2 — Special provisions about motor fuel

[Heading inserted in Gazette 11 Jul 2001 p. 3459.]

Division 1 — Retail sale

[Heading inserted in Gazette 11 Jul 2001 p. 3459.]

2A. Meaning of terms used in regulations 3 and 3A

In regulations 3 and 3A —

day means a period of 24 hours beginning immediately after 6.00 a.m.;

retail sale does not include a sale in accordance with an existing agreement or arrangement between the customer and the retailer.

[Regulation 2A inserted in Gazette 23 Aug 2001 p. 4379.]

3. Standard retail price to be as notified

- (1) Subject to regulation 4, a person who offers a particular kind of motor fuel for retail sale on a particular day at a particular place commits an offence unless —

- (a) under subregulation (2), the person has established the permitted standard retail price for that sale; and
- (b) the standard retail price at which that kind of motor fuel is offered is that day's permitted standard retail price.

Penalty: in the case of an individual, \$20 000 and, in the case of a body corporate, \$100 000.

- (2) A person establishes the permitted standard retail price for the retail sale by that person of a particular kind of motor fuel on a particular day at a particular place by notifying the Commissioner, in accordance with regulation 3A, of the standard retail price at which the motor fuel is to be offered for sale on that day.

[Regulation 3 inserted in Gazette 23 Aug 2001 p. 4379; amended in Gazette 31 Dec 2001 p. 6764.]

3A. Requirements for giving notification

- (1) Notification under regulation 3(2) has to be given to the Commissioner —
 - (a) during a period fixed under subregulation (3) or, if no period is so fixed, during the period beginning at 8.30 a.m. and ending at 2.00 p.m. on the day before the day for which the price is notified; and
 - (b) in a manner and form fixed under subregulation (3) or, if no manner and form is so fixed —
 - (i) by a message given by a telephone call made to telephone number 1800 445 757; or
 - (ii) by a message sent to fuelwatch@docep.wa.gov.au by email.
- (2) The notification under regulation 3(2) of a price for a particular day has effect as notification of the same price for each subsequent day until the beginning of a day for which the Commissioner has been notified under regulation 3(2) of a different price.
- (3) The Commissioner may by order published in the *Gazette* fix the period during which, and the manner and form in which, notification under regulation 3(2) can be given.
- (4) A period fixed under subregulation (3) has to end before the beginning of the day for which the price is notified.
- (5) The Commissioner may revoke an order under subregulation (3) by a subsequent order published in the *Gazette*.

[Regulation 3A inserted in Gazette 23 Aug 2001 p. 4380; amended in Gazette 12 Aug 2008 p. 3535.]

4. Price changes in certain places need not be notified

- (1) Regulation 3(1) does not apply to a place that —
 - (a) is outside the Perth metropolitan region, as defined in subregulation (2); and

(b) is not in a local government district or townsite listed in Schedule 1.

(2) In this regulation —

Perth metropolitan region means the region described in the *Planning and Development Act 2005* Schedule 3;

townsite means an area that, under the *Land Administration Act 1997*, has been or is to be treated as having been constituted a townsite.

[Regulation 4 amended in Gazette 23 Aug 2001 p. 4381; 12 Aug 2008 p. 3536.]

5. Places where regulation 6 applies

Regulation 6 applies to a place that is in a local government district or townsite listed in Schedule 1.

[Regulation 5 inserted in Gazette 16 Nov 2001 p. 5981.]

6. Retailer to display standard retail prices

(1) A person who offers motor fuel for standard retail sale at a place where this regulation applies is required to have, at the place of sale, a price display as described in this regulation.

Penalty: in the case of an individual, \$20 000 and, in the case of a body corporate, \$100 000.

(2) The price display has at least to show —

(a) whenever not more than 3 kinds of motor fuel are currently offered for standard retail sale at the place, the standard retail price for each of those kinds of motor fuel;

(b) whenever more than 3 kinds of motor fuel (the **kinds offered**) are currently offered for standard retail sale at the place, the standard retail prices for 3 of the kinds offered including —

(i) if one of them is LPG, the standard retail price for LPG;

-
- (ii) if only one of them is regular unleaded petrol, the standard retail price for that kind of motor fuel; and
 - (iii) if 2 or more of them are regular unleaded petrol, the standard retail price for each of 2 of those kinds of motor fuel and for one of the other kinds offered that is not regular unleaded petrol.
 - (3) The price display has to be in a suitable position, and if necessary sufficiently illuminated, to enable each price shown and the description of the kind of motor fuel to which the price applies to be clearly legible to passing motorists whenever the motor fuel is offered for standard retail sale.
 - (4) The price display may consist of more than one sign or other thing.
 - (5) Subregulation (1) does not apply to a place of sale while it is exempt under subregulation (6) from the requirements of this regulation.
 - (6) The Commissioner may, by order published in the *Gazette* —
 - (a) if satisfied that there are exceptional circumstances because of which the requirements of this regulation should not apply, exempt a particular place of sale from the requirements of this regulation for a specified period or until the exemption is revoked;
 - (b) revoke an exemption under paragraph (a), whether it was given for a specified period or not.
 - (7) In this regulation —
 - regular unleaded petrol*** means petrol sold as regular unleaded petrol (91 to 93 RON), however described;
 - standard retail sale*** means retail sale not subject to an existing agreement or arrangement between the customer and the retailer.

[Regulation 6 inserted in Gazette 11 Jul 2001 p. 3460-1; amended in Gazette 16 Nov 2001 p. 5981; 31 Dec 2001 p. 6764-5; 9 Dec 2005 p. 5875-6.]

Division 2 — Before retail sale

[Heading inserted in Gazette 11 Jul 2001 p. 3461.]

7. How to notify Commissioner of price changes

If section 22B(3) of the Act requires a supplier to notify the Commissioner of a price change, the way in which notification is to be given is by directly uploading information about the price change using the Commissioner's Fuel Watch website at the address www.fuelwatch.wa.gov.au on the internet.

[Regulation 7 inserted in Gazette 11 Jul 2001 p. 3461.]

8. Previous month's weighted average price

The weighted average price for a particular kind of motor fuel supplied from a declared terminal during the previous month, which section 22C of the Act requires to be displayed, is calculated (to the nearest 0.1 cent/litre) by using the formula:

$$A = \frac{\sum_{n=1}^{n=t} (P_n \times V_n)}{T_v}$$

where —

A is the weighted average price in cents/litre;

t is the total number of transactions used to calculate the weighted average price;

P_n is the price in cents/litre for the nth transaction used to calculate the weighted average price;

V_n is the volume in litres of the nth transaction used to calculate the weighted average price;

T_v is the total volume in litres of all the transactions used to calculate the weighted average price.

[Regulation 8 inserted in Gazette 11 Jul 2001 p. 3461.]

9. Details of price differences

- (1) If section 22E(2) of the Act requires that an invoice for a supply of motor fuel from a declared terminal show details as to the difference between the displayed price and the maximum price fixed by an order under section 12 of the Act for another declared terminal, the details to be shown are a description of each component of each of those prices that the supplier considers contributes to the difference, and the amount of each of those components.
- (2) A component needs to be described with sufficient particularity to clearly identify the expense or other item concerned.
- (3) The amounts attributed to the components identified need to be expressed in terms that enable their cumulative effect to be readily quantified.

[Regulation 9 inserted in Gazette 11 Jul 2001 p. 3461-2.]

10. Notifying Commissioner of price differences

- (1) Details that section 22E(4) of the Act requires a supplier to give to the Commissioner are to be given by directly uploading those details using the Commissioner's Fuel Watch website at the address www.fuelwatch.wa.gov.au on the internet.
- (2) Details relating to supplies made during a particular calendar month are to be given within a period of 14 days after the end of that month.
- (3) In subregulation (2) —
calendar month means January, February, or any of the 10 other named months of the calendar year.

[Regulation 10 inserted in Gazette 11 Jul 2001 p. 3462.]

Part 3 — Infringement notices and modified penalties

[Heading inserted in Gazette 9 Nov 2001 p. 5925.]

11. Prescribed offences (s. 31B)

The offences specified in Schedule 2 are the offences for which an infringement notice may be given under section 31B of the Act.

[Regulation 11 inserted in Gazette 9 Nov 2001 p. 5925.]

12. Prescribed modified penalties (s. 31C)

The modified penalty specified opposite an offence in Schedule 2 is the modified penalty for that offence for the purposes of section 31C(2) of the Act.

[Regulation 12 inserted in Gazette 9 Nov 2001 p. 5925.]

13. Prescribed form of infringement notice (s. 31C)

The form of an infringement notice is set out in Schedule 3 Form 1 for the purposes of section 31C(1) of the Act.

[Regulation 13 inserted in Gazette 9 Nov 2001 p. 5926.]

14. Prescribed form of withdrawal of notice (s. 31E)

The form of a notice to withdraw an infringement notice is set out in Schedule 3 Form 2 for the purposes of section 31E(1) of the Act.

[Regulation 14 inserted in Gazette 9 Nov 2001 p. 5926.]

Schedule 1 — Places where regulations 3(1) and 6 apply

[r. 4(1)(b), 5]

Local government districts

| | |
|------------------------|-----------|
| Albany | Geraldton |
| Augusta-Margaret River | Greenough |
| Bridgetown-Greenbushes | Harvey |
| Bunbury | Mandurah |
| Busselton | Manjimup |
| Capel | Murray |
| Dardanup | Waroona |
| Donnybrook-Balingup | |

Townsites

| | |
|------------------|---------------|
| Boulder | Karratha |
| Broome | Kellerberrin |
| Busselton | Kojonup |
| Carnarvon | Kununurra |
| Cataby | Meekatharra |
| Collie | Moora |
| Coolgardie | Mt Barker |
| Cunderdin | Narrogin |
| Dalwallinu | Newman |
| Dampier | Norseman |
| Denmark | Northam |
| Derby | Port Hedland |
| Dongara | Ravensthorpe |
| Esperance | South Hedland |
| Exmouth | Tammin |
| Fitzroy Crossing | Williams |
| Jurien | Wubin |

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Schedule 1 Places where regulations 3(1) and 6 apply

Kalgoorlie York

Kambalda (East)

Kambalda (West)

[Schedule 1 inserted in Gazette 13 May 2003 p. 1665-6; amended in Gazette 3 Oct 2006 p. 4337.]

Schedule 2 — Prescribed offences and modified penalties

[r. 11, 12]

[Heading inserted in Gazette 22 Sep 2006 p. 4125.]

| Offences under <i>Petroleum Products Pricing Act 1983</i> | Modified penalty |
|---|-------------------------|
| s. 11(1) Failing to notify Commissioner of proposed increase in price or rate of declared petroleum products or service | \$4 000 |
| s. 14(1) Selling or supplying controlled petroleum products or service above maximum price or rate | \$4 000 |
| s. 14(2) Selling or supplying controlled goods or service on different terms than before maximum price or rate order | \$4 000 |
| s. 17 Selling or supplying controlled petroleum products or service without separately specifying price or rate | \$4 000 |
| s. 21 Selling or supplying controlled petroleum products or service subject to purchase condition | \$4 000 |
| s. 22B(1) Failing to display at declared terminal wholesale price of motor fuel | \$4 000 |
| s. 22B(3) Failing to notify Commissioner of change to wholesale price at declared terminal | \$4 000 |
| s. 22C(1) Failing to display at declared terminal weighted average price of motor fuel | \$4 000 |
| s. 22D Failing to display maximum price of motor fuel fixed by order | \$4 000 |
| s. 22E(1) Failing to show in invoice displayed and maximum prices | \$4 000 |
| s. 22E(2) Failing to show in invoice displayed and maximum prices and details of any difference in prices | \$4 000 |
| s. 22E(4) Failing to give Commissioner details of any difference in prices | \$4 000 |

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Schedule 2 Prescribed offences and modified penalties

| Offences under <i>Petroleum Products Pricing Act 1983</i> | | Modified penalty |
|--|--|-------------------------|
| s. 22F(2) | Failing to include required details in invoice for sale of motor fuel | \$4 000 |
| s. 27(5)(a) | Failing or refusing to comply with requirements of notice (inquiry or investigation) | \$4 000 |
| s. 27A(5)(a) | Failing or refusing to comply with requirements of notice | \$4 000 |

| Offences under <i>Petroleum Products Pricing Regulations 2000</i> | | |
|--|---|---------|
| r. 3(1) | Offering motor fuel for sale at other than standard retail price notified to Commissioner | \$1 000 |
| r. 6(1) | Offering motor fuel for sale without having required price display | \$1 000 |

[Schedule 2 inserted in Gazette 22 Sep 2006 p. 4125-6.]

Schedule 3 — Forms

[r. 13, 14]

Form 1

Petroleum Products Pricing Act 1983

Infringement notice

Serial No

Date/...../.....

To: ⁽¹⁾

of: ⁽²⁾

It is alleged that on/...../..... at ⁽³⁾

at ⁽⁴⁾

you committed the following offence —

.....
.....
.....

contrary to section/regulation* ⁽⁵⁾ of the *Petroleum Products Pricing Act 1983/Petroleum Products Pricing Regulations 2000**.

* Delete as appropriate.

The modified penalty for the offence is \$

If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of money specified in this notice as the modified penalty may be paid within a period of 28 days after the giving of this notice. Payment may be made by either —

- (a) posting this form with a cheque, money order or postal note for the specified amount of money, payable to the Prices Commissioner, to the Department of Consumer and Employment Protection, Locked Bag 14, Cloisters Square, Perth WA 6850; or

- (b) presenting this form and paying the specified amount to an authorised person ⁽⁶⁾ at the Department of Consumer and Employment Protection, Ground Floor, 219 St George's Terrace, Perth WA 6000.

Name and title of authorised person giving this notice

Signature

- (1) Name of alleged offender
- (2) Address of alleged offender
- (3) Time at which offence allegedly committed
- (4) Place at which offence allegedly committed
- (5) Section or regulation designation
- (6) Description of authorised persons

Form 2

Petroleum Products Pricing Act 1983

Withdrawal of infringement notice

Serial No

Date/...../.....

To: ⁽¹⁾

of: ⁽²⁾

Infringement notice No. dated/...../..... for the alleged
offence of.....
.....
.....

has been withdrawn.

The modified penalty of \$

- * has been paid and a refund is enclosed.
- * has not been paid and should not be paid.
- * Delete as appropriate

Name and title of authorised person giving this notice

Signature

- (1) Name of alleged offender given the infringement notice
- (2) Address of alleged offender

[Schedule 3 inserted in Gazette 9 Nov 2001 p. 5927-9.]

Notes

¹ This is a compilation of the *Petroleum Products Pricing Regulations 2000* 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

| Citation | Gazettal | Commencement |
|--|---------------------------|--|
| <i>Petroleum Products Pricing Regulations 2000</i> | 29 Dec 2000 p. 7981-5 | 1 Jan 2001 (see r. 2) |
| <i>Petroleum Products Pricing Amendment Regulations 2001</i> ² | 11 Jul 2001 p. 3457-62 | 12 Jul 2001 (see r. 2) |
| <i>Petroleum Products Pricing Amendment Regulations (No. 2) 2001</i> | 23 Aug 2001 p. 4378-81 | 24 Aug 2001 (see r. 2 and <i>Gazette</i> 23 Aug 2001 p. 4377) |
| <i>Petroleum Products Pricing Amendment Regulations (No. 3) 2001</i> | 9 Nov 2001 p. 5925-9 | 9 Nov 2001 |
| <i>Petroleum Products Pricing Amendment Regulations (No. 4) 2001</i> ³ | 16 Nov 2001 p. 5981-2 | 23 Nov 2001 (see r. 2) |
| <i>Petroleum Products Pricing Amendment Regulations (No. 5) 2001</i> | 31 Dec 2001 p. 6764-5 | 1 Jan 2002 (see r. 2 and <i>Gazette</i> 31 Dec 2001 p. 6761) |
| Reprint of the <i>Petroleum Products Pricing Regulations 2000</i> as at 19 Apr 2002 (includes amendments listed above) | | |
| <i>Petroleum Products Pricing Amendment Regulations 2003</i> ⁴ | 13 May 2003 p. 1665-6 | 20 May 2003 (see r. 2) |
| <i>Petroleum Products Pricing Amendment Regulations 2005</i> | 9 Dec 2005 p. 5875-6 | 1 Jan 2006 (see r. 2) |
| <i>Petroleum Products Pricing Amendment Regulations 2006</i> | 22 Sep 2006 p. 4125-6 | 22 Sep 2006 |
| <i>Petroleum Products Pricing Amendment Regulations (No. 2) 2006</i> | 3 Oct 2006 p. 4337 | 3 Oct 2006 |
| <i>Petroleum Products Pricing Amendment Regulations 2008</i> | 12 Aug 2008 p. 3535-6 | r. 1 and 2: 12 Aug 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Aug 2008 (see r. 2(b)) |

² The *Petroleum Products Pricing Amendment Regulations 2001* r. 8 reads as follows:

“

8. Defence during transitional period

- (1) It is a defence to a charge of an offence against regulation 6(1) of the Petroleum Products Pricing Regulations 2000 that was alleged to have been committed during the transitional period to prove that the person charged did not have any sign or other thing that the person would have needed to be able to comply with regulation 6 of those regulations despite the person having taken all reasonable steps to ensure that everything needed was available.
- (2) In subregulation (1) —
transitional period means the period of 30 days beginning on 19 July 2001.

”

³ The *Petroleum Products Pricing Amendment Regulations (No. 4) 2001* r. 7 reads as follows:

“

7. Defence during transitional period

- (1) It is a defence to a charge of an offence against regulation 6(1) of the *Petroleum Products Pricing Regulations 2000* that is alleged to have been committed during the transitional period to prove that the person charged did not have any sign or other thing that the person would have needed to be able to comply with regulation 6 of those regulations despite the person having taken all reasonable steps to ensure that everything needed was available.
- (2) Subregulation (1) does not apply to a charge of an offence against regulation 6(1) of the *Petroleum Products Pricing Regulations 2000* that is alleged to have been committed during the transitional period at a place in the local government district of Albany.
- (3) In this regulation —
transitional period means the period of 30 days beginning on 23 November 2001.

”

⁴ The *Petroleum Products Pricing Amendment Regulations 2003* r. 5 reads as follows:

“

5. Defence during transitional period (regulation 6(1))

- (1) It is a defence to a charge of an offence against regulation 6(1) of the *Petroleum Products Pricing Regulations 2000* that is alleged to have been committed during the transitional period to prove that the person charged did not have any sign or other thing that the person would have needed to be able to comply with regulation 6 of those regulations despite the person having taken all reasonable steps to ensure that everything needed was available.
- (2) Subregulation (1) does not apply to a charge of an offence against regulation 6(1) of the *Petroleum Products Pricing Regulations 2000* that is alleged to have been committed during the transitional period at a place in a local government district or townsite listed in Schedule 1 to those regulations, as in force immediately before the transitional period.
- (3) In this regulation —
transitional period means the period of 21 days beginning on the day on which these regulations come into operation.

”