

Version No. 031
Business Franchise (Petroleum Products) Act
1979

Act No. 9272/1979

Version incorporating amendments as at 1 July 1997

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Version No. 031
Business Franchise (Petroleum Products) Act
1979

Act No. 9272/1979

Version incorporating amendments as at 1 July 1997

An Act with respect to the licensing of Persons who sell certain Petroleum Products in Victoria, to amend various Acts and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. *Short title and commencement*

- (1) This Act may be cited as the Business Franchise (Petroleum Products) Act 1979.
- (2) This Act shall be read and construed as one with the **Business Franchise (Tobacco) Act 1974**.
- (3) This Act shall come into operation on 1 September 1979.

2. *Definitions*

- (1) In this Act unless inconsistent with the context or subject-matter—

* * * * *

S. 2(1)
def. of
"Commissioner"
repealed by
No. 40/1997
s. 138(Sch. 2
item 3).

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s. 2

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"diesel fuel" means a petroleum or shale product used or capable of use in propelling a diesel engined road vehicle;

"licensed premises" in relation to a licensee, means premises in respect of which the licensee is for the time being authorized under this Act to carry on petroleum wholesaling or petroleum retailing, as the case may be;

"motor spirit" means gasoline and other petroleum or shale spirit having a flash point of less than 23° Celsius when tested in an Abel Pensky closed test apparatus but does not include aviation gasoline, solvents, special boiling point spirits or liquefied petroleum gas;

"petroleum products" means motor spirit and diesel fuel;

"petroleum retailing" means the business of selling petroleum products by retail either alone or in conjunction with any other merchandise and includes such business carried on as part of or in conjunction with any other business;

"petroleum wholesaling" means the business of selling motor spirit or the business of selling diesel fuel for use only in propelling diesel engined road vehicles and includes any such business carried on as part of or in conjunction with any other business but does not include the business of petroleum retailing;

S. 2(1) def. of "petroleum retailing" amended by Nos 88/1986 s. 38(2)(a)(i), 80/1994 s. 14(1)(a).

S. 2(1) def. of "petroleum wholesaling" amended by Nos 88/1986 s. 38(2)(a)(ii), 66/1988 s. 29, 80/1994 s. 14(1)(b).

"road vehicle" means a vehicle designed solely or principally for transporting persons, goods or animals by road.

- (1A) A reference in this Act to the sale of petroleum products is a reference to the sale of petroleum products in Victoria.
- (1B) A sale of petroleum products made outside Victoria in the course of petroleum wholesaling or petroleum retailing shall for the purposes of this Act be regarded as having been made in Victoria if the terms (whether express or implied) of the sale or of any contract for the sale—
- (a) require either party to deliver, or arrange delivery of, the petroleum products into or within Victoria; or
 - (b) contemplate delivery of the petroleum products into or within Victoria.
- (2) A reference in this Act to the **"relevant period"** in relation to—
- (a) a petroleum retailers' licence of the duration specified in section 6(1), a petroleum wholesalers' licence or a group petroleum wholesalers' licence which, if granted, will expire at the end of a month specified in Column 1 is a reference to the month last past specified opposite that first-mentioned month in Column 2 of the Table hereunder—

S. 2(1A) inserted by No. 80/1994 s. 14(2).

S. 2(1B) inserted by No. 80/1994 s. 14(2).

S. 2(2)(a) amended by Nos 9674 s. 22(a)(i), 9885 s. 9(2)(a)(i).

<i>Column 1</i>	<i>Column 2</i>
July	May
August	June
September	July
October	August
November	September

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December	October
January	November
February	December
March	January
April	February
May	March
June	April

S. 2(2)(b)
amended by
Nos 9674
s. 22(a)(ii),
9885
s. 9(2)(a)(ii).

- (b) a petroleum retailer's licence revocable at will issued pursuant to section 6(2)—
- (i) after 30 June 1980 is a reference to the period commencing 1 September 1979 and ending on 31 March 1980; and
 - (ii) after 30 June 1981 is a reference to the year ending on 31 March preceding the year in which the licence, if granted, will be in force.
- (3) For the purposes of this Act the supply of petroleum products from a refinery for the purposes of resale shall not be regarded as constituting petroleum wholesaling or petroleum retailing.
- (4) A reference in this Act to a petroleum wholesaler or petroleum retailer or to a person who sells petroleum products does not extend to a person who carries on business as a agent or employé of a person who carries on the business of petroleum wholesaling or petroleum retailing.
- (5) In this Act, unless inconsistent with the context or subject-matter, words and expressions shall have the same meaning as is assigned to them in the **Business Franchise (Tobacco) Act 1974**.

3. Membership of a petroleum wholesalers' group

- (1) For the purposes of this Act a person is a member of a petroleum wholesalers' group—
- (a) if—
- (i) that person is one of the persons that constitute a group for the purposes of this Act;
 - (ii) one or more of the persons that constitute the group was a petroleum wholesaler in the relevant period;
 - (iii) one or more of the persons that constitute the group intend to carry on petroleum wholesaling in the month or part of the month in respect of which an application for a licence is or is intended to be made under this Act; and
 - (iv) there is not in force a determination by the Commissioner that that person is not a member of the group; or
- (b) if that person declares in writing that the organization or control of his business is such that he would have been a member of the group if it had been so organized or controlled during the relevant period and the other members of the group and the Commissioner agree that this is so.
- (2) The Commissioner may in his absolute discretion by writing under his hand determine that a person who would, but for the determination be a member of a group for the purposes of this Act, is not a member of the petroleum wholesalers' group if he is satisfied that that person has continuously carried on petroleum wholesaling independently of the group and will continue to carry on petroleum wholesaling independently of the group

S. 3(2)
amended by
No. 9885
s. 8.

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s. 3

and is not subject to control by any other member of the group.

S. 3(3)
amended by
No. 9885
s. 8.

(3) The Commissioner may in his absolute discretion by writing under his hand determine that a person who would, but for the determination, be a member of a group, is not a member of any group for the purposes of this Act if he considers that the person is not carrying on and has no intention of carrying on petroleum wholesaling.

S. 3(4)
amended by
No. 9885
s. 8.

(4) The Commissioner may in his absolute discretion at any time revoke a determination made under sub-section (2) or sub-section (3).

(5) A determination made under sub-section (2) or sub-section (3) shall come into force on the making thereof and shall continue in force until it is revoked by the Commissioner.

(6) Notice of a determination under sub-section (2) shall be given by the Commissioner to the person in respect of whom the determination was made and to all the members of the group concerned whom he considers are carrying on petroleum wholesaling.

(7) Notice of a determination under sub-section (3) shall be published in the Government Gazette.

(8) Notice of the revocation of a determination made under sub-section (2) or sub-section (3) shall be given by the Commissioner to the person in respect of whom the determination was made and to all members of the group concerned whom he considers are carrying on petroleum wholesaling.

4. Petroleum products sellers to be licensed

- * * * * *
- (2) A person shall not on or after 1 September 1979 carry on petroleum retailing unless he is the holder of a petroleum retailers' licence.
- Penalty: 20 penalty units.
- * * * * *
- (4) Where a person is convicted of an offence under sub-section (2) in addition to any other penalty imposed on that person, the court may order him to pay to the Commissioner double any amount which the court is satisfied should have been but has not been paid to the Commissioner by way of a licence fee if a licence had been issued under this Act.
- (5) Without prejudice to any other method of recovery thereof as an order of the court for payment of a civil debt, any amount ordered to be paid pursuant to sub-section (4) shall, only for the purposes of its recovery and the consequences of failure to pay, be regarded as a fine imposed by the court upon a conviction in the exercise of that court's ordinary criminal jurisdiction.
- * * * * *
- S. 4(1) amended by No. 9674 s. 22(b)(i), repealed by No. 66/1988 s. 30(a).
- S. 4(2) amended by No. 9674 s. 22(b)(ii).
- S. 4(3) repealed by No. 66/1988 s. 30(b).
- S. 4(4) inserted by No. 9674 s. 18, amended by No. 66/1988 s. 30(c).
- S. 4(5) inserted by No. 9674 s. 18.
- S. 4(6)(7) inserted by No. 14/1987 s. 9, repealed by No. 66/1988 s. 30(d).

5. Application for licences

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s. 5

S. 5(1A)
inserted by
No. 80/1994
s. 15(1).

S. 5(3)
substituted by
No. 9674
s. 19.

S. 5(4)
inserted by
No. 9674
s. 19.

-
- (l) Subject to this Act—
- (a) a person may apply to the Commissioner for a petroleum retailers' licence;
 - (b) a person (other than a person who is a member of a petroleum wholesalers' group) may apply to the Commissioner for a petroleum wholesalers' licence; and
 - (c) a person who is a member of a petroleum wholesalers' group may apply for a group petroleum wholesalers' licence on behalf of all or any of the members of the group.

(1A) A person may apply for a licence whether or not the person is resident, or carrying on business, in Victoria.

(2) Where a member of a group is the holder of a group petroleum wholesalers' licence each member of the group whose name is endorsed on the licence shall be deemed to be the holder of a petroleum wholesalers' licence and any reference in this Act to the holder of a group petroleum wholesalers' licence includes a reference to a member of the group who is deemed to be the holder of a licence by this sub-section.

(3) An application shall be in the prescribed form and shall contain—

- (a) a full and true disclosure of all the material facts necessary to enable the Commissioner to ascertain the licence fee payable by the applicant; and
- (b) a statutory declaration made by the applicant verifying the information in the application.

(4) Where the prescribed form of application does not make provision for the disclosure of a material fact necessary to enable the Commissioner to ascertain the licence fee payable by the applicant

and where the applicant has knowledge of that fact, the applicant shall disclose that fact to the Commissioner in a further statutory declaration which shall be submitted with the application.

- (5) A person who fails to make a full and true disclosure required under sub-section (3) or (4) of all the material facts necessary to enable the Commissioner to ascertain the licence fee payable by him shall be guilty of an offence and liable to a penalty of not more than 10 penalty units.

S. 5(5)
inserted by
No. 9674
s. 19.

6. *Form and duration of licences*

- (1) A licence shall be in the prescribed form and shall—
- (a) in the case of a petroleum retailers' licence, except as otherwise provided in sub-section (2); and
 - (b) in the case of a petroleum wholesalers' licence or a group petroleum wholesalers' licence—

S. 6
amended by
Nos 9295
s. 2(a)(b), 9674
s. 22(c)(d),
substituted by
No. 9885
s. 9(1).

be in force on and from the day specified in the licence as the date from which the licence commences until, unless it sooner ceases to have effect, the last day of the month in which it commenced.

- (2) The Commissioner may in his absolute discretion issue to a person who has applied for a petroleum retailers' licence a licence revocable at will which unless so revoked or otherwise ceasing to have effect shall be in force on and from the day specified in the licence as the date from which the licence commences until 30 June next following.
- (3) Upon the revocation of a petroleum retailers' licence issued pursuant to sub-section (2) the following provisions shall apply:

- (a) The petroleum retailers' licence shall be deemed to continue in force only until the end of the month in which the revocation is made;
- (b) The Commissioner shall notify the person who is the holder of the petroleum retailers' licence of the revocation and shall make and issue an assessment of the amount which in his opinion should be paid in respect of that petroleum retailers' licence until the end of the month in which the revocation is made after deducting any amount previously paid in respect of that petroleum retailers' licence and that person shall be liable to pay that amount except in so far as he establishes on objection or appeal that the assessment is excessive;
- (c) Where a person who held a petroleum retailers' licence which is revoked under this sub-section applies for another petroleum retailers' licence the relevant period for the first licence issued after the revocation shall notwithstanding section 2(2) be from 1 April which immediately follows the relevant period for the revoked licence until the last day of the month second preceding the month for which the licence is issued;
- (d) Notwithstanding anything to the contrary in section 7(8) the Commissioner shall not issue another petroleum retailers' licence to a person who held a petroleum retailers' licence which is revoked under this sub-section unless the amount assessed as being payable in respect of the revoked petroleum retailers' licence pursuant to paragraph (b) has been paid or an arrangement is entered

into pursuant to section 7A of the **Business Franchise (Tobacco) Act 1974**;

- (e) The revocation of a petroleum retailers' licence pursuant to this sub-section shall be effective in law unless and until quashed in proceedings for certiorari and notwithstanding anything to the contrary in any other Act whatsoever no proceedings for certiorari, prohibition, mandamus, a declaration of invalidity or an injunction shall be maintained unless the amount assessed as being payable in respect of the revoked petroleum retailers' licence pursuant to paragraph (b) has been paid or an arrangement is entered into pursuant to section 7A of the **Business Franchise (Tobacco) Act 1974**.

7. Fees for licences¹

- (1) The fees to be paid for licences issued under this Act are as follows:

S. 7(1) substituted by Nos 9295 s. 3, 9674 s. 22(f), amended by Nos 9885 s. 9(2)(b), 88/1986 s. 38(2)(b), substituted by No. 66/1988 s. 31.

- (a) For a petroleum wholesaler's licence, a fee of \$50 together with an amount of—

(i) 10% of the value of motor spirit;² and

S. 7(1)(a)(i) amended by Nos 54/1990 s. 4(1),

(ii) 10% of the value of diesel fuel³—

39/1992 s. 9(1) amended by Nos 1987/1993

sold by the applicant in the course of petroleum wholesaling in the relevant period, other than motor spirit or diesel fuel that—

4(1)(a)(b), 49/1997 s. 3(1)(a)(ii).

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S. 7(1)(a)(iii)
substituted by
No. 80/1994
s. 15(2)(a).

- (iii) in the opinion of the Commissioner, is for re-sale or consumption outside Victoria; or
 - (iv) has been identified in a statement under section 11 given to the applicant by the holder of a petroleum retailer's licence as having been sold outside Victoria, not being a statement the applicant knows or ought to know is false; or
 - (v) was purchased from the holder of a petroleum wholesaler's licence or group petroleum wholesaler's licence; or
 - (vi) was purchased from the holder of a petroleum retailer's licence who does not purchase petroleum products from any person other than the holder of a petroleum wholesaler's licence or group petroleum wholesaler's licence; or
 - (vii) in the case of diesel fuel, sold for use otherwise than for propelling diesel engined road vehicles on roads;
- (b) For a group petroleum wholesaler's licence, a fee of \$50 together with an amount of—

S. 7(1)(b)(i)
amended by
Nos 54/1990
s. 4(1),
79/1992 s.
9(1), 46/1993
s. 4(1)(a)
S. 7(1)(b)(ii)
amended by
Nos. 46/1993
s. 4(1)(b),
49/1997
s. 3(1)(b)(ii).

(i) 10% of the value of motor spirit;⁴ and

(ii) 10% of the value of diesel fuel⁵—

sold by the members of the group of petroleum wholesalers of which the applicant is a member in the course of petroleum wholesaling in the relevant period, other than motor spirit or diesel fuel that—

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- (iii) in the opinion of the Commissioner, is for re-sale or consumption outside Victoria; or
 - (iv) has been identified in a statement under section 11 given to the applicant by the holder of a petroleum retailer's licence as having been sold outside Victoria, not being a statement the applicant knows or ought to know is false; or
 - (v) was purchased from the holder of a petroleum wholesaler's licence or group petroleum wholesaler's licence; or
 - (vi) was purchased from the holder of a petroleum retailer's licence who does not purchase petroleum products from any person other than the holder of a petroleum wholesaler's licence or group petroleum wholesaler's licence; or
 - (vii) in the case of diesel fuel, sold for use otherwise than for propelling diesel engined road vehicles on roads;
- (c) For a petroleum retailer's licence, a fee—
- (i) in the case of a licence revocable at will issued under section 6(2), \$50; or
 - (ii) in the case of a monthly licence under section 6(1), \$10—
- together with an amount of—
- (iii) 10% of the value of motor spirit;⁶ and

S. 7(1)(b)(iii)
substituted by
No. 80/1994
s. 15(2)(b).

S. 7(1)(c)(iii)
amended by
Nos 54/1990
s. 4(1),
79/1992 s.
9(1), 46/1993
s. 4(1)(a),
49/1997
s. 3(c)(i).

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S.7(1)(c)(iv)
amended by
No. 46/1993
s. 4(1)(b),
49/1997
s. 3(1)(c)(ii).

(iv) 10% of the value of diesel fuel⁷—

purchased by the applicant in the course of petroleum retailing in the relevant period, other than—

- (v) motor spirit or diesel fuel purchased from the holder of a petroleum wholesaler's licence or group petroleum wholesaler's licence; or
- (vi) motor spirit or diesel fuel for re-sale or consumption outside Victoria; or
- (vii) motor spirit or diesel fuel purchased from the holder of a petroleum retailer's licence who does not purchase petroleum products from any person other than the holder of a petroleum wholesaler's licence or group petroleum wholesaler's licence; or
- (viii) diesel fuel purchased for use otherwise than for propelling diesel engined road vehicles on roads.

S. 7(1A)
inserted by
No. 49/1997
s. 3(2).

(1A) Sub-section (1) as amended by section 3 of the **State Taxation Acts (Further Amendment) Act 1997** applies to licences issued under this Act for a licence period commencing on or after 1 July 1997 and sub-section (1) as in force immediately before the commencement of that section applies to licences issued for a period ending on or before 30 June 1997.

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* * * * *

S. 7(1A)
 inserted by
 No. 9295 s. 3,
 amended by
 Nos 9588
 s. 2(a)(b), 9965
 s. 4(1)(a)(b)
 repealed by
 No. 66/1988
 s. 31

* * * * *

S. 7(1B)
 inserted by
 No. 9295
 s. 3,
 amended by
 No. 88/1986
 s. 38(2)(c),
 repealed by
 No. 66/1988
 s. 31.

(2) The Minister may from time to time determine the basis on which, and the means by which, a value is to be attributed to petroleum products sold during any period.

S. 7(2)
 amended by
 No. 88/1986
 s. 38(2)(d),
 substituted by
 No. 76/1992
 s. 3.

(3) The value so attributed to any petroleum products is, for the purposes of this Act, the value of the petroleum products.

S. 7(3)
 amended by
 No. 9885
 s. 10(1),
 substituted by
 No. 76/1992
 s. 3.

* * * * *

S. 7(3A)
 inserted by
 No. 9885
 s.10(2),
 repealed by
 No. 76/1992
 s. 3.

(4) Where an application is made for a petroleum retailers' licence and the applicant did not carry on the business of a petroleum retailer at all of the premises specified in the application for the whole of the relevant period, the fee payable by the applicant in respect of the licence shall be such amount as is assessed by the Commissioner as being just and reasonable in the circumstances of

the case having regard to the petroleum products that would have been handled by the applicant had he been carrying on the business in respect of which the application for the licence was made at all of those premises for the whole of the relevant period, the relevant principles of determining fees under sub-section (1) and the period that the licence, if granted, will be in force.

- (5) Where an application is made for a petroleum wholesalers' licence and the applicant did not carry on petroleum wholesaling for the whole of the relevant period, the fee payable by the applicant in respect of the licence shall be such amount as is assessed by the Commissioner as being just and reasonable in the circumstances of the case having regard to the petroleum products that would have been handled by the applicant had he been carrying on the business in respect of which the application for the licence was made for the whole of the relevant period, the relevant principles of determining fees under sub-section (1) and the period that the licence, if granted, will be in force.
- (6) Where an application is made for a group petroleum wholesalers' licence and the business of petroleum wholesaling was not carried on for the whole of the relevant period by all of the members of the group in respect of which the application is made, the fee payable in respect of that licence shall be such amount as is assessed by the Commissioner as being just and reasonable in the circumstances of the case having regard to the petroleum products that would have been handled by the members of the group in respect of which the application is made had they all been carrying on business as petroleum wholesalers for the whole of the relevant period, the relevant principles of determining fees under sub-section
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(1) and the period that the licence, if granted, will be in force.

* * * * *

S. 7(7)
repealed by
No. 66/1988
s. 32(1).

(8) The Commissioner shall issue a licence to an applicant where a fee has been paid which is, in the opinion of the Commissioner at the time at which the licence is issued, the fee required to be paid under this Act.

S. 7(8)
substituted by
No. 9674
s. 20(a).

(8A) Where the Commissioner is of the opinion that an amount paid or tendered by an applicant as a licence fee under this Act is less than the licence fee which is required to be paid under this Act the Commissioner may refuse to issue a licence until the fee required to be paid has been paid.

S. 7(8A)
inserted by
No. 9674
s. 20(a).

* * * * *

S. 7(8B)
inserted by
No. 66/1988
s. 32(2),
amended by
No. 75/1989
s. 8,
repealed by
No. 80/1994
s. 15(2)(c).

(9) A licence shall authorize the licensee to carry on the business of petroleum wholesaling or petroleum retailing, as the case may be, on such premises as he has given notice in writing to the Commissioner as premises upon which he is carrying on any such business.

(10) A holder of a licence who has—

(a) ceased carrying on the business of petroleum wholesaling or petroleum retailing (as the

S. 7(10)
substituted by
No. 9674
s. 20(b).

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case may be) or has ceased to carry on that business on any premises; or

(b) acquired additional premises in which to carry on that business—

shall by notice in writing in the prescribed form notify the Commissioner that he has done so.

Penalty: One penalty unit.

S. 7(11)
inserted by
No. 9674
s. 20(b).

(11) A holder of a licence who has ceased carrying on the business of petroleum wholesaling or petroleum retailing (as the case may be) shall upon notifying the Commissioner pursuant to subsection (10) surrender his licence to the Commissioner.

Penalty: One penalty unit.

S. 7(12)
inserted by
No. 9674
s. 20(b).

(12) A person who has applied for a licence under this section shall pay the fee required to be paid by this Act for that licence.

S. 7(13)
inserted by
No. 9674
s. 20(b)

(13) Where a person has applied for a licence pursuant to section 5 of this Act and that person has not paid or tendered the fee which in the opinion of the Commissioner is payable under section 7(1) of this Act for the licence, the Commissioner may make an assessment of the amount that in his judgment should be paid for the issue of the licence and that person shall be liable to pay that amount less any amount previously paid by that person except in so far as he establishes on objection or appeal that the assessment is excessive.

S. 7A
inserted by
No. 88/1986
s. 38(1).

7A. *Note or memorandum of business with unlicensed wholesaler*

(1) If a person carrying on petroleum retailing transacts or offers to transact business which involves the acquisition of petroleum products with a person who is not the holder of a petroleum wholesalers' licence or a group petroleum wholesalers' licence, the first-mentioned person shall make a note or memorandum in writing of the transaction or offer containing the prescribed particulars and shall forward that note or memorandum to the Commissioner within seven days after transacting or offering to transact the business.

S. 7A(1)
amended by
No. 66/1988
s. 33(1).

(2) A person shall not—

- (a) fail to make the note or memorandum required by sub-section (1); or
- (b) omit any item from the note or memorandum; or
- (c) make a false or misleading statement in the note or memorandum; or
- (d) fail to forward the note or memorandum as required by sub-section (1) in the time specified.

S. 7A(2)
amended by
No. 66/1988
s. 33(2).

Penalty: For a first offence—10 penalty units;
For a second or subsequent offence—20 penalty units.

8. *When occupier of premises deemed to be seller*

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S. 8(1)
amended by
Nos 9674
s. 22(e)(i),
88/1988
s. 38(2)(e),
repealed by
No. 66/1988
s. 34.

* * * * *

S. 8(1A)(1B)
inserted by
No. 9674
s. 21,
repealed by
No. 66/1988
s. 34.

* * * * *

- (2) Where petroleum products are sold on any premises otherwise than by a licensee the occupier of the premises shall be deemed to have sold such products unless it is shown—
- (a) that the sale took place without his knowledge or connivance; and
 - (b) that he took all such steps as are reasonable in the circumstances to prevent the sale being made.

S. 8(3)
amended by
No. 9674
s. 22(e)(ii),
repealed by
No. 66/1988
s. 34.

* * * * *

9. Register of licences

S. 9(1)
substituted by
No. 66/1988
s. 35

- (1) The Commissioner must cause to be kept a register of the holders of licences.
- (2) The register shall be available at the office of the Commissioner for inspection by members of the public during ordinary office hours.

10. *Invoices, statements of account and receipts to be endorsed*

(1) A person who is the holder of a petroleum wholesalers' licence or a group petroleum wholesalers' licence shall endorse on every invoice, statement of account and receipt issued by him for or in relation to the sale of petroleum products the words "Licensed petroleum wholesaler".

(2) A person who fails to comply with the provisions of sub-section (1) shall be guilty of an offence.

S.10(2)
amended by
No. 9674
s. 22(g)(i).

Penalty: Five penalty units.

(3) A person who is not the holder of a petroleum wholesalers' licence shall be guilty of an offence if he issues an invoice statement of account or receipt which is endorsed with the words "Licensed petroleum wholesaler" or words of similar import.

S. 10(3)
amended by
No. 9674
s. 22(g)(ii).

Penalty: 10 penalty units.

(4) This section shall come into operation on 1 July 1980.

11. *Statement of petroleum products sold outside Victoria*

(1) The holder of a petroleum retailer's licence who sells outside Victoria any petroleum products purchased during a month from the holder of a petroleum wholesaler's licence or group petroleum wholesaler's licence may, before the end of the next month, give to the holder of the petroleum wholesaler's licence a statement in writing in a form approved by the Commissioner giving particulars of the quantity and value of the petroleum products sold outside Victoria during either of those months.

S.11
amended by
No. 9418
s. 6(a)(b),
repealed by
No. 9861
s. 3(1),
new s.11
inserted by
No. 66/1988
s. 36.

Business Franchise (Petroleum Products) Act 1979
Act No. 9272/1979

s. 11A

- (2) A person must not give a statement under sub-section (1) which is false or misleading in a material particular.

Penalty applying to this sub-section: 100 penalty units.

S. 11A
inserted by
No. 80/1994
s. 16.

11A. Sales to interstate purchasers

If—

- (a) petroleum products sold in Victoria are subsequently resold in another State or in a Territory of the Commonwealth; and
- (b) by virtue of the resale of those petroleum products in that State or Territory, a person has paid a fee under a law of that State or Territory that corresponds to this Act—

the Commissioner must refund, to the person who paid the fee, an amount equal to the amount paid to the Commissioner under this Act as a fee, or part of a fee, calculated by reference to the sale or purchase by that person of those petroleum products.

S.12
repealed by
No. 9863 s. 2,
new s.12
inserted by
No. 54/1990
s. 5.

12. Special Purpose Trust Account

- (1) There shall be established in the Public Account as part of the Trust Fund an account to be known as the "Special Purpose Trust Account".
- (2) There shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) into the Special Purpose Trust Account as soon as practicable after the end of each financial year an amount equal to 29.1 per centum of the amount of ad valorem licence fees collected under the **Business Franchise Acts** during that financial year in respect of motor spirit.

(3) Amounts standing to the credit of the Special Purpose Trust Account shall be paid to the Transport Accident Commission for payment into the Transport Accident Fund in such instalments and at such times as the Treasurer determines.⁸

S. 12(3)
substituted by
No. 79/1992
s. 9

(4) In sub-section (2), "**financial year**" means the period beginning on 1 December 1990 and ending on 30 June 1991, the year ending on 30 June 1992 and the period beginning on 1 July 1992 and ending on 31 January 1993.

S.12(4)
substituted by
No. 79/1992
s. 9(3).

13. Better Roads Victoria Trust Account

S. 13
repealed by
No. 9863,
new s. 13
inserted by
No. 46/1993
s. 5.

(1) There shall be established in the Public Account as part of the Trust Fund an account to be known as the "Better Roads Victoria Trust Account".

(2) There shall be paid out of the Consolidated Fund (which is to the necessary extent appropriated accordingly) into the Better Roads Victoria Trust Account—

S. 13(2)
substituted by
No. 49/1997
s. 4(1).

(a) in respect of the financial year commencing on 1 July 1997 an amount of \$185 000 000; and

(b) in respect of each succeeding financial year an amount equal to 45% of the amount of ad valorem licence fees collected under the Business Franchise Acts in respect of petroleum products during the preceding financial year—

in such instalments and at such times as are determined from time to time by the Treasurer.

(3) Amounts standing to the credit of the Better Roads Victoria Trust Account shall be expended, as the Treasurer determines, for the construction and maintenance of roads within the meaning of the **Transport Act 1983** in Victoria.

Business Franchise (Petroleum Products) Act 1979
Act No. 9272/1979

s. 14

S. 13(4)
inserted by
No. 49/1997
s. 4(2).

- (4) Despite anything to the contrary in section 4 of the **State Taxation Acts (Further Amendment) Act 1997**, sub-section (2) as in force immediately before the commencement of that section continues to apply to the payment to be made by reference to licence fees collected during June 1997.

S. 14
repealed by
No. 9863 s. 2,
new s. 14
inserted by
No. 42/1996
s. 3.

14. *Liquidator to give notice*

The liquidator of a company that has been the holder of a licence under this Act must, within 14 days after becoming liquidator, serve on the Commissioner written notice of his or her appointment as liquidator.

Penalty: 50 penalty units.

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S. 15
repealed by
No. 9863
s. 2.

16. *Re-assignment of taxation staff*

- (1) Notwithstanding anything in any Act the Treasurer may by Order under his hand published in the Government Gazette assign any person who holds an office in the Stamp Duties Branch or the Taxation Branch of the Treasury to be the Commissioner or Deputy Commissioner for the purposes of any prescribed Act in lieu of the holder of any office designated as the Commissioner or Deputy Commissioner, whether by Act or otherwise, for the purposes of the prescribed Act and any person so assigned shall have and may exercise and perform all the powers and functions of the Commissioner or Deputy Commissioner under that last-mentioned Act, as the case requires.

Business Franchise (Petroleum Products) Act 1979

Act No. 9272/1979

- (2) In this section "**prescribed Act**" means the **Gift Duty Act 1971**, the **Pay-roll Tax Act 1971** and the **Business Franchise Acts**.
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Business Franchise (Petroleum Products) Act 1979
Act No. 9272/1979

NOTES

1. General Information

The **Business Franchise (Petroleum Products) Act 1979** was assented to on 10 July 1979 and came into operation on 1 September 1979: see s.1(3).

Business Franchise (Petroleum Products) Act 1979
Act No. 9272/1979

Notes

2. Table of Amendments

This Version incorporates amendments made to the **Business Franchise (Petroleum Products) Act 1979** by Acts and subordinate instruments.

Business Franchise (Petroleum Products) (Licence Fees) Act 1979, No. 9295/1979

Assent Date: 30.10.79
Commencement Date: 1.9.79: s. 1(3)
Current State: All of Act in operation

Transport (Road Funds) Act 1980, No. 9418/1980

Assent Date: 20.5.80
Commencement Date: Ss 6–9 on 1.7.80; rest of Act on 20.5.80: s. 1(2)
Current State: All of Act in operation

Business Franchise (Petroleum Products) (Fees) Act 1981, No. 9588/1981

Assent Date: 30.10.81
Commencement Date: 1.11.81: s. 1(3)
Current State: All of Act in operation

Business Franchise (Amendment) Act 1981, No. 9674/1981

Assent Date: 22.12.81
Commencement Date: Ss 6, 13(1) on 18.11.80: s. 1(3); rest of Act on 23.12.81: Government Gazette 23.12.81 p. 4262
Current State: All of Act in operation

Public Account (Trust Funds) Act 1982, No. 9861/1982

Assent Date: 5.1.83
Commencement Date: 12.1.83: Government Gazette 12.1.83 p. 81
Current State: All of Act in operation

Statute Law Revision Act 1982, No. 9863/1982

Assent Date: 5.1.83
Commencement Date: 5.1.83: s. 1(2)
Current State: All of Act in operation

Business Franchise Acts (Amendment) Act 1983, No. 9885/1983

Assent Date: 10.5.83
Commencement Date: All of Act (*except* ss 6(1), 10) on 10.5.83: s. 1(2); s. 6(1) on 18.11.80: s. 6(2); s. 10 on 1.9.82: s. 10(3)
Current State: All of Act in operation

Business Franchise Acts (Further Amendment) Act 1983, No. 9965/1983

Assent Date: 22.11.83
Commencement Date: S. 7 on 23.12.81: s. 2(3); ss 3–5 on 1.12.83: s. 2(2); rest of Act on 22.11.83: s. 2(1)
Current State: All of Act in operation

Taxation Acts (Amendment) Act 1986, No. 88/1986

Business Franchise (Petroleum Products) Act 1979
Act No. 9272/1979

Assent Date: 9.12.86
Commencement Date: S. 38 on 9.12.86: s. 2(1)
Current State: This information relates only to the provision amending the **Business Franchise (Petroleum Products) Act 1979**

Business Franchise Acts (Amendment) Act 1987, No. 14/1987

Assent Date: 12.5.87
Commencement Date: 28.5.87: Special Gazette (No. 20) 28.5.87 p. 1
Current State: All of Act in operation

Business Franchise Acts (Amendment) Act 1988, No. 66/1988

Assent Date: 9.12.88
Commencement Date: Ss 6, 8, 20, 21, 30, 34 on 1.12.88: s. 2(2); rest of Act on 9.12.88: s. 2(1)
Current State: All of Act in operation

Business Franchise (Tobacco) (Amendment) Act 1989, No. 75/1989

Assent Date: 28.11.89
Commencement Date: S. 5(1) on 1.10.89: s. 5(2); rest of Act on 28.11.89: s. 2
Current State: All of Act in operation

Business Franchise Acts (Further Amendment) Act 1990, No. 54/1990

Assent Date: 7.11.90
Commencement Date: 7.11.90
Current State: All of Act in operation

State Taxation (Amendment) Act 1992, No. 76/1992

Assent Date: 24.11.92
Commencement Date: S. 3 on 24.11.92: s. 2(1)
Current State: This information relates only to the provision amending the **Business Franchise (Petroleum Products) Act 1979**

Transport Accident (Amendment) Act 1992, No. 79/1992

Assent Date: 24.11.92
Commencement Date: S. 9(1)(3)–(5) on 24.11.92: s. 2(1); s. 9(2) on 15.1.93: s. 2(3)
Current State: This information relates only to the provisions amending the **Business Franchise (Petroleum Products) Act 1979**

Business Franchise (Petroleum Products) (Amendment) Act 1993, No. 46/1993

Assent Date: 1.6.93
Commencement Date: 1.6.93
Current State: All of Act in operation

Business Franchise Acts (Amendment) Act 1994, No. 80/1994

Business Franchise (Petroleum Products) Act 1979

Act No. 9272/1979

Assent Date: 29.11.94
Commencement Date: Ss 14, 15(2), 16 on 1.12.94: s. 2(2); ss 13, 15(1) on 29.11.94: s. 2(1)
Current State: All of Act in operation

State Taxation (Further Omnibus Amendment) Act 1996, No. 42/1996

Assent Date: 12.11.96
Commencement Date: S. 3 on 12.11.96: s. 2(1)
Current State: This information relates only to the provision amending the **Business Franchise (Petroleum Products) Act 1979**

Taxation Administration Act 1997, No. 40/1997

Assent Date: 3.6.97
Commencement Date: S. 138(Sch. 2 item 3) on 1.7.97: Government Gazette 12.6.97 p. 1330
Current State: This information relates only to the provisions amending the **Business Franchise (Petroleum Products) Act 1979**

State Taxation Acts (Further Amendment) Act 1997, No. 49/1997

Assent Date: 11.6.97
Commencement Date: S. 3 on 11.6.97: s. 2(1); s. 4 on 1.7.97: s. 2(3)
Current State: This information relates only to the provisions amending the **Business Franchise (Petroleum Products) Act 1979**

3. Explanatory Details

¹ S. 7: Section 9(4) of the **Transport Accident (Amendment) Act 1992**, No. 79/1992 reads as follows:

- (4) The **Business Franchise (Petroleum Products) Act 1979**, as amended by sub-section (1), applies to licences issued under that Act for a licence period commencing on or after 1 February 1993.

² S. 7(1)(a)(i): See note 1.

³ S. 7(1)(a)(ii): Section 4(2)(3) of the **Business Franchise (Petroleum Products)(Amendment) Act 1993**, No. 46/1993 reads as follows:

- (2) The Principal Act, as amended by sub-section (1), applies to licences issued under that Act for a licence period commencing on or after 1 August 1993.
- (3) The Principal Act, as in force immediately before the commencement of this section, continues to apply to licences issued under that Act for a licence period ending on or before 31 July 1993.

⁴ S. 7(1)(b)(i): See note 1.

⁵ S. 7(1)(b)(ii): See note 3.

⁶ S. 7(1)(c)(iii): Section 4(2)(3) of the **Business Franchise Acts (Further Amendments) Act 1990**, No. 54/1990 reads as follows:

- (2) The **Business Franchise (Petroleum Products) Act 1979**, as amended by sub-section (1), applies to licences issued under that Act for a licence period commencing on or after 1 December 1990.
 - (3) The **Business Franchise (Petroleum Products) Act 1979**, as in force immediately before the commencement of this section, continues to apply to licences issued under that Act for a licence period ending on or before 30 November 1990.
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Business Franchise (Petroleum Products) Act 1979
Act No. 9272/1979

⁷ S. 7(1)(c)(iv): See note 3.

⁸ S. 12(3): Section 9(5) of the **Transport Accident (Amendment) Act 1992**, No. 79/1992 reads as follows:

(5) The **Business Franchise (Petroleum Products) Act 1979**, as in force immediately before the commencement of this section, continues to apply to licences issued under that Act for a licence period ending on or before 31 January 1993.