

FIRST PRINT

**BUSINESS FRANCHISE LICENCES (PETROLEUM
PRODUCTS) AMENDMENT BILL 1985**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Business Franchise Licences (Petroleum Products) Act 1982, so as—

- (a) to provide for certain penalty payments in case of late payment of licence fees and to make further provision with respect to assessment and payment of licence fees (Schedule 1); and
- (b) to make further provision with respect to the powers of the Chief Commissioner and inspectors under the Principal Act to obtain information and evidence (Schedule 2),

and for other purposes (Schedule 3).

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with a minor exception, commence on the day on which it receives the Royal Assent.

Clause 3 provides that for the purposes of the proposed Act the Business Franchise Licences (Petroleum Products) Act 1982 may be referred to as the Principal Act.

Clause 4 sets out the Schedules to the proposed Act.

Clause 5 gives effect to the Schedules of Amendments.

Clause 6 gives effect to Schedule 4 (savings, transitional and other provisions).

Schedule 1 (1) (a)–(c) amends section 19 of the Principal Act, under which the Chief Commissioner of Business Franchise Licences (Petroleum Products) is empowered, where the Chief Commissioner is satisfied that a fee has been incorrectly assessed, to reassess the fee for a licence. The effect of the amendments is to provide that the licensee is obliged to pay not only the amount of the necessary fee adjustment but a further amount (equal to twice the amount of the adjustment) by way of penalty.

Schedule 1 (1) (d) amends section 19 of the Principal Act to enable an amount payable under that section to be paid by instalments.

Schedule 1 (2) amends section 25 of the Principal Act to make it clear that a person objecting to or appealing against a reassessment by the Chief Commissioner under section 19 of that Act must pay the amount of the adjustment (and any associated penalty payment) before proceeding with the objection or appeal.

Schedule 1 (3) (a)–(c) amends section 35 of the Principal Act to provide that where a person has illegally sold petroleum products without a licence, the Chief Commissioner may recover, in addition to the fee that would have been payable by the person if the person had had a licence, an amount by way of penalty equal to twice that amount.

Schedule 1 (3) (d) amends section 35 of the Principal Act to provide for the payment by instalments of amounts payable under that section.

Schedule 1 (3) (e) amends section 35 of the Principal Act to allow the Chief Commissioner, in an appropriate case, to remit the whole or part of an amount payable under that section.

Schedule 1 (4) inserts a new section 35A into the Principal Act, which provides for a sliding scale of interest and penalty payments in cases where licence fees are not paid in due time.

Schedule 2 (1) amends section 13 of the Principal Act to confer on licensing inspectors a right of access to any premises (other than residential premises) in order to examine and deal with records for the purposes of the Principal Act.

Schedule 2 (2) inserts a new section 13A into the Principal Act to provide for the issue of a warrant to search residential premises suspected to contain records or documents to which an inspector requires access for the purposes of the Principal Act.

Schedule 2 (3) amends section 14 of the Principal Act to enable the Chief Commissioner to require from any person information which that person has in relation to trading in petroleum products and other matters relevant to the operation of the Principal Act.

Schedule 2 (4) inserts Schedule 2 into the Principal Act to make provision with respect to search warrants issued under new section 13A (inserted by Schedule 2 (2)).

Schedule 3 (1) omits section 18 (6) of the Principal Act. The effect is to enable regard to be had, for the purpose of calculating licence fees, to sales between licensed wholesalers.

Schedule 3 (2) amends section 21 (1) of the Principal Act to oblige a licensee, upon ceasing to trade, to surrender his or her licence.

Schedule 3 (3) amends section 28 of the Principal Act to require a wholesaler to issue invoices in proper form and to retain, for at least 5 years, a copy of every issued invoice.

Schedule 3 (4) amends section 30 of the Principal Act to increase the penalties for offences under that section.

Schedule 3 (5) amends section 32 of the Principal Act to permit proceedings for an offence against the Principal Act or the regulations to be taken before a Local Court or before the Supreme Court in its summary jurisdiction and to provide that, where proceedings for any such offence are taken before a Local Court, the maximum penalty which the Local Court may impose, in respect of an offence for which the maximum penalty would otherwise exceed \$10,000, is limited to \$10,000.

Schedule 4 enacts certain savings and transitional provisions in connection with the proposed Act and provides for further amendment of the Principal Act in anticipation of the commencement of the Search Warrants Act 1985.
