

NORTHERN TERRITORY OF AUSTRALIA

BUSINESS FRANCHISE REGULATIONS

As in force at 8 May 1996

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Regulations as in force at 8 May 1996. Any amendments that may come into operation after that date are not included.

BUSINESS FRANCHISE REGULATIONS

Regulations under the *Business Franchise Act*

1. Citation

These Regulations may be cited as the Business Franchise Regulations.
(See back note 1)

2. Keeping of records

(1) [Omitted]

(2) A person carrying on the business of selling tobacco or petroleum products shall keep records, in such form as the Commissioner directs, showing details of –

- (a) each purchase of tobacco or a petroleum product made by the person in the course of that business, including –
 - (i) the name and address of the person from whom it was purchased;
 - (ii) the price for which it was purchased;
 - (iii) the date of the purchase;
 - (iv) the quantity of tobacco or volume in litres of the petroleum product;
 - (v) the quantity of the tobacco or volume in litres of the petroleum product (and its purchase price) not intended for sale by retail in the Territory or at all, as the case may be;
 - (vi) in the case of a purchase of a motor spirit – the grade of the motor spirit;

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- (vii) the address of the place to which the tobacco or petroleum product was delivered; and
 - (viii) in the case of a purchase of diesel fuel for sale for use otherwise than for propelling diesel engined road vehicles on roads – the number of the Diesel Fuel Certificate (if any) issued by the Collector of Customs for the Territory under the *Customs Act 1901* of the Commonwealth held by the purchaser;
- (b) each sale of tobacco or a petroleum product made (including, by virtue of section 4(3) of the Act, deemed to have been made in the Territory) by the person to a person carrying on the business of selling tobacco or petroleum products, as the case may be, or a group of such persons, including –
- (i) the name and, if known, the address of the purchaser;
 - (ii) the price at which the tobacco or petroleum product was sold;
 - (iii) the date of the sale;
 - (iv) the quantity of tobacco or volume in litres of the petroleum product; and
 - (v) in the case of a sale of a motor spirit – the grade of the motor spirit; and
- (c) such other information as the Commissioner reasonably requires to be kept.

(3) Without limiting the generality of subregulation (2), a person carrying on the business of selling tobacco or petroleum products shall keep, and produce to the Commissioner when required, details of all sales and deliveries of such products which, by virtue of section 4(3) of the Act, are deemed to have been sales made in the Territory, including –

- (a) the name of the person to whom the products were delivered and the details of the time and place of delivery; and
- (b) the type and quantity of product delivered.

3. Rebate

(1) A person who has purchased a petroleum product used or capable of use in a diesel engine in respect of which a fee under the Act has been paid but which is not used in propelling a diesel engined road vehicle or intended to be so used may, in a form approved by the Commissioner, before the expiration of 12

months after the date in which the person purchased the product, apply to the Commissioner for a rebate.

(1A) Nothing in subregulation (1) permits a person to apply under that subregulation for a rebate in respect of a petroleum product where the licensee who sold the petroleum product has been granted a remission of the licence fee payable under the Act in respect of the petroleum product.

(2) The Commissioner may require a person who applies under subregulation (1) for a rebate to support the application with a statutory declaration and such other documentation as the Commissioner thinks necessary to establish that the person is entitled to a rebate or that the petroleum product is a product in respect of which a licence fee has been or is to be calculated.

(3) Where the Commissioner is satisfied that a petroleum or shale product in respect of which an application under this regulation is made has been or is to be used otherwise than for propelling a diesel engined road vehicle, the Commissioner may, in his absolute discretion, pay to the applicant such amount, not exceeding 2 cents per litre in respect of the quantity of product so used, as the Commissioner thinks fit.

4. Remission

Where the Commissioner is satisfied that a licensee, in carrying on the business of selling petroleum products, has sold petroleum products capable of use in a diesel engine –

- (a) but which were not to be used in propelling a diesel engined road vehicle; or
- (b) all or some of which were to be used outside the Territory (including the territorial sea adjacent to the Territory),

the Commissioner may, in his absolute discretion (and, in a case referred to in paragraph (a), only to the same extent as he could pay a rebate under regulation 3(3)), remit a licence fee otherwise payable by the licensee under the Act.

4AA. Remission regarding operations in Zone of Cooperation

- (1) In this regulation –

"Commonwealth Act" means the *Petroleum (Australia-Indonesia Zone of Cooperation) Act 1990* of the Commonwealth of Australia;

"Zone of Cooperation" means Areas A, B and C of the Zone of Cooperation described in Annexure A to the Treaty between Australia and the Republic of Indonesia as set out in the Schedule to the Commonwealth Act.

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(2) Notwithstanding regulation 4, where the Commissioner is satisfied that –

- (a) a licensee who is carrying on the business of selling petroleum products has sold petroleum products capable of use in a diesel engine; and
- (b) the whole or a substantial portion of the petroleum products sold were to be used within the Zone of Cooperation by or on behalf of a person approved, or acting under and in accordance with a product sharing contract, to prospect for petroleum or to undertake petroleum operations under section 7 or 8 of the Commonwealth Act,

the Commissioner may, in his absolute discretion, remit a licence fee otherwise payable by the licensee under the Act.

4AB. Remission regarding fuel sold by mother ships to trawlers in Carpentaria region

(1) For the purposes of this regulation –

"Carpentaria region" means the area of water bounded by an imaginary line commencing at the point where the baseline and the Queensland border intersect and running parallel to, and 3 nautical miles seaward of, the baseline to the point seaward of where the baseline touches the Marchinbar Island and then to the low water mark of the most north easterly point of that island and then along the low water mark of the east coast of the island and then to the most north easterly point of Guluwuru Island and then along the low water mark of that island to its most south westerly point and then in a south easterly direction, in a straight line, to Cape Wilberforce, then to Cape Wirawawai and then along the low water mark of the coastline of the Territory in a southerly direction to where the coastline intersects with the Queensland border;

"baseline" means the territorial sea baseline of the Territory declared under the *Seas and Submerged Lands Act 1973* of the Commonwealth by Proclamation published in the Commonwealth *Gazette* No. S29 of 9 February 1983 (as amended);

"mother ship" means a vessel used for the purpose of providing petroleum products and provisions to a trawler;

"trawler" means a vessel used to take fish or aquatic life under a licence granted under the *Fisheries Act* or under an Act of the Commonwealth or a State or another Territory of the

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Commonwealth which corresponds, as near as practicable, to the *Fisheries Act*.

(2) Notwithstanding regulation 4, where the Commissioner is satisfied that –

- (a) a licensee who is carrying on the business of selling petroleum products has sold or intends to sell petroleum products; and
- (b) the petroleum products were sold and delivered, or are to be sold and delivered, in the Carpentaria region from a mother ship to a trawler for the purposes of the trawler being used to take fish or aquatic life,

the Commissioner may, in his absolute discretion, remit a licence fee otherwise payable by the licensee under the Act.

4A. Payments on behalf of licensee

(1) A person liable to pay a licence fee may enter into an arrangement acceptable to the Commissioner for the fee to be paid on the person's behalf by a person from whom the first-mentioned person purchased the relevant tobacco or petroleum products for sale by retail.

(2) Where, in pursuance of an arrangement referred to in subregulation (1), a fee is paid on behalf of a person, the acceptance by the Commissioner of any money in respect of the licence fee discharges the liability of the person to the extent of that payment but, subject to subregulation (3), does not relieve the person of any other obligation under the Act.

(3) Where an arrangement referred to in subregulation (1) is entered into, the Commissioner may, in his or her discretion, remit the fixed amount of the licence fee otherwise payable.

5. Display of licence and evidence of licence

(1) A licensee carrying on the business of selling tobacco or petroleum products shall display his or her current licence in a prominent place at his or her principal place of business in the Territory.

Penalty: \$200.

(2) [Omitted]

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Notes

1. The Business Franchise Regulations, in force under the *Business Franchise Act*, comprise the Regulations 1987, No. 35 as amended by the other Regulations specified in the following table:

Year and number	Date made	Date notified in the <i>Gazette</i>	Date of commencement
1987, No. 35	29 July 1987	30 July 1987	30 July 1987
1989, No. 22	31 Aug 1989	31 Aug 1989	31 Aug 1989
Act No. 43, 1989	—	—	ss 4 and 5: 26 July 1989; Remainder: 22 Aug 1989 (see s.2)
Act No. 46, 1990	—	—	21 Aug 1990 (see s.2)
1993, No. 47	30 Nov 1993	8 Dec 1993	8 Dec 1993
1996, No. 14	29 Mar 1996	10 Apr 1996	10 Apr 1996
1996, No. 18	29 Apr 1996	8 May 1996	8 May 1996

2. Section 6 of the *Business Franchise Amendment Act (No. 2) 1989* provides for the following:

"6. PROVISIONS MAY BE FURTHER AMENDED

"The regulations amended by sections 4 and 5 may be repealed or further amended by a regulations made under the *Business Franchise Act*."

3. Section 5(2) and (3) of the *Business Franchise Amendment Act 1990* provides for the following:

"(2) The amendment made by subsection (1) shall apply to and in relation to the amount of any rebate that may be paid by the Commissioner pursuant to regulation 3 of the Business Franchise Regulations in respect of a petroleum or shale product (to which that regulation applies) purchased on or after the commencement of this Act.

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"(3) The amendment made by subsection (1) may be repealed or amended by regulations made under the Principal Act."

Table of Amendments

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| 2. | Amended by 1989, No. 22; 1993, No. 47 |
| 3. | Amended by Act No. 43, 1989; Act No. 46, 1990; 1993, No. 47 |
| 4. | Substituted by Act No. 43, 1989; 1993, No. 47; amended by 1996, No. 14 |
| 4AA. | Inserted by 1996, No. 14 |
| 4AB. | Inserted by 1996, No. 18 |
| 4A. | Inserted by Act No. 43, 1989 |
| 5. | Amended by 1989, No. 22 |
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