

THE PETROLEUM AND OIL FUEL (LANDING AND STORAGE) ACT

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THE PETROLEUM AND OIL FUEL (LANDING AND STORAGE) ACT

Cap. 291.
Acts
12 of 1985
Sch.
19 of 1990.

[13th November, 1925.]

1. This Act may be cited as the Petroleum and Oil Fuel (Landing and Storage) Act. Short title.

2. In this Act—

“motor spirit” means a petroleum hydro-carbon mixture or other liquid with a boiling range between eighty degrees and seven hundred degrees Fahrenheit and whose composition and other physical and chemical properties make it suitable for use in diesel or spark ignited internal combustion engines, and includes gasolene, diesel, oil, ethanol and methanol;

Interpretation.
19/1990
S. 2 (a).

“petroleum” means and includes all natural mineral oils, naphtha, petrol, gasolene, and all hydro-carbons whether natural or manufactured, which give off inflammable vapour at a temperature at or lower than one hundred and fifty degrees by Fahrenheit’s thermometer, when tested in the manner hereinafter provided :

Provided, however, that the sections of this Act relating to petroleum giving off any inflammable vapour at a temperature lower than seventy-three degrees of Fahrenheit’s thermometer, shall apply to turpentine and turpentine substitute only when the same gives off inflammable vapour at a temperature lower than seventy degrees of Fahrenheit’s thermometer;

“petroleum filling station” means any premises or place used or intended to be used for fuelling motor vehicles with petroleum by means of a pump, and includes any

building, petroleum storage tank or pump in, or used in connection with, any such premises or places;

“oil fuel” includes all mineral oils whether refined or unrefined, imported into this Island which give off inflammable vapour at a temperature higher than one hundred and fifty degrees by Fahrenheit’s thermometer when tested in the manner prescribed by this Act for testing petroleum;

“a store for oil fuel” means any area specially appointed by the Minister for the storage of oil fuel in bulk and includes all ships, vessels, tanks, sheds, and other buildings moored in or erected on the area in accordance with the plans to be submitted and approved under any regulations made.

Method of test.

3. The temperature at which any petroleum imported into this Island gives off inflammable vapour shall, if so required by the Collector of Customs at the port of entry, be, for the purposes of this Act, ascertained by such test apparatus and according to such directions as the Minister may from time to time by order prescribe.*

Standard of petroleum to be imported, etc.

4. Petroleum giving off inflammable vapour at any temperature lower than seventy-three degrees of Fahrenheit’s thermometer shall not be imported into, stored, or sold in this Island in vessels containing more than eight fluid ounces each except in steel or tin vessels so constructed as to prevent leakage or escape of vapour therefrom; every such steel or tin vessel being marked in conspicuous characters with a recognized description of its contents, such as petrol, gasolene, naphtha, or other appropriate name, with the addition of the words “Highly inflammable. Do not approach this vessel with a light or fire of any description”.

Penalty for breaches.

5. Any person who shall import, or cause to be imported into this Island, petroleum giving off inflammable vapour at any temperature lower than seventy-three degrees of Fahrenheit’s thermometer, otherwise than in accordance

*Vide L. N. 297/1970.

with this Act, shall be deemed to be guilty of an offence against the provisions of the Customs Act, relating to the importation or bringing into this Island of any prohibited goods, or any goods, the importation of which is restricted, or to such provisions in any enactment passed in amendment thereof or substitution therefor, and shall be liable to the penalties and forfeitures therein mentioned. Any person in whose possession any such petroleum shall be found shall be deemed to be the importer thereof, unless and until he shall have proved the contrary to the satisfaction of the Commissioner of Customs and Excise, or of the court if proceedings be taken against him.

12/1985
Sch.

6. No petroleum shall be kept in quantity exceeding one hundred and twenty gallons, or in the case of petroleum giving off inflammable vapour at any temperature lower than seventy-three degrees of Fahrenheit's thermometer, in quantity exceeding eight gallons, otherwise than in a building specially appointed for the purpose by the Minister, and under such conditions as to the mode of storage, the nature of the goods with which petroleum may be stored, and as to the testing of such petroleum from time to time, as may be prescribed by the Minister. Any petroleum kept in contravention of this section shall be forfeited, and in addition, the occupier of the premises, in which such petroleum is kept, shall be liable to a penalty of five hundred dollars a day for each day during which petroleum is therein kept in contravention of this Act.

Method of
storing.

19/1990
S. 3.

7. No person shall deal in or sell petroleum by retail anywhere within this Island, without a licence given in accordance with this Act, or otherwise than according to the terms of such licence, under a penalty not exceeding ten thousand dollars for each offence.

Licence
required.

19/1990
S. 4.

8.—(1) Every person desirous of applying for a licence to sell petroleum by retail shall, in respect of such licence, pay

Fees.
19/1990
S. 5.

to the Collector of Taxes for the parish the following fees (and shall obtain a receipt therefor)—

- (a) where the licence is to be in respect of the sale of kerosene, a fee of ten dollars; and
- (b) where the licence is to be in respect of the sale of motor spirit, the appropriate fee prescribed in the Schedule having regard to the grade of petroleum filling station operated by that person.

Schedule.

(2) The receipt referred to in this section shall in every case be forwarded by the applicant to the Clerk of Courts of the parish, together with an application in writing setting forth—

- (a) the nature of the licence desired; and
- (b) the premises for which the same is desired, stating as nearly as may be the position of the same; and
- (c) whether the applicant has ever before held a licence to sell petroleum by retail either under this Act, or any statute now repealed, and if so

when and where; and

- (d) whether the premises for which the licence is required have, within the twelve months immediately preceding the application, been licensed under either this Act, or any other enactment, for the sale of petroleum :

Provided that if the application is for a renewal only it shall be sufficient, under paragraphs (b) and (c) to make a statement to that effect giving such reference to the licence held as will enable the Clerk to verify the allegation. The application shall in all cases be accompanied by a certificate from the Superintendent of Police for the parish showing that the premises for which a licence is desired are so situated and are in such a condition that, having due regard to public safety, the licence applied for may properly be granted.

9. The Resident Magistrate for any parish may grant licences to sell petroleum by retail to such persons as he considers fit and proper for such purpose.

Who shall
grant
licence.
19/1990.
S. 10.

Duration of
licence.

10. Licences in pursuance of this Act may be granted for a limited time, not exceeding twelve months, and there may be annexed thereto any conditions as to renewal or otherwise which the Resident Magistrate may think necessary, and also as to the quantity of petroleum which may at any one time be kept on the premises, and also any other conditions for diminishing the risk of damage from explosion or fire, that the Resident Magistrate may determine. If any licensee be convicted under this Act of any breach of his licence, the Resident Magistrate, by whom he is so convicted, may make an order that his licence be determined, and therefrom his licence shall become void and of no effect.

Power to
refuse
licence.

Appeal
therefrom to
Minister.
19/1990
S. 10.

11. If on any application for a licence under this Act, the Resident Magistrate refuse the licence, or grant the same only on conditions with which the applicant is dissatisfied, the Resident Magistrate shall, if required by the applicant, certify in writing under his hands the grounds on which he refused the licence, or annexed conditions to the grant thereof, and shall deliver the certificate to the applicant, who may thereupon, within ten days from the time of the delivery thereof, transmit the same to the Minister, together with a memorial praying that, notwithstanding such refusal, the licence may be granted, or such conditions may not be imposed, or may be altered or modified in such manner and to such extent, as may be set forth in such memorial; and it shall be lawful for the Minister, if he think fit, on consideration of such memorial and certificate, and if he think it necessary or desirable, after the enquiry from and a report by such person as he may appoint for that purpose, to grant the licence prayed for, either absolutely, or with such conditions as he thinks fit, or to alter the conditions imposed by the Resident Magistrate; and the licence so granted or altered, as the case may be, when certified under the hand of the

Minister, shall be to all intents as valid as if granted by the Resident Magistrate, and shall be liable to the same fee.

12.—(1) Any holder of a licence may apply to the Resident Magistrate to have his licence transferred to some other person or house within the parish. The application shall be in writing, and addressed to the Clerk of the Courts, not less than fourteen days before the day on which the application is to be considered. The applicant shall, not less than fourteen days before the day on which the application is to be made, give notice to the Superintendent of Police for the parish of his intention to make the application, and shall state the name, address and description of the proposed transferee, or the location and description of the proposed house. The Superintendent shall report thereon to the Resident Magistrate:

Transfer of licences, how effected.

Provided that if the proposed transferee has at any time held a licence, or is recommended by the Superintendent, or if the proposed house is approved by the Superintendent in the parish, it shall be competent for the Resident Magistrate to deal with the application.

(2) It shall be lawful for the Resident Magistrate in case the conditions aforesaid have been complied with, to grant such application, and he may make an order for such purpose, which order shall be entered in a book to be kept by the Clerk, and the party applying for such order shall pay to the Clerk the sum of fifty dollars therefor, which amount shall be accounted for and paid over by such Clerk, at such times and in such manner as he is required by law to pay over moneys received by him for stamps.

Power to grant transfers.
19/1990
S. 10.

19/1990
S. 10.

13. If any petroleum shall be kept, or shall be offered, or exposed for sale, contrary to the provisions of this Act, or the conditions of any licence under this Act, the same

Power of seizure.

shall be liable to be seized by any constable, and upon proof of such keeping, or of such offering, or exposure for sale, shall be adjudged by any Resident Magistrate, to be forfeited; and it shall be lawful for any officer, sub-inspector, or sergeant of constabulary, or other person appointed for that purpose by the Minister, at all reasonable times, to inspect and test all petroleum kept, or offered, or exposed for sale :

Provided always that if the person in whose possession such petroleum shall be found as aforesaid, shall claim to have a further test made on his behalf, the Resident Magistrate before whom complaint of the said offence may be laid, shall cause such further test to be made by the Island Chemist, or Government Chemist who shall certify the result of such further test in writing under his signature; and a paper, purporting to be such certificate and so signed, shall be accepted as evidence in the case, unless disproved.

Incorporation of
Gunpowder
and
Explosives
Act.

14. Petroleum may be searched for in the same manner, under the same warrants, and subject to the same conditions, in, under and subject to which gunpowder may be searched for in pursuance of the Gunpowder and Explosives Act, or any enactment in amendment thereof or substitution therefor; and all the provisions of the said Act relating to searching for gunpowder, shall be incorporated with this Act, and be construed as if the word "gunpowder" in such provisions included petroleum as defined by this Act, and as if the Act therein referred to were this Act.

Recovery of
penalty.
19/1990
S. 6.

15. Any forfeiture or penalty, for an offence against this Act, may be enforced in a summary manner before a Resident Magistrate's Court.

16. If any penalty imposed under this Act be not paid forthwith, the offender shall, in the discretion of the court, be liable to imprisonment, with or without hard labour, in any prison, for a term not exceeding six months.

Penalty for non-payment.
19/1990
S. 7.

17. On every conviction a reasonable sum shall be assessed by the court before which the case is heard, as the cost of any analysis made in accordance with this Act; and the amount so assessed shall be paid by the person convicted, and shall be in addition to any penalty which he may be condemned to pay.

Provision for cost of analysis.

18.—(1) Subject to the provisions of this Act, it shall be lawful for the Minister from time to time—

Power of making and amending rules and regulations.

- (a) to make or amend rules governing the importation, transportation, storing and keeping for use or for sale, either by wholesale or retail, of petroleum generally, or of any specified description of petroleum;
- (b) to make regulations to govern the landing and storage of oil fuel imported into this Island;
- (c) to make regulations to govern the storage of oil fuel in any ship, vessel or hulk or the place in any harbour of the Island where any ship, vessel or hulk containing oil fuel shall be moored or stationed or the period for which any ship, vessel or hulk containing oil fuel shall be moored or stationed in any harbour of the Island.

(2) All rules and regulations purporting to be made in pursuance of this Act shall be published in the *Gazette* and shall come into operation on such publication or at such other time as may be named in such rules or regulations.

(3) A breach of any rule or regulation made under this Act may on summary conviction be punished by a fine not exceeding ten thousand dollars and in default of

19/1990
S. 8.

payment by imprisonment with or without hard labour for any period not exceeding three months.

(4) Rules and regulations made under this Act shall be of the same effect as if they were contained in this Act and shall be judicially noticed.

Power to make conditions that discrimination shall not be exercised.

19.—(1) Without prejudice to the generality of powers conferred on him by this Act it shall be lawful for the Minister in any regulations made under this Act to provide that permission to erect or to use a store for oil fuel shall be conditional on a sufficient guarantee being given that no discrimination will be exercised by the owner or occupier of such store for oil fuel or by any of his servants in the supply of oil fuel in favour or to the prejudice of any particular person.

Summary enforcement of penalties.
19/1990
S. 9.

(2) The Minister may attach penalties, not exceeding one thousand dollars, for the breach of any rules or regulations made as aforesaid and every such penalty may be enforced summarily in a Resident Magistrate's Court.

Returns and information to be furnished.
19/1990
S. 11.

20.—(1) Every person who is licensed under this Act to sell motor spirit by retail and who operates a petroleum filling station (hereinafter referred to as a "retailer") and every person who supplies motor spirit to a retailer shall—

- (a) make such returns at such times;
- (b) keep such records in such form; and
- (c) furnish such information,

as may be required by the Commissioner of Customs and Excise or as may be prescribed by the Minister by regulations.

(2) Any person who fails to comply with subsection (1) or who, for any purpose connected with this Act, with intent to deceive—

- (a) makes, or causes to be made, any false declaration, whether oral or written; or

(b) uses, or causes to be used, any false certificate; or
 (c) makes, or causes to be made, any alteration or falsification in any document after that document has been officially issued,
 shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding ten thousand dollars.

SCHEDULE

(Section 8)

Licence fees payable under this Schedule shall, as respects the grade of petroleum filling stations specified in the first column hereunder, be the fees specified in relation thereto in the second column hereunder.

<u>First Column</u>	<u>Second Column</u>
<u>Grade of Station</u>	<u>Fee per annum</u>
A -- Annual gallonage of motor spirit: 240,000 and over	\$1,500
B -- Annual gallonage of motor spirit: over 120,000 but less than 240,000	\$ 900
C -- Annual gallonage of motor spirit: 120,000 and under	\$ 450.