

Petroleum Sector Reform Act 1988

Public Act 1988 No 95
Date of assent 5 May 1988

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An Act to make provisions consequential upon the Crown voluntarily assuming loans raised for the purpose of financing the expansion of the Marsden Point refinery, to provide for the removal of regulatory controls on the motor spirits distribution industry, and to abolish the Motor Spirits Licensing Authority and the Motor Spirits Licensing Appeal Authority

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Petroleum Sector Reform Act 1988.
- (2) Subject to subsection (3) of this section, this Act shall come into force on the 9th day of May 1988.

Note

This Act is administered in the Department of Trade and Industry.

- (3) Sections 1, 4, and 5 of this Act shall come into force on the day on which this Act receives the Royal assent.

2 Payment of loans in respect of oil refinery expansion

- (1) The Minister of Finance may, from time to time, make payments to Lloyds Bank International Limited in repayment of loans raised to finance the expansion of the Marsden Point refinery, being—
- (a) The loan of US\$500,000,000 pursuant to the agreement dated the 16th day of May 1980; and
 - (b) The loan of US\$750,000,000 pursuant to the agreement dated the 13th day of October 1982.
- (2) Any arrangement between the Crown and The New Zealand Refining Company Limited or between the Crown and any other person (whether contractually binding or not), which purports to confer any rights on The New Zealand Refining Company Limited to receive or to have the benefit of any sum equivalent to the cash flow (net of tax) which it would have received if the 20 percent regional investment allowance under section 119 of the Income Tax Act 1976 had applied to the expansion of the Marsden Point refinery, shall be null and void.

3 Application of Income Tax Act 2004

- (1) The old financial arrangements rules of the Income Tax Act 2004 shall not apply to—
- (a) Agreements for the provision of funds to meet payments in respect of loans, being the loans specified in section 2(1) of this Act, raised to finance the expansion of the Marsden Point refinery, entered into between the Crown, The New Zealand Refining Company Limited, BP Oil New Zealand Limited, Caltex Oil (NZ) Limited, Europa Oil NZ Limited, Mobil Oil New Zealand Limited, and Shell Oil New Zealand Limited on—
 - (i) The 10th day of October 1986; and
 - (ii) The 22nd day of December 1986; and
 - (iii) The 9th day of April 1987; and
 - (iv) The 8th day of July 1987; and
 - (v) The 8th day of October 1987; and

- (vi) The 21st day of December 1987; and
 - (vii) The 16th day of February 1988; and
 - (viii) The 7th day of April 1988; and
 - (b) Any payments made pursuant to section 2(1) of this Act.
- (2) Notwithstanding any other enactment or rule of law, the Commissioner of Inland Revenue shall assess The New Zealand Refining Company Limited's liability for income tax under the Income Tax Act 2004 as if—
- (a) The loans specified in section 2(1) of this Act had never been raised; and
 - (b) The New Zealand Refining Company Limited had never received or expended the amounts specified in section 2(1) of this Act; and
 - (c) Any payments (whether in repayment of principal or interest) made in respect of the loans specified in section 2(1) of this Act had never been made; and
 - (d) The agreements specified in subsection (1)(a) of this section had never been made.
- (3) Notwithstanding any other enactment or rule of law, The New Zealand Refining Company Limited is denied a deduction under the Income Tax Act 2004 for an amount of depreciation loss for the expansion assets.
- (4) The New Zealand Refining Company Limited's income for the purposes of the Income Tax Act 2004 is hereby deemed not to include—
- (a) Any amounts paid by the Minister of Finance pursuant to section 2(1) of this Act; and
 - (b) Any amounts paid to The New Zealand Refining Company Limited by BP Oil New Zealand Limited, Caltex Oil (NZ) Limited, Europa Oil NZ Limited, Mobil Oil New Zealand Limited, and Shell Oil New Zealand Limited for the purpose of repaying the loans (both as to principal and interest) specified in section 2(1) of this Act.

The heading to section 3 was substituted, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

Subsection (1) was amended, as from 1 April 1995, by section YB 1 of the Income Tax Amendment Act 1994 (1994 No 164) by substituting the words "The qualified accruals rules of the Income Tax Act 1994" for the words "sections 64B to 64M of the Income Tax Act 1976".

Subsection (1) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “old financial arrangements rules of the Income Tax Act 2004” for the words “qualified accruals rules of the Income Tax Act 1994”.

Subsection (2) was amended, as from 1 April 1995, by section YB 1 of the Income Tax Amendment Act 1994 (1994 No 164) by substituting the words “Income Tax Act 1994” for the words “Income Tax Act 1976”.

Subsection (2) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

Subsection (3) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by substituting the words “Act 1994, allow a deduction for” for the words “Act 1976, allow” with application as from 1 April 1997.

Subsection (3) was substituted, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

Subsection (4) was amended, as from 1 April 1995, by section YB 1 of the Income Tax Amendment Act 1994 (1994 No 164) by substituting the words “Income Tax Act 1994” for the words “Income Tax Act 1976”.

Subsection (4) was amended by section 484 Taxation (Core Provisions) Act 1996 (1996 No 67) by substituting the word “gross” for the word “assessable” with application as from 1 April 1997.

Subsection (4) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “income for the purposes of the Income Tax Act 2004” for the words “gross income for the purposes of the Income Tax Act 1994”.

4 Winding up of Motor Spirits Licensing Authority’s operations

Having regard to the provisions of section 5 of this Act,—

- (a) The Motor Spirits Licensing Authority shall do all in its power to provide for the winding up of the Authority and, in particular, for securing the payment of all money owed by the Authority, and the recovery of debts due to the Authority or otherwise payable under the Motor Spirits Distribution Act 1953, and shall cause to be prepared final accounts of the Authority as at the close of the 8th day of May 1988:
- (b) The Secretary of Trade and Industry shall cause to be prepared final accounts of the Motor Spirits Industry Account as at the close of the 8th day of May 1988.

5 Dissolution of Authority

- (1) On the 9th day of May 1988,—

- (a) The Motor Spirits Licensing Authority shall be dissolved and the term of office of every member of the Authority shall cease:
 - (b) All real and personal property held by the Motor Spirits Licensing Authority shall become vested in the Crown, subject to all liabilities, charges, and obligations:
 - (c) All money belonging to the Motor Spirits Industry Account established pursuant to section 41 of the Motor Spirits Distribution Act 1953 shall be transferred to the Consolidated Account:
 - (d) All money payable to the Motor Spirits Licensing Authority shall become payable to the Crown:
 - (e) All rights, constraints, obligations, and liabilities of the Motor Spirits Licensing Authority shall become the rights, constraints, obligations, and liabilities of the Crown:
 - (f) All proceedings pending by or against the Motor Spirits Licensing Authority may be carried on, completed, or enforced by or against the Crown:
 - (g) The Motor Spirits Licensing Appeal Authority shall be dissolved and the term of office of the person appointed to be the Motor Spirits Licensing Appeal Authority for the time being shall cease:
 - (h) The enactments specified in Schedule 1 to this Act are repealed:
 - (i) The regulations and orders specified in Schedule 2 to this Act are revoked.
- (2) Fees in respect of wholesalers' or retailers' licences that, on the 1st day of April 1988, but for this subsection, would have been payable under section 25A of the Motor Spirits Distribution Act 1953, are hereby deemed not to be, and never to have been, payable.

6 Amendments to Ministry of Energy Act 1977

The Ministry of Energy Act 1977 is hereby amended by inserting in section 28(1), after paragraph (a), the following paragraph:

“(aa) Prescribing specifications to which refined petroleum products of the class or classes specified in the regulations must conform when supplied in New Zealand:.”

Schedule 1
Enactments repealed

Section 5(h)

- 1933, No 36-The Motor Spirits (Regulation of Prices) Act 1933 (RS Vol 10, p 229).
- 1953, No 108-The Motor Spirits Distribution Act 1953 (RS Vol 7, p 607).
- 1958, No 36-The Motor Spirits Distribution Amendment Act 1958 (RS Vol 7, p 640).
- 1963, No 137-The Motor Spirits Distribution Amendment Act 1963 (RS Vol 7, p 640).
- 1966, No 74-The Motor Spirits Distribution Amendment Act 1966 (RS Vol 7, p 642).
- 1968, No 149-The Motor Spirits Distribution Amendment Act 1968 (RS Vol 7, p 642).
- 1972, No 84-The Motor Spirits Distribution Amendment Act 1972 (RS Vol 7, p 643).
- 1974, No 26-The Dangerous Goods Act 1974: Section 45(3).
- 1975, No 92-The Motor Spirits (Regulation of Prices) Act 1933 (RS Vol 7, p 643).
- 1977, No 33-The Ministry of Energy Act 1977: So much of Schedules 1 and 2 as relate to the Motor Spirits (Regulation of Prices) Act 1933.
- 1977, No 122-The Local Government Amendment Act (No 3) 1977 (RS Vol 5, p 644): Section 8(4).
- 1978, No 53-The Liquid Fuels Trust Act 1978: Section 33(2).
- 1979, No 54-The Motor Spirits Distribution Amendment Act 1979 (RS Vol 7, p 644).
- 1979, No 59-The Local Government Amendment Act 1979 (RS Vol 5, p 683): Section 9(9).
- 1981, No 12-The Petroleum Demand Restraint Act 1981: Section 8(1)(a) and (b).

- 1981, No 38-The Motor Spirits Distribution Amendment Act 1981.
- 1982, No 9-The Customs Acts Amendment Act 1982: Section 22(2) and (3).

Schedule 2
Regulations and orders revoked

Section 5(i)

Title	Statutory Regulations Serial Number
The Motor Spirits Distribution Commencement Order 1955	1955/24
The Motor Spirits Distribution (Returns) Regulations 1969	1969/175
The Motor Spirits Distribution (Returns) Regulations 1969, Amendment No 1	1970/248
The Motor Spirits Distribution (Returns) Regulations 1969, Amendment No 2	1976/80
The Motor Spirits Prices Regulations 1981	1981/31
The Motor Spirits Prices Regulations 1981, Amendment No 5	1982/185
The Motor Spirits Prices Regulations 1981, Amendment No 16	1987/15