

Petroleum Products Pricing Act

CHAPTER 11 OF THE ACTS OF 2005

as amended by

2014, c. 34, s. 34



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CHAPTER 11 OF THE ACTS OF 2005
amended 2014, c. 34, s. 34

**An Act Respecting
the Price of Petroleum Products**

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Short title

1 This Act may be cited as the *Petroleum Products Pricing Act*. 2005, c. 11, s. 1.

Interpretation

2 In this Act,

(a) “business day” means a day other than a Saturday, a Sunday or a holiday;

(b) “controlled retailer” means a retailer that owns or operates an establishment for the retail sale of a petroleum product where the establishment is owned, operated or controlled, directly or indirectly, by a wholesaler;

(c) “mark-up” means the difference in price between the wholesale price to the retailer and the retail price to the consumer that a retailer charges for a petroleum product;

(d) “Minister” means the Minister of Service Nova Scotia and, in Sections 9 and 10, includes a person designated by the Minister;

(e) “petroleum product” means

- (i) furnace oil, stove oil, propane or any liquid product whether or not distilled from petroleum, of a type used primarily for generating heat, or
- (ii) gasoline, diesel oil, propane or any liquid product whether or not distilled from petroleum, of a type used primarily in internal combustion engines or in glow-plug ignition system engines;
- (f) “prescribed” means prescribed by the regulations;
- (g) “price” means the consideration, whether wholly or partly in money or otherwise, payable for a petroleum product and includes any component of the consideration;
- (h) “retail price” includes all taxes;
- (i) “retailer” means a person who sells or keeps a petroleum product for sale directly to consumers;
- (j) “wholesale price” includes all taxes other than the tax imposed pursuant to Part IX of the *Excise Tax Act* (Canada);
- (k) “wholesaler” means a person, other than a retailer, who sells or keeps a petroleum product for sale. 2005, c. 11, s. 2; 2014, c. 34, s. 34.

Supervision of Act

3 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may delegate the Minister’s powers and duties under Sections 9 and 10 to a person designated by the Minister. 2005, c. 11, s. 3.

No price change except in accordance with regulations

4 No wholesaler or retailer shall change the price of gasoline, diesel oil, furnace oil or any other prescribed petroleum product except in accordance with the regulations. 2005, c. 11, s. 4.

Prescribed wholesale prices

5 (1) Where a fixed wholesale price is prescribed for a petroleum product, no wholesaler shall charge a price for that petroleum product that is greater or less than that fixed wholesale price.

(2) Where a maximum or minimum wholesale price is prescribed for a petroleum product, no wholesaler shall charge a price for that petroleum product that is greater than that maximum wholesale price or less than that minimum wholesale price. 2005, c. 11, s. 5.

Maximum retail price

6 Where a maximum retail price is prescribed for a petroleum product, no retailer shall charge a price for that petroleum product that is greater than that maximum retail price. 2005, c. 11, s. 6.

Minimum or maximum mark-up

7 Where a minimum or maximum mark-up is prescribed for a petroleum product, no retailer shall charge a mark-up for that petroleum product that is less than the minimum mark-up or greater than the maximum mark-up, as the case may be. 2005, c. 11, s. 7.

Term or condition of no effect

8 Any term or condition in a contract that

- (a) permits a wholesaler or retailer to terminate the contract; or
- (b) causes or permits a wholesaler or retailer to reduce, limit or cease to supply a petroleum product or service,

as a result of an enactment that affects the price of a petroleum product, is of no force and effect. 2005, c. 11, s. 8.

Inquiries by Minister

9 (1) Where reasonably necessary to ensure compliance with this Act or the regulations, the Minister may

- (a) at all reasonable times, enter the premises of a wholesaler or retailer to determine whether the price being charged for a petroleum product is in accordance with this Act and the regulations;
- (b) inquire into all matters relating to the sale of a petroleum product;
- (c) require the production of books, records or other documents relating to the sale of a petroleum product and may examine those books, records or other documents or remove them for the purpose of making copies of them.

(2) Every wholesaler or retailer shall keep the books, records or other documents referred to in clause (1)(c) for a period of at least seventy-two months unless the Minister otherwise determines.

(3) A wholesaler or retailer may produce the books, records or other documents referred to in clause (1)(c) for inspection in a place of business outside of the Province at the expense of that wholesaler or retailer, including reimbursement of the Province for all reasonable expenses incurred in carrying out the inspection. 2005, c. 11, s. 9.

Warrants and searches

10 (1) Where

(a) the Minister believes, on reasonable grounds, that a person is contravening or has contravened this Act or the regulations;
or

(b) entry onto premises has been refused or denied,

the Minister may apply to a judge of the Provincial Court or a justice of the peace for a warrant under subsection (2).

(2) Where, on an application under subsection (1), a judge of the Provincial Court or a justice of the peace is, by information on oath, satisfied that there are reasonable grounds for believing that this Act or the regulations are being contravened, the judge or justice of the peace may issue a warrant authorizing the Minister to do the things referred to in Section 9.

(3) The owner or person in charge of the premises and every person found therein shall give the Minister all reasonable assistance to enable the Minister to carry out the Minister's duties and functions under this Section, and shall furnish the Minister with the information that the Minister may reasonably require.

(4) Notwithstanding subsection (1), the Minister may exercise the power of search without a warrant if the conditions for obtaining the warrant exist but, by reason of exigent circumstances, it is not practical to obtain a warrant.

(5) For the purpose of subsection (4), exigent circumstances include circumstances in which the delay necessary to obtain the warrant will result in the loss or destruction of evidence. 2005, c. 11, s. 10.

Offence by wholesaler or controlled retailer and penalty

11 (1) Every wholesaler or controlled retailer who increases the price of a petroleum product contrary to Section 4 is guilty of an offence and is liable, on summary conviction, to a fine of not more than five hundred thousand dollars.

(2) Where an offence described in subsection (1) is committed by a person on more than one day or is continued for more than one day, each day on which the offence is committed or continued constitutes a separate offence. 2005, c. 11, s. 11.

Offence and penalty

12 (1) Subject to Section 11, every person who contravenes a provision of this Act or the regulations is guilty of an offence and is liable, on summary conviction, to a fine of not more than five thousand dollars.

(2) Where an offence described in subsection (1) is committed by a person on more than one day or is continued for more than one day, each day on which the offence is committed or continued constitutes a separate offence. 2005, c. 11, s. 12.

Acts of officers, agents or employee

13 The act, failure, neglect, omission or refusal of an officer, agent or other person acting for or employed by a wholesaler or a retailer, acting within the scope of that person's employment, shall be considered to be the act, failure, neglect, omission or refusal of the wholesaler or retailer. 2005, c. 11, s. 13.

Regulations

- 14 (1)** The Governor in Council may make regulations
- (a) requiring notice of changes in the price of petroleum products and prescribing or respecting the form and manner of the notice, including the requirement to include justification for an increase in the price of a petroleum product;
 - (b) respecting the frequency and timing of changes in the price of petroleum products;
 - (c) dividing the Province into one or more zones and prescribing
 - (i) a fixed wholesale price or a maximum and minimum wholesale price,
 - (ii) a maximum retail price,
 - (iii) minimum and maximum retail mark-ups,for petroleum products for each zone;
 - (d) respecting fees to be charged to wholesalers to cover the costs of administering this Act and the regulations;
 - (e) respecting inspections and investigations of wholesalers and retailers;
 - (f) prescribing information that a wholesaler or a retailer is required to provide to the Minister;
 - (g) establishing or designating a board to administer this Act and the regulations, or any part of this Act and the regulations, and determining the powers and duties of that board;
 - (h) appointing a consumer advocate and determining the powers and duties of the advocate;
 - (i) prescribing additional penalties for a contravention of this Act or the regulations including, notwithstanding any other enactment, the suspension or revocation of licences and permits;
 - (j) exempting a petroleum product from the application of this Act or the regulations, or any part of the Act or the regulations;
 - (k) delegating to any person or board any powers or duties under this Act or the regulations;

(l) defining any word or expression used in this Act but not defined in this Act;

(m) further defining any word or expression defined in this Act;

(n) respecting any other matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation may apply to all wholesalers or retailers or to all petroleum products or to a class of wholesalers or retailers or to a class of petroleum products and there may be different regulations for different classes of such wholesalers or retailers or of such petroleum products.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*, 2005, c. 11, s. 14.

Study by independent person

15 (1) The Minister shall appoint an independent person to undertake a study of the effects of establishing minimum and maximum profit margins for retailers and report to the Minister on the study no later than September 30, 2005.

(2) The Minister shall table the report of the independent person in the Assembly if the Assembly is then sitting or, if the Assembly is not then sitting, shall file the report with the Clerk of the Assembly. 2005, c. 11, s. 15.

Proclamation

16 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2005, c. 11, s. 16.

Proclaimed (except ss. 4, 11)	-	July 13, 2005
In force (except ss. 4, 11)	-	July 13, 2005
Proclaimed (ss. 4, 11)	-	June 22, 2006
In force (ss. 4, 11)	-	July 1, 2006