



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **PETROLEUM PRODUCTS ACT**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to January 1, 2009. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

If you find any errors or omissions in this consolidation, please contact:

*Legislative Counsel Office*

*Tel: (902) 368-4292*

*Email: [legislation@gov.pe.ca](mailto:legislation@gov.pe.ca)*



## PETROLEUM PRODUCTS ACT

### Table of Contents

Section	Page
1. Definitions.....	5
<b>PART I — INTERPRETATION</b>	<b>6</b>
2. Purpose.....	6
3. Direction to Commission .....	6
4. Determination of Commission final .....	6
5. Severability .....	6
6. Construction of order of Commission .....	6
7. Construction of powers .....	6
8. Technical irregularity .....	6
<b>PART II — LICENSES</b>	<b>7</b>
9. Powers <i>re</i> licensing .....	7
10. Distribution license .....	7
11. Outlet license .....	7
12. Form of license .....	7
13. Conditions, etc. ....	7
14. Expiration.....	7
15. Extension.....	7
16. Unlicensed distribution, etc.....	8
17. Transfer .....	8
18. Effect of license .....	8
19. Class of license .....	8
20. Criteria to be considered .....	8
21. Equipment and facilities requirements .....	8
21.1 Special permit for above-ground tank.....	9
22. Form.....	9
23. Suspension and cancellation .....	9
24. Renewal .....	9
25. Application for renewal .....	10
26. Display of license.....	10
<b>PART III — PRICING</b>	<b>10</b>
27. Powers of Commission .....	10
28. Classification.....	10
29. Wholesale price.....	10
30. Price .....	11
31. Criteria .....	11
32. Application for approval of change in price.....	11
33. Interim order .....	11
33.1 Decrease in price.....	11

34.	Price change wholly due to taxation.....	12
35.	Hearing.....	12
35.1	Notice to appear.....	12
36.	Price set to be just and reasonable.....	12
37.	Order.....	13
<b>PART IV — PUBLIC HEARINGS</b>		<b>13</b>
38.	Public hearing.....	13
39.	Application for price change.....	13
40.	Public hearing initiated by Commission or Lieutenant Governor in Council.....	14
<b>PART V — PENALTIES</b>		<b>14</b>
41.	Penalties imposed by Commission.....	14
42.	Penalty.....	15
43.	Continuing violation.....	15
44.	Vicarious liability.....	15
45.	Recovery of penalty.....	15
<b>PART VI — INVESTIGATION AND COMPLAINTS</b>		<b>15</b>
46.	Investigations.....	15
47.	Appointment of investigator.....	15
48.	Complaint against licensee.....	15
<b>PART VII — POWERS AND PROCEDURE</b>		<b>16</b>
49.	Procedures.....	16
50.	Evidence.....	16
51.	Delegation of authority.....	16
52.	Information.....	16
53.	Records.....	17
54.	Pending litigation.....	17
55.	Copy of order.....	17
56.	Recitals <i>re</i> jurisdiction.....	17
57.	Effect of order.....	17
58.	Parties.....	18
59.	Vacancy.....	18
60.	Quorum.....	18
<b>PART VIII — GENERAL PROVISIONS</b>		<b>18</b>
61.	Contract may not exclude application of orders.....	18
62.	Pumps, etc. marking of grades.....	18
63.	Service standards.....	18
64.	Minimum supply.....	19
65.	Promotional activities.....	19
<b>PART IX — REGULATIONS</b>		<b>19</b>
66.	Regulations.....	19
67.	National emergency.....	19
<b>PART X — REPEAL AND COMMENCEMENT</b>		<b>19</b>
68.	Repeal.....	19





## PETROLEUM PRODUCTS ACT

### CHAPTER P-5.1

#### 1. Definitions

In this Act

- (a) “**Commission**” means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11.
- (b) “**consumer**” means a person who acquires any petroleum product for that person’s use and not for the purpose of selling, exchanging or otherwise disposing thereof to any other person;
- (c) “**equipment**” includes pumps, tanks, air compressors, grease lifts or pits, grease equipment, grease guns, air towers, light poles, flood lights or any other article or thing of any character whatsoever used or useful in connection with outlets or service stations, or the storage, display, sale or consumption of any petroleum product;
- (d) “**facilities**” means all parts of and services provided at an outlet, including the grounds, washrooms, sales areas and service bays;
- (e) “**heating fuel**” means furnace oil, stove oil or propane of a type used primarily for generating heat;
- (f) “**license**” means any license issued under this Act;
- (g) “**licensee**” means any person who holds a license under this Act;
- (h) “**motor fuel**” means gasoline, diesel fuel or propane of a type primarily used for operating internal combustion engines;
- (i) “**outlet**” means a station, shop, establishment, bulk storage or key lock facility, tank truck, vehicle or other place in which any petroleum product is sold or kept for sale;
- (j) “**petroleum product**” means a product, distilled from petroleum, used or useful in the production of light, heat or power, or for the purpose of lubrication, and includes heating fuel and motor fuel and any other liquid product, whether or not distilled from petroleum, used for one or more of those purposes;
- (k) “**price**” means the consideration, whether wholly or partly in money or otherwise, payable for any petroleum product and includes any component of the consideration;
- (l) “**regulations**” means the regulations made under this Act;
- (m) “**retailer**” means any person who sells any petroleum product or keeps any petroleum product for sale directly to consumers;
- (n) “**wholesaler**” means any person, other than a retailer, who sells any petroleum product or keeps any petroleum product for sale;
- (o) “**wholesaler-retailer**” means a wholesaler who is also a retailer. 1990, c.43, s.1; 1991, c.25, s.22 *{eff.} Nov. 4/91.*

## PART I — INTERPRETATION

### 2. Purpose

The purpose of this Act is to regulate the distribution and sale of petroleum products within the Province of Prince Edward Island for use within the province, and the type, location, and operation of facilities and equipment associated therewith, and to ensure at all times a just and reasonable price for heating fuel and motor fuel to consumers and licensees within the province. *1990, c.43, s.2.*

### 3. Direction to Commission

The Lieutenant Governor in Council may direct the Commission to regulate in accordance with this Act any petroleum product. *1990, c.43, s.3.*

### 4. Determination of Commission final

The decision of the Commission is final as to whether or not any product or mixture comes within the definitions of petroleum product, heating fuel or motor fuel or as to whether the definitions of petroleum product, heating fuel or motor fuel are applicable in a particular case. *1990, c.43, s.4.*

### 5. Severability

If any provision of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate any other part of this Act which can be given reasonable effect without the provision so adjudged invalid. *1990, c.43, s.5.*

### 6. Construction of order of Commission

If an order of the Commission is, for any reason, found by a court to apply to interprovincial trade in petroleum products, which is beyond the jurisdiction of the province, and to intraprovincial trade in petroleum products, which is within the jurisdiction of the province, the order shall be deemed to be one applying only to the intraprovincial trade in petroleum products within the jurisdiction of the province and shall be so applied. *1990, c.43, s.6.*

### 7. Construction of powers

Where any specific power or authority is given to the Commission by this Act, it shall not be held to exclude any general power or authority otherwise in this Act conferred on the Commission and the Commission shall have in addition to the powers so specified all additional, implied and incidental powers which the Commission may consider proper or necessary to carry out, effect, perform and execute any and all of the powers herein conferred. *1990, c.43, s.7.*

### 8. Technical irregularity

A substantial compliance with the provisions of this Act in any proceeding by or before the Commission shall be sufficient to give effect to all the orders, acts and regulations of the Commission and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereof. *1990, c.43, s.8.*



---

**PART II — LICENSES****9. Powers re licensing**

- (1) The Commission has general supervision of
  - (a) the licensing of wholesalers and wholesaler-retailers with respect to the distribution of petroleum products; and
  - (b) the licensing of outlets operated by retailers, wholesalers and wholesaler-retailers.

**Delegation**

- (2) The Commission may delegate to any officer or agent such powers in relation to the issue or renewal of licenses as the Commission may determine. *1990, c.43, s.9.*

**10. Distribution license**

Every wholesaler and wholesaler-retailer shall obtain annually from the Commission a license authorizing the distribution of petroleum products, or any one or more of them, within the province. *1990, c.43, s.10.*

**11. Outlet license**

Every retailer, wholesaler and wholesaler-retailer shall obtain annually from the Commission a license in respect of each outlet operated by that retailer, wholesaler and wholesaler-retailer authorizing the operation of that outlet. *1990, c.43, s.11.*

**12. Form of license**

- (1) A license may be issued for the sale of petroleum products generally or may be limited to one or more products or mixtures coming within the definition of petroleum product and, in the case of a limited license, each product may be described or designated by the name by which it is commonly known.

**Exemption**

- (2) For the purposes of subsection (1), the Commission may exempt such products or mixtures as it considers advisable. *1990, c.43, s.12.*

**13. Conditions, etc.**

The Commission may attach to any license such privileges, terms, conditions, limitations and restrictions as, in the opinion of the Commission, the circumstances may require. *1990, c.43, s.13.*

**14. Expiration**

Unless otherwise ordered by the Commission, every license shall expire on March 31 in the year following its issue. *1990, c.43, s.14.*

**15. Extension**

The Commission has the authority to extend the operation of any license for such period beyond the date of expiry as it considers advisable. *1990, c.43, s.15.*

**16. Unlicensed distribution, etc.**

- (1) No wholesaler or wholesaler-retailer shall bring into the province, cause another to bring into the province or distribute within the province, any petroleum product unless that wholesaler or wholesaler-retailer holds a license authorizing such activities, and then only as specified in the license and subject to this Act and the regulations.

**Sale from unlicensed outlet**

- (2) No retailer, wholesaler or wholesaler-retailer shall sell or furnish any petroleum product or keep any petroleum product for sale at an outlet unless that retailer, wholesaler or wholesaler-retailer is the holder of a license with respect to each such outlet, and then only as specified in the license and subject to this Act and the regulations.

**Sale to unlicensed retailer, etc.**

- (3) No wholesaler shall sell or furnish any petroleum product to a retailer, wholesaler or a wholesaler-retailer who does not hold a license with respect to the outlet to which the petroleum product is delivered or a license authorizing the sale or delivery.

**Purchase from unlicensed person**

- (4) No retailer shall sell or furnish any petroleum product or keep any petroleum product for sale unless that retailer has purchased the petroleum product from a licensed wholesaler or wholesaler-retailer.

**Contravention**

- (5) Contravention of this section is just cause for the suspension or cancellation of a license. *1990, c.43, s.16.*

**17. Transfer**

No license is transferable except as authorized by the Commission. *1990, c.43, s.17.*

**18. Effect of license**

No license shall confer any perpetual or exclusive right. *1990, c.43, s.18.*

**19. Class of license**

The Commission may from time to time designate the form, the method of dispensing and the class or classes of licenses which may be issued. *1990, c.43, s.19.*

**20. Criteria to be considered**

When issuing a license with respect to the operation of an outlet operated by a retailer, the Commission shall consider the public interest, convenience and necessity by applying such criteria as the Commission may from time to time consider advisable including but not restricted to the demand for the proposed service, the location of the outlet, traffic flows and the applicant's record of performance. *1990, c.43, s.20.*

**21. Equipment and facilities requirements**

Every license issued with respect to the operation of an outlet shall be issued only on compliance with such requirements as to equipment and facilities and the payment of such fees as the Commission may determine. *1990, c.43, s.21.*





**21.1 Special permit for above-ground tank**

Notwithstanding any provision of the regulations, the Lieutenant Governor in Council may issue a special permit authorizing the storage of motor fuels in above-ground tanks at a retail outlet which serves the motoring public. *1997, c.34, s.1.*

**22. Form**

Every application for a license shall be made on a form prescribed by the Commission and shall set forth fully the information required by such form, and shall be supported by such other information as the Commission considers necessary. *1990, c.43, s.22.*

**23. Suspension and cancellation**

- (1) The Commission may, without a hearing, at any time suspend the operation of any license for a period not to exceed ten days or, for cause and after a hearing of which not less than eight days notice shall have been given to the licensee, may cancel the license.

**Failure to provide service**

- (2) The Commission may cancel a license in respect of any outlet which fails to provide service to the public for a period exceeding sixty days.

**Amendment of license**

- (3) The Commission may at any time amend a license or attach to any license such terms, conditions or restrictions, not inconsistent with this Act, as it may consider advisable.

**Idem**

- (4) Any licensee may apply to the Commission to amend any term, condition or restriction attached to the license. *1990, c.43, s.23.*

**24. Renewal**

- (1) The Commission shall, before granting a renewal of any license authorizing the distribution of any petroleum product within the province, give due consideration to the necessity of ensuring an adequate supply of product in the province with respect to the following year and may refuse to renew any license if, in the opinion of the Commission, the quantity to be brought or caused to be brought into the province by that licensee will be inadequate to meet the demand therefor.

**Idem**

- (2) The Commission shall, before granting a renewal of any license with respect to the operation of any outlet, give due consideration to the quantity of petroleum product sold in the previous year from the outlet and to the quality of service which the outlet renders to the community which it serves and the Commission may refuse to renew any license if, in the opinion of the Commission, the quantity of product sold or the quality of service rendered is inadequate.

**Hearing**

- (3) The Commission shall conduct a hearing with respect to any refusal to renew a license if the licensee or former licensee affected makes a written request to the Commission for such a hearing within ten days after notice of the refusal has been delivered to the licensee or former licensee. *1990, c.43, s.24.*

**25. Application for renewal**

- (1) Every application for a renewal of a license shall be made on a form prescribed by the Commission and shall set forth fully the information required by such form, and shall be supported by such other information as the Commission considers necessary.

**Time for application**

- (2) If the application for the renewal of any license is not made within sixty days after the expiration of the license, the Commission, in considering applications for licenses for the area served by the licensee, may assume that no application for renewal of the license will be made.

**Late application**

- (3) Except as otherwise ordered by the Commission, every application made more than sixty days after the expiration of the license shall be considered by the Commission as if it is being made in respect of a new license. *1990, c.43, s.25.*

**26. Display of license**

Every license issued with respect to an outlet and every identification sticker issued in conjunction with such license shall be conspicuously displayed in the manner required by the Commission. *1990, c.43, s.26.*

## PART III — PRICING

**27. Powers of Commission**

The Commission has general supervision of all wholesalers, wholesaler-retailers and retailers with respect to the pricing of heating fuel and motor fuel, including the authority to regulate the timing and frequency of price changes and without restricting the generality of the foregoing, the Commission has the power to determine

- (a) the price and any change in the price of heating fuel and motor fuel; and
- (b) the minimum and maximum markup between the wholesale price to the retailer and the retail price to the consumer of heating fuel and motor fuel. *1990, c.43, s.27.*

**28. Classification**

- (1) The Commission may from time to time designate and define classes of consumers and licensees to whom wholesalers and wholesaler-retailers sell heating fuel and motor fuel or for whom wholesalers and wholesaler-retailers keep such products for sale.

**Idem**

- (2) Any person aggrieved by a classification accorded under subsection (1) may, in writing, request the Commission to review the classification and may make representations to the Commission but the decision of the Commission after such review is final as to the designation of classes and as to the consumers and licensees to be included in each class. *1990, c.43, s.28.*

**29. Wholesale price**

- (1) The price charged by a wholesaler or wholesaler-retailer for each grade of heating fuel and motor fuel shall be a common and universal price to all retailers throughout the province.



**Posted consumer price**

- (2) The posted consumer price of each wholesaler or wholesaler-retailer for each grade of heating fuel and motor fuel shall be common and universal throughout the province. *1990, c.43, s.29.*

**30. Price**

No retailer, wholesaler or wholesaler-retailer shall sell heating fuel or motor fuel at a price

- (a) different from the price last approved by the Commission or the price last filed by the wholesaler or wholesaler-retailer under section 33.1, whichever is later, unless otherwise ordered by the Commission; or
- (b) reflecting a markup that is not within the minimum and maximum markup determined by the Commission. *1990, c.43, s.30; 1991, c.18, s.22 {eff.} Nov. 4/91.*

**31. Criteria**

In determining the price or a change in the price of heating fuel or motor fuel, the Commission shall apply such criteria as it may from time to time consider advisable. *1990, c.43, s.31.*

**32. Application for approval of change in price**

Except for a wholesaler or wholesaler-retailer to whom section 33.1 applies an applicant seeking approval for a change in the price of heating fuel or motor fuel shall file with the Commission a statement setting out

- (a) the price last approved by the Commission or the price last filed by the applicant under section 33.1 whichever is later;
- (b) the proposed price for each grade of heating fuel or motor fuel for which approval is sought;
- (c) the date on which the proposed price is to be effective;
- (d) a description of the class of consumers or licensees to whom the applicant proposes to sell or offer for sale heating fuel or motor fuel at the proposed price;
- (e) the reasons for the change in price; and
- (f) such other information as is requested by the Commission either generally or specifically. *1990, c.43, s.32; 1991, c.18, s.22 {eff.} Nov. 4/91.*

**33. Interim order**

The Commission may, at any time after the filing of an application for approval of a price change and prior to an order made pursuant to subsection 36(1), make an interim order or orders determining the temporary price of the heating fuel or motor fuel referred to in the statement. *1990, c.43, s.33.*

**33.1 Decrease in price**

A wholesaler or wholesaler-retailer proposing to decrease the prices of all heating fuel and motor fuel products listed in its pricing schedules by the same amount shall

- (a) file with the Commission a notice setting out
- (i) the price last approved by the Commission, or the price last filed pursuant to this section, whichever is later,
- (ii) the amount of the decrease,

- (iii) the date on which the decrease is to be effective, which shall be not less than forty-eight hours after the filing of the notice,
  - (iv) the reasons for the decrease,
  - (v) such other information as is requested by the Commission, either generally or specifically; and
- (b) reduce its prices in accordance with the notice. *1991, c.18, s.22 {eff.} Nov. 4/91.*

**34. Price change wholly due to taxation**

Where the proposed price as specified in an application for approval of a price change reflects a change in the price that is wholly attributable to changes in taxation, the Commission shall be deemed to have issued an order approving as just and reasonable the proposed price, on the later of

- (a) the date of the filing of the statement; and
- (b) the date on which the change in taxation is to be effective. *1990, c.43, s.34.*

**35. Hearing**

- (1) The Commission may, within sixty days of the filing of the statement, give notice to the applicant directing the applicant to appear before it at a hearing for the purpose of making a submission to assist the Commission to determine the just and reasonable price of the heating fuel or motor fuel referred to in the statement.

**Extension of time**

- (2) A hearing ordered under subsection (1) shall be held, and the order of the Commission with respect to the price to which such hearing relates shall be made within ninety days of the filing of the statement but the ninety day period may be extended by the Commission with the consent of the applicant.

**Appearance**

- (3) If an applicant fails to appear at the hearing as directed under subsection (1), the Commission may proceed in the absence of the applicant. *1990, c.43, s.35.*

**35.1 Notice to appear**

- (1) The Commission may, at any time, give notice to a wholesaler or wholesaler-retailer directing the wholesaler or wholesaler-retailer to appear before it at a hearing for the purpose of making a submission to assist the Commission in determining whether or not the prices being charged by that wholesaler or wholesaler-retailer for heating fuel or motor fuel are just and reasonable.

**Failure to appear**

- (2) If a wholesaler or wholesaler-retailer fails to appear at the hearing as directed under subsection (1), the Commission may proceed in the absence of the wholesaler or wholesaler-retailer. *1991, c.18, s.22 {eff.} Nov. 4/91.*

**36. Price set to be just and reasonable**

- (1) If, in the opinion of the Commission, the price in effect or the price change requested for heating fuel or motor fuel is



- (a) just and reasonable, then the Commission by order shall confirm the existing price or approve the requested change; or
- (b) not just and reasonable, then the Commission by order shall determine the price which in its opinion is just and reasonable and the price so determined shall be effective on the date set out in the order.

**Onus**

- (2) The onus is on the wholesaler or wholesaler-retailer to prove that the price in effect or the price change requested is just and reasonable.

**Application of order**

- (3) Subject to notice and a reasonable opportunity to be heard, the Commission's order may be extended to similar classes of consumers and licensees of any or all licensed wholesalers or wholesaler-retailers operating in the province.

**Hearing**

- (4) The Commission may make an order pursuant to subsection (1) without holding a hearing. *1991, c.18, s.22 [eff.] Nov. 4/91.*

**37. Order**

The Commission shall issue an order approving as just and reasonable the proposed price as specified in the statement on or before the sixty-first day after the filing of the statement in the event that no notice is issued pursuant to subsection 35(1). *1990, c.43, s.37.*

## PART IV — PUBLIC HEARINGS

**38. Public hearing**

- (1) The Commission of its own motion may, and on the request of the Lieutenant Governor in Council shall, conduct a public hearing in respect of any matter involving licensing under this Act and any matter relating to the administration of this Act or the regulations.

**Notice**

- (2) Notice of a hearing referred to in subsection (1) shall be published in a newspaper in Prince Edward Island having a general circulation in the area affected and such notice shall be circulated at least ten days before the date fixed for the public hearing and shall contain such information in addition to the date, time and place of the hearing as the Commission considers necessary.

**Order**

- (3) The Commission may, in its discretion, upon completion of a hearing referred to in subsection (1), make such order as it considers just and reasonable. *1990, c.43, s.38.*

**39. Application for price change**

- (1) The Commission may hold a public hearing in respect of any application by a wholesaler, retailer or wholesaler-retailer seeking approval for a change in the price of heating fuel or motor fuel.

**Notice**

- (2) Notice of a hearing under subsection (1) shall be published in the manner set out in subsection 38(2).

**Order**

- (3) The Commission may by order approve, disapprove or vary the price change applied for. *1990, c.43, s.39.*

**40. Public hearing initiated by Commission or Lieutenant Governor in Council**

- (1) The Commission on its own motion may, and on the request of the Lieutenant Governor in Council shall, conduct a public hearing in respect of prices charged or proposed to be charged by a wholesaler, retailer or wholesaler-retailer for heating fuel or motor fuel.

**Notice**

- (2) Notice of a hearing under subsection (1) shall be published in the manner set out in subsection 38(2).

**Order**

- (3) When the Commission has held a public hearing pursuant to subsection (1), it may by order determine what in its opinion is the just and reasonable price or prices of heating or motor fuel specified in the notice of hearing and order any or all licensees to sell or offer for sale the heating fuel or motor fuel to any or all licensees or consumers at the price determined.

**Retroactive effect**

- (4) The Commission may order that any price determined under subsection (3) shall be retroactive to any specified date, but in no case earlier than the date on which notice of the public hearing is given under subsection (2), in which case the order shall contain provisions for the reimbursement or compensation of retailers or consumers, in such manner as the Commission considers appropriate. *1990, c.43, s.40.*

## PART V — PENALTIES

**41. Penalties imposed by Commission**

If any person

- (a) violates or participates in violating this Act, its regulations, or any order of the Commission or of any court having jurisdiction over matters dealt with under this Act;
- (b) causes or participates in causing another person directly or indirectly to violate this Act, the regulations, or any order of the Commission or of any court having jurisdiction over matters dealt with under this Act;
- (c) fails, neglects, omits, or refuses to do any act or thing required of that person by this Act, the regulations, or any order of the Commission or of any court having jurisdiction over matters dealt with under this Act; or
- (d) causes or participates in causing another person, directly or indirectly, to fail, neglect, omit, or refuse to do any act or thing required of that licensee by this Act, the regulations, or any order of the Commission or of any court having jurisdiction over matters dealt with under this Act,



that person is liable to a penalty imposed by the Commission of not more than \$5,000. *1991, c.18, s.22 {eff.} Nov. 4/91.*

**42. Penalty**

Repealed by *1991, c.18, s.22 {eff.} Nov. 4/91.*

**43. Continuing violation**

Each and every day during which a prohibited activity subject to a penalty pursuant to section 41 is continued shall give rise to a separate and distinct liability to a penalty pursuant to that section. *1991, c.18, s.22 {eff.} Nov. 4/91.*

**44. Vicarious liability**

The act, failure, neglect, omission or refusal of any officer, agent or other person acting for or employed by any licensee, acting within the scope of his employment, shall in every case be deemed to be the act, failure, neglect, omission or refusal of the licensee. *1990, c.43, s.44.*

**45. Recovery of penalty**

If the amount of any penalty imposed under this Act is not paid within fifteen days after the imposition thereof, the Commission, in addition to any other remedies under this Act, may proceed to recover the amount in the same manner as for the recovery of assessments. *1990, c.43, s.45. 1991, c.18, s.22 {eff.} Nov. 4/91.*

## PART VI — INVESTIGATION AND COMPLAINTS

**46. Investigations**

The Commission of its own motion may, and on the request of the Lieutenant Governor in Council shall, conduct examinations or investigations into any matter over which it has jurisdiction under this Act, and may hold a hearing in connection with any such examination or investigation. *1990, c.43, s.46.*

**47. Appointment of investigator**

The Commission may, either with or without notice to a licensee, make an order appointing a person to make at any time or from time to time any examinations or investigations as, in the opinion of the Commission, are reasonable and necessary in order to carry out the purposes of this Act. *1990, c.43, s.47.*

**48. Complaint against licensee**

- (1) The Commission may hold a hearing in respect of any complaint made against a licensee and in such case shall notify the licensee complained of as to the nature of the complaint and the time, date and place of the hearing.

**Witnesses**

- (2) In a hearing under this section, the licensee and the complainant shall be entitled to be heard and witnesses shall be permitted to attend to give evidence on their behalf. *1990, c.43, s.48.*

## PART VII — POWERS AND PROCEDURE

### 49. Procedures

The Commission may prescribe generally the procedures to be followed under this Act, including but not restricted to the power to consolidate the hearings of any matter pending before it, authorize any person to appear on a hearing as an intervenor in a personal or representative capacity or both, permit any evidence to be taken by commission or discovery, and apply, where applicable, any of the rules of court. *1990, c.43, s.49; 2008, c.20, s.72(71).*

### 50. Evidence

- (1) The Commission, or any member thereof, shall have the power of summoning any persons as witnesses and of requiring them to give evidence on oath orally or in writing, and to produce such documents and things as the Commission or any member thereof considers requisite to the full investigation of the matters into which the Commission or any member is authorized to inquire.

#### Powers

- (2) The Commission, or any member thereof, shall have the same power to enforce the attendance of persons as witnesses and to compel them to give evidence and produce documents and things as is vested in the Supreme Court or a judge thereof in civil cases and the same privileges and immunities as a judge of the Supreme Court shall apply.

#### Recording evidence

- (3) The Commission, or any member thereof, may cause the evidence of witnesses residing within or without the province to be taken in the manner prescribed by law for like depositions in civil actions in the Supreme Court.

#### Oath

- (4) Any member of the Commission may administer the oath to any witness. *1990, c.43, s.50.*

### 51. Delegation of authority

The Commission may authorize any one or more of its members to inquire into and report upon any matter within the jurisdiction of the Commission or pending before it under this Act or the regulations, and when so authorized, the member of the Commission shall, for the purpose of taking evidence or obtaining information for such report, have all the powers of the Commission. *1990, c.43, s.51.*

### 52. Information

- (1) The Commission, or any person appointed by the Commission to make any examinations or investigations, may at any time require a licensee to furnish to it upon request information and documentation that is within the knowledge or control of the licensee, or is of the nature and kind that would be expected by the Commission to be within the licensee's knowledge or control, and which in the opinion of the Commission is relevant to the carrying out of the provisions of this Act.

#### Inspection of records

- (2) The Commission, or any person appointed by the Commission, shall upon demand have the right to inspect the books, accounts, papers, records and memoranda of any licensee and the





Commission shall have the power to examine under oath any officer, agent or employee of a licensee in relation to the business and affairs of the licensee.

**Failure to supply information**

- (3) Any officer, agent or employee of any licensee who fails or refuses to fill out and return forms as required by this Act or by the Commission under this Act, or fails or refuses to answer any questions, or evades the answers to any question where there exists the means of ascertaining the information required, or who upon demand fails or refuses to exhibit to the Commission or any member thereof, or any person authorized to examine the same, any book, paper, account or memorandum of the licensee which is in the licensee's possession or control, is guilty of an offence. *1990, c.43, s.52.*

**53. Records**

A full and complete record shall be kept of all proceedings before the Commission on any formal hearings or investigations. *1990, c.43, s.53.*

**54. Pending litigation**

The pendency of any suit, prosecution or proceeding in any court involving questions of fact shall not deprive the Commission of jurisdiction to hear and determine the same facts. *1990, c.43, s.54.*

**55. Copy of order**

Upon application of any person, the Commission shall furnish certified copies of any order made by it which shall be evidence of the facts stated therein. *1990, c.43, s.55.*

**56. Recitals *re* jurisdiction**

No order of the Commission need show that any proceeding was held, any notice given, or any circumstances existed, giving it jurisdiction to make the order. *1990, c.43, s.56.*

**57. Effect of order**

- (1) An order of the Commission shall remain in full force and effect and be binding upon such persons or classes of persons as provided in the order unless it lapses pursuant to a provision of this Act or is amended or terminated by further order of the Commission.

**Amendment, etc. of order**

- (2) An order of the Commission made under one section of this Act may be amended or terminated by an order made under another section of this Act as well as under the section under which it was first made.

**Contracts**

- (3) No order of the Commission shall mean or be construed to mean that a contract between parties is affected except to the extent that it is necessary to carry out the terms and conditions of such order.

***Idem***

- (4) Every order of the Commission which affects a contract between parties shall be deemed to so affect every such contract without a specific or special order so declaring. *1990, c.43, s.57.*

**58. Parties**

Where any person has the status of a party or is an intervenor in any hearing before the Commission, he is entitled

- (a) to appeal the decision of the Commission to the Court of Appeal; and
- (b) to participate as a party in the hearing of an appeal,

and an appeal shall be on a question of law or jurisdiction only and be governed by section 13 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11. 1990, c.43, s.58; 1991, c.18, s.22 [eff.] Nov. 4/91; 2008, c.20, s.72(71).

**59. Vacancy**

No vacancy in the Commission shall impair the right of the remaining members of the Commission to act under this Act or the regulations. 1990, c.43, s.59.

**60. Quorum**

Two members of the Commission shall form a quorum and may exercise all the powers of the Commission under this Act or the regulations provided that where there is no opposing party and no notice to be given to any interested party any one member of the Commission may act alone for the Commission. 1990, c.43, s.60.

## PART VIII — GENERAL PROVISIONS

**61. Contract may not exclude application of orders**

A provision, term or condition in an agreement or contract that provides that the contract is terminated or that a licensee is permitted or authorized, or purports to permit or authorize, a licensee to reduce, limit or cease to supply any petroleum product or services on the ground that an enactment or an order of a judicial body, administrative board or governmental agency, board or department prevents any price or change in price provided for therein from being effective or becoming effective is null and void and of no effect. 1990, c.43, s.61.

**62. Pumps, etc. marking of grades**

All pumps and other containers at any outlet from which any petroleum product is sold or offered for sale shall, in the manner required by the Commission, be plainly and conspicuously labelled or marked with the kind and grade of any petroleum product being sold or offered for sale therefrom, according to such grades or classifications as may be approved by the Commission, or approved by other competent authority and accepted by the Commission, and all petroleum products sold or offered for sale under the respective grades must comply with such specifications or classifications. 1990, c.43, s.62.

**63. Service standards**

- (1) Every retailer or wholesaler who sells or keeps petroleum products for sale directly to consumers shall render to his customers such prompt, safe and efficient service and shall provide such services, equipment and facilities as are prescribed and as are reasonable and adequate for the kind or type of outlet operated.



**Contravention**

- (2) Failure to comply with this section is just cause for the suspension or cancellation of a license. *1990, c.43, s.63.*

**64. Minimum supply**

No wholesaler shall sell at any one time a lesser quantity of motor fuel or heating oil than one hundred and eighty litres and no wholesaler or wholesaler-retailer shall be required to deliver a quantity of motor fuel or heating oil less than one hundred and eighty litres. *1990, c.43, s.64.*

**65. Promotional activities**

The Commission has general supervision of promotional activities with respect to the sale of motor fuel and heating fuel, and without restricting the generality of the foregoing

- (a) a retailer cannot be required to participate in promotional activities sponsored by a wholesaler;
- (b) wholesaler sponsored promotional activities must be offered and made available to all branded retailers supplied by the wholesaler;
- (c) the cost of all promotional activities must be included in the wholesale price of the motor fuel and heating fuel; and
- (d) no wholesaler shall claim or recover in any manner, either directly or indirectly, from a retailer, the cost or any part of the cost of promotional activities sponsored by the wholesaler. *1990, c.43, s.65.*

**PART IX — REGULATIONS****66. Regulations**

The Commission may, with the approval of the Lieutenant Governor in Council, make regulations in respect of matters for which no express provision, or only partial or imperfect provision, has been made. *1991, c.18, s.22 {eff.} Nov. 4/91.*

**67. National emergency**

The Commission may regulate the distribution of petroleum products in the province in the event of a declaration of a national emergency under the *Energy Supplies Emergency Act* R.S.C. 1985, Chap. E-9 and may make such regulations in this respect as it considers appropriate. *1990, c.43, s.67.*

**PART X — REPEAL AND COMMENCEMENT****68. Repeal**

Act repealed. *1990, c.43, s.68.*