



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

CLIMATE LEADERSHIP ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to July 1, 2023. 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 King'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).

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CLIMATE LEADERSHIP ACT

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CLIMATE LEADERSHIP ACT CHAPTER C-9.1

WHEREAS the Government of Prince Edward Island is firmly committed to protecting the environment for future generations and has been a leader in efforts to address climate change through renewable energy development;

AND WHEREAS the Government of Prince Edward Island adopted the Pan-Canadian Framework for Clean Growth and Climate Change, Canada's plan to grow the economy while reducing greenhouse gas emissions and building resilience to adapt to a changing climate;

AND WHEREAS the Government of Canada has mandated that provinces and territories adopt an approach to pricing carbon pollution beginning in 2019 and that this approach meets the specifications of the federal benchmark for ensuring that carbon pricing applies to a broad set of emission sources throughout Canada with increasing stringency over time;

AND WHEREAS the Government of Prince Edward Island acknowledges that carbon pricing is widely recognized as an efficient way to reduce greenhouse gas emissions and help achieve our objectives to protect the environment and transition to a sustainable, low-carbon economy;

AND WHEREAS the Government of Prince Edward Island recognizes that efforts to reduce emissions must complement efforts to grow our economy while avoiding undue hardship for low-income Islanders and trade-exposed industries;

AND WHEREAS the Government of Prince Edward Island recognizes that carbon pricing alone will not be sufficient to meet emission targets and additional complementary initiatives to support and promote the transition to a low-carbon economy will be needed;

THEREFORE BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

PART 1 - INTERPRETATION

1. Definitions

In this Act,

- (a) “**agent**” means
 - (i) a “**wholesaler**” as defined in the *Petroleum Products Act* R.S.P.E.I. 1988, Cap. P-5, who is registered with the Commissioner as an agent for the collection of the levy under this Act, and
 - (ii) any other person registered with the Commissioner as an agent for the collection of the levy under this Act;
- (b) “**agricultural operations**” means the operations of cultivating soil, harvesting crops, including crops grown in greenhouses and market gardens, and raising livestock for commercial purposes, including all the stages of production and uses of farm machinery and farm trucks that are incidental to those purposes, except as specified in the regulations;
- (c) “**aquaculture operations**” means the commercial production by an aquaculturist of aquatic plants or animals or both, and includes the use of a boat or other equipment or both by an aquaculturist for that purpose, except as specified in the regulations;
- (d) “**aquaculturist**” means
 - (i) an individual who
 - (A) is actively engaged in aquaculture operations,
 - (B) has the appropriate aquaculture leases, licenses or permits issued by the federal government, and
 - (C) earns income from the aquaculture operations,
 - (ii) a partnership that
 - (A) is registered in this province under the *Partnership Act* R.S.P.E.I. 1988, Cap. P-1,
 - (B) is actively engaged in aquaculture operations,
 - (C) has the appropriate aquaculture leases, licenses or permits issued by the federal government in the name of the partnership, or in the name of at least one partner, and
 - (D) earns income from the aquaculture operations, or
 - (iii) a corporation that
 - (A) is registered in this province under the *Business Corporations Act* R.S.P.E.I. 1988, Cap. B-6.01, or the *Companies Act* R.S.P.E.I. 1988, Cap. C-14, or incorporated under an Act of the Parliament of Canada and, if required, registered under the *Extra-provincial Corporations Registration Act* R.S.P.E.I. 1988, Cap. E-14,
 - (B) is actively engaged in aquaculture operations,
 - (C) has the appropriate aquaculture leases, licenses or permits issued by the federal government, and
 - (D) earns income from the aquaculture operations;
- (e) “**bulk plant**” means a storage facility at a fixed location where fuel is stored by a wholesaler pending delivery to a vendor or directly to a purchaser;
- (f) “**clear fuel**” means gasoline or diesel that is not marked fuel;

- (g) “**commercial fishing operations**” means the practice of commercial fishing by a fisher and includes the use of a boat by a fisher for that purpose, except as specified in the regulations;
- (h) “**Commissioner**” means the Provincial Tax Commissioner appointed under the *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R-13.2;
- (i) “**consumer**” means a person who consumes or uses fuel in the province, whether for his or her personal use or as a representative, employee, partner, or part-owner of a business enterprise;
- (j) “**covered facility**” means a facility in respect of which a covered facility certificate has been issued, or that has been designated as a covered facility, under the *Greenhouse Gas Pollution Pricing Act* (Canada);
- (k) “**custom agricultural contracting operations**” means the carrying out of agricultural operations by a custom agricultural contractor on a farm on behalf of a farmer and includes the use of farm machinery by the custom agricultural contractor for that purpose, except as specified in the regulations;
- (l) “**custom agricultural contractor**” means
- (i) an individual who is
 - (A) actively engaged in custom agricultural contracting operations, and
 - (B) earns income from the custom agricultural contracting operations,
 - (ii) a partnership that
 - (A) is registered in this province under the *Partnership Act*,
 - (B) is actively engaged in custom agricultural contracting operations, and
 - (C) earns income from the custom agricultural contracting operations, or
 - (iii) a corporation that
 - (A) is registered in this province under the *Business Corporations Act*, or the *Companies Act*, or incorporated under an Act of the Parliament of Canada and, if required, registered under the *Extra-provincial Corporations Registration Act*,
 - (B) is actively engaged in custom agricultural contracting operations, and
 - (C) earns income from the custom agricultural contracting operations;
- (m) “**diesel**” means the products distilled from petroleum that are capable of developing the power required for operating internal combustion engines and that are commonly known as diesel, and includes any other products determined by the Commissioner to be diesel, but does not include aviation gasoline, aviation jet fuel, furnace oil, gasoline, kerosene, or marketable or nonmarketable natural gas or propane as specified in the Schedule to this Act;
- (n) “**farm**” means land, including buildings, whether owned, leased or rented, on or in which agricultural operations are conducted;
- (o) “**farm machinery**” means an implement of husbandry as defined in the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, used by a farmer or custom agricultural contractor in agricultural operations;
- (o.1) “**farm truck**” means a farm truck as defined in the Farm Truck Registration Regulations (EC356/74) made under the *Highway Traffic Act*;
- (p) “**farmer**” means
- (i) an individual who is actively engaged in agricultural operations and
 - (A) earns income from the agricultural operations, or

- (B) is registered in accordance with the Future Farmer Program,
- (ii) a partnership that
 - (A) is registered in this province under the *Partnership Act*,
 - (B) is actively engaged in agricultural operations, and
 - (C) either
 - (I) earns income from the agricultural operations, or
 - (II) has a partner who is registered in accordance with the Future Farmer Program,
- (iii) a corporation that
 - (A) is registered in this province under the *Business Corporations Act*, or the *Companies Act*, or incorporated under an Act of the Parliament of Canada and, if required, registered under the *Extra-provincial Corporations Registration Act*,
 - (B) is actively engaged in agricultural operations, and
 - (C) either
 - (I) earns income from the agricultural operations, or
 - (II) has a shareholder registered in accordance with the Future Farmer Program;
- (q) **“fisher”** means
 - (i) an individual who
 - (A) is actively engaged in commercial fishing operations,
 - (B) has the appropriate commercial fishing licenses or permits issued by the federal government, and
 - (C) earns income from the commercial fishing operations,
 - (ii) a partnership that
 - (A) is registered in this province under the *Partnership Act*,
 - (B) is actively engaged in commercial fishing operations,
 - (C) has the appropriate commercial fishing licenses or permits issued by the federal government in the name of the partnership, or in the name of at least one partner, and
 - (D) earns income from the commercial fishing operations, or
 - (iii) a corporation that
 - (A) is registered in this province under the *Business Corporations Act*, or the *Companies Act*, or incorporated under an Act of the Parliament of Canada and, if required, the *Extra-provincial Corporations Registration Act*,
 - (B) is actively engaged in commercial fishing operations,
 - (C) has the appropriate commercial fishing licenses or permits issued by the federal government, and
 - (D) earns income from the commercial fishing operations;
- (r) **“fuel”** means a substance listed as a fuel in Table 1 in the Schedule to this Act;
- (s) **“Future Farmer Program”** means the Future Farmer Program administered by the Department of Agriculture and Land;
- (t) **“gasoline”** means the liquid product distilled from petroleum which by combustion develops the power required for operating internal combustion engines, and also

means every other liquid product that fulfils the same purpose by the same means and for the same end, and includes any other product determined by the Commissioner to be gasoline but does not include aviation gasoline, aviation jet fuel, diesel, furnace oil, kerosene, marketable natural gas, non-marketable natural gas or propane as specified in the Schedule to this Act;

- (u) “**inspector**” means an inspector as defined in the *Revenue Administration Act* or a person appointed by the Minister under this Act;
- (v) “**interjurisdictional air service**” means a commercial air service that provides
 - (i) interprovincial or international air transportation of passengers, goods or both, or
 - (ii) interprovincial or international air services other than the transportation of passengers, goods or both,to members of the public for a fee;
- (w) “**interjurisdictional road carrier**” means a person that
 - (i) owns or operates a commercial vehicle or a fleet of commercial vehicles as defined in the *Highway Traffic Act* engaged in interprovincial or international transport or travel or both, and
 - (ii) is licensed under the International Fuel Tax Agreement;
- (x) “**levy**” means the levy imposed under the authority of this Act, and includes all penalties and interest that are, may be or may have been added to the levy pursuant to this Act or the regulations or the *Revenue Administration Act*;
- (y) “**levy exemption permit**” means a certificate, permit, card or other instrument issued by the Minister under section 25;
- (z) “**marked diesel**” means diesel to which a dye or chemical marker has been added in accordance with the *Gasoline Tax Act* Regulations, but does not include furnace oil;
- (aa) “**marked fuel**” means marked gasoline or marked diesel;
- (bb) “**marked gasoline**” means gasoline to which a dye or chemical marker has been added in accordance with the *Gasoline Tax Act* Regulations, but does not include furnace oil;
- (cc) “**Minister**” means the Minister of Finance;
- (dd) “**month**”, when used in reference to an agent’s monthly records, means the period that under the accounting practices of the agent is treated as the equivalent of a month, and in all other cases means calendar month;
- (ee) “**motor vehicle**” means a vehicle that is powered, drawn, propelled or driven by any means other than muscular power;
- (ff) “**person**”, in addition to the meaning ascribed to it by the *Interpretation Act* R.S.P.E.I. 1988, Cap. I-8.1, includes a municipal corporation or any other board, commission, committee or authority established for public or local purposes;
- (gg) “**possession**”, except in sections 11 and 60, means
 - (i) the state of having in one’s own personal possession, or
 - (ii) the state of knowingly having in the actual possession of another person for one’s own use or benefit or the use or benefit of another person;
- (hh) “**purchase**” means to purchase or otherwise obtain fuel with or without giving consideration;
- (ii) “**purchaser**” means a person who purchases fuel
 - (i) for the person’s own consumption or use in the province,

- (ii) for consumption or use in the province by another person at the expense of the person purchasing the fuel, or
- (iii) on behalf of a principal, if the fuel is for consumption or use in the province by the principal or by another person at the expense of that principal;
- (jj) “**rebrand**” means
 - (i) to reclassify a fuel from one substance to another,
 - (ii) to change a fuel to another type of fuel,
 - (iii) to change a fuel to a substance that is not subject to the levy, or
 - (iv) to change a substance that is not subject to the levy to a fuel;
- (kk) “**subagent**” means a person that is designated by an agent under section 42 as a subagent for the collection of the levy;
- (ll) “**vendor**” means an agent or subagent who in the ordinary course of business, either on the vendor’s own behalf or on behalf of another, sells fuel to a purchaser;
- (mm) “**wholesaler**” means a person licensed or required to be licensed as a wholesaler under the *Petroleum Products Act*. 2018,c.41,s.1; 2019,c.1,s.3; 2019,c.27,s.4(2); 2020,c.46,s.1; 2021,c.10,s.47.

2. Purpose

- (1) The purpose of this Act is to provide for a price on carbon for purchasers and consumers of fuel purchased prior to July 1, 2023, in an effort to reduce greenhouse gas emissions in the province to meet the target levels set out in subsection 7(1) of the *Net-zero Carbon Act* S.P.E.I. 2020, c. 90.

Use of revenue

- (2) The incremental revenue from a provincial levy on carbon may be used only to provide rebates or adjustments related to the levy on carbon to consumers, businesses and municipalities, including adjustments in the form of credits, rate reductions or fee reductions.

Report by Auditor General

- (3) The Auditor General shall report to the Legislative Assembly for each fiscal year up to and including the fiscal year ending on March 31, 2024,
 - (a) the amount of the levy collected under this Act; and
 - (b) the amounts returned to consumers, businesses and municipalities in accordance with subsection (2). 2018,c.41,s.2; 2019,c.13,s.1; 2022,c.57,s.1; 2023,c.2,s.1.

3. Administration

- (1) The Minister is responsible for the administration of this Act.

Supervision by Commissioner

- (2) The Commissioner shall act under the instructions of the Minister and have general supervision over all matters relating to the administration of this Act.

Act is a revenue Act

- (3) This Act shall be administered in accordance with the *Revenue Administration Act* as a revenue Act as defined in that Act. 2018,c.41,s.3.

PART 2 - LEVY ON FUEL

Division 1 - Imposition of Levy

3.1 Application of Division

Sections 4 to 8 apply according to their terms only to fuel purchased, consumed or used prior to July 1, 2023. *2023,c.2,s.2.*

4. Levy on certain fuels

A levy on fuel at the applicable rates set out in Table 1 in the Schedule to this Act is payable as provided in this Part except as exempted under Division 3 of this Part. *2018,c.41,s.4.*

5. Levy on fuel - purchaser

- (1) Every purchaser shall pay a levy on all fuel purchased by or delivered to the purchaser at the rate for that type of fuel set out in Table 1 in the Schedule to this Act.

Collection of levy

- (2) The levy payable by a purchaser shall be collected by an agent and remitted to the Minister in accordance with the regulations. *2018,c.41,s.5.*

6. Levy on fuel - consumer

- (1) Every consumer shall pay a levy in accordance with the regulations on all fuel consumed by the consumer in the province in respect of which the levy has not been paid by a purchaser at the rate for that type of fuel set out in Table 1 in the Schedule to this Act.

Payment of levy

- (2) The levy payable by a consumer shall be paid to the Minister.

Remittance of levy

- (3) The levy referred to in subsection (2) shall be remitted to the Minister in accordance with the regulations, together with the report required by section 37.

When levy not payable

- (4) Notwithstanding subsections (1) and (2), no levy is payable under this section at the time
 - (a) fuel is imported into the province for delivery to a bulk plant;
 - (b) fuel is exported from the province in bulk, where documentation providing evidence of the export that is satisfactory to the Commissioner is provided to the Commissioner by the agent who sells the fuel or removes it from the bulk plant; or
 - (c) fuel is purchased that is exempt from the levy under any of sections 13 to 24. *2018,c.41,s.6.*

7. Interjurisdictional road carrier

- (1) Every interjurisdictional road carrier may be a purchaser, a consumer or both a purchaser and a consumer.

Levy payable by interjurisdictional road carrier

- (2) An interjurisdictional road carrier shall pay to the Minister in accordance with the regulations a levy on fuel used in the province, at the rate for that type of fuel set out in Table 1 in the Schedule to this Act, regardless of where the fuel was purchased.

Administration under Gasoline Tax Act

- (3) The levy payable by an interjurisdictional road carrier shall be administered, enforced and adjusted as provided by the *Gasoline Tax Act, 2018, c.41, s.7*.

8. Levy payable by agent

- (1) An agent shall pay to the Minister in accordance with the regulations a levy on its own use of fuel.

Determination of levy payable

- (2) The levy payable pursuant to subsection (1) shall be determined in accordance with the regulations.

Remittance of levy

- (3) The levy payable pursuant to this section shall be remitted in accordance with the regulations. *2018, c.41, s.8.*

Division 2 - Special Rules**8.1 Application of Division**

Sections 9 to 12 apply according to their terms only to fuel owned, possessed or purchased prior to July 1, 2023. *2023, c.2, s.3.*

9. Mixtures and blends of fuels

- (1) For the purposes of determining the levy payable on mixtures and blends of fuels, where a substance includes amounts of more than one fuel,
- (a) if the substance is listed in Table 1 in the Schedule to this Act, the levy is at the rate for that type of fuel;
 - (b) if the substance does not include more than a prescribed proportion of a second fuel or a substance defined in section 1 of the Schedule to this Act, the substance is deemed to be the fuel that is present in the highest proportion in the substance, and the levy is at the rate for that type of fuel; and
 - (c) if the substance includes more than a prescribed proportion of a second fuel or a substance defined in section 1 of the Schedule to this Act, the levy shall be calculated in accordance with the regulations.

Remittance of levy

- (2) The levy payable pursuant to this section shall be remitted in accordance with the regulations. *2018, c.41, s.9.*

10. Rebranded fuel

- (1) An agent that rebrands fuel shall pay to the Minister a levy in accordance with the regulations if the levy rate that applies to the fuel after it is rebranded is higher than the levy rate that applied to the fuel before it was rebranded.

Remittance of levy

- (2) The levy payable pursuant to this section shall be remitted in accordance with the regulations. *2018,c.41,s.10.*

11. Definitions

- (1) In this section,
- (a) “**owner**”, in respect of fuel, means the legal owner of the fuel;
 - (b) “**possession**”, in respect of fuel, means
 - (i) the state of having the fuel in one’s own personal possession, or
 - (ii) the state of knowingly having the fuel in the actual possession of another person, other than the person from whom the fuel was purchased.

Change in levy rate

- (2) If a change in the levy rate applicable to a fuel takes effect between the time a vendor purchases the fuel and the time the vendor takes delivery of the fuel, the levy on the fuel is payable in accordance with the regulations at the rate that is in effect on the day on which the vendor takes delivery of the fuel.

Report by vendor

- (3) If, at the beginning of a day on which the levy rate applicable to a type of fuel changes, a vendor
- (a) is the owner of fuel of that type;
 - (b) is in possession of the fuel for sale or resale in the province; and
 - (c) was required to pay a levy on the fuel at the time the fuel was purchased or imported into the province,

the vendor shall file with the Commissioner, in the form approved by the Commissioner and in accordance with the regulations, a report that includes the quantity of fuel of that type owned by the vendor at the beginning of that day.

Calculation - amount payable

- (4) If the levy rate on the fuel has increased, the vendor referred to in subsection (3) shall pay to the Minister, at the prescribed time, the amount determined in accordance with the regulations.

Request for refund

- (5) If the levy rate on the fuel has decreased, the vendor referred to in subsection (3) that files a report in accordance with the regulations is entitled to a refund of the portion of the levy that was paid in respect of the fuel that is equal to the amount determined in accordance with the regulations.

Payment of refund

- (6) Where the Commissioner is satisfied, based on the report filed by the vendor under this section, that the vendor is entitled to a refund, the Commissioner shall refund the amount in accordance with the regulations. *2018,c.41,s.11.*

12. Rounding

Where the amount of the levy required to be paid or refunded pursuant to this Act includes a fraction of a cent, the amount shall be rounded to the nearest cent, with $\frac{1}{2}$ cent counted as one cent. *2018,c.41,s.12.*

Division 3 - Exemptions**13. Exemption - farmers**

Fuel purchased by a farmer is exempt from the levy imposed under Division 1 of this Part if

- (a) the farmer provides at the time of purchase a valid levy exemption permit for the fuel, or other evidence of exemption for the fuel in accordance with the regulations; and
- (b) the fuel is marked fuel to be used for agricultural operations on a farm or for travel between or within farms. *2018,c.41,s.13; 2020,c.46,s.2.*

14. Exemption - fishers

Fuel purchased by a fisher is exempt from the levy imposed under Division 1 of this Part if

- (a) the fisher provides at the time of purchase a valid levy exemption permit for the fuel, or other evidence of exemption for the fuel in accordance with the regulations; and
- (b) the fuel is marked fuel to be used for commercial fishing operations. *2018,c.41,s.14.*

15. Exemption - aquaculturists

Fuel purchased by an aquaculturist is exempt from the levy imposed under Division 1 of this Part if

- (a) the aquaculturist provides at the time of purchase a valid levy exemption permit for the fuel, or other evidence of exemption for the fuel in accordance with the regulations; and
- (b) the fuel is marked fuel to be used for aquaculture operations. *2018,c.41,s.15.*

16. Exemption - custom agricultural contractors

Fuel purchased by a custom agricultural contractor is exempt from the levy imposed under Division 1 of this Part if

- (a) the custom agricultural contractor provides at the time of purchase a valid levy exemption permit for the fuel, or other evidence of exemption for the fuel in accordance with the regulations; and
- (b) the fuel is marked fuel to be used for custom agricultural contracting operations on a farm. *2018,c.41,s.16.*

17. Exemption - interjurisdictional passenger and cargo flights

(1) Fuel purchased for use in a flight is exempt from the levy imposed under Division 1 of this Part if evidence is provided at the time of purchase that the flight

- (a) is operated by an interjurisdictional air service that holds a licence issued by the Canadian Transportation Agency and holds, if required by Transport Canada, an operating certificate issued by Transport Canada for the type of aircraft used for the flight; and

- (b) begins or ends outside the province.

Exception - emergency landing

- (2) Notwithstanding clause (1)(b), fuel purchased for use in an interjurisdictional passenger or cargo flight referred to in subsection (1) is exempt from the levy imposed under Division 1 of this Part if the flight began at a location in the province and arrived at a location in the province only because of an emergency landing at one of the locations. *2018,c.41,s.17.*

18. Exemption - interjurisdictional air services flights

- (1) Fuel purchased for use in a flight is exempt from the levy imposed under Division 1 of this Part if evidence is provided at the time of purchase that the flight
 - (a) is operated by an interjurisdictional air service that holds a licence issued by the Canadian Transportation Agency and holds, if required by Transport Canada, an operating certificate issued by Transport Canada for the type of aircraft used for the flight; and
 - (b) begins or ends outside the province, and that beginning or ending outside the province is integral to the provision of the air service.

Exception - emergency landing

- (2) Notwithstanding clause (1)(b), fuel purchased for use in an interjurisdictional air services flight referred to in subsection (1) is exempt from the levy imposed under Division 1 of this Part if the flight began at a location in the province and arrived at a location in the province only because of an emergency landing at one of the locations. *2018,c.41,s.18.*

19. Exemption - cruise ships

Fuel purchased for use in the operation of a cruise ship is exempt from the levy imposed under Division 1 of this Part if evidence is provided at the time of purchase that

- (a) the cruise is offered to members of the public for a fee; and
- (b) the cruise ship has a scheduled port of call outside of the province. *2018,c.41,s.19.*

20. Exemption - commercial vessel

Fuel purchased for use in the operation of a commercial vessel is exempt from the levy imposed under Division 1 of this Part if evidence is provided at the time of purchase that the commercial vessel is being used for

- (a) the carriage of passengers or freight from this province to another province, territory or country for a fee; or
- (b) the dredging of the ocean bed in extra-territorial waters. *2018,c.41,s.20.*

21. Exemption - out of province marine craft

Fuel purchased for use in the operation of a marine craft that is registered outside the province is exempt from the levy imposed under Division 1 of this Part if evidence is provided at the time of purchase that

- (a) the owner of the marine craft is in possession of a valid levy exemption permit issued on behalf of the province of registration of the marine craft;
- (b) the marine craft is actually being employed in commercial fishing operations; and
- (c) the fuel is marked fuel to be used in commercial fishing operations. *2018,c.41,s.21.*

22. Exemption - covered facility

Subject to the regulations, fuel purchased for use by a covered facility is exempt from the levy imposed under Division 1 of this Part if evidence is provided at the time of purchase that

- (a) either
 - (i) the covered facility continues to be designated under the *Greenhouse Gas Pollution Pricing Act* (Canada), or
 - (ii) the covered facility certificate issued in respect of the facility remains in force; and
- (b) the emissions from the fuel are reportable emissions under the *Greenhouse Gas Pollution Pricing Act* (Canada). *2018,c.41,s.22.*

23. Exemption - Indian Act

Fuel delivered to a reserve and purchased for use by a purchaser who is an Indian, as defined in the *Indian Act* R.S.C. 1985, cap. I-5, is exempt from the levy imposed under Division 1 of this Part. *2018,c.41,s.23.*

24. Exemption - pre-packaged fuels

Fuel purchased in pre-packaged, factory-sealed containers with a capacity specified in the regulations is exempt from the levy imposed under Division 1 of this Part. *2018,c.41,s.24.*

25. Levy exemption permit

Repealed by *2023,c.2,s.4. 2018,c.41,s.25; 2023,c.2,s.4.*

26. Prohibition

- (1) Where a vendor sells fuel prior to July 1, 2023, to a purchaser in the circumstances described in sections 13 to 24, the vendor shall not collect the levy from the purchaser.

Liability of vendor

- (2) A vendor that contravenes subsection (1) is liable to pay to the Minister an amount equal to the amount of the levy the vendor collected from the purchaser. *2018,c.41,s.26; 2023,c.2,s.5.*

Division 4 - Refunds

27. Refund of levy

- (1) The Commissioner may, in accordance with the regulations, on application by a person who has paid a levy under this Act, other than a vendor to whom section 40 applies, pay a refund to the applicant in respect of the levy paid on fuel used for an exempt purpose or use under this Act.

Notice of disallowance

- (2) If the Commissioner refuses an application for a refund under subsection (1) in whole or in part, the Commissioner shall give to the applicant a notice of disallowance specifying the amount of the disallowance and the reasons for it. *2018,c.41,s.27.*

Division 5 - Other Circumstances in Which Levy is Payable

27.1 Application of Division

Sections 28 to 31 apply according to their terms only to fuel sold or purchased prior to July 1, 2023. *2023,c.2,s.6.*

28. Prohibited sale

- (1) No vendor shall sell fuel exempt from the levy to a purchaser
 - (a) where the purchaser, at the time of purchase,
 - (i) does not provide a levy exemption permit or other evidence of exemption in accordance with the regulations, or
 - (ii) is not a member of a class of purchasers that is otherwise exempt under this Act from the levy on that type of fuel; or
 - (b) where the vendor knows or reasonably ought to know that the levy exemption permit or evidence provided in accordance with the regulations is false in a material way or that the fuel will not be used for an exempt purpose or use under this Act.

Liability for contravention

- (2) If a vendor sells fuel exempt from the levy to a purchaser in contravention of subsection (1),
 - (a) the vendor and the purchaser are jointly and severally liable to pay to the Minister the levy the purchaser would have been required to pay had the fuel not been sold exempt from the levy; and
 - (b) either the vendor or the purchaser or both may be subject to an administrative penalty. *2018,c.41,s.28.*

29. Prohibited use

- (1) No purchaser who purchases fuel exempt from the levy shall use the fuel or permit it to be used for any purpose or use other than the exempt purpose or use under this Act for which it was purchased.

Liability of purchaser

- (2) A purchaser who purchases fuel exempt from the levy and who subsequently uses or permits that fuel to be used for a purpose or use contrary to subsection (1)
 - (a) is liable to pay to the Minister the levy with respect to the amount of fuel the Commissioner determines has been used for a purpose or use contrary to subsection (1) that the purchaser would have been required to pay had the fuel not been purchased exempt from the levy; and
 - (b) may be subject to an administrative penalty. *2018,c.41,s.29.*

30. Possession of marked fuel

- (1) No person shall be in possession of marked fuel unless
 - (a) the person
 - (i) has been issued a levy exemption permit, and
 - (ii) is in possession of the marked fuel for an exempt purpose or use under this Act; or

- (b) the person is otherwise authorized under this Act, the regulations, an enactment or an Act of the Parliament of Canada to be in possession of marked fuel.

Liability

- (2) A person who is in possession of marked fuel contrary to subsection (1)
- (a) is liable to pay to the Minister the amount of the levy with respect to the amount of marked fuel in the possession of that person that the person would have been required to pay had the marked fuel not been purchased exempt from the levy; and
- (b) may be subject to an administrative penalty. *2018,c.41,s.30.*

31. Payment of levy in respect of prohibited action

The levy payable pursuant to sections 28, 29 and 30 shall be remitted in accordance with the regulations. *2018,c.41,s.31.*

Division 6 - Records and Recovery of Levy**31.1 Application of Division**

Sections 32 to 40 apply according to their terms only to records, reports and other matters in respect of fuel sold or purchased prior to July 1, 2023. *2023,c.2,s.7.*

32. Agents' records

An agent shall, in accordance with the regulations,

- (a) record every transaction relating to the sale, transfer or delivery of fuel and make the record available on request to the Commissioner; and
- (b) keep a record of every sale, transfer or delivery of fuel made to or from a place of business. *2018,c.41,s.32.*

33. Returns by agent

- (1) An agent shall, in respect of operations or activities in each reporting period, deliver to the Commissioner in accordance with the regulations a return in the form approved by the Commissioner stating in respect of each place of business the total sales, transfers and deliveries of fuel made by the agent in the preceding accounting month and indicating the type and quantity of fuel and the sales, transfers and deliveries, including the agent's own use of fuel.

Other information

- (2) The agent shall deliver with the return any other information or materials that the Commissioner may from time to time require. *2018,c.41,s.33.*

34. Records by subagent

- (1) A vendor who is a subagent shall keep and maintain records in accordance with the regulations.

Other information

- (2) A vendor who is a subagent shall deliver to the Commissioner any other information that the Commissioner may from time to time require. *2018,c.41,s.34.*

35. Records by permit holder

- (1) A holder of a levy exemption permit shall keep records for each month relating to
 - (a) all marked fuel acquired by the permit holder and the use made of the marked fuel; and
 - (b) all clear fuel acquired by the permit holder for use in the permit holder's operations.

Retention of invoice

- (2) A holder of a levy exemption permit shall obtain and keep an invoice for each acquisition of marked and clear fuel. *2018,c.41,s.35.*

36. Records and remittance by other person

Where the Commissioner believes on reasonable grounds that a person is acquiring fuel outside of the province, is bringing it into the province and is liable for the payment of the levy under subsection 6(1), the Commissioner may, by notice to the person in writing, require the person to keep and maintain a record in respect of the fuel in accordance with the regulations and to remit the levy payable in accordance with subsection 6(3). *2018,c.41,s.36.*

37. Report to Commissioner

- (1) A consumer who makes a payment of the levy to the Minister pursuant to subsection 6(3) shall deliver a report to the Commissioner in accordance with the regulations stating the quantity of fuel consumed during the preceding reporting period.

Other information

- (2) The consumer referred to in subsection (1) shall deliver with the report any other information or materials that the Commissioner may from time to time require.

Confirmation

- (3) A purchaser who has purchased marked fuel in accordance with section 13 of this Act and is not required to pay the levy in accordance with section 31 of this Act shall submit a report to the Commissioner in accordance with the regulations confirming that no levy is payable. *2018,c.41,s.3; 2020,c.46,s.3.*

38. Requirements respecting records, etc.

- (1) Records required to be kept and maintained and returns and reports required to be made under this Act shall be kept, maintained and made in the form approved by the Commissioner and in accordance with the regulations, and in all cases shall be legible and clear.

Retention and availability of records

- (2) Every person required to keep and maintain records under this Act shall
 - (a) retain the records in the person's possession at the place of business or another place approved by the Commissioner;
 - (b) retain safe possession of the records for a period of at least five years from the date to which the record relates unless the Commissioner consents to the prior destruction of the records; and
 - (c) make the records available whenever required for inspection by a person authorized by the Commissioner.

Compliance with directions

- (3) A person required to keep and maintain records or make returns and reports shall do so in compliance with the directions of the Commissioner.

Authorization to deliver records

- (4) Notwithstanding subsection (2) the Commissioner may authorize a person who is required to retain records, or the person's personal representative or assignee, to deliver the records to the Commissioner in lieu of retaining the records at the place and for the time specified in subsection (2). *2018,c.41,s.38.*

39. Levy recovery

Where an agent pays the levy on fuel and sells the fuel, the agent shall recover the levy it paid from amounts payable pursuant to section 5. *2018,c.41,s.39.*

40. Refund to vendor

- (1) The Commissioner may in accordance with the regulations authorize a credit or a refund of the levy or any portion of it to a vendor on receipt of an application in the form approved by the Commissioner that provides evidence satisfactory to the Commissioner that
- (a) the vendor paid the levy; and
 - (b) one of the following circumstances has occurred:
 - (i) the fuel was sold exempt from the levy,
 - (ii) the fuel was exported from the province in bulk,
 - (iii) a verifiable quantity of the fuel was stolen or destroyed, or
 - (iv) the fuel was rebranded and the levy rate applied to the fuel after rebranding is lower than the levy rate that applied before rebranding.

Exception

- (2) Notwithstanding subsection (1), the Commissioner shall not credit or refund the levy to the vendor if the purchaser is entitled to a refund of the levy.

Notice of disallowance

- (3) If the Commissioner refuses in whole or in part an application for a credit or refund under this section, the Commissioner shall give to the applicant a notice of disallowance and the reasons for it. *2018,c.41,s.40.*

Division 7 - Registration**40.1 Application of Division**

Sections 41 and 42 apply according to their terms to registrations and designations for the purposes of the Act prior to July 1, 2023. *2023,c.2,s.8.*

41. Requirement for registration

- (1) No person shall
- (a) in the province,
 - (i) sell or remove fuel from a bulk plant,

- (ii) operate a bulk plant or act as a position holder within a bulk plant operated by another person,
 - (iii) sell fuel for the purpose of resale,
 - (iv) sell fuel exempt from the levy, or
 - (v) rebrand fuel;
 - (b) import fuel into the province
 - (i) for the purpose of sale or resale, or
 - (ii) that, without first having been sold or resold in this province, is put, in this province, into a fuel system that produces heat or energy; or
 - (c) export fuel from the province in bulk,
- unless the person is a wholesaler who is registered in accordance with the regulations with the Commissioner as an agent for the collection of the levy.

Registration - other persons

- (2) Notwithstanding subsection (1), a person who is not a wholesaler who carries out any or all of the activities specified in subsection (1) shall be registered with the Commissioner in accordance with the regulations as an agent for the collection of the levy.

Refusal to register, renew

- (3) The Commissioner may refuse to register an applicant or to renew a registration if the applicant
- (a) has contravened this Act or a regulation under this Act;
 - (b) has contravened a law in force in the province that regulates the distribution and sale of fuel; or
 - (c) has been convicted in respect of a contravention of a law in force in the province or in another jurisdiction that governs the collection or payment of a carbon levy or tax or governs a carbon pricing system.

Suspension, cancellation

- (4) The Commissioner may suspend or cancel a registration if the agent
- (a) has contravened this Act or a regulation under this Act;
 - (b) has contravened a law in force in the province that regulates the distribution and sale of fuel; or
 - (c) has been convicted in respect of a contravention of a law in force in the province or in another jurisdiction that governs the collection or payment of a carbon levy or tax or governs a carbon pricing system.

Notice of refusal

- (5) If the Commissioner refuses to register an applicant or suspends or cancels an agent's registration, the Commissioner shall give to the applicant or agent a notice of refusal, suspension or cancellation specifying the reasons for the refusal, suspension or cancellation.
2018, c.41, s.41.

42. Designation of subagent

- (1) An agent may, in writing, designate one or more subagents for the collection of the levy which the agent is required to collect.

Restriction

- (2) Only a person to whom an agent sells or delivers fuel for resale to purchasers shall be designated by that agent as a subagent.

Agent's responsibility

- (3) The agent shall
- (a) ensure that the subagent collects the levy from each purchaser who is liable to pay the levy;
 - (b) collect from the subagent the levy collected by the subagent;
 - (c) ensure that the subagent observes and complies with the requirements of this Act and the regulations; and
 - (d) hold, account for and remit the levy collected by the subagent in the same manner as the levy collected by the agent. *2018,c.41,s.42.*

PART 3 - INSPECTION AND ENFORCEMENT

43. Commissioner's direction respecting inspections

- (1) The Commissioner may direct an inspector to make an inspection of premises and an audit of records for the purposes of this Act or the regulations.

Powers to inspect

- (2) Where an inspector has reasonable grounds to believe or to suspect that a person
- (a) has in the person's possession or is using fuel on which the levy is payable and has not been paid; or
 - (b) is otherwise contravening this Act or the regulations,
- the inspector may
- (c) search the premises and any vehicle in the charge or possession of the person suspected; and
 - (d) examine or seize any documents, records or property found in the premises or vehicle that the inspector has reason to believe may be evidence of a contravention of this Act or the regulations.

Extraction of fuel

- (3) For the purpose of conducting a search under this section, an inspector may open any storage tank or the supply system of any vehicle in the charge or possession of the person suspected and extract from it any quantity of fuel that the inspector considers necessary for the purpose of the inspection. *2018,c.41,s.43.*

44. Evidentiary presumption

- (1) Evidence that a person has contravened the *Gasoline Tax Act* by using fuel on which the tax has not been paid under that Act may be deemed to be evidence that the person has contravened this Act or the regulations by using fuel on which the levy has not been paid under this Act or the regulations.

Suspension of levy exemption permit

- (2) On receipt of evidence of a conviction in respect of a contravention of this Act by a person who has been issued a levy exemption permit under this Act, the Commissioner may suspend the person's levy exemption permit for the period specified in the regulations.

Ineligibility

- (3) On receipt of evidence of a conviction in respect of a contravention of this Act by a person who does not hold a levy exemption permit issued under this Act but was required to have one, the Commissioner may give notice to the person that the person is not eligible to obtain the levy exemption permit for the period specified in the regulations. *2018,c.41,s.44.*

PART 4 - OFFENCES, PENALTIES AND ADMINISTRATIVE PENALTIES

45. Offences and penalties

A person who contravenes any provision of this Act is guilty of an offence and liable on summary conviction to a fine of not less than \$250 and not more than \$5,000. *2018,c.41,s.45.*

46. Offences re documents and records

- (1) A person who
- (a) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in an application, return, statement, record, report or document delivered or made under this Act or the regulations;
 - (b) destroys, alters, mutilates or disposes of the records of a person required to keep records under this Act or the regulations;
 - (c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents to or acquiesces in the omitting of material particulars in the records of a person required to keep records under this Act or the regulations;
 - (d) wilfully evades or attempts to evade compliance with this Act or the regulations; or
 - (e) conspires with any person to commit an offence described in clauses (a) to (d),
- is guilty of an offence.

Penalty

- (2) In addition to any penalty otherwise provided for by this Act, a person who commits an offence under subsection (1) is liable on summary conviction to
- (a) a fine in an amount that is not more than 300% of the greatest of
 - (i) the levy evaded or sought to be evaded,
 - (ii) the difference between the amount that should have been remitted and the amount remitted, or
 - (iii) the refund, credit, reimbursement or rebate obtained or sought to be obtained; or
 - (b) to that fine and a term of imprisonment of not more than two years. *2018,c.41,s.46.*

47. Failure to file returns

- (1) In addition to any penalty otherwise provided for by this Act, a person who fails to submit a return or report or to provide or produce information or a document as and when required by

this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of \$50 for each day or part of a day on which the default continues.

Failure to maintain records

- (2) In addition to any penalty otherwise provided for by this Act, a person who fails to maintain records and books of account when required by the Commissioner to do so is guilty of an offence and liable on summary conviction to a fine of \$50 for each day from the day the person receives notification of the requirement to the day the person complies with the requirement. *2018,c.41,s.47.*

48. Notice of non-compliance

- (1) Despite sections 45, 46 and 47, if the Commissioner believes, on reasonable grounds, that a person has contravened or failed to comply with a provision of this Act listed in Column I of Table 2 in the Schedule to this Act, the Commissioner may issue a notice of non-compliance to the person.

Service of notice

- (2) The Commissioner shall serve a notice of non-compliance personally or by sending it by registered mail to the last known address of the person to whom it is directed.

Contents of notice

- (3) The notice of non-compliance shall include
- (a) the name of the person who has contravened or failed to comply with a provision listed in Column I of Table 2 in the Schedule to this Act;
 - (b) the provision listed in Column I of Table 2 in the Schedule to this Act and the date on which the contravention or failure to comply occurred;
 - (c) the amount of the administrative penalty that may be imposed under section 51; and
 - (d) information with respect to the person's right to request a review of the decision under section 49.

Time limit

- (4) A notice of non-compliance shall not be served more than one year after the Commissioner first had knowledge of the violation or failure to comply.

Requirement to comply

- (5) A person who receives a notice of non-compliance for a contravention or failure to comply with section 36 or 38 shall comply with the provision within 30 days after being served with the notice. *2018,c.41,s.48.*

49. Request for review

- (1) A person who receives a notice of non-compliance may submit a written request for review of the decision to the Commissioner within 30 days after being served with the notice.

Result of review

- (2) Within 60 days after receiving the written request for review, the Commissioner shall
- (a) issue a notice indicating that the Commissioner is satisfied of one or more of the following:
 - (i) an error or omission exists with regard to the issuance of the notice of non-compliance,

- (ii) an extenuating circumstance beyond the control of the person prevented compliance with the provision listed in Column I of Table 2, or
- (iii) due diligence was exercised by the person to attempt to prevent the violation or failure to comply with the provision listed in Column I of Table 2;
- (b) issue a notice extending the time period referred to in subsection 48(5); or
- (c) impose an administrative penalty by issuing a notice of administrative penalty. *2018,c.41,s.49.*

50. Effect of administrative penalty

- (1) A person subject to an administrative penalty shall not be charged with a contravention in respect of the same incident that gave rise to the administrative penalty.

Effect of charge for contravention

- (2) A person charged with a contravention shall not be subject to an administrative penalty in respect of the same incident that gave rise to the charge. *2018,c.41,s.50.*

51. Imposition of administrative penalty

- (1) The Commissioner shall impose an administrative penalty on a person by issuing a notice of administrative penalty
- (a) if the person does not comply within the time period referred to in subsection 48(5);
 - (b) if the person does not submit a written request for review within the time period referred to in subsection 49(1); or
 - (c) under clause 49(2)(c).

Service of notice

- (2) The Commissioner shall serve a notice of administrative penalty personally or by sending it by registered mail to last known address of the person to whom it is directed.

Contents of notice

- (3) The notice of administrative penalty shall include
- (a) the name of the person required to pay the administrative penalty;
 - (b) the provision listed in Column I of Table 2 in the Schedule to this Act and the date on which the contravention of or failure to comply with the provision occurred;
 - (c) the amount of the administrative penalty;
 - (d) when and how the administrative penalty shall be paid; and
 - (e) information with respect to the person's right to appeal the Commissioner's decision under section 52. *2018,c.41,s.51.*

52. Appeal

A person who receives a notice of administrative penalty may, within 30 days, appeal the decision of the Commissioner to the Island Regulatory and Appeals Commission in accordance with the *Island Regulatory and Appeals Commission Act R.S.P.E.I. 1988, Cap. I-11. 2018,c.41,s.52.*

53. Payment within 30 days

- (1) A person who receives a notice of administrative penalty shall pay the administrative penalty set out in the notice within 30 days after being served with the notice.

Variation on appeal

- (2) Where, on an appeal under section 52 by a person who received a notice of administrative penalty, the Island Regulatory and Appeals Commission varies the Commissioner's decision, the Commissioner shall refund the administrative penalty or portion of it within 30 days after the decision of the Island Regulatory and Appeals Commission.

Payable to Minister

- (3) The administrative penalty shall be payable to the Minister.

Deemed contravention

- (4) For the purposes of this Act only, a person who pays an administrative penalty shall be deemed to have contravened or failed to comply with the provision listed in Column I of Table 2 in the Schedule to this Act in respect of which the payment was made. *2018,c.41,s.53.*

54. Administrative penalty - amount

The amount of an administrative penalty is as follows:

- (a) for a first contravention or failure to comply with the provision listed in Column I of Table 2 in the Schedule to this Act, a sum equal to the minimum administrative penalty listed beside it in Column II of Table 2;
- (b) for a second contravention or failure to comply with the provision listed in Column I of Table 2 in the Schedule to this Act, a sum equal to ten times the minimum administrative penalty listed beside it in Column II of Table 2; and
- (c) for a third or subsequent contravention or failure to comply with the provision listed in Column I of Table 2 in the Schedule to this Act, a sum equal to the maximum administrative penalty listed beside it in Column II of Table 2. *2018,c.41,s.54.*

55. Failure to pay administrative penalty

Where a person who is required to pay an administrative penalty under subsection 53(1) fails to do so,

- (a) the Commissioner may suspend, revoke, or refuse to issue or renew the person's levy exemption permit or registration; and
- (b) the amount of the administrative penalty constitutes a debt due to the Government. *2018,c.41,s.55.*

PART 5 - ADMINISTRATIVE PROVISIONS AND REGULATIONS

56. Security for amounts owing

- (1) The Commissioner may require an agent to deposit with the Minister a security in the form of cash, a bond or other security acceptable to the Commissioner.

Amount of security

- (2) The amount of any security required by the Commissioner under subsection (1) shall be determined by the Commissioner, but shall not

- (a) exceed a maximum amount that is equal to six times the amount of the estimated levy that, in the opinion of the Commissioner, would normally be collected by the agent each month under this Act; and
- (b) be less than \$5,000.

Refusal to register

- (3) The Commissioner may refuse to register an agent who fails to deposit with the Minister a security required under subsection (1).

Application of security

- (4) Where an agent has
 - (a) deposited with the Minister a security required under subsection (1); and
 - (b) has failed to collect or remit the levy in accordance with this Act,the Commissioner may, after serving on the agent a written notice of the Commissioner's intention to do so, apply the security in whole or in part to the amount that should have been collected or remitted by the agent as the amount due to the Government as of the date of the notice. *2018, c.41, s.56.*

57. Service

- (1) Except as otherwise specified in this Act, where a notice or other document is to be served on or is to be sent or given to a person by the Commissioner or an inspector under this Act, the notice or document may be served on, sent or given to the person by personal service, by facsimile or other form of electronic transmission agreed to by the person and the Commissioner or by registered or regular mail.

Service on Commissioner

- (2) Except as otherwise specified in this Act, a notice or other document required to be served on or filed with the Commissioner may be sent to the Commissioner by ordinary mail, registered mail, facsimile or other electronic means specified by the Commissioner or delivered by hand.

Date of service on person

- (3) For the purposes of subsection (1),
 - (a) where a notice or other document is mailed, it is presumed to be sent on the date of the document; and
 - (b) where a notice or other document is sent by facsimile or another form of electronic transmission, it is presumed to be sent on the date that it was faxed or sent by the other form of electronic transmission.

Date of service on Commissioner

- (4) For the purposes of subsection (2), the date of service on or filing with the Commissioner is the date on which the notice or other document was actually received by the Commissioner. *2018, c.41, s.57.*

58. Certifications as evidence

In the administration of a penalty under this Act for a contravention of this Act or the regulations,

- (a) a certification of the Commissioner stating that a person is or is not registered under this Act, or was or was not registered at a time or during a period of time specified in it;
- (b) a certification of the Commissioner stating that a person is not collecting, paying, remitting or reporting the levy as required under this Act or regulations;
- (c) a certification of the Commissioner stating that a person is not issuing accurate invoices or keeping and maintaining records as required under this Act or regulations;
- (d) a certification of the Commissioner stating that a person is failing to produce records as required under this Act or regulations; or
- (e) a certification of any person designated or appointed by the Minister stating the results of the examination of any substance referred to in the certification and stating one or more of the following:
 - (i) that the substance is or is not a fuel,
 - (ii) if the substance is a fuel, the type of fuel,
 - (iii) if the substance is a fuel, that the fuel is or is not marked fuel,
 - (iv) that the substance does or does not contain a colouring matter or identifying substance authorized to be used under the *Gasoline Tax Act* and the regulations under that Act,

shall be admitted as proof, in the absence of evidence to the contrary, of the matters stated in it without any proof that the certification was signed by the person purporting to sign it or of the appointment of the person signing it. *2018,c.41,s.58.*

59. Regulations

The Lieutenant Governor in Council may make regulations

- (a) defining words or expressions to be defined by the regulations, and any other word or expression used in this Act but not defined in this Act;
- (b) specifying the times at which the levy shall be paid;
- (c) specifying the required content of reports and statements to be made by agents, subagents, vendors, consumers and purchasers of fuel in the province and the records and accounts to be kept by them;
- (d) respecting the process for determining the amount of a refund to any consumer or purchaser or class of consumers or purchasers of the levy or any portion of it, and the method by which the consumer or purchaser or class of consumers or purchasers may obtain the refund;
- (e) repealed by 2023,c.2,s.9;
- (f) establishing fees for the issue of a permit or other document authorized under this Act, including the registration of a person as an agent;
- (g) repealed by 2023,c.2,s.9;
- (h) providing for the issuance, cancellation or suspension of permits or registrations of vendors, consumers, and purchasers of fuel, or any class, type or grade of fuel;
- (i) specifying a proportion of a second fuel for the purposes of clause 9(1)(b) and establishing a combination of fuels as a mixture or blend for the purposes of clause 9(1)(c);
- (j) respecting the levy payable pursuant to section 10 on fuel that has been rebranded;
- (k) respecting changes to the levy rate applicable to fuel for the purposes of section 8;

- (l) specifying circumstances in which a report is not required to be filed under subsection 11(3);
- (m) respecting the levy payable on fuel pursuant to subsections 11(2) and (4);
- (n) respecting refunds under subsection 11(5);
- (o) specifying other substances, materials or things that are combustible waste as defined in the Schedule to this Act;
- (p) generally for the more effective carrying out of the purposes of this Act. *2018,c.41,s.59; 2023,c.2,s.9.*

PART 6 - TRANSITIONAL PROVISIONS, RELATED AMENDMENTS AND COMMENCEMENT

60.

Repealed by *2023,c.2,s.10. 2018,c.41,s.60; 2023,c.2,s.10.*

61. Schedule adopted

The Schedule to this Act is adopted and forms part of this Act. *2018,c.41,s.61.*

Consequential Amendment

62. Revenue Administration Act

(1) The *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R-13.2, is amended by this section.

(2) Clause 1(f) of the Act is amended

- (a) in subclause (vi), by the deletion of the word “and” after the comma;**
- (b) in subclause (vii), by the deletion of the semicolon and the substitution of the words “, and”; and**
- (c) by the addition of the following after subclause (vii):**
 - (viii) the *Climate Leadership Act* R.S.P.E.I. 1988, Cap. C-9.1;

(3) Clause 1(g) of the Act is amended

- (a) by the deletion of the words “tax or” and the substitution of the words “tax, levy or”;**
- (b) by the deletion of the words “added to a tax” and the substitution of the words “added to a tax or levy”; and**
- (c) by the deletion of the words “tax liability” and the substitution of the words “tax liability or levy liability”.**

(4) Section 20 of the Act is amended by the addition of the following after subsection (4):

Disclosure of information

- (4.1) Information collected under the *Gasoline Tax Act* may be disclosed as necessary to the Minister responsible for the *Climate Leadership Act* or any regulation under that Act for the purpose of administering or enforcing that Act or regulation.

Collection and use of information

- (4.2) The Minister responsible for the *Climate Leadership Act* or any regulation under that Act or the Minister responsible for the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9, or any regulation under that Act may collect and use information as necessary for the purpose of formulating or analyzing the levy imposed under the *Climate Leadership Act*, fiscal measures, enforcement policy, climate change or renewable fuels standards. *2018,c.41,s.62.*

SCHEDULE

1. Interpretation

- (1) In this Schedule,
- (a) “**aviation gasoline**” means any gas or liquid that is sold to be used or is used to create power to propel an aircraft that is not propelled by a turbine;
 - (b) “**aviation jet fuel**” means any gas or liquid that is sold to be used or is used to create power to propel an aircraft that is propelled by a turbine;
 - (c) “**biomass**” means a substance developed from organic materials as a renewable and sustainable source of energy that may be added to a fuel;
 - (d) “**butane**” means a hydrocarbon with a molecular structure of C₄H₁₀;
 - (e) “**coal coke**” means a solid carbonaceous residue derived from low-ash, low-sulfur bituminous coal from which the volatile constituents were driven off by baking in an oven with the result that the fixed carbon and residual ash are fused together;
 - (f) “**coke oven gas**” means gas that is recovered from the carbonization of coal at high temperatures in a coke oven for the production of coal coke and processed to be suitable as a fuel;
 - (g) “**combustible waste**”, subject to the regulations, means tires or asphalt shingles whether in whole or in part;
 - (h) “**ethane**” means a hydrocarbon with a molecular structure C₂H₆;
 - (i) “**furnace oil**” means heating fuel or stove oil of a type used primarily for generating heat, but does not include diesel, gasoline, heavy fuel oil, or kerosene;
 - (j) “**gas liquids**” means a mixture of two or more ethanes, propane, butane or pentanes plus, whether in gaseous or liquid form,
 - (i) that is obtained from the processing of natural gas or crude oil, and
 - (ii) of which the exact composition is unknown;
 - (k) “**heavy fuel oil**” means a substance that is a distillate or a residual of crude oil and that has a viscosity of greater than 14 centistokes at 50°C;
 - (l) “**high heat value coal**” means bituminous coal and any other coal with a heating value greater than 27,000 kilojoules per kilogram;
 - (m) “**internal combustion engine**” includes a turbine engine that generates power by the combustion of fuel;
 - (n) “**kerosene**” means a light petroleum distillate that meets the requirements of National Standard of Canada CAN/CGSB 3.3 99, Kerosene, as amended from time to time, but does not include aviation gasoline;
 - (o) “**light fuel oil**” means a substance that is a distillate of crude oil that has a viscosity of not greater than 14 centistokes at 50°C, and is suitable
 - (i) for generating power by means of a diesel engine, or
 - (ii) for use in a furnace, boiler or open flame burner,but does not include butane, ethane, gas liquids, aviation jet fuel, kerosene, naphtha, propane, pentanes plus or still gas;
 - (p) “**low heat value coal**” means sub-bituminous coal and any other coal with a heating value up to and including 27,000 kilojoules per kilogram;
 - (q) “**marketable natural gas**” means a gaseous product consisting mostly of methane that is drawn from gas wells and processed to meet the specifications for pipeline transport and sale as natural gas;

- (r) “**methane**” means a hydrocarbon a molecular structure of CH₄;
 - (s) “**methanol**” means a chemical compound with the chemical formula CH₃OH;
 - (t) “**naphtha**” means a refined or partially refined petroleum fraction with an approximate boiling range between 50°C and 204°C;
 - (u) “**non-marketable natural gas**” means natural gas that
 - (i) does not meet the specifications for pipeline transport and sale, and
 - (ii) is not moved
 - (A) to a gas processing plant from a gas battery, compressor station or oil battery, or
 - (B) from a gas processing plant to a transmission pipeline;
 - (v) “**pentanes plus**” means a mixture mainly of pentanes and heavier hydrocarbons that ordinarily may contain some butanes and may be contaminated with sulphur and that is obtained from the production or processing of raw gas, condensate or crude oil;
 - (w) “**petroleum coke**” means a carbonaceous solid resembling coal produced as a by-product of the crude oil refining process delivered from an oil refinery coker;
 - (x) “**propane**” means a hydrocarbon with a molecular structure of C₃H₈;
 - (y) “**standard reference conditions**” means,
 - (i) in the case of a gas, a temperature of 15°C and an atmospheric pressure of 101.325 kPa, and
 - (ii) in the case of a liquid, a temperature of 15°C;
 - (z) “**still gas**” means the remaining unseparated gaseous fractions produced in refinery distillation or cracking processes, after marketable products have been extracted.
- (2) For the purpose of determining the amount of the levy payable on a fuel set out in the Table, when the levy rate is based on litres, the levy rate shall be multiplied by the amount of liquid or gaseous fuels measured in litres at standard reference conditions.
- (3) For the purpose of determining the amount of the levy payable on a fuel set out in the Table, when the levy rate is based on cubic metres, the levy rate shall be multiplied by the amount of liquid or gaseous fuels measured in cubic metres at standard reference conditions.
- (4) For the purpose of determining the amount of the levy payable on a fuel set out in the Table, when the proportions of ethane, propane, butane, and other components present in the substance are known as a result of analysis or blending, the levy shall be calculated in accordance with section 9 of this Act.

Table 1 – Rates of Levy on Fossil Fuels

Type	UNIT	1-Apr-19	1-Apr-20	May 9, 2022, to June 30, 2023
AVIATION GASOLINE	\$/litre	0.0498	0.0747	0.1244
AVIATION TURBO FUEL/ JET FUEL	\$/litre	0.0516	0.0775	0.1291
BUTANE	\$/litre	0.0356	0.0534	0.089
DIESEL	\$/litre	0.0537	0.0805	0.1341
ETHANE	\$/litre	0.0204	0.0306	0.0509

FURNACE OIL	\$/litre	0.0000	0.0000	0.0000
GAS LIQUIDS	\$/litre	0.0333	0.0499	0.0832
GASOLINE	\$/litre	0.0442	0.0663	0.1105
HEAVY FUEL OIL	\$/litre	0.0637	0.0956	0.1593
KEROSENE	\$/litre	0.0516	0.0775	0.1291
LIGHT FUEL OIL	\$/litre	0.0537	0.0805	0.1341
MARKED DIESEL	\$/litre	0.0100	0.0200	0.0736
MARKED GASOLINE	\$/litre	0.0100	0.0200	0.0642
METHANOL	\$/litre	0.0220	0.0329	0.0549
NAPHTHA	\$/litre	0.0451	0.0676	0.1127
PETROLEUM COKE	\$/litre	0.0767	0.1151	0.1919
PENTANES PLUS	\$/litre	0.0356	0.0534	0.089
PROPANE	\$/litre	0.0000	0.0000	0.0000
COKE OVEN GAS	\$/cubic metre	0.0140	0.0210	0.035
MARKETABLE NATURAL GAS	\$/cubic metre	0.0391	0.0587	0.0979
NON-MARKETABLE NATURAL GAS	\$/cubic metre	0.0517	0.0776	0.1293
STILL GAS	\$/cubic metre	0.0540	0.0810	0.135
COAL COKE	\$/tonne	63.59	95.39	158.99
HIGH HEAT VALUE COAL	\$/tonne	45.03	67.55	112.58
LOW HEAT VALUE COAL	\$/tonne	35.45	53.17	88.62
COMBUSTIBLE WASTE	\$/tonne	39.95	59.92	99.87

2023, c.2, s.11

Table 2 – Administrative Penalties

COLUMN I	COLUMN II	COLUMN III
Section	Minimum and maximum amounts of administrative penalty	Offence
32	\$250 - \$5,000	Failure to issue accurate invoice
5, 6, 8	\$250 - \$5,000	Failure to remit levy as required
36	\$250 - \$5,000	Failure to report on imports
41	\$250 - \$5,000	Failure to register as agent
5, 28	\$250 - \$5,000	Failure to collect levy as required
6, 29, 30	\$250 - \$5,000	Failure to pay levy as required
32, 33, 34, 35, 36, 37, 38	\$250 - \$5,000	Failure to keep and maintain records as required
38	\$250 - \$5,000	Failure to produce records as required
33, 37	\$250 - \$5,000	Failure to make return or report as required

2018,c.41,Sch.; 2020,c.46,s.4; 2022,c.57,s.2.