

1978 BILL 23

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Fourth Session, 18th Legislature, 27 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 23

THE FUEL OIL ADMINISTRATION ACT

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THE PROVINCIAL TREASURER

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

## BILL 23

1978

### THE FUEL OIL ADMINISTRATION ACT

(Assented to \_\_\_\_\_, 1978)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 (1) In this Act,

- (a) "agent-dealer" means a person designated as an agent of the Minister under an agreement made pursuant to section 13;
- (b) "blended fuel" means a mixture or blend of marked fuel and fuel oil that is not marked fuel;
- (c) "bulk dealer" means a person who carries on business in Alberta as a dealer in fuel oil, but does not include an agent-dealer;
- (d) "exempt fuel oil" means any hydrocarbon substance designated by the regulations as exempt fuel oil for the purposes of this Act;
- (e) "farm fuel distribution allowance" or "allowance" means the amount prescribed by section 6 as the farm fuel distribution allowance;
- (f) "farm machinery" means
  - (i) a tractor,
  - (ii) a farm implement powered by an internal combustion engine, whether it is self-propelled or not,
  - (iii) a stationary engine located on a farm, or
  - (iv) any vehicle, implement, machine or equipment designated by the regulations as farm machinery for the purposes of this Act or deemed by the regulations to be farm machinery for the purposes of this Act;

### **Explanatory Notes**

**General** This Bill will discontinue the present tax on fuel oil under The Fuel Oil Tax Act effective as of April 1, 1978 but will continue the tax of 3¢ per gallon on aviation fuel and fuel used for railway locomotives and rolling stock.

As well, the Bill will provide for "farm fuel distribution allowances" to reduce the price of fuel oil used for farming operations in Alberta by 12¢ per gallon. The Bill will replace the present system of farm fuel distribution allowances administered under agreements authorized pursuant to O.C. 806/74 and for which moneys are voted annually by the Legislature.

#### **1 Definitions.**

(g) “farm truck” means a vehicle having an “F” classification under an order made pursuant to *The Motor Transport Act* and in respect of which an “F” licence or special farm truck licence, but no licence of any other class, has been issued pursuant to *The Motor Vehicle Administration Act*;

(h) “farming operations” means the production, or any step in the production, of livestock, grain, forage crops, poultry, furs, honey or any other agricultural product and includes

(i) the personal use of a farm truck owned or operated by a farmer,

(ii) the heating of buildings located on a farm and used in connection with the production, or any step in the production, of livestock, grain, forage crops, poultry, furs, honey or any other agricultural product, and the heating of dwellings on that farm, and

(iii) the transportation of livestock, grain, forage crops, poultry, furs, honey or any other agricultural product by the farmer who produced them,

but does not include

(iv) any other type of business operation carried on by a farmer, or

(v) the transportation of livestock, grain, forage crops, poultry, furs, honey or any other agricultural product by a processor or by any person other than the farmer who produced them;

(i) “fuel oil” means any hydrocarbon substance capable of being used for the generation of power in an internal combustion engine;

(j) “fuel oil tax” means the tax payable under section 2;

(k) “fuel system”, with reference to anything powered by an internal combustion engine, includes a fuel tank, carburetor, fuel pump, fuel filter, fuel injection system, pipes and any other thing in physical association with the engine that contains fuel oil or through which fuel oil passes during the operation of the engine;

(l) “licensed refiner” means a refiner of fuel oil licensed under section 3 of *The Fuel Oil Licensing Act*;

(m) “locomotive” means a railway locomotive of which a railway company is the owner and includes an electric power generation car of which a railway company is the owner;



- (n) “marked fuel” means fuel oil coloured or identified in accordance with the regulations;
- (o) “Minister” means the Provincial Treasurer;
- (p) “non-farm vehicle” means an aircraft, boat or land vehicle powered by an internal combustion engine and includes a trailer pulled by a land vehicle but does not include a farm truck or farm machinery;
- (q) “officer” means
- (i) a member of the Royal Canadian Mounted Police,
  - (ii) a member of a municipal police force,
  - (iii) a person employed by the Government of Alberta to operate or supervise a vehicle inspection station (as defined in *The Motor Transport Act*),
  - (iv) a patrol officer of the Department of the Solicitor General, or
  - (v) any other person appointed by the Minister as an officer for the purposes of this Act;
- (r) “operator”, with reference to a farm truck, farm machinery or non-farm vehicle, means a person who drives or operates it or is in actual physical control of it;
- (s) “owner” means
- (i) with reference to a farm truck, the person in whose name the farm truck is registered under *The Motor Vehicle Administration Act* or a person in a lawful possession of the farm truck,
  - (ii) with reference to a non-farm vehicle registered under *The Motor Vehicle Administration Act*, the person registered as the owner of the vehicle or a person in a lawful possession of the vehicle,
  - (iii) with reference to a farm truck not registered, or a non-farm vehicle not registered or not required to be registered, under *The Motor Vehicle Administration Act*, its legal owner or a person in lawful possession of it,
  - (iv) with reference to farm machinery or any other personal property, except a farm truck or non-farm vehicle, its legal owner or a person in lawful possession of it;



(t) “person in lawful possession”, with reference to a farm truck, farm machinery, non-farm vehicle or other personal property, means a person, other than the legal owner, in lawful possession of it or a person who during all times material to this Act and the regulations had the exclusive use of it;

(u) “purchase”, with reference to fuel oil, means to purchase or otherwise obtain fuel oil

(i) for the use of the person who purchased or obtained it, or

(ii) as agent for another for the other’s use;

(v) “reduced price” means the contract price per gallon of marked fuel less the farm fuel distribution allowance;

(w) “taxable fuel oil” means fuel oil subject to fuel oil tax.

(2) Where a person

(a) holds land in Alberta and land outside Alberta, and

(b) combines or integrates his farming operations in respect of the land in Alberta with his farming operations in respect of the land outside Alberta,

then, for the purposes of this Act, his farming operations in respect of the land outside Alberta shall be deemed to be farming operations in Alberta.





**PART 1**  
**FUEL OIL TAX**

**2(1)** Except as provided in subsection (2), every person shall pay a tax to the Minister at the rate of 3¢ a gallon on

- (a) all fuel oil purchased by him in Alberta for use as aircraft fuel;
- (b) all fuel oil brought into Alberta and put, in Alberta, into the fuel system of an aircraft of which he is the owner, without first having been sold or resold in Alberta;
- (c) all fuel oil consumed within Alberta by a locomotive of which he is the owner;
- (d) all fuel oil purchased by him in Alberta for use in an internal combustion engine forming part of any railway rolling stock, other than a locomotive, of which he is the owner;
- (e) all fuel oil brought into Alberta and put, in Alberta, into the fuel system of an internal combustion engine forming part of any railway rolling stock, other than a locomotive, of which he is the owner, without first having been sold or resold in Alberta.

**(2)** A tax is not payable under this section on

- (a) fuel oil purchased in Alberta or brought into Alberta where the fuel is intended to be delivered outside Alberta and is actually delivered outside Alberta;
- (b) aviation fuel purchased in or brought into Alberta by a country or state other than Canada, a political subdivision of that country or state, an agency of that country, state or political subdivision, or a consul, vice-consul, trade commissioner, assistant trade commissioner or other accredited person representing that country, state or political subdivision in Canada;
- (c) exempt fuel oil.

**3(1)** Where the Minister finds that fuel oil tax owing to the Crown has not been paid, he may

- (a) calculate the amount of the tax owing,
- (b) if the period prescribed by the regulations for the payment of the tax without liability for penalty has expired, levy a penalty in an amount not exceeding one-half of the unpaid tax, and

**2 Imposition of tax on aviation fuel and locomotive fuel.**

**3 Calculation and demand of tax and penalty.**

(c) demand payment of the tax and any penalty levied under clause (b) from the person he finds is liable for the payment of the tax.

(2) Evidence that a demand under this section has been made to any person is prima facie proof that the amount of the tax and the penalty, if any, stated in the demand is owing to the Crown and is payable by the person to whom the demand is made.

(3) Where a demand is made under subsection (1)(c), the amount of the unpaid tax and penalty bears interest at the rate prescribed by the regulations, from the date the demand is made.

**4(1)** Fuel oil tax and any penalty or interest owing under section 3 is recoverable by the Crown by an action in debt.

(2) In an action for the recovery of fuel oil tax or any penalty or interest owing under section 3, the burden of proving that the tax, penalty or interest is not payable is upon the defendant.

**5** The Lieutenant Governor in Council may make regulations

(a) prescribing the method of collection of fuel oil tax;

(b) prescribing the period within which fuel oil tax may be paid without incurring any liability for a penalty under section 3(1)(b);

(c) prescribing a rate of interest for the purposes of section 3(3);

(d) authorizing the Minister to enter into an agreement with any person under which that person is designated as an agent of the Minister for the purpose of collecting fuel oil tax;

(e) prescribing the commission to be paid to the agents of the Minister referred to in clause (d) for services related to the collection and remission to the Minister of fuel oil tax;

(f) authorizing the Minister to require the bonding of agents of the Minister referred to in clause (d) to secure the collection of fuel oil tax and to prescribe the amount and form of the bonds, and providing for any other matter in connection with the bonds;

(g) prescribing duties of agents of the Minister referred to in clause (d) in relation to the collection of fuel oil tax;

(h) designating any kind of fuel oil as exempt fuel oil for the purposes of this Act;

**4** Recovery of tax.

**5** Regulations.

(i) prescribing any circumstances under which any fuel oil is to be exempt fuel oil for the purposes of this Act;

(j) prohibiting dealers in fuel oil from selling fuel oil to any person who claims that the fuel oil is exempt fuel oil or is not taxable fuel oil without being furnished with the evidence in the form prescribed by the Minister.



## PART 2

### FARM FUEL DISTRIBUTION ALLOWANCES

**6(1)** The Minister may provide farm fuel distribution allowances in accordance with this Act and the regulations in respect of marked fuel used in farming operations in Alberta.

(2) A farm fuel distribution allowance shall be

(a) 12¢ a gallon, or

(b) where regulations are made under section 15(a), the amount per gallon prescribed by the regulations.

**7(1)** Where an agent-dealer sells marked fuel

(a) to a bulk dealer, or

(b) to a person for use in farming operations in Alberta,

the price that would otherwise be payable shall be reduced by the amount of the farm fuel distribution allowance for each gallon sold.

(2) Subsection (1) applies whether or not the sale is made by the agent-dealer himself or by a bulk dealer acting as the agent of the agent-dealer.

(3) Where a bulk dealer brings marked fuel into Alberta for the purpose of selling it to a person for use in farming operations in Alberta, the price that would otherwise be payable shall be reduced by the amount of farm fuel distribution allowance for each gallon sold.

(4) Subsections (1) and (3) do not apply where

(a) the point of delivery of the marked fuel is a place outside Alberta,

(b) the sale is made to a bulk dealer for delivery by him to a place outside Alberta, or

(c) the sale is made to the Government of Canada or any agency of that Government.

(5) Where an agent-dealer or bulk dealer sells marked fuel at the reduced price in accordance with this section, the agent-dealer or bulk dealer, as the case may be, is entitled to be reimbursed by the Minister for the amount of the allowance on the marked fuel sold.



**6** Farm fuel distribution allowances authorized.

**7** Sales of marked fuel at the reduced price where the seller is an agent-dealer or bulk dealer who brings the fuel into Alberta from elsewhere. Entitlement to reimbursement from the Government for the allowance.

(6) The Minister may refuse to reimburse an agent-dealer or bulk dealer under subsection (5) where the agent-dealer or bulk dealer fails to properly account for the allowances on sales made by him by the submission of returns or the production of other records in accordance with this Act and the regulations.

**8(1)** Where a bulk dealer buys marked fuel at the reduced price, the bulk dealer shall, upon a resale of that marked fuel to

- (a) any person for use in farming operations in Alberta, or
- (b) another bulk dealer,

pass on the benefit of the farm fuel distribution allowance by reducing the price otherwise payable by the amount of the allowance on each gallon resold.

(2) Subsection (1) does not apply where

- (a) the point of delivery of the marked fuel is a place outside Alberta,
- (b) the sale is made to a bulk dealer for delivery by him to a place outside Alberta, or
- (c) the sale is made to the Government of Canada or any agency of that Government.

**9** Where a sale of marked fuel is made at the reduced price under section 7 or 8, an invoice or receipt made in connection with the sale shall show the reduction of the price by the amount of the allowance in the manner and form prescribed by the regulations.

**10** An agent-dealer or bulk dealer shall not sell marked fuel to any person, other than another agent-dealer or bulk dealer,

- (a) unless he has obtained from the buyer the evidence required by the regulations for that purpose, or
- (b) where he had obtained the evidence required under clause (a) but knew or ought to have known that the evidence was false in a material way or that the marked fuel would not be used for farming operations in Alberta.

**11(1)** Where an agent-dealer or bulk dealer sells marked fuel in contravention of section 10, the agent-dealer or bulk dealer, as the case may be, and the buyer are jointly and severally liable to pay the Crown an amount equal to the allowance on the marked fuel so sold.

**8** Benefit of allowance to be passed on by bulk dealer.

**9** Invoice or receipt of show price reduction.

**10** Evidence required on a sale of marked fuel for use in farming operations in Alberta.

**11** Circumstances where the seller or buyer or both are liable to the Crown in relation to sales or use of marked fuel or blended fuel.

- (2) Where the agent-dealer or bulk dealer does not contravene section 10 in selling marked fuel but the buyer does not use the marked fuel for farming operations in Alberta, the buyer is liable to pay the Crown an amount equal to the allowance on the marked fuel not so used.
- (3) An agent-dealer or bulk dealer who uses marked fuel for a purpose other than for farming operations in Alberta is liable to pay to the Crown an amount equal to the allowance on the marked fuel so used.
- (4) An agent-dealer or bulk dealer who sells blended fuel to any person is liable to pay to the Crown an amount equal to the allowance for each gallon sold.
- (5) An agent-dealer or bulk dealer who uses blended fuel without selling it is liable to pay to the Crown an amount equal to the allowance for each gallon so used.
- (6) Where a person buys marked fuel for farming operations in Alberta but sells or otherwise disposes of that marked fuel to a person for use otherwise than in farming operations in Alberta, the seller and the buyer or person to whom it was delivered, as the case may be, are jointly and severally liable to pay the Crown an amount equal to the allowance for each gallon so sold or otherwise disposed of.
- (7) Where an agent-dealer or bulk dealer sells marked fuel without contravening section 10 but at a price higher than what he would normally charge as the reduced price, the agent-dealer or bulk dealer, as the case may be, is liable to pay the Crown, with respect to each gallon sold, an amount equal to the sum by which the actual price exceeds the reduced price.
- (8) Any amount owing to the Crown under this section is recoverable by an action in debt.
- (9) In a prosecution for a contravention of section 10 or in an action arising under subsection (1) or (6) it is a defence to prove that the marked fuel sold was in fact used for farming operations in Alberta.
- (10) In an action arising under subsection (1) or (6), it is a defence for the buyer to prove that he did not know that the marked fuel bought or used, as the case may be, by him was in fact marked fuel.
- (11) In an action arising under subsection (4) or (5), it is a defence to prove that the agent-dealer or bulk dealer did not know that the fuel oil sold or used was blended fuel.
- (12) Where an agent-dealer or bulk dealer receives marked fuel but is unable to account to the Minister for any of that fuel by showing that it was sold or used by him in accordance with this Act, the agent-dealer or bulk dealer is liable to pay to the



Crown an amount equal to the allowance for each gallon not so accounted for.

**12(1)** Where the Minister finds that any person or persons are liable to pay an amount to the Crown under section 11, he may

- (a) calculate the amount owing,
- (b) levy a penalty in an amount not exceeding one-half of the unpaid amount,
- (c) demand payment of the amount and any penalty levied under clause (b) from the person he finds is liable for the payment of the amount.

(2) Evidence that a demand under this section has been made to any person is prima facie proof that the amount stated in it and the penalty, if any, is owing to the Crown and is payable by the person or persons to whom the demand is made.

(3) Where a demand is made under subsection (1)(c), the unpaid amount and penalty bears interest at the rate prescribed by the regulations from the date the demand is made.

(4) Penalties and interest payable under this section are recoverable by the Crown by an action in debt.

**13** The Minister may, on behalf of the Crown, enter into an agreement with a person who carries on business as a dealer in fuel oil in Alberta providing for the following:

- (a) designating that person as an agent of the Minister for the purposes of this Part;
- (b) the making of accountable advances by the Minister to the agent-dealer for purposes in connection with the provision of farm fuel distribution allowances;
- (c) the manner in which and the times at which the dealer may be reimbursed for allowances provided by him upon the sale of marked fuel;
- (d) the manner in which and the times at which the dealer may be paid compensation under the regulations for his services;
- (e) any other matter related to the provision of farm fuel distribution allowances considered necessary by the Minister.

**14(1)** No person shall be in possession of marked fuel unless he

**12** Calculation and demand of amount owing to the Crown under section 11 and penalty.

**13** Agreements between the Minister and agent-dealers.

**14** Offences related to marked fuel and blended fuel.

(a) is in possession of it for use in farming operations in Alberta carried on by him and then only if the fuel is in the fuel system of a farm truck or farm machinery of which he is the owner or operator, is being transported or kept in storage by him or is contained in heating equipment for a building or dwelling referred to in section 1(1)(h)(ii),

(b) is a licensed refiner,

(c) is an agent-dealer,

(d) is a bulk dealer,

(e) is in possession of it for the purpose only of transporting it to a person mentioned in clause (a), (b), (c) or (d) and then only in a container that is not connected to any fuel system of an internal combustion engine in or on the vehicle or railway car transporting the marked fuel in a way that permits the marked fuel to enter or be used as fuel in that fuel system,

(f) is a purchaser of a farm truck or farm machinery and then only if the marked fuel is in the fuel system of the farm truck or farm machinery at the time of its delivery to the purchaser, or

(g) is an officer or other person employed or engaged in the administration or enforcement of this Act and then only for purposes related to

(i) sampling or testing the marked fuel,

(ii) the prosecution of an offence under this Act or the regulations,

(iii) the forfeiture and disposition of marked fuel following a conviction for an offence under this Act or the regulations, or

(iv) an action by the Crown arising under section 11.

(2) An owner or operator of farm machinery or a farm truck that has marked fuel in its fuel system shall not use that farm machinery or farm truck for any purpose other than for farming operations in Alberta.

(3) Subject to subsection (4), no person shall sell marked fuel in Alberta unless he is a licensed refiner, an agent-dealer or a bulk dealer.

(4) A person, other than an agent-dealer or bulk dealer, who buys marked fuel for use in farming operations in Alberta shall not sell or otherwise dispose of that marked fuel except to another person for use in farming operations in Alberta, or to an agent-dealer or bulk dealer.





(5) No agent-dealer or bulk dealer shall, in connection with a sale of marked fuel, deliver the marked fuel by placing it in the fuel system of a farm truck.

(6) No agent-dealer or bulk dealer shall have marked fuel in any pump or other dispensing equipment that may be used for delivering or dispensing fuel oil directly into the fuel system of a farm truck.

(7) No person shall

(a) unless he is a licensed refiner or is authorized to do so by the Minister in writing, introduce into any fuel oil a dye, agent or other substance or thing for the purpose of, or having the effect of, colouring or identifying the fuel oil;

(b) add any substance to marked fuel, or subject marked fuel to any process, if the result of doing so

(i) removes, affects or changes the colour of the marked fuel,

(ii) affects or changes the identity of the marked fuel, or

(iii) affects or changes the marked fuel so that it is no longer coloured or identified as marked fuel in accordance with the regulations;

(c) mix or blend any marked fuel with any other fuel oil that is not marked fuel;

(d) without justification, sell or be in possession of blended fuel;

(e) sell or pass off as marked fuel any fuel oil that is not marked fuel.

(8) A licensed refiner or a person authorized to colour or identify fuel oil as marked fuel pursuant to subsection (7)(a) shall not colour or identify fuel oil as marked fuel

(a) in a manner not in compliance with the regulations,

(b) by using a substance acquired from any person other than the Minister, or

(c) if the fuel oil is not of a kind designated by regulations under section 15(g) or is not fuel oil that is authorized by the Minister to be coloured or identified as marked fuel pursuant to regulations under section 15(h).

(9) In a prosecution for a contravention of subsection (1), (2), (3), (4), (5) or (6) or of subsection (7)(c) or (d) it is a



defence to prove that the accused did not know that the fuel oil concerned was marked fuel or blended fuel, as the case may be.

**15** The Lieutenant Governor in Council may make regulations

- (a) prescribing an amount per gallon greater or less than the amount specified in section 6(2)(a) as the farm fuel distribution allowance;
- (b) prescribing, for the purposes of section 9, the manner and form in which a price reduction shall be shown on any invoice or receipt given in connection with the sale or marked fuel at the reduced price;
- (c) prescribing the evidence to be furnished to an agent-dealer or bulk dealer under section 10(a);
- (d) prescribing a rate of interest for the purposes of section 12(3);
- (e) prescribing the rates of compensation payable to agent-dealers for their services;
- (f) authorizing the Minister to require the bonding of agent-dealers, prescribing the amount and form of the bonds and to provide for any other matter in connection with the bonds;
- (g) designating the kinds of fuel oil that may be coloured or identified as marked fuel;
- (h) empowering the Minister to authorize the colouring or identification, as marked fuel, of any fuel oil other than of a kind designated pursuant to clause (g);
- (i) prescribing the manner in which fuel oil is to be coloured or identified as marked fuel;
- (j) prescribing the substance to be used to colour or identify fuel oil as marked fuel;
- (k) prescribing the powers and duties of agent-dealers and bulk dealers in connection with the administration of this Part and Part 3;
- (l) designating any class of vehicle, implement, machine or equipment as farm machinery for the purposes of this Act;
- (m) prescribing the circumstances under which any class of vehicle, implement, machine or equipment is deemed to be farm machinery for the purposes of this Act;

**15** Regulations.

(n) notwithstanding anything in this Act, respecting the provision by the Minister of allowances in respect of marked fuel bought by residents of Alberta for use in farming operations outside Alberta.



### **PART 3**

#### **GENERAL**

**16** The Lieutenant Governor in Council may make regulations

- (a) prescribing the records to be kept and the returns to be made to the Minister for the purposes of this Act;
- (b) prescribing the persons required to keep or make those records and returns;
- (c) prescribing the times at which or by which the returns are to be made.

**17** The Minister may

- (a) require any person, in a particular case,
  - (i) to keep any record,
  - (ii) to make any return,
  - (iii) to comply with a specified method of accounting, or
  - (iv) to make an inventory of fuel oil or marked fuel as of a specified time,

for a purpose related to this Act or the regulations;

- (b) prescribe the methods of accounting for sales of and other transactions in, and recording inventories of, marked fuel or other fuel oil or both, specify the persons required to perform the accounting or the recording of the inventories and prescribe the times at which the inventories shall be recorded;

- (c) prescribe the form of any agreement or other document used in the administration of this Act.

**18(1)** Subject to subsection (2), an officer, without warrant, may

- (a) examine any records or documents wherever found,
- (b) examine any internal combustion engine or its fuel system or any other thing that contains fuel oil or a substance that he believes to be fuel oil, take and remove therefrom samples of fuel oil or any substance he believes to be fuel oil;



**16** Regulations.

**17** Powers of the Minister.

**18** Enforcement powers of officers.

(c) temporarily remove any records or documents for the purpose of making copies of them, if a receipt is given in respect of them;

(d) seize and remove anything if he has reason to believe that an offence has been committed under this Act or the regulations and the thing is required in connection with a prosecution of the offence.

(2) An officer may exercise his powers under subsection (1) (a), (b) and (c) only for the purpose of ascertaining

(a) whether or not any fuel oil tax has or has not been paid,

(b) whether any fuel oil, or any substance he believes to be fuel oil, is or is not marked fuel or blended fuel,

(c) whether any marked fuel or blended fuel has been sold or used in contravention of this Act,

(d) whether the reduced price was or was not charged upon a sale of marked fuel, or

(e) whether any offence has been committed under this Act or the regulations.

(3) No person shall obstruct or interfere with an officer in the exercise of his powers under this section.

(4) The Minister may apply ex parte to the Supreme Court of Alberta for an order that an officer authorized by the Minister may

(a) enter at all reasonable times into any place specified in the order for the purpose of exercising any powers under subsection (1), and

(b) require a person at that place to give the officer all reasonable assistance in carrying out those powers,

and the Court may, upon being satisfied that an order is necessary for a purpose referred to in subsection (1), make such order as it considers appropriate and for such period, not exceeding 60 days, as the Court may specify.

(5) Subject to subsection (6), unless otherwise ordered by a provincial judge, anything seized under this section shall be returned to the person from whom it was taken upon the conclusion of the prosecution, or, if no prosecution is commenced, within a reasonable time after the conclusion of the investigation by the officer.

(6) Upon the conviction for an offence under section 14(6) of the owner of any pump or dispensing equipment seized pur-



suant to this section, an order of a provincial judge under subsection (5) may declare that the pump or equipment is forfeited to the Crown in right of Alberta.

**19** The operator of a non-farm vehicle used in the business of transporting or delivering fuel oil

(a) shall have in his possession in that vehicle at all times an invoice or bill of lading

(i) covering the fuel oil cargo being carried on or by the vehicle,

(ii) identifying the fuel oil as marked fuel or unmarked fuel, as the case may be, and

(iii) containing such other information as may be prescribed by the regulations,

and

(b) shall produce the invoice or bill of lading for inspection when required to do so by an officer.

**20(1)** Subject to subsection (2), a person who contravenes a provision of this Act or the regulations is guilty of an offence and liable upon summary conviction to a fine of not more than \$1000.

(2) A person who contravenes section 14 is guilty of an offence and liable on summary conviction

(a) for a first offence, to a fine of not less than \$150 and not more than \$1000,

(b) for a second offence, to a fine of not less than \$500 and not more than \$2500, and

(c) for a third or subsequent offence, to a fine of not less than \$1000 and not more than \$5000.

**21** In any prosecution for an offence under this Act or the regulations and in any action under section 11, unless the contrary is proven, fuel oil shall be taken to be blended fuel if it is proved that it contains a substance prescribed pursuant to section 15(j) but in a concentration less than that prescribed by the regulations in respect of marked fuel.

**22** A prosecution for an offence under this Act or the regulations may be commenced within 2 years from the date of the contravention, but not thereafter.

**19** Documents required to be carried by fuel oil transporters.

**20** Offences and penalties.

**21** Proof re marked fuel.

**22** Commencement of prosecution.

**23** In a prosecution for an offence under this Act or the regulations

(a) a certificate of the Deputy Minister of the Minister charged with the administration of *The Fuel Oil Licensing Act* or a person lawfully acting on his behalf, stating whether the defendant is or is not licensed pursuant to *The Fuel Oil Licensing Act*, or was or was not so licensed at a time or during a period of time specified therein,

(b) a certificate

(i) of the chief chemist of the gasoline and oil laboratory of The Research Council of Alberta, or

(ii) of a provincial analyst,

stating the results of the examination of any substance referred to therein and stating whether that substance is or is not, in whole or in part, marked fuel or stating whether that substance does or does not contain a colouring matter or identifying substance authorized to be used under the regulations, and

(c) a certificate of the Minister stating that a person named in the certificate is an officer for the purposes of this Act,

shall be admitted in evidence as prima facie proof of the matters stated therein without any proof that the certificate was signed by the person purporting to sign it or of the appointment of the person signing it.

**24**(1) Each agent-dealer and bulk dealer shall record an inventory of his supply of marked fuel and other fuel oil as of 12:01 a.m. on April 1, 1978 in the manner prescribed by the Minister and shall provide a copy of that inventory to the Minister within the time and in the manner prescribed by the Minister.

(2) No allowance shall be paid under an agreement entered into by the Minister pursuant to Order in Council numbered O.C. 806/74 in respect of any fuel oil delivered to a buyer on or after April 1, 1978.

(3) It is a defence to a prosecution for a contravention of this Act to prove that the marked fuel in the engine or fuel system concerned was fuel oil

(a) on which tax had been paid under *The Fuel Oil Tax Act*, or

(b) that was delivered to the dealer before April 1, 1978.

**23** Certificate as evidence.

**24** Transitional.

## PART 4

### CONSEQUENTIAL AND COMMENCEMENT

**25**(1) *Section 2(1) of this Act is amended by striking out “3¢ a gallon” and by substituting “0.7¢ a litre”.*

(2) *Section 6(2)(a) of this Act is amended by striking out “12¢ a gallon” and by substituting “2.6¢ a litre”.*

(3) *In the following provisions of this Act “gallon” is struck out and “litre” is substituted:*

section 1 (1) (v);  
section 6(2) (b);  
section 7(1) and (3);  
section 8(1);  
section 11;  
section 15(a).

**26**(1) *The Fuel Oil Tax Act is amended by this section.*

(2) *The following is added after section 2:*

**2.1** This Act does not apply to a purchase of fuel oil made or occurring on or after April 1, 1978.

(3) *The following provisions are repealed:*

section 8;  
section 16;  
section 17;  
section 17.1;  
section 18.

**27**(1) *The Fuel Oil Licensing Act is amended by this section.*

(2) *Section 14(1) is amended*

*(a) in clauses (a), (b) and (c)(i) by adding “or The Fuel Oil Administration Act” after “The Fuel Oil Tax Act”, and*

*(b) by repealing clause (c)(ii) and substituting the following:*

*(ii) the regulations under either of those Acts,*

(3) *Section 22(3) is amended by adding “or The Fuel Oil Administration Act” after “The Fuel Oil Tax Act” wherever it occurs.*



**25** Metric conversion. This section will come into force on proclamation.

**26** This section will amend chapter 153 of the Revised Statutes of Alberta 1970. The repealed sections relate to marked fuel.

**27** This section will amend chapter 152 of the Revised Statutes of Alberta 1970 to add references to The Fuel Oil Administration Act.

*(4) Section 27(b) is amended by striking out “or of The Fuel Oil Tax Act” and by substituting “or The Fuel Oil Administration Act”.*

*28 The Motor Transport Act is amended in section 24(1) by adding “The Fuel Oil Administration Act,” after “The Fuel Oil Tax Act,”.*

*29 The Motor Vehicle Administration Act is amended in section 57(1)(a) by adding “, or of The Fuel Oil Administration Act” after “or of The Fuel Oil Tax Act,”.*

**30(1)** This Act, except section 25, comes into force on April 1, 1978.

**(2)** Section 25 comes into force on a date to be fixed by Proclamation.

**28** This section will amend chapter 80 of the Statutes of Alberta, 1977. The amendment will enable The Alberta Motor Transport Board to suspend or revoke a certificate under that Act on the basis of a conviction for an offence under The Fuel Oil Administration Act.

**29** This section will amend chapter 68 of the Statutes of Alberta, 1975 (Second Session). The amendment will allow for the suspension or cancellation of an operators licence, certificate of registration or permit issued under that Act on the basis of a contravention of The Fuel Oil Administration Act.