

PETROLEUM SECTOR REFORM BILL

EXPLANATORY NOTE

THIS Bill makes provisions consequential upon the Crown assuming loans raised for the purpose of financing the expansion of the Marsden Point refinery, provides for the removal of regulatory controls on the motor spirits distribution industry, and abolishes the Motor Spirits Licensing Authority and the Motor Spirits Licensing Appeal Authority.

Clause 1 relates to the Short Title and commencement. *Clauses 1, 4, and 5* are to come into force on the date on which the Bill receives the Royal assent. The other clauses come into force on 1 April 1988.

Clause 2 deals with the financing of the Marsden Point refinery.

Subclause (1) provides that the Minister of Finance may, from time to time, make payments to Lloyds Bank International Limited in repayment of certain loans raised to finance the expansion of the Marsden Point refinery.

Subclause (2) provides that the Governor-General may, from time to time, specify that section 169 of the Income Tax Act 1976 is to apply to certain payments made pursuant to *subclause (1)* or pursuant to any agreement specified in *clause 3 (a)*, or to parts thereof.

Subclause (3) provides for the Minister of Finance to determine the items of expenditure to which the payments relate for the purposes of that section.

Subclause (4) provides that the Governor-General may, from time to time, specify the payments made pursuant to *subclause (1)* or pursuant to any agreement specified in *clause 3 (a)*, or parts thereof (not being payments or parts thereof specified pursuant to *subclause (2)*) that constitute loans from the Crown to The New Zealand Refining Company Limited, subject to the terms and conditions specified in the order.

It also provides that no such order shall be made on or after 1 April 1989.

Subclause (5) provides that the loans are to be binding on The New Zealand Refining Company Limited.

Subclause (6) provides that the loans are to be grant related suspensory loans to which section 173 of the Income Tax Act 1976 applies.

Subclause (7) provides that any arrangement between the Crown and any other person, which purports to confer any rights on The New Zealand Refining Company Limited to have the benefit of any sum equivalent to the cash flow (net of tax) which it would have received if the 20 percent regional investment

No. 22—1

Price
incl. GST \$1.90

allowance under section 119 of the Income Tax Act 1976 had applied to the expansion of the Marsden Point refinery, shall be null and void.

Clause 3 provides that the accrual provisions of the Income Tax Act 1976 are not to apply to certain agreements relating to The New Zealand Refining Company Limited nor to any payments made pursuant to *clause 2 (1)*.

Clause 4: Subclause (1) provides that the Motor Spirits Licensing Authority is to commence winding up its affairs pending its dissolution on 1 April 1988.

Subclause (2) provides for the Secretary of Trade and Industry to cause to be prepared final accounts of the Motor Spirits Industry Account as at the close of 31 March 1987.

Clause 5 provides that, on 1 April 1988,—

- (a) The Motor Spirits Licensing Authority and the Motor Spirits Licensing Appeal Authority are dissolved and the terms of office of the members cease:
 - (b) All the Authority's assets and liabilities and rights and obligations vest in the Crown:
 - (c) The Motor Spirits (Regulation of Prices) Act 1933 and the Motor Spirits Distribution Act 1953 and their amendments are repealed and the regulations made thereunder revoked.
-

Hon. David Caygill

PETROLEUM SECTOR REFORM

ANALYSIS

Title	
1. Short Title and commencement	3. Application of accruals provisions of Income Tax Act 1976
2. Payment of loans in respect of oil refinery expansion	4. Winding up of Motor Spirits Licensing Authority's operations
	5. Dissolution of Authority Schedules

A BILL INTITULED

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

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

1. Short Title and commencement—(1) This Act may be cited as the Petroleum Sector Reform Act 1987.

(2) Subject to subsection (3) of this section, this Act shall come into force on the 1st day of April 1988.

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

2. Payment of loans in respect of oil refinery expansion—(1) The Minister of Finance may, from time to time, make payments to Lloyds Bank International Limited in repayment of loans raised to finance the expansion of the Marsden Point refinery, being—

(a) The loan of US\$500,000,000 pursuant to the agreement dated the 16th day of May 1980; and

- (b) The loan of US\$750,000,000 pursuant to the agreement dated the 13th day of October 1982.
- (2) The Governor-General may from time to time, by Order in Council, specify that—
- (a) Payments made pursuant to **subsection (1)** of this section; 5
and
- (b) Payments made pursuant to any of the agreements specified in **section 3 (a)** of this Act,—
or parts thereof are grants made to the New Zealand Refining Company Limited in respect of expenditure incurred by The 10
New Zealand Refining Company Limited to which section 169 of the Income Tax Act 1976 applies.
- (3) A statement by the Minister of Finance as to the items of expenditure incurred by The New Zealand Refining Company Limited in respect of which the payments or parts thereof 15
specified pursuant to **subsection (2)** of this section are made, shall be final and conclusive evidence in that regard, and section 169 of the Income Tax Act 1976 shall be applied accordingly.
- (4) The Governor-General may from time to time, by Order in Council, specify that— 20
- (a) Payments made pursuant to **subsection (1)** of this section; and
- (b) Payments made pursuant to any of the agreements specified in **section 3 (a)** of this Act,—
or parts thereof (not being payments or parts thereof specified 25
pursuant to **subsection (2)** of this section) shall constitute a loan from the Crown to The New Zealand Refining Company Limited made on the terms and conditions specified in the order:
- Provided that no such order shall be made on or after the 1st 30
day of April 1989.
- (5) Every such loan shall be binding in all respects on The New Zealand Refining Company Limited.
- (6) Every such loan shall be deemed to be a grant-related suspensory loan to which section 173 of the Income Tax Act 35
1976 applies.
- (7) Any arrangement between the Crown and The New Zealand Refining Company Limited or between the Crown and any other person (whether contractually binding or not), which purports to confer any rights on The New Zealand Refining 40
Company Limited to receive or to have the benefit of any sum equivalent to the cash flow (net of tax) which it would have received if the 20 percent regional investment allowance under section 119 of the Income Tax Act 1976 had applied to the expansion of the Marsden Point refinery, shall be null and void. 45

3. Application of accruals provisions of Income Tax Act 1976—Sections 64B to 64M of the Income Tax Act 1976 shall not apply to—

- 5 (a) Agreements for the provision of funds to meet payments
in respect of loans, being the loans specified in **section**
2 (1) of this Act, raised to finance the expansion of the
Marsden Point refinery, entered into between the
Crown, The New Zealand Refining Company
Limited, BP Oil New Zealand Limited, Caltex Oil (NZ)
10 Limited, Europa Oil NZ Limited, Mobil Oil New
Zealand Limited, and Shell Oil New Zealand Limited
on—
(i) The 10th day of October 1986; and
(ii) The 22nd day of December 1986; and
15 (iii) The 9th day of April 1987; and
(iv) The 8th day of July 1987; and
(v) The 8th day of October 1987; and
(b) Any payments made pursuant to **section 2 (1)** of this Act.

4. Winding up of Motor Spirits Licensing Authority's operations—Having regard to the provisions of **section 7** of this Act,—

- 20 (a) The Motor Spirits Licensing Authority shall do all in its
power to provide for the winding up of the Authority
and, in particular, for securing the payment of all
25 money owed by the Authority, and the recovery of
debts due to the Authority or otherwise payable
under the Motor Spirits Distribution Act 1953, and
shall cause to be prepared final accounts of the
Authority as at the close of the 31st day of March
30 1988:
(b) The Secretary of Trade and Industry shall cause to be
prepared final accounts of the Motor Spirits Industry
Account as at the close of the 31st day of March
1988.

5. Dissolution of Authority—On the 1st day of April 1988,—

- 35 (a) The Motor Spirits Licensing Authority shall be dissolved
and the term of office of every member of the
Authority shall cease:
40 (b) All real and personal property held by the Motor Spirits
Licensing Authority shall become vested in the
Crown, subject to all liabilities, charges, and
obligations:

- (c) All money belonging to the Motor Spirits Industry Account established pursuant to section 41 of the Motor Spirits Distribution Act 1953 shall be transferred to the Consolidated Account:
 - (d) All money payable to the Motor Spirits Licensing Authority shall become payable to the Crown: 5
 - (e) All rights, constraints, obligations, and liabilities of the Motor Spirits Licensing Authority shall become the rights, constraints, obligations, and liabilities of the Crown: 10
 - (f) All proceedings pending by or against the Motor Spirits Licensing Authority may be carried on, completed, or enforced by or against the Crown:
 - (g) The Motor Spirits Licensing Appeal Authority shall be dissolved and the term of office of the person 15 appointed to be the Motor Spirits Licensing Appeal Authority for the time being shall cease:
 - (h) The enactments specified in the **First** Schedule to this Act are repealed:
 - (i) The regulations and orders specified in the **Second** Schedule 20 to this Act are revoked.
-

SCHEDULES

FIRST SCHEDULE

Section 5 (h)

ENACTMENTS REPEALED

- 1933, No. 36—The Motor Spirits (Regulation of Prices) Act 1933 (R.S. Vol. 10, p. 229).
- 1953, No. 108—The Motor Spirits Distribution Act 1953 (R.S. Vol. 7, p. 607).
- 1958, No. 36—The Motor Spirits Distribution Amendment Act 1958 (R.S. Vol. 7, p. 640).
- 1963, No. 137—The Motor Spirits Distribution Amendment Act 1963 (R.S. Vol. 7, p. 640).
- 1966, No. 74—The Motor Spirits Distribution Amendment Act 1966 (R.S. Vol. 7, p. 642).
- 1968, No. 149—The Motor Spirits Distribution Amendment Act 1968 (R.S. Vol. 7, p. 642).
- 1972, No. 84—The Motor Spirits Distribution Amendment Act 1972 (R.S. Vol. 7, p. 643).
- 1974, No. 26—The Dangerous Goods Act 1974: Section 45 (3).
- 1975, No. 92—The Motor Spirits (Regulation of Prices) Act 1933 (R.S. Vol. 7, p. 643).
- 1977, No. 33—The Ministry of Energy Act 1977: So much of the First and Second Schedules as relate to the Motor Spirits (Regulation of Prices) Act 1933.
- 1977, No. 122—The Local Government Amendment Act (No. 3) 1977 (R.S. Vol. 5, p. 644): Section 8 (4).
- 1978, No. 53—The Liquid Fuels Trust Act 1978: Section 33 (2).
- 1979, No. 54—The Motor Spirits Distribution Amendment Act 1979 (R.S. Vol. 7, p. 644).
- 1979, No. 59—The Local Government Amendment Act 1979 (R.S. Vol. 5, p. 683): Section 9 (9).
- 1981, No. 12—The Petroleum Demand Restraint Act 1981: Section 8 (1) (a) and (b).
- 1981, No. 38—The Motor Spirits Distribution Amendment Act 1981.
- 1982, No. 9—The Customs Acts Amendment Act 1982: Section 22 (2) and (3).

Section 5 (i)

SECOND SCHEDULE
REGULATIONS AND ORDERS REVOKED

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