

[AS REPORTED FROM THE COMMERCE AND MARKETING
COMMITTEE]

House of Representatives, 29 March 1988.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. David Caygill

PETROLEUM SECTOR REFORM

ANALYSIS

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

10 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.

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

No. 22—2

Price
incl. GST \$1.90

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.

Struck Out

(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; 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 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 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—

(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 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 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 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 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.

3. Application of Income Tax Act 1976—(1) Sections 64B to 64M of the Income Tax Act 1976 shall not apply to—

(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) 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
- (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.

New

(2) Notwithstanding any other enactment or rule of law, the Commissioner of Inland Revenue shall assess The New Zealand Refining Company Limited's liability for income tax under the Income Tax Act 1976 as if—

- (a) The loans specified in section 2 (1) of this Act had never been raised; and
- (b) The New Zealand Refining Company Limited had never received or expended the amounts specified in section 2 (1) of this Act; and

New

(c) Any payments (whether in repayment of principal or interest) made in respect of the loans specified in **section (1)** of this Act had never been made; and

(d) The agreements specified in **subsection (1) (a)** of this section had never been made. 5

(3) Notwithstanding any other enactment or rule of law, the Commissioner of Inland Revenue shall not, in assessing The New Zealand Refining Company Limited's liability for income tax under the Income Tax Act 1976, allow any claim for depreciation allowances in respect of the expansion assets. 10

(4) In calculating The New Zealand Refining Company Limited's assessable income for the purposes of the Income Tax Act 1976, the total amounts received by The New Zealand Refining Company Limited in respect of processing fees from BP Oil New Zealand Limited, Caltex Oil (NZ) Limited, Europa Oil NZ Limited, Mobil Oil New Zealand Limited and Shell Oil New Zealand Limited for the calendar years 1981 to 1986 shall be deemed to be— 15

(a) 1981, \$47,460,462: 20

(b) 1982, \$58,072,626:

(c) 1983, \$66,416,406:

(d) 1984, \$86,202,886:

(e) 1985, \$99,061,951:

(f) 1986, \$137,019,105. 25

(5) In this section the term "expansion assets" means the plant and equipment acquired and constructed in the expansion of the Marsden Point refinery and in building a products pipeline from that refinery to Auckland and terminal facilities in Auckland, as provided for in the agreements specified in paragraphs (a) and (b) of **section 2 (1)** of this Act. 30

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

(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 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 35 40

Authority as at the close of the 31st day of March 1988:

- 5 (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,—

- 10 (a) The Motor Spirits Licensing Authority shall be dissolved and the term of office of every member of the Authority shall cease:
- 15 (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:
- 20 (d) All money payable to the Motor Spirits Licensing Authority shall become payable to the Crown:
- (e) All rights, constraints, obligations, and liabilities of the Motor Spirits Licensing Authority shall become the rights, constraints, obligations, and liabilities of the Crown:
- 25 (f) All proceedings pending by or against the Motor Spirits Licensing Authority may be carried on, completed, or enforced by or against the Crown:
- 30 (g) The Motor Spirits Licensing Appeal Authority shall be dissolved and the term of office of the person 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:
- 35 (i) The regulations and orders specified in the **Second Schedule** to this Act are revoked.

New

5A. Amendments to Ministry of Energy Act 1977—The Ministry of Energy Act 1977 is hereby amended by inserting in 40 section 28 (1), after paragraph (a), the following paragraph:

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“(aa) Prescribing specifications to which refined petroleum products of the class or classes specified in the regulations must conform when supplied in New Zealand.”

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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).
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Section 5 (f)

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, Amendment No. 5	1981/31
The Motor Spirits Prices Regulations 1981, Amendment No. 16	1982/185
	1987/15