

**PETROLEUM PRODUCTION LEVY AND
SUBSIDY ACT**

CHAPTER 62:02

Act

14 of 1974

Amended by

34 of 1975

154/1976

6/1984

16 of 1992

195/2003

249/2004

30 of 2007

82/2009

2 of 2012

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Note on Adaptation

Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by LN 120/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

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UPDATED TO DECEMBER 31ST 2012

CHAPTER 62:02

**PETROLEUM PRODUCTION LEVY AND
SUBSIDY ACT**

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CHAPTER 62:02

**PETROLEUM PRODUCTION LEVY AND
SUBSIDY ACT**

An Act respecting the provision for petroleum products and the imposition of a levy on persons carrying on production business. 14 of 1974.

[1ST FEBRUARY 1974]

Commencement.

1. This Act may be cited as the Petroleum Production Levy and Subsidy Act. Short title.

PRELIMINARY

2. (1) In this Act—

Interpretation.
[30 of 2007].

“company” means a body corporate or an unincorporated association including a partnership;

“levy” means the petroleum production levy payable under section 9(1) by a person carrying on production business;

“marketing business” means the business of dealing in petroleum products by way of the purchase thereof from a refining business for resale and use in Trinidad and Tobago;

“person” includes a company;

“petroleum” means any mixture of naturally occurring hydrocarbons and hydrocarbon compounds;

“petroleum product” means any finished or partly finished product derived from petroleum by any refining process that is listed in the Schedule;

Schedule.

“production business” means the business of exploration for, and the winning of, petroleum in its natural state from the underground reservoir;

“production sharing contract” means an agreement entered into in accordance with the Petroleum Act;

Ch. 62:01.

“refining business” means the business of the manufacture from petroleum or petroleum products of partly finished or finished petroleum products by a refining process;

“subsidy” means the sum of money payable under section 8 to a person carrying on marketing business in respect of the sales of petroleum products.

(2) For the purposes of this Act a reference to the purchase or sale of any petroleum products shall be construed as referring only to the acquisition or disposal of such products for a money consideration, in this Act called a “price”.

APPLICATION AND CONSTRUCTION OF ACT

Application of Act. [16 of 1992 195/2003].

3. (1) Nothing in this Act shall apply to the production business of any person, unless —

- (a) such business produces petroleum at a daily average rate in excess of three thousand five hundred barrels; and
- (b) such person is beneficially entitled to receive the proceeds of the sale of the petroleum.

(2) In this section “petroleum” does not include petroleum in the gaseous state.

Construction of certain references.

4. (1) For the purposes of this Act references to marketing business, refining business or production business carried on by any person shall be read and construed as referring to separate businesses even though the same person carries on more than one such business.

(2) Accordingly, where more than one such business is carried on by the same person—

- (a) the levy and the subsidy, respectively, shall apply separately to each such separate business; and
- (b) upon the transfer of petroleum products from one such business to another, an acquisition or disposal of petroleum products from the one such business to the other shall be regarded as having taken place and as having so taken place at a price.

(3) An Order made by the Minister under section 31 of the Petroleum Act, shall have effect for the purpose of the definition of references occurring in this Act to petroleum products listed in the Schedule.

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Schedule.

SUBSIDY

5. (1) There is hereby established for the purposes of this Act a Petroleum Products Subsidy Fund (hereinafter called the “Fund”) and the Fund shall be managed by the Minister of Finance.

Petroleum
Products
Subsidy Fund.

(2) Subject to this Act and to any Regulations and Orders made thereunder, the Minister of Finance, acting upon the advice of the Minister is authorised to cause advances to be made from the Fund for the purpose of subsidising the prices at which petroleum products are sold by persons carrying on marketing business in accordance with price-fixing Orders made by the Minister under section 31 of the Petroleum Act.

Ch. 62:01.

6. At such times in every month as the Minister of Finance may direct, the Comptroller of Accounts shall pay from the Fund to every person carrying on marketing business, who has made a claim therefor, a sum of money, if any, as a subsidy in respect of petroleum products sold by him for the month calculated in accordance with section 8.

Comptroller of
Accounts to pay
subsidy.

7. (1) A person carrying on marketing business shall not later than the tenth day of each month submit to the Minister a claim regarding the amount of subsidy to be paid to him in respect of petroleum products sold during the immediately preceding month.

Claims for
subsidy to be
made.

(2) Unless the Minister in any particular case otherwise permits, any claim submitted to the Minister later than the tenth day of any month shall not be taken into account in computing the levy and no subsidy is payable in respect thereof.

(3) The claim shall be made in such manner as is approved by the Minister.

(4) In this section a reference to submitting a claim shall be construed as requiring delivery of the claim to the Permanent Secretary of the Ministry of Petroleum and Mines or other public officer designated by him for the purpose, personally.

Method of
computing
subsidy.
[34 of 1975].
Schedule.

8. (1) The subsidy shall be computed monthly in respect of sales of each petroleum product listed in the Schedule by a person carrying on marketing business, and shall be the amount obtained from the application of the following formulas thereto:

- (a) $(ERP + GM - WP)V_1$, in respect of sales by wholesale; and
- (b) $(ERP + GM - RP)V_2$, in respect of sales by retail,

where—

- ERP. is the ex-refinery price for the month;
- GM. is the gross margin for the month;
- WP. is the wholesale price for the month;
- RP. is the retail price for the month;
- V_1 . is the volume of sales by wholesale for the month; and
- V_2 . is the volume of sales by retail for the month.

(2) In computing the subsidy, no account shall be taken of petroleum products sold by a person carrying on marketing business—

- (a) to an associated person (this expression here including one company that exercises or is entitled to exercise control directly or indirectly over the affairs of another and any company the majority of the shareholding of which is held by more than one other company similarly so controlled);
- (b) to a person carrying on production business or refining business or both;
- (c) to such other class or classes of persons or businesses as the Minister may by Order prescribe; or

(d) as bunkers for ships or aircraft (other than ships and aircraft used exclusively in Trinidad and Tobago).

(3) The Order first made by the Minister after the commencement of the Petroleum (Amendment) Act, 1975 (i.e. 1st January 1975) under section 31 of the Petroleum Act shall be deemed to have had effect from that date for all purposes of this Act; and accordingly the subsidy shall be computed upon the prices therein specified, from that date.

34 of 1975.
Ch. 62:01.

(4) For the purposes of this section the Minister shall by Order fix the gross margin in respect of each petroleum product.

(5) In this section—

“ex-refinery price” means the price, or the basis for determining the price of petroleum products, fixed by the Minister under section 31(1) of the Petroleum Act;

“gross margin” means the sum of money fixed by the Minister by Order under subsection (3) in consideration of the cost of marketing of a petroleum product in calculating the subsidy under this section;

“month” means the month in respect of which the subsidy is to be computed;

“retail price” means the price fixed by the Minister under section 31(3) of the Petroleum Act;

“sales by retail” means sales of petroleum products by way of business otherwise than by wholesale;

“sales by wholesale” means sales of petroleum products to a person who carries on a business of selling those petroleum products;

“wholesale price” means the price fixed by the Minister under section 31(3) of the Petroleum Act.

PETROLEUM PRODUCTION LEVY

9. (1) There is hereby levied and charged on every person in respect of any production business carried on by him, a petroleum production levy of either an amount equal to four per cent of the gross income from the production of crude oil, or the amount computed in accordance with section 11(1), whichever is the lesser.

Charge to petroleum production levy. [16 of 1992 195/2003].

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(2) The levy shall be paid to the Minister monthly within five days after the date of notification of the amount thereof in writing, by the Minister.

(3) The Minister shall, as soon as practicable after the levy has been paid, deposit or cause the levy to be deposited in the Fund.

Production sharing contract to prevail. [30 of 2007].

9A. Notwithstanding the provisions of this Act, where in relation to the levy, the production sharing contract—

- (a) excludes the provisions of this Act in respect of the levy, this Act shall not apply to the contract;
- (b) modifies the provisions of this Act, then for the purposes of such contract, this Act shall be read and construed accordingly; or
- (c) conflicts or is at variance with this Act,

the provisions of the contract shall prevail.

Offence not to pay levy within time specified. [2 of 2012].

10. (1) A person who fails or refuses to pay the levy within the time specified under section 9(2), is liable on summary conviction to a fine of one hundred thousand dollars, and in the case of a continuing offence to a further fine of two thousand dollars for each day during which the offence continues after conviction therefor.

(2) Where a company is convicted of an offence under subsection (1), nothing therein shall apply to the Directors, General Manager, Secretary or other employee of the Company, if it is shown to the satisfaction of the Magistrate that the offence was committed without the consent or connivance of the Directors, or General Manager, Secretary or any other employee of the company and that they exercised all such diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions in that capacity and to all the circumstances.

Method of computing levy. [34 of 1975].

11. (1) The levy payable under section 9(1) shall be computed monthly in accordance with the following formula:

$$\frac{PI \times S}{PT} = L,$$

where—

- PI. represents the production of petroleum by the production business of any person for the month immediately preceding the month for which the levy is to be computed;

- PT. represents the total production of petroleum by all persons carrying on production business in Trinidad and Tobago for the month immediately preceding the month for which the levy is to be computed;
- S. represents the total subsidy to be paid to marketing businesses in Trinidad and Tobago for the month for which the levy is to be computed; and
- L. represents the levy to be imposed on the production business of a person for the month for which the levy is to be computed.

(2) In this section “petroleum” does not include petroleum in the gaseous state.

(3) The Order first made by the Minister after the commencement of the Petroleum (Amendment) Act, 1975 (i.e. 1st January 1975) under section 31 of the Petroleum Act shall be deemed to have had effect from that date for all purposes of this Act; and accordingly the levy shall be computed upon the prices therein specified, from that date.

MISCELLANEOUS AND GENERAL

12. (1) For the purpose of computing the subsidy, a person carrying on refining business or marketing business or both shall, not later than the tenth day of each month, make a return to the Minister.

Refining and marketing business to make return to the Minister.

(2) The return shall be on a form approved by the Minister, after consultation with the persons carrying on refining business or marketing business and shall specify the volume and the value of petroleum products sold by a person carrying on refining business to a person carrying on marketing business or in the case of a person carrying on marketing business the volume and value of all sales by wholesale and by retail during the previous month.

13. (1) For the purposes of this Act each person carrying on refining business or marketing business or both shall keep proper records of accounts and of the volume and value of petroleum products sold during each month.

Refining and marketing business to keep proper records.

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(2) The Minister may in writing authorise any employee of his Ministry to inspect the records of a person carrying on refining business in order to verify the accuracy of the return made pursuant to section 12(1).

Accounts.

14. All accounts relating to the Fund and the levy shall be kept separately by the Comptroller of Accounts but shall be shown in the general accounts of Trinidad and Tobago and laid therewith before Parliament.

Annual audit.

Ch. 69:01.

15. The accounts shall be audited annually by the Auditor General in accordance with Part V of the Exchequer and Audit Act as if the Fund was established under section 43 of that Act.

Provisions as to recovery of levy.

16. (1) The levy, shall without prejudice to any other manner of recovery, be a sum enforceable as a civil debt by proceedings commenced in the name of the Minister.

(2) All or any of the sums due in respect of the levy from any person and payable to the Minister (being sums which are by law sums enforceable as a civil debt) may, whether or not they are due under one computation for a month, be included in the same complaint, summons, order, warrant or other documents required by law to be laid before a Magistrate or to be issued by a Magistrate, and every document as aforesaid shall as respects such sum be construed as a separate document and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.

(3) Any amount of the levy that is by this section a sum enforceable as a civil debt, may be recovered as if it was a simple contract debt in any Court of competent jurisdiction.

(4) Any levy charged under the provisions of this Act is a debt due to the State and may without prejudice to any other manner in which the same may at any time be lawfully recovered, be sued for and recovered from the person charged therewith in the manner provided in the State Liability and Proceedings Act.

Ch. 8:02.

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(5) Any person who in the opinion of the Court may be able to give information concerning the property or goods of the person sued or charged may lawfully be summoned to give evidence in any civil or criminal proceedings.

17. (1) A person who exports or attempts to export petroleum products obtained from sales by retail [within the meaning of section 8(5)] commits an offence and is liable on summary conviction to imprisonment for five years and one of the following fines:

Offence to export petroleum products obtained from sales by retail. [2 of 2012].

- (i) for volumes no greater than 40,000 litres \$500,000.00
- (ii) for volumes greater than 40,000 and no more than 160,000 litres \$2,000,000.00; or
- (iii) for volumes greater than 160,000 litres \$6,000,000.00

(2) In addition to the penalty specified under subsection (1) the Minister may seize and detain or authorise the seizure and detention of any vessel or aircraft on board of which the petroleum products were found, for such period of time as he may consider necessary for the purpose of evidence in any legal proceedings.

18. (1) A person who contravenes or fails to comply with the provisions of this Act or any Regulations made thereunder is guilty of an offence and, unless otherwise specifically provided in the Act, liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.

Offences and general penalty provisions. [2 of 2012].

(2) Where a company is convicted of an offence under subsection (1), nothing therein shall apply to the Director, General Manager or Secretary or any other employee of the company if it is shown to the satisfaction of the Magistrate that the offence was committed without the consent or connivance of the Director, or General Manager, Secretary or any other employee of the company and that they exercised all such diligence to prevent the commission of the offence as they ought

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to have exercised having regard to the nature of their functions in that capacity and to all the circumstances.

Minister responsible for administration of Act.

19. (1) Subject to this Act, the Minister shall be responsible for the due administration of this Act and for the computation, collection and recovery of the levy.

(2) Any function conferred on the Minister by this Act shall be exercised as may be necessary by any officer authorised by him and references in this Act to the Minister shall be construed accordingly.

Minister may vary Schedule.

20. The Minister may by Order vary the Schedule by adding thereto or removing therefrom any petroleum product.

Power to make Regulations.

21. The Minister may make such Regulations as he considers necessary or incidental to give effect to the provisions of this Act.

Transitional provisions as to Orders under section 8(3). Ch. 62:01.

22. Any Order made by the Minister under section 31 of the Petroleum Act or under section 8(3), that is expressed to have retrospective effect from 1st February 1974, shall by virtue of this section be deemed to have had effect from that date for all the purposes of this Act, and accordingly the subsidy and the levy shall be computed upon the prices, and at the gross margin therein specified.

Disposal for use. [34 of 1975].

23. Where an Order is made relating to the sale of petroleum products to any person for use as bunkers for fishing or shrimping trawlers, every such sale shall for the purposes of this Act be deemed to have been a disposal for use in Trinidad and Tobago.

Sections 2, 8 and 20. [154/1976 6/1984 249/2004 82/2009].

SCHEDULE

Auto Diesel	Domestic Gasoline
Marine Diesel	Premium Gasoline 95 RON
Kerosene	Regular Gasoline 83 RON
Liquefied Petroleum Gas	Super Gasoline 92 RON

SUBSIDIARY LEGISLATION

PETROLEUM PRODUCTION LEVY AND SUBSIDY (GROSS MARGIN) ORDER 81/2009.

made under section 8(4)

1. This Order may be cited as the Petroleum Production Levy and Subsidy (Gross Margin) Order. Citation.

2. The gross margin in respect of the Petroleum Products listed hereunder is as follows: Gross margin.

<i>Petroleum Products</i>					<i>Gross Margin Trinidad and Tobago cents per litre</i>
Premium Gasoline 95 RON	14.50
Super Gasoline 92 RON	14.50
Regular Gasoline 83 RON	14.50
Kerosene	9.50
Auto Diesel	9.50

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[Subsidiary]

155/1976.
[198/1979
20/1982
5/1984
179/1992
252/2004
181/2008].

**PETROLEUM PRODUCTION LEVY AND SUBSIDY
(GROSS MARGIN) (L.P.G.) ORDER**

made under section 8(4)

Citation.

1. This Order may be cited as the Petroleum Production Levy and Subsidy (gross margin) (L.P.G.) Order.

Gross Margin.

2. The Gross Margin in respect of Liquefied Petroleum Gas is as follows:

	<i>Unit</i>	<i>Trinidad and Tobago</i>
1 lb.	31.0 cents (T.T.)
