

PETROLEUM ACT, 1934

[Act No. 30 of 1934 dated 6th September, 1934]

An Act to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum 1[***].

Whereas it is expedient to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum 2[***];

It is hereby enacted as follows: -

PRELIMINARY

1. Short title, extent and commencement

(1) This Act may be called the Petroleum Act, 1934.

3[(2) It extends to the whole of India 4[***].]

(3) It shall come into force on such date⁵ as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context,-

(a) "petroleum" means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon;

6[(b) "petroleum Class A" means petroleum having a flash-point below twenty-three degrees Centigrade;

(bb) "petroleum Class B" means petroleum having a flash-point of twenty-three degrees Centigrade and above but below sixty-five degrees Centigrade

(bbb) "petroleum Class" means petroleum having a flash-point of sixty-five degrees Centigrade and above but below ninety-three degrees Centigrade;]

(c) 7["flash-point"] of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of Chapter II and the rules made thereunder;

8[(d) "to transport petroleum" means to move petroleum from one place to another in India and includes moving from one place to another in India across a territory which is not part of India;]

(e) "to import" petroleum means to bring it into 9[India] by land, sea or air, otherwise than during the course of transport;

(f) "to store" petroleum means to keep it in any one place, but does not include any detention happening during the ordinary course of transport;

(g) "motor conveyance" means any vehicle, vessel or aircraft for the conveyance of human beings, animals or goods, by land, water or air, in which petroleum is used to generate the motive power;

(h) "prescribed" means prescribed by rules made under this Act.

10[***]

CHAPTER I : CONTROL OVER PETROLEUM

3. Import, transport and storage of petroleum

(1) No one shall import, transport or store any petroleum save in accordance with the rules made under section 4.

(2) Save in accordance with the conditions of any licence for the purpose which he may be required to obtain by rules made under section 4, no one shall import 11[petroleum Class A]. and no one shall transport or store any petroleum.

4. Rules for the import, transport and storage of petroleum

(a) prescribing places where petroleum may be imported and prohibiting its import elsewhere;

- (b) regulating the import of petroleum;
- (c) prescribing the periods within which licenses for the import of 12[petroleum Class A] shall be applied for, and providing for the disposal, by confiscation or otherwise, of any 12[petroleum Class A] in respect of which a licence has not been applied for within the prescribed period or has been refused and which has not been exported;
- (d) regulating the transport of petroleum;
- (e) specifying the nature and condition of all receptacles and pipe-lines in which petroleum may be transported;
- (f) regulating the places at which and prescribing the conditions subject to which petroleum may be stored;
- (g) specifying the nature, situation and condition of all receptacles in which petroleum may be stored;
- (h) prescribing the form and conditions of licences for the import of 12[Petroleum Class A], and for the transport or storage of any petroleum, the manner in which application for such licence shall be made, the authorities which may grant such licences and the fees which may be charged for such licences;
- (i) determining in any class of cases whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier;
- (j) providing for the granting of combined licences for the import, transport and storage of petroleum, or for any two of such purposes;
- (k) prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion; and
- (l) generally, providing for any matter which in 13[its] opinion is expedient for proper control over the import, transport and storage of petroleum 14[including the charging of fees for any services rendered in connection with the import, transport and storage of petroleum.]

Comment: On a reading of sub-rule (1) of R. 151 it is clear that a 'No objection Certificate' granted under R. 144 can be cancelled wherever the licensee ceases to have any right to use the site for storing petrol and that right could be lost by a licensee either by his tenancy or right to the use of the site coming to an end or for any other reason whereby, in law, the right to use the site for storing ceases. *Yogesh Kumar v. M/s. Bharat Petroleum Corpn. Ltd.*, AIR 1990 SUPREME COURT 2216

5. Production, refining and blending of petroleum.

- (1) No one shall produce, refine or blend petroleum save in accordance with the rules made under sub-section (2).
 - (2) The Central Government may make rules –
 - (a) prescribing the conditions subject to which petroleum may be produced, refined or blended; and
 - (b) regulating the removal of petroleum from places where it is produced, refined or blended and preventing the storage therein and removal therefrom, except as 15[petroleum Class A]. of any petroleum which has not satisfied the prescribed tests.
- 16[***]

6. Receptacles of dangerous petroleum to show a warning

All receptacles containing 17[petroleum Class A] shall have a stamped, embossed, painted or printed warning, either on the receptacle itself or, where that is impracticable, displayed near the receptacle, exhibiting in conspicuous characters the words "Petrol" or "Motor Spirit", or an equivalent warning of the dangerous nature of the petroleum:

Provided that this section shall not apply to-

- (a) any securely stopped glass, stoneware or metal receptacle of less than 18[ten liters] capacity containing 17[petroleum Class A] which is not for sale, or
- (b) a tank incorporated in motor conveyance, or attached to an internal combustion engine, and containing petroleum intended to be used to generate motive power for the motor conveyance or

engine, or

(c) a pipe-line for the transport of petroleum, or

(d) any tank which is wholly underground, or

(e) any class of receptacles which the Central Government may, by notification in the Official Gazette, exempt from the operation of this section.

19[7. No licence needed for transport or storage of limited quantities of petroleum Class B or petroleum Class C

Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the transport or storage of –

(i) petroleum Class B if the total quantity in his possession at any one place does not exceed two thousand and five hundred litres and none of it is contained in a receptacle exceeding one thousand litres in capacity; or

(ii) petroleum Class C if the total quantity in his possession at any one place does not exceed forty-five thousand litres and such petroleum is transported or stored in accordance with the rules made under section 4.

8. No licence needed for import, transport or storage of small quantities of petroleum Class A

(1) Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the import, transport or storage of petroleum Class A not intended for sale if the total quantity in his possession does not exceed thirty litres.

(2) Petroleum Class A possessed without a licence under this section shall be kept in securely stoppered receptacles of glass, stoneware or metal which shall not, in case of receptacles of glass or stoneware, exceed one litre in capacity or, in the case of receptacles of metal, exceed twenty-five litres in capacity.]

9. Exemptions for motor conveyances and stationary engines

(1) The owner of a motor conveyance, who complies with the requirements of the law for the time being in force relating to the registration and licensing of such conveyance and its driver or pilot and the owner of any stationary internal combustion engine, shall not be required to obtain a licence-

(a) for the import, transport or storage of any petroleum contained in any fuel tank incorporated in the conveyance or attached to the internal combustion engine, or

(b) for the transport or storage of 20[petroleum Class A], not exceeding 21[one hundred litres] in quantity in addition to any quantity possessed under clause (a), provided the petroleum is intended to be used to generate motive power for the motor conveyance or engine:

22[Provided further that the total quantity of 20[petroleum Class A] which may be stored without a licence under clause (b) shall not exceed 21[one hundred litres], notwithstanding that such owner may possess other motor conveyances or engines.]

(2) 20[Petroleum Class A] transported or stored without a licence under clause (b) 22[of sub-section (1)] shall be kept in sub-section (2) of section 8, and, if it exceeds 23[thirty litres] in quantity, shall be stored in an isolated place which does not communicate with any room where any person resides or works or in any room where persons assemble.

10. No licence needed by railway administration acting as carrier

Notwithstanding anything contained in this Chapter, a railway administration, as defined in section 3 of the Indian Railway Act, 1890, need not obtain any licence for the import or transport of any petroleum in its capacity as carrier.

24[11. Exemption of heavy oils

Nothing in this Chapter shall apply to any petroleum which has its flash-point not below ninety-three degrees Centigrade.]

12. General power of exemption

The central Government may, by notification in the Official Gazette, exempt any petroleum specified in the notification from all or any of the provisions of this Chapter.

13. Inspection of places

(1) The Central Government may authorize any officer by name or by virtue of office to enter any place where petroleum is being imported, stored, produced, refined or blended, or is under transport, and inspect all receptacles, plant and appliances used in connection with petroleum in order to ascertain if they are in accordance with the provisions of this Chapter and the rules made thereunder.

(2) The Central Government may make rules regulating the procedure of offices authorised under this section.

CHAPTER II : THE TESTING OF PETROLEUM

14. Inspection and sampling of petroleum

(1) The Central Government may, by notification in the Official Gazette, authorize any officer by name or by virtue of office to enter any place where petroleum is being imported, transported, stored, produced, refined or blended and to inspect and take samples for testing of any petroleum found therein.

(2) The Central Government may make rules-

(a) regulating the taking of samples of petroleum for testing,

(b) determining the cases in which payment shall be made for the value of samples taken, and the mode of payment, and

(c) generally, regulating the procedure of officers exercising powers under this section.

15. Standard Test Apparatus

(1) A standard apparatus for determining the 25[flash-point] of petroleum shall be deposited with an officer to be appointed in this behalf by the Central Government, by notification in the Official Gazette.

(2) Such apparatus shall be engraved with the words "Standard Test Apparatus", and shall be verified and corrected from time to time and replaced when necessary, in accordance with rules made under section 21.

(3) The Standard Test Apparatus shall, on payment of the prescribed fee, be open to inspection at all reasonable times by person wishing to inspect it.

16. Certification of other test apparatus

(1) The officer appointed under section 15 shall, on payment of the prescribed fee, if any, compare with the Standard Test Apparatus any apparatus for determining the 26[flash-point] of petroleum which may be submitted to him for this purpose.

(2) If any apparatus is found by him to agree with the Standard Test Apparatus within prescribed limits, the officer shall engrave such apparatus with a special number and with the date of the comparison, and shall give a certificate in respect of it in the prescribed form, certifying that on the said date the apparatus was compared with the Standard Test Apparatus and was found to agree with it within the prescribed limits, and specifying any corrections to be made in the results of tests carried out with the apparatus.

(3) A certificate granted under this section shall be valid for such period as may be prescribed.

(4) A certificate granted under this section shall, during the period for which it is valid, be proof, until the contrary is proved, of any matter stated therein.

(5) The officer shall keep a register in the prescribed form of all certificates granted by him under this section.

17. Testing Officer

The Central Government may authorise any officer by name or by virtue of office to test

petroleum of which samples have been taken under this Act, or which may have been submitted to him for test by any person, and to grant certificates of the results of such tests.

18. Manner of test

All tests of petroleum made under this Act shall be made with a test apparatus in respect of which there is a valid certificate under section 16, shall have due regard to any correction specified in that certificate, and shall be carried out in accordance with rules made under section 21.

19. Certificate of testing

27[(1) The testing officer after testing samples of petroleum shall make out a certificate in the prescribed form, stating whether the petroleum is petroleum Class A or petroleum Class B or petroleum Class C, and if the petroleum is petroleum Class B or petroleum Class C, the flash point of the petroleum.

(2) The testing officer shall furnish the person concerned, at his request, with a certified copy of the certificate, on payment of the prescribed fee, and such certified copy may be produced in any Court in proof of the contents of the original certificate.

27[(3) A certificate given under this section shall be admitted as evidence at any proceedings which may be taken under this Act in respect of the petroleum from which the samples were taken, and shall, until the contrary is proved, be conclusive proof, that the petroleum is petroleum Class A or petroleum Class B or petroleum Class C, and, if the petroleum Class B or petroleum Class C, of its flash-point.]

20. Right to require re-test

(1) The owner of any petroleum, or his agent, who is dissatisfied with the result of the test of the petroleum may, within seven days from the date on which he received intimation of the result of the test, apply to the officer empowered under section 14 to have fresh samples of the petroleum taken and tested.

(2) On such application and on payment of the prescribed fee, fresh samples of the petroleum shall be taken in the presence of such owner or agent or person deputed by him, and shall be tested in the presence of such owner or agent or person deputed by him.

(3) If, on such re-test, it appears that the original test was erroneous, the testing officer shall cancel the original certificate granted under section 19, shall make out a fresh certificate, and shall furnish the owner of the petroleum, or his agent, with a certified copy thereof, free of charge.

21. Power to make rules regarding tests

The Central Government may make rules-

(a) for the specification, verification, correction and replacement of the Standard Test Apparatus;

(b) prescribing fee for the inspection of the standard Test Apparatus;

(c) regulating the procedure in comparing a test apparatus with the Standard Test Apparatus;

(d) prescribing the form of certificate to be given in respect of a test apparatus so compared, and the period for which such certificates shall be valid;

(e) prescribing the form of the register of such certificates;

(f) prescribing fee for comparing a test apparatus with the Standard Test Apparatus;

(g) regulating the procedure of testing officers in carrying out tests of petroleum, providing for the averaging of results where several samples of the same petroleum are tested, and prescribing the variations from standard temperatures which may be allowed;

(h) prescribing the form of certificates of tests of petroleum and the fees which may be charged therefor;

(i) providing, where the results of the testing of samples raise a doubt as to the uniformity of the quality of the petroleum in any lot under test, for the division of the lot into sub-lots, and for the selection and testing of samples of each sub-lot and for the averaging of results in accordance with the results of tests of those samples;

(j) prescribing fees for re-tests under section 20 and providing for their refund where the original test was erroneous; and

(k) generally, resulting the procedure of all offices performing duties connected with the testing of petroleum, and providing for any matter incidental to such testing.

22. Special rules for testing viscous or solid forms of petroleum

The Central Government may also make rules providing specially for the testing of any form of petroleum which is viscous or solid or contains sediment or thickening ingredients, and such rules may modify or supplement any of the provisions of this Chapter or of the rules made under section 21 in order to adapt them to the special needs of such tests.

CHAPTER III : PENALTIES AND PROCEDURE

23. Generally penalty for offences under this Act

(1) Whoever-

- (a) in contravention of any of the provisions of Chapter I or of any of the rules made thereunder, imports, transports, stores, produces, refines or blends any petroleum, or
- (b) contravenes any rule made under section 4 or section 5, or
- 28[(c) being the holder of a licence issued under section 4 or a person for the time being placed by the holder of such licence in control or in charge of any place where petroleum is being imported or stored, or is under transport, contravenes any condition of such licence or suffers any condition of such licence to be contravened, or]
- (d) being for the time being in control or in charge of any place where petroleum is being imported, stored, produced, refined or blended or is under transport, refuses or neglects to show to any officer authorised section 13 any receptacle, plant or appliance used in such place in connection with petroleum, or in any way obstructs or fails to render reasonable assistance to such officer during an inspection, or
- (e) being for the time being in control or in charge of any place where petroleum is being imported, transported, stored, produced, refined or blended, refuses or neglect to show to any officer authorised under section 14 any petroleum in such place, or to give him such assistance as he may require for the inspection of such petroleum, or refuses to allow him to take samples of the petroleum, or
- (f) being required, under section 27, to give information of an accident, fails to give such information as so required by that section.

shall be punishable 29[with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees or with both].

(2) If any person, having been convicted of an offence punishable under sub-section (1), is again guilty of any offence punishable under that sub-section, he shall be punishable for every such subsequent offence 29[with simple imprisonment which may extend to three months, or with fine which may extend to five thousand rupees, or with both].

24. Confiscation of petroleum and receptacles

(1) In any case in which an offence under clause (a) or clause(b) or clause (c) of sub-section (1) of section 23 has been committed, the convicting Magistrate may direct that-

- (a) the petroleum in respect of which the offence has been committed, or
 - (b) where the offender is convicted of importing, transporting or storing petroleum exceeding the quantity he is permitted to import, transport or store, as the case may be, the whole of the petroleum in respect of which the offence was committed,
- shall, together with the receptacles in which it is contained, be confiscated.

(2) This power may also be exercised by the High Court in the exercise of its appellate or revisional powers.

25. Jurisdiction

Offences punishable under this Act shall be triable, in the Presidency towns, by a Presidency Magistrate, and elsewhere the Magistrate of the first class, or by a Magistrate of the second class who has been specially empowered by the 30[Central Government] in this behalf.

26. Power of entry and search

(1) The Central Government may, by notification in the Official Gazette, authorize any officer by name or by virtue of office to enter and search any place where he has reason to believe that any petroleum is being imported, transported, stored, produced, refined, or blended otherwise than in accordance with the provisions of this Act and the rules made thereunder, and to seize, detain or remove any or all of the petroleum in respect of which in his opinion an offence under this Act has been committed.

(2) The provisions of the 31[Code of Criminal Procedure, 1973], relating to searches shall, so far as they are applicable, apply to searches by officers authorised under this section.

(3) The Central Government may make rules regulating the procedure of authorised officers in the exercise of their powers under this section subject, however, to the provisions of sub-section (2).

32[27. Notice of accidents with petroleum

Whenever there occurs in or about, or in connection with, any place in which petroleum is refined, blended or kept, or any carriage or vessel either conveying petroleum or on or from which petroleum is being loaded or unloaded, any accident by explosion or by fire as a result of the ignition of petroleum or petroleum vapour attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place or the person for the time being in charge of the petroleum or the person in charge of the carriage or the master of the vessel, as the case may be, shall, within such time and in such manner as may be prescribed, give notice thereof and of the attendant loss of human life, or injury to person or property, if any, to the nearest Magistrate or to the officer in charge of the nearest police station and to the 33[Chief Controller of Explosives.]

28. inquiries into serious accidents with petroleum

(1) The inquiry mentioned in section 176 of the 34[Code of Criminal Procedure, 1973], shall 35[unless section 8 of the Coroners Act, 1871, is applicable to the circumstances] be held in all cases where any person has been killed by an accident which the Magistrate has reason to believe was the result of the ignition of petroleum or petroleum vapour.

(2) Any Magistrate empowered to hold an inquest may also hold an inquiry under the said section into the cause of any accident which he has reason to believe was the result of ignition of petroleum or petroleum vapour, if such accident was attended by serious injury to person or property, notwithstanding that no person was killed thereby.

(3) For the purposes of 36[sub-section (2)] a Commissioner of Police 37[***], 38[***] shall be deemed to be a Magistrate empowered to hold an inquest.

(4) The result of all inquiries held in pursuance of this section 35[and of any inquiry held by a coroner in a case to which sub-section (1) refers] shall be submitted as soon as may be to the 39[Central Government, 35[the 40[Chief Controller of Explosives] and the State Government].

CHAPTER IV : SUPPLEMENTAL

29. Provisions relating to rules

(1) In making any rules under this Act, the Central Government may-

(a) provide for any matter ancillary to such rules for which in 13[its] opinion provision is necessary to protect the public from danger arising from the import, transport, storage, production, refining or blending of petroleum, and

(b) make special provision for the special circumstances of any State or place.

(2) Every power to make rules conferred by this Act is subject to the condition of previous publication.

(3) All rules made under this Act shall be published in the Official Gazette 41[***].

42[(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses

agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

[Section 30 repealed by the Inflammable Substances Act, 1952 (20 of 1952)]

31. Power to limit powers of local authority over petroleum

Where any enactment confers powers upon any local authority in respect of the transport or storage of petroleum, the Central Government may, by notification in the Official Gazette,-

- (a) limit the operation of such enactment; or
- (b) restrict the exercise of such powers, in any manner 43[it]deems fit.

[Section 32 repealed by the Repealing Act, 1938 (1 of 1938)]

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