

Fair Trading (Fuel Price Board) Regulation 2017

Explanatory notes for SL 2017 No. 183

made under the

Fair Trading Act 1989

State Penalties Enforcement Act 1999

General Outline

Short title

Fair Trading (Fuel Price Board) Regulation 2017.

Authorising law

Section 113 of the *Fair Trading Act 1989*

Section 165 of the *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The policy objective of the *Fair Trading (Fuel Price Board) Regulation 2017* (the Regulation) is to reduce the risk of motorists being confused by the display of conditionally discounted prices on fuel price boards.

As part of their business model, some fuel retailers offer customers a discount on the per litre price of fuel, provided the customer possesses a particular discount voucher, participates in a reward scheme, or meets some other eligibility criteria. In most cases, the fuel retailer advertises the discounted price for fuel on the fuel price board.

As only limited information may be displayed on fuel price boards (including in relation to discount eligibility) and motorists have limited time to consider the fuel price on offer, there is a potential for some motorists to confuse the discounted fuel price displayed on price boards with the undiscounted fuel price. In some cases, due to the use of conditional discounts, motorists may not be eligible for the discounted price to which they thought they were entitled.

Achievement of policy objectives

The Regulation will achieve the policy objective by prohibiting the display of discounted fuel prices on fuel price boards. This will ensure that prices displayed on fuel price boards are not limited to motorists who possess a particular discount voucher, participate in a reward scheme or meet some other eligibility criteria established by the fuel retailer.

The Regulation also requires that when fuel retailers increase or decrease fuel prices, they must change the price displayed on the fuel price board and fuel pumps in the prescribed order. These provisions ensure that motorists always pay the price on the pump, which is required to be either the same as, or lower than, the undiscounted price displayed on the fuel price board.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objective of the *Fair Trading Act 1989* (the Fair Trading Act).

The principal objective of the Fair Trading Act is to improve consumer wellbeing through consumer empowerment and protection, fostering effective competition and enabling the confident participation of consumers in markets in which both consumers and suppliers trade fairly (section 3 of the Fair Trading Act).

By addressing the potential risks of some consumers being confused by conditionally discounted prices on fuel price boards, the Regulation aligns with the policy objective of the Fair Trading Act to improve consumer wellbeing.

The Regulation amends the *State Penalties Enforcement Regulation 2014*, which is made under the *State Penalties Enforcement Act 1999*, to allow offences under the Regulation to be dealt with by way of infringement notice.

Inconsistency with policy objectives of other legislation

The Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The Regulation is the only way to achieve the policy objective. It is considered that the Regulation provides a simple, clear and effective means of addressing the policy objective of reducing the risk of some motorists being confused by the display of conditionally discounted prices on fuel price boards.

Benefits and costs of implementation

The Regulation will improve consumer wellbeing and reduce potential consumer detriment by enhancing clarity about the undiscounted price motorists will pay for fuel.

Fuel retailers will still be able to offer discount schemes to consumers, including promoting these schemes on fuel price boards, as long as they do not advertise the discounted price on a fuel price board.

Fuel retailers who currently display conditionally discounted prices on fuel price boards may incur costs in modifying their fuel price boards to remove conditionally discounted

prices. To mitigate these costs, the Regulation allows for an implementation period before the new requirements commence.

To further mitigate potential costs and compliance burdens, the Regulation does not require fuel retailers to install a fuel price board if they do not already have one. Similarly, the Regulation does not prescribe the format or legibility of information displayed on a fuel price board, does not require certain fuels to be shown on fuel price boards, or prevent fuel retailers from displaying information regarding discount schemes or other offers.

However, any information presented on fuel price boards will continue to be required to comply with the generic consumer protection provisions of the Australian Consumer Law.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

On 2 March 2016, the Queensland Government held a Fuel Price Summit with a range of industry, consumer and government stakeholders. As a result of the Summit, the Queensland Government agreed to develop a regulation under the Fair Trading Act to prohibit the display of conditionally discounted fuel prices on fuel price boards.

On 26 February 2017, the Queensland Government issued a media statement to announce that the Government was considering introducing a fuel price board regulation and that community and industry feedback was sought on a consultation version of the draft Regulation. The consultation period was from 26 February 2017 to 29 May 2017. In addition, as part of the consultation process, the Commissioner for Fair Trading wrote to industry, consumer and government stakeholders inviting comments on the draft regulation.