

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Industry, Technology and Regional Development)

**CUSTOMS AND EXCISE LEGISLATION
AMENDMENT BILL 1993**

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1993

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(Industry, Technology and Regional Development)

A BILL

FOR

An Act to amend legislation relating to customs and excise, and for related purposes

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

5 **1.** This Act may be cited as the *Customs and Excise Legislation
Amendment Act 1993*.

Commencement

2.(1) Sections 1, 2, 3, 4, 9 and 11 commence on the day on which this
Act receives the Royal Assent.

10 **(2)** Paragraphs 5(a), (b) and (c), sections 6 and 8, paragraphs 17(a), (b)
and (c) and sections 16 and 18 commence on 1 January 1994.

(3) Paragraph 5(d), section 7, paragraph 17(d) and section 19 commence
on 1 February 1994.

(4) The remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

(5) If a provision mentioned in subsection (4) does not commence under that subsection within 6 months after the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period. 5

PART 2—AMENDMENTS OF THE CUSTOMS ACT 1901

Principal Act

3. In this Part, “**Principal Act**” means the *Customs Act 1901*¹.

Insertion of new section

4. After section 4 of the Principal Act the following section is inserted: 10

Act not to apply so as to exceed Commonwealth power

“4AA.(1) Unless the contrary intention appears, if a provision of this Act:

- (a) would, apart from this section, have an invalid application; but
- (b) also has at least one valid application; 15

it is the Parliament’s intention that the provision is not to have the invalid application, but is to have every valid application.

“(2) Despite subsection (1), the provision is not to have a particular valid application if:

- (a) apart from this section, it is clear, taking into account the provision’s context and the purpose or object underlying the Act, that the provision was intended to have that valid application only if every invalid application, or a particular invalid application, of the provision had also been within the Commonwealth’s legislative power; or 20
25
- (b) the provision’s operation in relation to that valid application would be different in a substantial respect from what would have been its operation in relation to that valid application if every invalid application of the provision had been within the Commonwealth’s legislative power. 30

“(3) Subsection (2) does not limit the cases where a contrary intention may be taken to appear for the purposes of subsection (1).

“(4) This section applies to a provision of this Act, whether enacted before, at or after the commencement of this section.

“(5) In this section: 35
‘**application**’ means an application in relation to:

- (a) one or more particular persons, things, matters, places, circumstances or cases; or
- (b) one or more classes (however defined or determined) of persons, things, matters, places, circumstances or cases.

5 **‘invalid application’**, in relation to a provision, means an application because of which the provision exceeds the Commonwealth’s legislative power;

‘valid application’, in relation to a provision, means an application that, if it were the provision’s only application, would be within the Commonwealth’s legislative power.”.

Rebate of duty in respect of diesel fuel used for certain purposes

5. Section 164 of the Principal Act is amended:

(a) by inserting after subsection (4AA) the following subsection:

15 “(4AB) If an application for rebate in respect of diesel fuel is received under paragraph (4AA)(d) on or after 1 January 1994, rebate is payable only in respect of diesel fuel purchased within 3 years before that application is so received.”;

20 (b) subsection (4A) is amended by omitting all the words after “those regulations” and substituting “may provide that, subject to subsection (4B), rebate is not payable to a person in respect of diesel fuel purchased by the person unless, when the application for the rebate is given to a Collector, the applicant gives the Collector a document of a kind, containing information of a kind, prescribed by the regulations.”;

25 (c) by inserting after subsection (4C) the following subsection:

“(4D) If a person who has applied for rebate under this section is to be paid rebate in respect of some or all the diesel fuel to which the application relates, the Collector must inform the person in writing:

30 (a) of the amount of rebate payable to the person under the application; and

(b) if an amount is to be set off against that amount, under section 165A, in respect of the administration charge payable under the *Diesel Fuel (Customs Duty Rebate) Administration Charge Act 1993* in respect of that application—of the amount of the set-off.”;

35 (d) by omitting subsections (5), (5A), (5AA), (5AB) and (5B) and substituting the following subsection:

40 “(5) The rebate payable to a person is payable at the rebate rate in force on the day that the application for that rebate is received, worked out in accordance with section 164AAB.”.

Insertion of new section

6. After section 164A of the Principal Act the following section is inserted:

Payment of administration charge

“164AAA.(1) If:

- (a) a person has applied for rebate under section 164; and
- (b) the person is paid rebate in respect of some or all of the diesel fuel to which the application relates;

the person must, within 30 days after receiving the rebate, pay to the Comptroller, on behalf of the Commonwealth, the administration charge payable under the *Diesel Fuel (Customs Duty Rebate) Administration Charge Act 1993* in respect of the application unless that charge has already been set off against the rebate under section 165A.

“(2) If:

- (a) a person fails to pay the administration charge payable in respect of an application for rebate within 30 days after receiving the rebate; and
- (b) the administration charge has not been set off against the rebate under section 165A;

the administration charge may be recovered in a court of competent jurisdiction as a debt due to the Commonwealth.”

Insertion of new section

7 Before section 164AA of the Principal Act the following section is inserted:

Rebate rate

Definition

“164AAB.(1) In this section:

‘rebate period’ means the 12 months starting on 1 February 1994 and each following 12 months.

Rebate rate for diesel fuel used in primary production

“(2) With effect from the first day of a rebate period, the rate at which rebate is payable to a person who purchases diesel fuel for use in a manner referred to in paragraph 164(1)(aa) is a rate equal to the rate of duty applying to diesel fuel under subheading 2710.00.20 of Schedule 3 to the *Customs Tariff Act 1987* immediately before the start of that period, increased, where appropriate, in accordance with subsection (3).

Rebate rate for diesel fuel used in primary production—progressive monthly increases for rebate period starting on 1 February 1994

5 “(3) With effect from the first day of each month in the rebate period starting on 1 February 1994 the rebate rate referred to in subsection (2), or that rate as further increased under this subsection, is progressively increased:

- (a) in respect of each month other than the months starting on 1 July 1994 and 1 January 1995—by \$0.00167 per litre; and
- 10 (b) in respect of the months starting on 1 July 1994 and 1 January 1995—by \$0.00165 per litre.

Rebate rate for diesel fuel used in mining operations

15 “(4) The rate at which rebate is payable at any time to a person who purchases diesel fuel for use in a manner referred to in paragraph 164(1)(a) is equal to the rate at which rebate would be payable at that time to the person if the fuel had been purchased for use in a manner referred to in paragraph 164(1)(aa), reduced by \$0.02388 per litre.

Rebate rate for diesel fuel used for certain other purposes

20 “(5) The rate at which rebate is payable at any time to a person who purchases diesel fuel for use in a manner referred to in paragraph 164(1)(b), (c) or (d) is equal to the rate at which rebate would be payable at that time to the person if the fuel had been purchased for use in a manner referred to in paragraph 164(1)(aa), reduced by \$0.07057 per litre.

Deferral of some increases

25 “(6) If the reference in subsection 6A(4) of the *Excise Tariff Act 1921* to the first day of a 6 month period starting on 1 February 1994 or 1 August 1994 is to be read, under section 6A of that Act, as a reference to a later day in February or a later day in August of that year, the progressive increase that subsection (3) provides for with effect from the first day of February or August of that year does not take effect until that later day in that month.”.

30 **Diesel fuel rebate scheme set-offs**

8. Section 165A of the Principal Act is amended:

- (a) by omitting subsection (1) and substituting the following subsections:

35 “(1) Subject to subsection (3), if:

- (a) at any time a person is liable :

- (i) to repay to the Commonwealth an amount under subsection 164(2) or 165(3) in respect of a rebate of duty paid in relation to diesel fuel; or

(ii) to pay to the Commonwealth an amount of administration charge under the *Diesel Fuel (Customs Duty Rebate) Administration Charge Act 1993* in respect of an application for rebate of duty in relation to diesel fuel; and 5

(b) at the same time, the Commonwealth is liable to pay an amount to that person under section 164;

the Comptroller may, by written notice to the person, set off the amount referred to in paragraph (a) against the amount referred to in paragraph (b). 10

“(1A) If the Comptroller does so, then, with effect from the day the notice issues:

(a) if one amount is greater than the other—the lesser amount is taken to have been paid in full and the greater amount is taken to have been paid to the extent of the lesser amount; and 15

(b) if both amounts are equal—both amounts are taken to have been paid in full.”;

(b) by omitting from subsection (3) “section 273GA(1)” and substituting “subsection 273GA(1)”;

(c) by omitting from paragraph (3)(a) “has no effect” and substituting “does not permit the set-off of that amount against the amount of the rebate”; 20

(d) by omitting from paragraph (3)(b) “has effect only in respect” and substituting “permits the set-off only”.

PART 3—AMENDMENTS OF THE EXCISE ACT 1901 25

Principal Act

9. In this Part, “**Principal Act**” means the *Excise Act 1901*².

Definitions

10. Section 4 of the Principal Act is amended:

(a) by omitting from subsection (1) the definition of “**manufacture**” and substituting the following definition: 30

“‘**manufacture**’ includes all processes in the manufacture of excisable goods and, in relation to beer, includes the provision to the public at particular premises of commercial facilities and equipment for use in the production of beer at those premises;”;

(b) by inserting in subsection (1) the following definition: 35

“‘**beer**’ means any liquor on which, under the name of beer, any duty of excise imposed by the Parliament is payable;”;

(c) by inserting in subsection (1) the following definitions:

“ ‘**condensate**’ means either:

(a) liquid petroleum; or

(b) a substance:

5 (i) that is derived from gas associated with oil production;
and

(ii) that is liquid at standard temperature and pressure;

‘**liquid petroleum**’ is a mixture of hydrocarbons:

(a) that is produced from gas wells; and

10 (b) that is liquid at standard temperature and pressure after
recovery in surface separation facilities;

but does not include a substance referred to in paragraph (b) of the
definition of condensate;

15 ‘**standard temperature and pressure**’ means a temperature
of 20° centigrade and a pressure of one standard atmosphere;”.

Insertion of new section

11. After section 4 of the Principal Act the following section is inserted:

Act not to apply so as to exceed Commonwealth power

20 “4AAA.(1) Unless the contrary intention appears, if a provision of this
Act:

(a) would, apart from this section, have an invalid application; but

(b) also has at least one valid application;

it is the Parliament’s intention that the provision is not to have the invalid
application, but is to have every valid application.

25 “(2) Despite subsection (1), the provision is not to have a particular valid
application if:

30 (a) apart from this section, it is clear, taking into account the provision’s
context and the purpose or object underlying the Act, that the
provision was intended to have that valid application only if every
invalid application, or a particular invalid application, of the
provision had also been within the Commonwealth’s legislative
power; or

35 (b) the provision’s operation in relation to that valid application would
be different in a substantial respect from what would have been its
operation in relation to that valid application if every invalid
application of the provision had been within the Commonwealth’s
legislative power.

“(3) Subsection (2) does not limit the cases where a contrary intention
may be taken to appear for the purposes of subsection (1).

“(4) This section applies to a provision of this Act, whether enacted before, at or after the commencement of this section.

“(5) In this section:

‘**application**’ means an application in relation to:

- (a) one or more particular persons, things, matters, places, circumstances or cases; or
- (b) one or more classes (however defined or determined) of persons, things, matters, places, circumstances or cases;

‘**invalid application**’, in relation to a provision, means an application because of which the provision exceeds the Commonwealth’s legislative power; 10

‘**valid application**’, in relation to a provision, means an application that, if it were the provision’s only application, would be within the Commonwealth’s legislative power.”.

Liability to pay duty 15

12. Section 54 of the Principal Act is amended by adding at the end the following subsection:

“(2) If the manufacture of beer involves, in whole or in part, the provision to the public at particular premises of commercial facilities and equipment for use in the production of beer at those premises, then, despite subsection (1), only the person who provides those facilities and equipment at those premises is liable to pay excise duty on the beer.”. 20

Definitions

13. Section 77A of the Principal Act is amended by omitting the definition of “beer”. 25

Insertion of new Part

14. After Part VIIA of the Principal Act the following Part is inserted:

“PART VIIB—SPECIAL PROVISIONS RELATING TO BLENDED PETROLEUM PRODUCTS

Definitions 30

“77G. In this Part, unless the contrary intention appears:

‘**blended petroleum product**’ means the product of the blending of a petroleum product (including a petroleum product that is itself a blended petroleum product) with another substance or other substances, whether that other substance or those other substances are petroleum products or not; 35

‘**excisable blended petroleum product**’ means a blended petroleum product that is not an exempt blended petroleum product;

‘exempt blended petroleum product’ means a blended petroleum product that is exempt under section 77J;

‘petroleum product’ means:

- 5 (a) any excisable goods classified to item 11 or 12 or to sub-item 17(A) or 17(B) of the Schedule to the *Excise Tariff Act 1921*; or
- (b) any imported goods that would be classified to item 11 or 12 of that Schedule if they were produced in Australia.

Blending is to be treated as manufacture

10 “77H.(1) For greater certainty so far as concerns the application of the provisions of this Act, petroleum blending to produce an excisable blended petroleum product is taken to constitute the manufacture of that excisable blended petroleum product.

15 “(2) Subsection (1) does not imply that, in the absence of such a provision, the blending of substances (whether petroleum products or not) would not constitute the manufacture of the substance produced by the blending.

Exempt blended petroleum products

“77J.(1) For the purposes of this Part, a blended petroleum product is an exempt blended petroleum product if:

- 20 (a) it is made by a person who is not a statutory blender; or
- (b) it is declared by the regulations to be an exempt blended petroleum product.

25 “(2) For the purposes of subsection (1) but subject to subsection (3), a person is a statutory blender if that person, or another person acting on that person’s behalf, produces, or has, at any time after this section commences, produced, in the aggregate:

- (a) more than 300 litres of blended petroleum products on any day; or
- (b) more than 600 litres of blended petroleum products during any continuous period of 30 days; or
- 30 (c) more than 3,000 litres of blended petroleum products during any continuous period of 12 months.

“(3) In determining whether, at a particular time, a person is a statutory blender for the purposes of subsection (1), any blending done by or on behalf of the person:

- 35 (a) after this section commences; and
- (b) more than 12 months before that time;
- is to be disregarded.

“(4) For the purposes of subsection (2), a blended petroleum product does not include a blended petroleum product that is declared, by regulations made for the purposes of paragraph (1)(b), to be an exempt blended petroleum product.

“(5) The regulations may provide that, with effect from a day specified 5 in the regulations, subsection (2) has effect as if there were substituted for a volume specified in paragraph (2)(a), (b) or (c) such greater volume as is specified in the regulations.

Crude oil and condensate may attract more than one excise duty

“77K. The fact that excise duty attaches to stabilised crude petroleum oil 10 or to condensate consisting of liquid petroleum under item 17 of the Schedule to the *Excise Tariff Act 1921* does not prevent further excise duty attaching to that oil or that condensate under item 11 of that Schedule.”

Remissions, rebates and refunds

15. Section 78 of the Principal Act is amended by adding at the end the 15 following subsections:

“(3) If:

(a) a person uses stabilised crude petroleum oil classified to paragraph 11(H)(2) of the Schedule to the *Excise Tariff Act 1921* or condensate classified to paragraph 11(J)(2) of that Schedule in substitution for 20 an excisable petroleum product classified to sub-item 11(A), 11(B), 11(C), 11(D) or 11(E) of that Schedule in particular circumstances; and

(b) a remission, rebate or refund of excise duty is allowed under subsection (1) in respect of that last-mentioned excisable petroleum 25 product in those circumstances;

this section, and the regulations made for the purposes of this section, have effect as if that oil or condensate were that last-mentioned excisable petroleum product.

“(4) Without limiting the generality of subsection (1) or (3) or the scope 30 of the regulations that may be made for the purposes of subsection (1), if the Comptroller is satisfied that:

(a) stabilised crude petroleum oil classified to paragraph 11(H)(2) of the Schedule to the *Excise Tariff Act 1921*; or

(b) condensate classified to paragraph 11(J)(2) of that Schedule; 35 has been produced, or distributed, for use (the ‘**substituted use**’) otherwise than as a fuel in an internal combustion engine, the person who is liable to pay excise duty on that stabilised crude petroleum oil or condensate because it is classified to that paragraph is entitled to a remission of duty.

“(5) The amount of the remission allowed in respect of excise duty payable under item 11 of the Schedule to the *Excise Tariff Act 1921* on that stabilised crude petroleum oil or that condensate is an amount worked out under the formula:

$$\text{Volume} \times [\text{Primary rate} - \text{Substituted use rate}]$$

5 where:

‘Volume’ means the volume of that stabilised crude petroleum oil or of the condensate;

‘Primary rate’ means:

10 (a) so far as stabilised crude petroleum oil is concerned—the rate of excise duty applicable to goods classified to paragraph 11(H)(2) of that Schedule; and

(b) so far as condensate is concerned—the rate of excise duty applicable to goods classified to paragraph 11(J)(2) of that Schedule;

15 ‘Substituted use rate’ means, so far as both stabilised crude petroleum oil and condensate are concerned:

(a) if the substituted use is use as fuel oil, heating oil, lighting kerosene or power kerosene—the rate of excise duty applicable to goods classified to paragraph 11(E)(3) of that Schedule; and

(b) if the substituted use is any other use—Free.”.

20 Insertion of new section

16. After section 78 of the Principal Act the following section is inserted:

Payments to certain naphtha producers

25 “78AAAA.(1) A person who produces naphtha from shale mined in Australia may, subject to this section and to the regulations, apply in writing to the Comptroller for payment of amounts in respect of the naphtha so produced worked out by reference to the amount of excise duty payable on the volume of unleaded gasoline that can be obtained from that naphtha.

“(2) A person is not entitled to a payment under subsection (1):

30 (a) unless the naphtha is produced at a plant that is approved by the Minister for Primary Industries and Energy for the purposes of this section; or

(b) in respect of naphtha produced before the plant is approved or after 31 December 2005.

35 “(3) A person is not entitled, in any calendar year, to a payment under subsection (1) in respect of any naphtha produced by that person at an approved plant that exceeds the volume of naphtha required to produce 95,392.2 kilolitres of unleaded gasoline.

“(4) Without limiting the generality of subsection (1), regulations made for the purpose of that subsection must set out:

- (a) the circumstances in which, and the conditions subject to which, an approval of such a plant will be granted; and
- (b) the manner of working out the volume of unleaded gasoline that can be obtained from a volume of naphtha; and 5
- (c) the manner of applying to the Comptroller for a payment under subsection (1); and
- (d) the conditions and restrictions to which a payment under subsection (1) is subject. 10

“(5) A power conferred on the Minister for Primary Industries and Energy, the Comptroller or any other person by this section or by regulations made for the purposes of this section must not be exercised in such a manner that payments to naphtha producers under this section would not be uniform throughout the Commonwealth within the meaning of paragraph 51(iii) of the Constitution. 15

“(6) In this section:

‘**unleaded gasoline**’ means the petroleum product that would be classified to subparagraph 11(A)(3)(c) of the Schedule to the *Excise Tariff Act 1921*.”.

Rebate of duty in respect of diesel fuel used for certain purposes 20

17. Section 78A of the Principal Act is amended:

(a) by inserting after subsection (4AA) the following subsection:

“(4AB) If an application for rebate in respect of diesel fuel is received under paragraph (4AA)(d) on or after 1 January 1994, rebate is payable only in respect of diesel fuel purchased within 25 3 years before that application is so received.”;

(b) subsection (4A) is amended by omitting all the words after “those regulations” and substituting “may provide that, subject to subsection (4B), rebate is not payable to a person in respect of diesel fuel purchased by the person unless, when the application for the 30 rebate is given to a Collector, the applicant gives the Collector a document of a kind, containing information of a kind, prescribed by the regulations.”;

(c) by inserting after subsection (4C) the following subsection:

“(4D) If a person who has applied for rebate under this section is to be paid rebate in respect of some or all the diesel fuel to which the application relates, the Collector must inform the person in writing: 35

- (a) of the amount of rebate payable to the person under the application; and

(b) if an amount is to be set off against that amount, under section 80A, in respect of the administration charge payable under the *Diesel Fuel (Excise Duty Rebate) Administration Charge Act 1993* in respect of that application—of the amount of the set-off.”.

(d) by omitting subsections (5), (5A), (5AA), (5AB) and (5B) and substituting the following subsection:

“(5) The rebate payable to a person is payable at the rebate rate in force on the day that the application for that rebate is received, worked out in accordance with section 78AAB.”.

Insertion of new section

18. After section 78AA of the Principal Act the following section is inserted:

Payment of administration charge

“78AAA.(1) If:

- (a) a person has applied for rebate under section 78A; and
- (b) the person is paid rebate in respect of some or all of the diesel fuel to which the application relates;

the person must, within 30 days after receiving the rebate, pay to the Comptroller, on behalf of the Commonwealth, the administration charge payable in respect of the application under the *Diesel Fuel (Excise Duty Rebate) Administration Charge Act 1993* unless that charge has already been set off against the rebate under section 80A.

“(2) If:

- (a) a person fails to pay the administration charge payable in respect of an application for rebate within 30 days after receiving the rebate; and
- (b) the administration charge has not been set off against the rebate under section 80A;

the administration charge may be recovered in a court of competent jurisdiction as a debt due to the Commonwealth.”.

Insertion of new section

19. Before section 78AB of the Principal Act the following section is inserted:

Rebate rate

Definition

“78AAB.(1) In this section:

‘rebate period’ means the 12 months starting on 1 February 1994 and each following 12 months.

Rebate rate for diesel fuel used in primary production

“(2) With effect from the first day of a rebate period, the rate at which rebate is payable to a person who purchases diesel fuel for use in a manner referred to in paragraph 78A(1)(aa) is a rate equal to the rate of duty applying to diesel fuel under paragraph 11(E)(2) of the Schedule to the *Excise Tariff Act 1921* immediately before the start of that period, increased, where appropriate, in accordance with subsection (3). 5

Rebate rate for diesel fuel used in primary production—progressive monthly increases for rebate period starting on 1 February 1994

“(3) With effect from the first day of each month in the rebate period starting on 1 February 1994, the rebate rate referred to in subsection (2), or that rate as further increased under this subsection is progressively increased: 10

- (a) in respect of each month other than the months starting on 1 July 1994 and 1 January 1995—by \$0.00167 per litre; and
- (b) in respect of the months starting on 1 July 1994 and 1 January 1995—by \$0.00165 per litre. 15

Rebate rate for diesel fuel used in mining operations

“(4) The rate at which rebate is payable at any time to a person who purchases diesel fuel for use in a manner referred to in paragraph 78A(1)(a) is equal to the rate at which rebate would be payable at that time to the person if the fuel had been purchased for use in a manner referred to in paragraph 78A(1)(aa), reduced by \$0.02388 per litre. 20

Rebate rate for diesel fuel used for certain other purposes

“(5) The rate at which rebate is payable at any time to a person who purchases diesel fuel for use in a manner referred to in paragraph 78A(1)(b), (c) or (d) is equal to the rate at which rebate would be payable at that time to the person if the fuel had been purchased for use in a manner referred to in paragraph 78A(1)(aa), reduced by \$0.07057 per litre. 25

Deferral of some increases

“(6) If the reference in subsection 6A(4) of the *Excise Tariff Act 1921* to the first day of a 6 month period starting on 1 February 1994 or 1 August 1994 is to be read, under section 6A of that Act, as a reference to a later day in February or a later day in August of that year, the progressive increase that subsection (3) provides for with effect from the first day of February or August of that year does not take effect until that later day in that month.”. 35

Diesel fuel rebate scheme set-offs

20. Section 80A of the Principal Act is amended:

- (a) by omitting subsection (1) and substituting the following subsections:

“(1) Subject to subsection (3), if:

(a) at any time a person is liable :

(i) to repay to the Commonwealth an amount under subsection 78A(2) or 80(2) in respect of a rebate of duty paid in relation to diesel fuel; or

(ii) to pay to the Commonwealth an amount of administration charge under the *Diesel Fuel (Excise Duty Rebate) Administration Charge Act 1993* in respect of an application for rebate of duty paid in relation to diesel fuel; and

(b) at the same time, the Commonwealth is liable to pay an amount to that person under section 78A;

the Comptroller may, by written notice to the person, set off the amount referred to in paragraph (a) against the amount referred to in paragraph (b).

“(1A) If the Comptroller does so, then, with effect from the day the notice issues:

(a) if one amount is greater than the other—the lesser amount is taken to have been paid in full and the greater amount is taken to have been paid to the extent of the lesser amount; and

(b) if both amounts are equal—both amounts are taken to have been paid in full.”;

(b) by omitting from paragraph (3)(a) “shall have no effect” and substituting “does not permit the set-off of that amount against the amount of the rebate”;

(c) by omitting from paragraph (3)(b) “shall thereupon have effect only in respect” and substituting “permits the set-off only”.

Insertion of new section

21. After section 80A of the Principal Act the following section is inserted:

Extension of diesel fuel rebate scheme in certain circumstances

“80B.(1) In this section:

‘**diesel fuel rebate scheme**’ means the scheme for the provision of rebate in relation to excise duty paid on diesel fuel that is set out in sections 78A, 78AA, 78AAA, 78AAB, 78AB, 80 and 80A.

“(2) If an excisable blended petroleum product is not constituted, in whole or in part, by:

(a) goods referred to in paragraph 11(A)(3) or 11(C)(2) of the Schedule to the *Excise Tariff Act 1921*; or

(b) a blended petroleum product that is itself constituted, in whole or in part, by goods referred to in paragraph (a);

then, for the purposes of the diesel fuel rebate scheme, this Act has effect as if the excisable blended petroleum product were diesel fuel.

“(3) If stabilised crude petroleum oil classified to paragraph 11(H)(2) of 5 the Schedule to the *Excise Tariff Act 1921*:

(a) is not included in an excisable blended petroleum product; and

(b) is not oil in respect of which there is an entitlement to a remission under subsection 78(3);

then, for the purposes of the diesel fuel rebate scheme, this Act has effect as 10 if that stabilised crude petroleum oil were diesel fuel.”

NOTES

1. No. 6, 1901, as amended. For previous amendments, see No. 21, 1906; Nos. 9 and 36, 1910; No. 19, 1914, No. 10, 1916; No. 41, 1920; No. 19, 1922; No. 12, 1923; No. 22, 1925; No. 6, 1930; Nos. 7 and 45, 1934; No. 7, 1935; No. 85, 1936; No. 54, 1947; No. 45, 1949; Nos. 56 and 80, 1950; No. 56, 1951; No. 108, 1952; No. 47, 1953; No. 66, 1954; No. 37, 1957; No. 54, 1959; Nos. 42 and 111, 1960; No. 48, 1963; Nos. 29, 82 and 133, 1965; No. 28, 1966; No. 54, 1967; Nos. 14 and 104, 1968; Nos. 12 and 134, 1971; Nos. 162 and 216, 1973; Nos. 28 and 120, 1974; Nos. 56, 77 and 107, 1975; Nos. 41, 91 and 174, 1976; No. 154, 1977; Nos. 36 and 183, 1978; Nos. 92, 116, 177 and 180, 1979; Nos. 13, 15, 110 and 171, 1980; Nos. 45, 64, 67, 152 and 157, 1981; Nos. 48, 51, 80, 81, 115 and 137, 1982; Nos. 19, 39 and 101, 1983; Nos. 2, 22, 63, 72 and 165, 1984; Nos. 39, 40 and 175, 1985; Nos. 10, 34 and 149, 1986; Nos. 51, 76, 81, 104 and 141, 1987; Nos. 63, 66 and 76, 1988; Nos. 23, 24, 79, 108 and 174, 1989; Nos. 5, 6, 11, 70, 79 and 111, 1990; Nos. 28, 82, 120 and 123, 1991; and Nos. 34, 89, 104, 164, 207, 209, 210 and 221, 1992 and No. 00, 1993.
2. No. 9, 1901, as amended. For previous amendments, see No. 26, 1918; No. 8, 1923; No. 44, 1934; No. 16, 1942; No. 88, 1947; No. 46, 1949; No. 55, 1952; No. 10, 1957; No. 49, 1958; No. 37, 1962; No. 49, 1963; No. 139, 1965; No. 93, 1966; Nos. 15 and 105, 1968; No. 23, 1972; Nos. 24 and 145, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 29, 1974; No. 91, 1976; No. 110, 1978; Nos. 11 and 50, 1979; No. 42, 1980; Nos. 61 and 65, 1981; Nos. 51, 80 and 108, 1982; No. 81, 1982 (as amended by No. 39, 1983); Nos. 39 and 101, 1983; Nos. 72 and 165, 1984; Nos. 39 and 175, 1985; No. 40, 1985 (as amended by No. 34, 1986); Nos. 10, 34 and 149, 1986; Nos. 81 and 104, 1987; No. 99, 1988; Nos. 23, 24 and 78, 1989; Nos. 5 and 11, 1990; No. 80, 1991; and Nos. 34 and 104, 1992.