

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Presented and read a first time

(Industry, Science and Technology)

**CUSTOMS AND EXCISE LEGISLATION AMENDMENT BILL
(NO. 2) 1995**

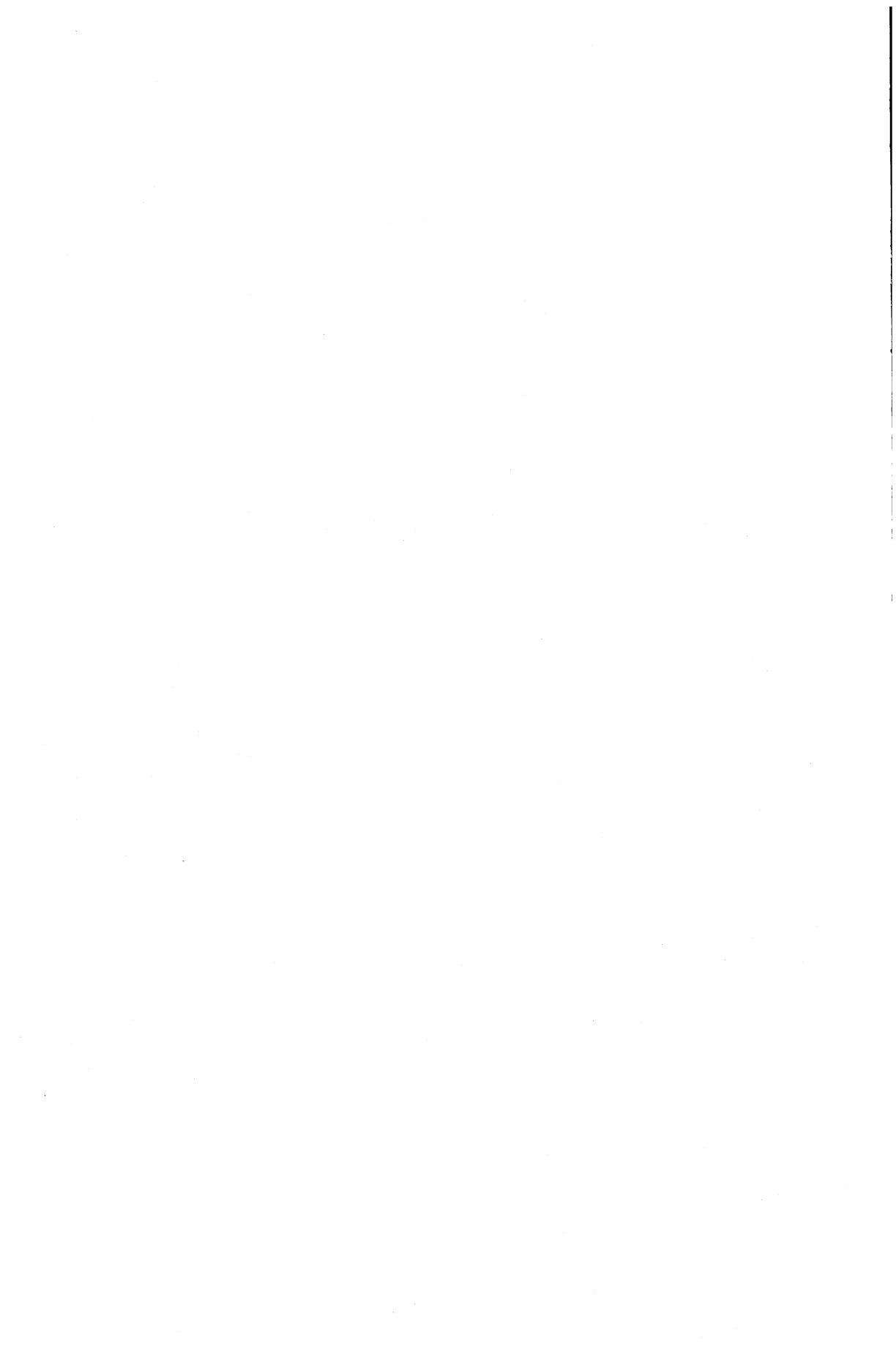
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**AMENDMENTS OF THE CUSTOMS AND EXCISE LEGISLATION
AMENDMENT ACT 1995**



1993-94-95

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A BILL

FOR

An Act to amend the *Customs and Excise Legislation Amendment Act 1995*

The Parliament of Australia enacts:

Short title

1 This Act may be cited as the *Customs and Excise Legislation Amendment Act (No. 2) 1995*.

5 Commencement

2 This Act is taken to have commenced on 1 July 1995.

*Customs and Excise Legislation
Amendment (No. 2) No. , 1995*

Schedule

3. The *Customs and Excise Legislation Amendment Act 1995* is amended as set out in the Schedule.

SCHEDULE

Section 3

**AMENDMENTS OF THE CUSTOMS AND EXCISE LEGISLATION
AMENDMENT ACT 1995**

1. Subsection 2(2):

Omit "items 7 and 10", substitute "items 7, 10 and 11".

2. Subsection 2(3):

(a) After "Item 1," insert "3, 3A,".

(b) Omit "and Item 9", substitute "and items 8, 9 and 11A".

(c) Omit "1 July 1995", substitute "the day on which this Act receives the Royal Assent".

3. Paragraph 5(2)(b):

Omit the paragraph, substitute:

"(b) a rebate application made by a person in respect of diesel fuel purchased by the person for use by the person in a mining operation:

(i) that is referred to in a paragraph of the definition of *mining operations* other than paragraph (d), (e), (f), (g), (h) or (i); and

(ii) that relates to sand, sandstone, soil, slate, clay (other than bentonite or kaolin), basalt, granite, gravel or limestone; or

(c) an application made to the Administrative Appeals Tribunal in relation to a rebate application referred to in paragraph (a) or (b).".

4. Subsection 5(3):

Omit the subsection, substitute:

"(3) If a person purchased diesel fuel before the day on which this Act receives the Royal Assent for use by the person at residential premises in an activity referred to in subparagraph (2)(a)(i), (ii) or (iii):

(a) the person may make a rebate application in respect of the duty paid on that fuel; and

(b) if that application is not made, or finally decided, before that day then, for all purposes connected with the making and deciding of that application and making any necessary payment of rebate, the *Customs Act 1901* and the *Excise Act 1901* have effect as if the amendments set out in items 1, 4, 5 and 9 of Schedule 1, and Schedule 2, had not been made; and

(c) the person is not entitled to make an application for rebate in respect of that fuel otherwise than in accordance with paragraphs (a) and (b).

"(3A) If a person purchased diesel fuel before the day on which this Act receives the Royal Assent for use by the person in a mining operation:

Customs and Excise Legislation
Amendment (No. 2) No. , 1995

SCHEDULE—continued

- (a) that is referred to in a paragraph of the definition of *mining operations* other than paragraph (d), (e), (f), (g), (h) or (i); and
- (b) that relates to sand, sandstone, soil, slate, clay (other than bentonite or kaolin), basalt, granite, gravel or limestone;

that:

- (c) the person may make a rebate application in respect of the duty paid on that fuel; and
- (d) if that application is not made, or finally decided, before that day then, for all purposes connected with the making and deciding of that application and making any necessary payment of rebate, the *Customs Act 1901* and the *Excise Act 1901* have effect as if the amendment set out in item 6 (in so far as that item refers to sand, sandstone, soil, slate, clay (other than bentonite or kaolin), basalt, granite, gravel or limestone) of Schedule 1 had not been made; and
- (e) the person is not entitled to make an application for rebate in respect of that fuel otherwise than in accordance with paragraphs (c) and (d).”.

5. After subsection 5(4):

Insert:

“(4A) Subsection (4) does not apply in relation to a rebate application made by a person in respect of diesel fuel purchased by the person for use by the person in a mining operation:

- (a) that is referred to in a paragraph of the definition of *mining operations* other than paragraph (d), (e), (f), (g), (h) or (i); and
- (b) that relates to sand, sandstone, soil, slate, clay (other than bentonite or kaolin), basalt, granite, gravel or limestone.”.

6. Item 1 of Schedule 1:

Omit the item, substitute:

“1. Paragraph 164(1)(b):

Omit ‘at residential premises’, substitute ‘at residential premises to generate electricity for use’.”.

7. Item 2 of Schedule 1 (paragraph (l) of the proposed definition of *agriculture*):

Omit “first-mentioned agricultural activity”, substitute “first-mentioned activity”.

SCHEDULE—continued

8. Item 2 of Schedule 1 (paragraph (p) of the proposed definition of *agriculture*):

Omit “and silage pits”, substitute “or silage pits”.

9. Item 2 of Schedule 1 (note to the proposed definition of *agriculture*):

Omit the note, substitute:

“Note: The agricultural activities referred to in paragraph (i), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v) or (y) are given an expanded meaning by subsection (8).”.

10. After item 3 of Schedule 1:

Insert:

“3A. Note to the definition of *agriculture*:

After “(1),” insert “(1a),”.

11. Item 5 of Schedule 1:

Omit the item, substitute:

“5. Subsection 164(7) (paragraph (zd) of the definition of *agriculture*):

Insert ‘or paragraph (zba)’ after ‘any one of paragraphs (a) to (za)’.”.

12. Item 7 of Schedule 1 (paragraph (a) of the proposed definition of *mining operations*):

Omit the paragraph, substitute:

“(a) exploration, prospecting, the removal of overburden or other activities undertaken in the preparation of a site to enable mining to commence, or mining for minerals; or”.

13. Item 8 of Schedule 1:

Omit the item, substitute:

“8. Subsection 164(7) (paragraph (k) of the definition of *mining operations*):

Omit the paragraph, substitute:

‘(k) the rehabilitation of a place affected by a mining operation referred to in paragraph (a) or (b) if the rehabilitation is carried out by:

- (i) the person who carried on the mining operation; or
- (ii) a person contracted by that person to carry out the rehabilitation; or’.”.

SCHEDULE—continued

14. Item 10 of Schedule 1:

After the proposed definition of *agricultural activity* insert:

“*approved catchment area* means an area:

- (a) in respect of which a soil or water conservation plan has been adopted by the persons who carry on core agricultural activities within that area; or
- (b) in respect of which a soil or conservation agreement has been made between the persons who carry on core agricultural activities within that area.”.

15. Item 10 of Schedule 1 (proposed definition of *mining town*):

- (a) Insert “principally” before “to house employees”.
- (b) Omit “principally administered”, substitute “administered”.

16. Item 11 of Schedule 1 (proposed subsection 164(8)):

- (a) Omit “(h)”, substitute “(i)”.
- (b) After “(s)” insert “(t),”.

17. After item 11 of Schedule 1:

Insert:

“11A. Subsection 164(8):

After ‘(l),’ insert ‘(la),’.”.

18. Item 1 of Schedule 2:

Omit the item, substitute:

“1. Paragraph 78A(1)(b):

Omit ‘at residential premises’, substitute ‘at residential premises to generate electricity for use’.”.







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