

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 9 November 1983

(Minister Assisting the Minister for Industry and Commerce)

A BILL

FOR

An Act to amend the *Excise Tariff Act 1921*

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 **1. (1)** This Act may be cited as the *Excise Tariff Amendment Act (No. 2) 1983*.

(2) The *Excise Tariff Act 1921*¹ is in this Act referred to as the Principal Act.

Commencement

10 **2. (1)** Sections 1, 2 and 3 shall come into operation on the day on which this Act receives the Royal Assent.

(2) Sections 4, 5 and 8 shall be deemed to have come into operation on 1 July 1983.

15 **(3)** Section 6 shall be deemed to have come into operation at the hour of 8 o'clock in the evening by standard time in the Australian Capital Territory on 23 August 1983.

(4) Section 7 shall be deemed to have come into operation on 9 September 1983.

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

Indexation of rates of duty

“6A. (1) In this section, unless the contrary intention appears— 5

‘index number’, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Statistician in respect of that quarter;

‘relevant period’ means the period of 6 months commencing on 1 February 1984, and each subsequent period of 6 months; 10

‘relevant rate’ means a rate of duty (other than the rate ‘Free’) specified in an item in the Schedule other than items 17 and 20;

‘Statistician’ means the Australian Statistician.

“(2) Subject to sub-section (3), if at any time, whether before or after the commencement of this section, the Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by him in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section. 15

“(3) If at any time, whether before or after the commencement of this section, the Statistician has changed or changes the reference base for the consumer price index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base. 20

“(4) Subject to sub-section (6), where the factor ascertained in relation to a relevant period in accordance with sub-section (5) is greater than 1, this Act has effect as if for each relevant rate there were substituted, on the first day of that period— 25

(a) subject to paragraph (b)—a rate of duty calculated by multiplying by that factor—

(i) in a case to which sub-paragraph (ii) does not apply—the relevant rate; or 30

(ii) if, by virtue of another application or several other applications of this section, this Act has had effect as if another rate of duty were substituted, or other rates of duty were successively substituted, for the relevant rate—the substituted rate of duty or the last substituted rate of duty, as the case may be; or 35

(b) where the rate of duty so calculated in respect of an item, sub-item, paragraph or sub-paragraph in the Schedule (in this paragraph referred to as the ‘prescribed rate’) has more decimal places than the number of decimal places (in this paragraph referred to as the ‘relevant number of decimal places’) in the rate of duty specified in that item, sub-item, paragraph or sub-paragraph, as the case may be, immediately before the commencement of this section— 40

- (i) if the prescribed rate calculated to one more decimal place than the relevant number of decimal places would end in a number less than or equal to 4—a rate of duty equal to the prescribed rate calculated to the relevant number of decimal places; or
- 5 (ii) if the prescribed rate calculated to one more decimal place than the relevant number of decimal places would end in a number greater than 4—a rate of duty equal to the prescribed rate calculated to the relevant number of decimal places increased by—
- 10 (A) in a case where the relevant number of decimal places is 2—0.01;
- (B) in a case where the relevant number of decimal places is 3—0.001;
- 15 (C) in a case where the relevant number of decimal places is 4—0.0001; and
- (D) in a case where the relevant number of decimal places is 5—0.00001.

“(5) The factor to be ascertained for the purposes of sub-section (4) in relation to a relevant period—

- 20 (a) is the number, calculated to 3 decimal places, ascertained—
- (i) if the relevant period commences on 1 February—by dividing the index number for the last preceding December quarter by the index number for the last preceding June quarter; or
- 25 (ii) if the relevant period commences on 1 August—by dividing the index number for the last preceding June quarter by the index number for the last preceding December quarter; or
- (b) if the number so ascertained would, if it were calculated to 4 decimal places, end in a number greater than 4—is the number so ascertained increased by 0.001.

30 “(6) If an index number necessary for the calculation of the factor to be ascertained in relation to a relevant period in accordance with sub-section (5) is not published by the Statistician more than 7 days before the first day of the period—

- 35 (a) the Minister shall, as soon as practicable after the index number is published by the Statistician (but not earlier than the first day of the period), publish a notice in the *Gazette* stating that—
- (i) the index number was not published by the Statistician more than 7 days before the first day of the current relevant period; and
- 40 (ii) the index number has now been published and is to commence to have effect, for the purposes of this section, on the day on which the notice is published in the *Gazette*; and
- (b) sub-section (4) shall have effect in relation to the period as if the reference in that sub-section to the first day of the period were a

reference to the day immediately following the day on which the notice was published in the *Gazette*.

“(7) Where by virtue of the application of this section, this Act has effect as if another rate of duty were substituted for a relevant rate on a particular day, the substitution, in so far as it affects duty payable in relation to goods, has effect in relation to goods entered for home consumption on or after that day.

“(8) Where, by virtue of the application of this section, this Act is to have effect as if another rate of duty (in this sub-section referred to as a ‘substituted rate’) were substituted for a relevant rate on a particular day, the Minister shall, on or as soon as practicable after that day, publish for the information of the public a notice in the *Gazette* advertising the substituted rates and goods to which they are to apply.”

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

Duties of excise on certain crude petroleum oil

“6B. (1) In this section—

‘financial year’ means a period of 12 months commencing on 1 July;

‘Import Parity Price’ means \$229.85 per kilolitre or such other amount per kilolitre as the Minister for Resources and Energy determines under sub-section (11) to be the Import Parity Price of Bass Strait stabilized crude petroleum oil;

‘prescribed division’, in relation to a financial year, means one of 36 divisions of that year of approximately equal length prescribed by Departmental By-laws;

‘prescribed production area’ means a petroleum production area prescribed by Departmental By-laws;

‘relevant oil’ means stabilized crude petroleum oil in respect of which paragraph 17 (A) (2) in the Schedule applies.

“(2) The amount of duty in respect of relevant oil ascertained in accordance with this section shall be ascertained by reference to the prescribed production area from which the oil is produced and to the prescribed division of a financial year during which the oil is entered for home consumption.

“(3) The amount of duty in respect of relevant oil produced from a particular prescribed production area and entered for home consumption during a particular prescribed division of a financial year is the difference (if any) between—

(a) the amount of notional duty in respect of relevant oil produced at that production area and entered for home consumption during the period commencing on the commencement of that financial year and ending on the expiration of that prescribed division; and

(b) the amount of duty (if any) paid in respect of the relevant oil produced from that production area and entered for home consumption during that period.

“(4) The amount of notional duty in respect of relevant oil produced at a particular prescribed production area and entered for home consumption during a particular period is the sum of the amounts of notional duty in respect of—

- 5 (a) the quantity (if any) of the oil that exceeds $A \times B$ but does not exceed $A \times 2B$;
- (b) the quantity (if any) of the oil that exceeds $A \times 2B$ but does not exceed $A \times 4B$;
- 10 (c) the quantity (if any) of the oil that exceeds $A \times 4B$ but does not exceed $A \times 6B$;
- (d) the quantity (if any) of the oil that exceeds $A \times 6B$ but does not exceed $A \times 8B$;
- (e) the quantity (if any) of the oil that exceeds $A \times 8B$ but does not exceed $A \times 10B$;
- 15 (f) the quantity (if any) of the oil that exceeds $A \times 10B$ but does not exceed $A \times 12B$;
- (g) the quantity (if any) of the oil that exceeds $A \times 12B$,

where—

A is the number of days in the period;

20 B is—

- (a) where the period is in a year in which there are 365 days—136.98630 kilolitres; or
- (b) where the period is in a year in which there are 366 days—136.61202 kilolitres.

25 “(5) Subject to sub-sections (6) and (9), the amount of notional duty in respect of a quantity of oil referred to in sub-section (4) is an amount equal to the relevant percentage of the product of—

- (a) the amount specified in the Import Parity Price; and
- (b) the number of kilolitres in that quantity,

30 calculated to the nearest cent.

“(6) Where a variation of the Import Parity Price has occurred, or variations of the Import Parity Price have occurred, during a financial year, the amount of the notional duty in respect of a quantity of oil referred to in sub-section (4) produced at a particular prescribed production area and entered for home consumption during a period in that year (in this section referred to as the ‘relevant period’) is an amount equal to the relevant

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percentage of the sum of the amounts calculated in respect of each Import Parity Price in operation during that period in accordance with the formula—

$$\frac{C \times D \times E}{F}$$

where—

C is the amount specified in the Import Parity Price; 5

D is the number of kilolitres in the quantity;

E is the number of kilolitres of relevant oil produced at that production area and entered for home consumption after the commencement of the relevant period or the day on which the Import Parity Price was determined (whichever occurred last) and before the end of the relevant period or the day on which another Import Parity Price was determined (whichever occurred first); 10

F is the number of kilolitres of relevant oil produced at that production area and entered for home consumption during the relevant period. (

“(7) For the purposes of sub-sections (5) and (6), the relevant percentage in relation to a quantity of oil referred to in sub-section (4) is— 15

(a) in the case of a quantity to which paragraph (4) (a) applies—5%;

(b) in the case of a quantity to which paragraph (4) (b) applies—15%;

(c) in the case of a quantity to which paragraph (4) (c) applies—20%;

(d) in the case of a quantity to which paragraph (4) (d) applies—40%; 20

(e) in the case of a quantity to which paragraph (4) (e) applies—70%;

(f) in the case of a quantity to which paragraph (4) (f) applies—80%; and

(g) in the case of a quantity to which paragraph (4) (g) applies—87%.

“(8) For the purposes of sub-sections (5) and (6), the number of kilolitres in a quantity of oil shall be taken to be a number equal to— 25

(a) unless paragraph (b) applies—the number of kilolitres in that quantity calculated to 1 decimal place; or

(b) where the number of kilolitres in that quantity calculated to 2 decimal places ends in a number greater than 4—the number of kilolitres in that quantity calculated to 1 decimal place increased by 0.1. 30

5 “(9) Where no relevant oil produced from a particular prescribed production area was ever entered for home consumption before the expiration of the first prescribed division of a particular financial year, then, in ascertaining, in accordance with sub-sections (4), (5) and (7) or (4), (6) and (7), the notional duty in respect of relevant oil produced from that production area and entered for home consumption during a later prescribed division (in this sub-section referred to as the ‘relevant division’) of that financial year, those sub-sections have effect in relation to the relevant oil as if each reference in a paragraph of sub-section (4) to B were a reference to the product of B and 10 the factor ascertained in accordance with the formula—

$$\frac{G}{H}$$

where—

15 **G** is the number of days in the period commencing on the day on which relevant oil produced from the prescribed production area was first entered for home consumption and ending on the expiration of the relevant division; and

H is the number of days in the period commencing on the first day of the financial year and ending on the expiration of the relevant division.

20 “(10) The words set out after ‘, if higher,’ in the column headed ‘Rate of Duty’ in paragraph 17 (A) (2) in the Schedule shall be deemed, for the purposes of this Act or any other law of the Commonwealth, to be a rate of duty.

25 “(11) The Minister for Resources and Energy may, by instrument published in the *Gazette*, determine, from time to time, the amount per kilolitre that is to be, from the date specified in the notice (not being a date earlier than the date on which the notice is published in the *Gazette*), the Import Parity Price of Bass Strait stabilized crude petroleum oil for the purposes of this section.

“(12) In making a determination under sub-section (11), the Minister for Resources and Energy may have regard to—

- 30 (a) the price, or prices, at which imported stabilized crude oil is sold in Australia;
- (b) the cost of transporting relevant oil within Australia; and
- (c) such other matters as he thinks appropriate.

35 “(13) The provisions of section 48 (other than paragraph (1) (a) and sub-section (2)), 49, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to determinations made under sub-section (11) as if references in those provisions to regulations were references to determinations under sub-section (11).”.

Amendments having effect from 1 July 1983**5. The Schedule to the Principal Act is amended—**

- (a) by omitting sub-items 10 (F), (G) and (H) and substituting the following sub-item:

“(F) Goods, as prescribed by By-law, that are—

- (a) for the official use of an international organization established by agreement between Australia and another country or between Australia and other countries; or

(b) for the official or personal use of an official of an international organization referred to in paragraph (a)”;

- (b) by omitting from sub-paragraph 11 (A) (3) (a) “\$0.04555” and substituting “\$0.06555”;

- (c) by omitting from sub-paragraph 11 (A) (3) (b) “\$0.06155” and substituting “\$0.07155”;

- (d) by omitting from paragraph 11 (D) (2) “\$0.0419” and substituting “\$0.0619”;

- (e) by omitting from sub-item 11 (E) “\$0.06155” and substituting “\$0.07155”;

- (f) by omitting from sub-item 11 (F) “\$0.06155” and substituting “\$0.07155”;

- (g) by omitting from paragraph 17 (B) (2) “\$0.06155” and substituting “\$0.07155”;

- (h) by omitting paragraph 17 (C) (2) and substituting the following paragraph:

“(2) Other—\$48.57 per kilolitre”.

Amendments having effect from 8 p.m. on 23 August 1983**6. The Schedule to the Principal Act is amended—**

- (a) by omitting from item 1 “\$0.60” and substituting “\$0.63”;

- (b) by omitting from sub-item 2 (A) “\$16.00” and substituting “\$16.69”;

- (c) by omitting from sub-item 2 (B) “\$16.00” and substituting “\$16.69”;

- (d) by omitting from sub-item 2 (C) “\$18.75” and substituting “\$19.56”;

- (e) by omitting from sub-item 2 (D) “\$18.75” and substituting “\$19.56”;

- (f) by omitting from paragraph 2 (E) (1) “\$18.75” and substituting “\$19.56”;

- (g) by omitting from paragraph 2 (E) (2) “\$18.75” and substituting “\$19.56”;

- (h) by omitting from sub-item 2 (F) “\$18.75” and substituting “\$19.56”;

- (j) by omitting from sub-item 2 (G) “\$18.75” and substituting “\$19.56”;

- (k) by omitting from sub-item 2 (H) “\$18.75” and substituting “\$19.56”;

- (m) by omitting from sub-item 2 (J) “Free” and substituting “\$1.50 per litre of alcohol”;

- (n) by omitting from sub-item 2 (O) “\$19.25” and substituting “\$20.08”;

- (o) by omitting sub-item 3 (A);
- (p) by omitting sub-item 3 (B);
- (q) by omitting from sub-item 5 (A) "\$18.75" and substituting "\$19.56";
- (r) by omitting from sub-item 5 (B) "\$19.25" and substituting "\$20.08";
- 5 (s) by omitting from sub-item 5 (C) "\$18.75" and substituting "\$19.56";
- (t) by omitting item 6 and substituting the following item:
 "6. Tobacco (other than tobacco delivered under item 8 and item 9A of this Schedule)—\$20.10 per kilogram";
- (u) by omitting item 7 and substituting the following item:
 10 "7. Cigars (other than cigars delivered under item 9A of this Schedule)—\$30.98 per kilogram";
- (v) by omitting item 8 and substituting the following item:
 15 "8. Cigarettes (other than cigarettes delivered under item 9A of this Schedule); fine-cut tobacco suitable for the manufacture of cigarettes (other than goods delivered under item 6 or item 9A of this Schedule)—\$30.98 per kilogram";
- (w) by omitting from item 9 "\$0.88" and substituting "\$0.92";
- (x) by omitting from sub-paragraph 11 (A) (3) (a) "\$0.06555" and substituting "\$0.07358";
- 20 (y) by omitting from sub-paragraph 11 (A) (3) (b) "\$0.07155" and substituting "\$0.09027";
- (z) by omitting from paragraph 11 (B) (3) "\$0.05155" and substituting "\$0.09027";
- 25 (za) by omitting from paragraph 11 (C) (2) "\$0.05155" and substituting "\$0.09027";
- (zb) by omitting sub-item 11 (D) and substituting the following sub-item:
 "11 (D) Kerosene for use in aircraft—\$0.06978 per litre";
- (zc) by omitting sub-item 11 (E) and substituting the following sub-item:
 " (E) Goods, as follows:
- 30 (1) Lighting kerosene \$0.01872 per litre
- (2) Power kerosene \$0.01872 per litre
- (3) Heating oil \$0.01872 per litre
- (4) Fuel oil \$0.01872 per litre
- (5) Automotive diesel oil \$0.09027 per litre
- 35 (6) Industrial diesel fuel \$0.09027 per litre
- (7) Marine diesel fuel \$0.09027 per litre";
- (zd) by omitting from sub-item 11 (F) "\$0.07155" and substituting "\$0.09027";
- (ze) by omitting item 12;
- 40 (zf) by omitting item 14;
- (zg) by omitting item 15;
- (zh) by omitting from item 16 "\$0.44" and substituting "\$0.46"; and

- (zi) by omitting from paragraph 17 (B) (2) “\$0.07155” and substituting “\$0.08655”.

Amendments having effect from 9 September 1983

7. The Schedule to the Principal Act is amended by omitting sub-items 10 (D) and (E). 5

Schedule

8. The Schedule to the *Excise Tariff Act 1921* is amended by omitting paragraph 17 (A) (2) in the Schedule and substituting the following paragraph:

- “(2) Other Free or, if higher, the amount of duty ascertained in accordance with section 6B”. 10

NOTE

1. No. 26, 1921, as amended. For previous amendments, see No. 28, 1924; No. 28, 1926; No. 4, 1928; Nos. 20 and 21, 1933; No. 17, 1936; Nos. 24 and 70, 1938; Nos. 29, 54 and 65, 1939; Nos. 3, 4, 14 and 93, 1948; Nos. 77 and 82, 1949; Nos. 61, 62 and 80, 1950; No. 83, 1952; No. 78, 1953; Nos. 16, 59 and 87, 1956; No. 82, 1957; No. 19, 1958; Nos. 26, 65 and 66, 1959; Nos. 26 and 57, 1960; Nos. 21 and 55, 1961; No. 73, 1962; Nos. 41 and 91, 1963; No. 125, 1964; Nos. 83 and 140, 1965; Nos. 18 and 82, 1967; Nos. 74 and 75, 1968; Nos. 5 and 33, 1969; No. 81, 1970; No. 108, 1971; Nos. 22, 64 and 119, 1972; Nos. 20, 23, 146 and 216, 1973; No. 121, 1974; No. 104, 1975; Nos. 104 and 136, 1977; Nos. 48 and 184, 1978; Nos. 81, 83 and 164, 1979; Nos. 43, 44, 45 and 122, 1980; No. 50, 1981; Nos. 45, 54 and 80, 1982; and No. 27, 1983.

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