

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time

(Industry, Technology and Regional Development)

A BILL

FOR

An Act relating to duties of excise

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Excise Tariff Amendment Act (No. 2) 1993*.

5 **(2)** In this Act, “**Principal Act**” means the *Excise Tariff Act 1921*¹.

Commencement

2.(1) Sections 1 and 2 and paragraphs 6(b), (h) and (j) commence on the day on which this Act receives the Royal Assent.

(2) Sections 3, 4 and 5 and paragraphs 6(e), (f), (g) and (i) commence on the day on which sections 14, 15 and 21 of the *Customs and Excise Legislation Amendment Act 1993* commence.

(3) Paragraph 6(a) commences on the day on which sections 10 and 12 of the *Customs and Excise Legislation Amendment Act 1993* commence. 5

(4) Paragraphs 6(c) and (d) commence on the day on which section 16 of the *Customs and Excise Legislation Amendment Act 1993* commences.

Definitions

3. Section 3 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definition: 10

“‘fuel oil’ means a petroleum product, whether obtained through a process of blending or otherwise, that has the physical characteristics described in subsection (4);”;

(b) by adding at the end the following subsections:

“(4) The physical characteristics of fuel oil are: 15

(a) a density equal to or exceeding 0.900 at 15° centigrade as determined by ASTM 1298; or

(b) a density of less than 0.900 at 15° centigrade as determined by ASTM 1298; and:

(i) a maximum cetane index of 35 as determined by ASTM 20 D976; or

(ii) in respect of the heaviest 10% of a particular volume of fuel tested, a minimum value of 0.35% mass of carbon residue on 10% distillation residue as determined by ASTM D189 or D524; or 25

(iii) a minimum pour point of 15° centigrade as determined by ASTM D97; or

(iv) a minimum sulphur content of 1.5% mass as determined by ASTM D129; or

(v) a minimum viscosity of 10 centistokes (cSt) at 40° 30 centigrade as determined by ASTM D445.

“(5) In subsection (4), a reference to ASTM followed by a number is a reference to a test so numbered as prescribed by the American Society for Testing and Materials and set out in Section 5 of the *Annual Book of ASTM Standards* (1986 revision) published in 1986 by the American Society for Testing and Materials at Philadelphia, Pennsylvania in the United States of America.”. 35

Modification of indexation of rates of duty applying to particular goods

4. Section 6AAA of the Principal Act is amended:

- (a) by omitting from column 1 of the table set out in subsection (4) “11(F)(1)”;
- (b) by omitting from column 1 of the table set out in subsection (6) “11(F)(2)”.

Insertion of new section

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

Manner of determining duty payable on excisable blended petroleum products

“6G.(1) Duty payable under this Act on an excisable blended petroleum product (other than an excisable blended petroleum product referred to in subsection (2) or (3)) is worked out using the formula:

$$[\text{Volume} \times \text{Blending rate}] - \text{Previously paid duties}$$

where:

‘Volume’ means the volume of the excisable blended petroleum product;

‘Blending rate’ means:

- (a) if goods referred to in paragraph 11(A)(3) or 11(C)(2) of the Schedule are included in the excisable blended petroleum product—the excise duty rate that applies to goods classified to subparagraph 11(A)(3)(b) of the Schedule; or
- (b) if no goods classified to either of those paragraphs is included in the excisable blended petroleum product—the excise duty rate that applies to goods classified to paragraph 11(E)(2) of the Schedule;

‘Previously paid duties’ means the sum of excise duties (if any) already paid on products included in the excisable blended petroleum product under items 2, 11 and 12 of the Schedule worked out in accordance with subsection (4).

“(2) Duty payable under this Act on an excisable blended petroleum product comprising a blend of gasoline classified to subparagraph 11(A)(3)(b) or (c) of the Schedule and of ethanol classified to sub-item 2(R) of the Schedule, with or without other substances, is worked out using the formula:

$$\left[\text{Volume of gasoline} \times \text{Gasoline rate} \right] + \left[\text{Volume of ethanol} \times \text{Ethanol rate} \right]$$

where:

'Volume of gasoline' means the volume of gasoline in the excisable blended petroleum product;

'Gasoline rate' means the excise duty rate applicable to gasoline classified to subparagraph 11(A)(3)(b) or (c) of the Schedule, whichever is appropriate; 5

'Volume of ethanol' means the volume of ethanol in the excisable blended petroleum product;

'Ethanol rate' means the excise duty rate applicable to denatured ethanol classified to sub-item 2(R) of the Schedule. 10

“(3) Duty payable under this Act on an excisable blended petroleum product that has the physical characteristics of fuel oil is worked out using the formula:

$$\text{Volume} \times \text{Fuel oil rate}$$

where:

'Volume' means the volume of the excisable blended petroleum product; 15

'Fuel oil rate' means the excise duty rate applicable to unblended goods classified to paragraph 11(E)(3) of the Schedule.

“(4) If a product that is included in an excisable blended petroleum product is itself another blended petroleum product, then, for the purpose of working out the excise duties that are paid under items 2, 11 and 12 of the Schedule: 20

(a) the excise duties paid under item 12 on that other blended product; and

(b) the excise duties (if any) paid under items 2 or 11 on its constituent elements; 25

are both to be taken into account.”.

Schedule

6. The Schedule to the Principal Act is amended:

(a) by omitting paragraphs (d) and (e) of the definition of “Beer” and substituting the following paragraphs: 30

“(d) produced for non-commercial purposes; and

(e) produced using non-commercial facilities and equipment.”;

(b) by omitting from items 1, 2 and 11 “Departmental By-laws” (wherever occurring) and substituting “By-law”;

- (c) by omitting paragraph 11(A)(2);
- (d) by omitting paragraph 11(B)(2);
- (e) by omitting sub-item 11(F);
- (f) by adding at the end of item 11 the following sub-items:

“(H) Stabilised crude petroleum oil for use otherwise than as a petroleum refinery feedstock at a factory specified in a licence granted under section 34 of the *Excise Act 1901*—

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|-----------------------------|--|
| (1) As prescribed by By-law | Free |
| (2) Other | the rate that applies to goods classified to paragraph (E)(2) of this item |

(J) Condensate for use otherwise than as a petroleum refinery feedstock at a factory specified in a licence granted under section 34 of the *Excise Act 1901*—

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|-----------------------------|--|
| (1) As prescribed by By-law | Free |
| (2) Other | the rate that applies to goods classified to subparagraph (A)(3)(b) of this item”; |

- 5 (g) by inserting after item 11 the following item:

“12. Excisable blended petroleum product—

- | | |
|-----------------------------|---|
| (A) As prescribed by By-law | Free |
| (B) Other | the amount of duty worked out in accordance with section 6G”; |

- (h) by omitting from items 13 and 17 “Departmental By-laws” (wherever occurring) and substituting “By-law”;
- (i) by omitting paragraph 17(B)(2);
- (j) by omitting from item 20 “Departmental By-laws” and substituting “By-law”.

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; 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; Nos. 27 and 99, 1983; Nos. 53, 72 and 131, 1984; Nos. 41 and 189, 1985; Nos. 20 and 160, 1986; Nos. 53 and 150, 1987; Nos. 29, 99 and 149, 1988; Nos. 77 and 177, 1989; No. 112, 1990; Nos. 80 and 186, 1991; No. 65, 1992; and Nos. 9 and 00, 1993.