

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

EXCISE TARIFF AMENDMENT BILL (No.2) 1993

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Industry, Technology and Regional  
Development, the Honourable Alan Griffiths MP)





## EXCISE TARIFF AMENDMENT BILL (No. 2) 1993

### OUTLINE

This Bill, together with the Customs and Excise Legislation Amendment Bill 1993 is part of a package of Bills which introduce the following measures:

- i) amendments to address the problems that have arisen due to the practice of brewing beer with the aid of commercial facilities in unlicensed premises and, in particular, to ensure that beer so produced is subject to customs control and to duties of excise;
- ii) amendments to ensure certain blended petroleum products and crude oil or condensate delivered for use otherwise than as refinery feedstock are excisable products, and that excise duty will be paid on the blend, the crude oil or condensate at a rate equal to either the diesel rate or the leaded petrol rate, depending upon the composition of the petroleum product; and
- iii) amendments to remove the excise exemption on gasoline and mineral turpentine produced from shale mined in Australia.

### Financial Impact Statement

The financial impact for the first two measures is outlined in the financial impact statement in the Customs and Excise Legislation Amendment Bill 1993. The third measure has no financial impact.



## EXCISE TARIFF AMENDMENT BILL 1993

### NOTES ON CLAUSES

#### **Clause 1 - Short title etc.**

1. This is a machinery clause which provides for the Act to be cited as the *Excise Tariff Amendment Act (No. 2) 1993* and also makes provision for the *Excise Tariff Act 1921* to be cited as the Principal Act.

#### **Clause 2 - Commencement**

2. This clause provides for the Act to commence on Royal Assent with the exception of the following:

- the provisions relating to blending of petroleum products and the fuel use of crude oil and condensate which commence on the day that the related provisions in the Customs and Excise Legislation Act 1993 are proclaimed to commence (subclause 2(2));
- the provisions relating to the removal of the excise liability for beer brewed in home brew factories which commence on the day that the related provisions in the Customs and Excise Legislation Act 1993 are proclaimed to commence (subclause 2(3)); and
- the provisions removing the excise exemption for gasoline and turpentine produced from shale mined in Australia which commence on the day that the related provisions in the Customs and Excise Legislation Act 1993 are proclaimed to commence (subclause 2(4)).

#### **Clause 3 - Definitions**

3. This clause inserts a definition of 'fuel oil' into the Principal Act to ensure that whenever goods exhibit the physical characteristics outlined in this definition then the goods will be classified as fuel oil even where the fuel oil could otherwise be characterised as a blend. This provision, together with new subsection 6G(3), will ensure that goods presently classified as fuel oil will continue to attract the rate of duty applicable to fuel oil and not the rate applicable to blended products.

#### **Clause 4 - Modification of indexation of rates applying to particular goods**

4. This clause provides for a consequential amendment to section 6AAA of the Principal Act to reflect the fact that item 11F has been deleted from the Schedule by virtue of its inclusion in new subsection 6G(2).

### **Clause 5 - Insertion of new section**

5. This clause inserts a new section 6G into the Principal Act which provides formulae for calculating the excise duty applying to various blended petroleum products.

### **New section 6G - Manner of determining duty payable on excisable blended petroleum products**

6. New subsection 6G(1) provides the standard formula for calculating the excise duty payable on blended petroleum products. The formula provides that if any goods referred to in paragraph 11(A)(3) (ie. petrol) or 11(C)(2) (ie. gasoline substitutes) are used in a blend, then the entire blend is to attract the duty applicable to leaded petrol and the duty payable is that amount less any duty that has already been paid under item 11 of the Schedule.

7. Where no goods referred to in paragraph 11(A)(3) or 11(C)(2) are included in the blend, then the blend is to be dutiable at the diesel rate and the duty payable is that amount less any item 11 duties that have already been paid.

8. New subsection 6G(2) provides for an exception to the general formula where gasoline is blended with ethanol. This blend, which was formerly dealt with in sub-item 11(F) of the Schedule, is to retain duty free status for the ethanol component of the blend.

9. New subsection 6G(3) provides another exception to the general formula to cater for fuel oil. Fuel oil can sometimes be a blend of other petroleum products. Where the fuel oil can be properly described according to the definition in section 3, then it is to be dutiable at the fuel oil rate.

10. New subsection 6G(4) provides that where a blended petroleum product is included in an excisable blended petroleum product then for the purposes of working out how much duty is to be paid under new subsection 6G(1) (in particular, working out how much has been paid as "previously paid duties"), the excise duties paid under both item 12 (duty payable on blended petroleum products) and items 2 and 11 are to be taken into account.

### **Clause 6 - Schedule**

11. Clause 6 provides for the following amendments to the Schedule:

Paragraph 6(a) amends the definition of 'beer' to ensure that beer brewed in commercial facilities using commercial equipment does not receive excise free status. The Government's policy is that this status be reserved for genuine home brewers.

Paragraph 6(b) effects a minor amendment to items 1, 2 and 11 of the Schedule by omitting all references to 'Departmental By-laws' and substituting 'By-laws'.

Paragraphs 6(c) and 6(d) remove the excise exemption on petroleum products produced from shale mined in Australia as a corollary to the new section 78AAAA introduced by the Customs and Excise Legislation Amendment Bill 1993.

Paragraph 6(e) omits subitem 11(F) consequential upon its inclusion in section 6G of the Principal Act.

Paragraph 6(f) introduces two new sub-items into item 11 of the Schedule to provide that where stabilised crude petroleum oil or condensate is delivered for use otherwise than as a refinery feedstock, then the oil or condensate will be liable to the duty applicable to diesel fuel (crude oil) or the duty applicable to leaded petrol (condensate) unless they can be entered under By-law, in which case they would be subject to a free rate of duty.

Paragraph 6(g) inserts a new item 12 into the Schedule which provides that the duty applicable to excisable blended petroleum products is the amount worked out in accordance with section 6G unless the goods can be entered under By-law, in which case they would be subject to a free rate of duty.

Paragraph 6(h) amends items 13 and 17 by altering the references to 'Departmental By-laws' to 'By-law'.

Paragraph 6(i) omits paragraph 17(B)(2) which deals with a blend of liquid petroleum and gasoline as it is more appropriately dealt with in the new provisions dealing with blended petroleum products (item 12 and section 6G).

Paragraph 6(j) amends item 20 by altering the reference to 'Departmental By-laws' to 'By-law'.

