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THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PETROLEUM EXCISE (PRICES) BILL 1987

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for
Primary Industries and Energy
the Hon John Kerin, MP)

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OUTLINE

From 1 January 1988, the marketing of indigenous crude oil will be deregulated and Import Parity Prices will no longer be used as the basis for allocated sales of domestic crude oil or the calculation of crude oil excise. This Bill provides the Minister for Primary Industries and Energy with the powers to determine the prices to be used as the basis for crude oil excise and in particular to determine the volume weighted average of realised (VOLWARE) prices for sales of Bass Strait crude oil. The final VOLWARE price for each month will be the final price basis for crude oil excise for that month.

2. The Bill enables the Minister for Primary Industries and Energy or his delegates to:

- . determine a reference price for crude oil for each month to be used as the basis for the initial calculation of crude oil excise.
- . calculate the interim and final VOLWARE prices for each month to be used as the basis for interim and final calculation of crude oil excise.
- . notify the producers and the Australian Customs Service of these prices in writing.
- . specify the factors to be used in the calculation of the VOLWARE and reference prices.
- . determine a transaction price where any part of a transaction is considered not to be at 'arm's length'.
- . require oil producers to provide prescribed information for the calculation of VOLWARE prices at a specified time.
- . verify the information to be provided.

3. The Bill also contains provisions for penalties for failure to comply with the verification procedures.

4. The powers in the Bill are integral to the collection of crude oil excise under powers in the Excise Tariff Act 1921 and the Excise Act 1901.

Financial Impact Statement

5. The financial impact of deregulating Australia's crude oil market will depend on crude oil price movements in the free market. In a deregulated market average Bass Strait crude oil prices are expected to fall by \$A1 - \$A4 from what they would have been under Import Parity Pricing.

6. On the basis of a price fall of \$2.50 per barrel, (the middle of the range), the drop in Government revenue in 1987/88 and 1988/89 is expected to be about \$100 million and \$168 million respectively.

7. There will be no offsetting product excise adjustment to recoup revenue foregone by the Government as a result of a drop in crude oil prices upon deregulation.

NOTES ON CLAUSES

PART I - PRELIMINARY

Clause 1: Short title

8. This clause provides for the short title of the legislation.

Clause 2: Commencement

9. The Act shall come into operation on the day on which it receives Royal Assent.

Clause 3: Incorporation

10. The Excise Act 1901 contains the principles of excise collection and the Excise Tariff Act 1921 remains the collection Act. The Excise Tariff Act is to be amended to remove the references to Import Parity Prices where they are no longer applicable and to incorporate the use of the reference, interim and final VOLWARE prices in the calculation of crude oil excise liabilities.

Clause 4: Interpretation

11. This clause defines

- "excisable crude petroleum oil"
- "final VOLWARE price"
- "interim VOLWARE price"
- "oil producer"
- "reference price"
- "reviewable decision"
- "transaction price"
- "VOLWARE price".
- "month"

12. Subclause 4(2) specifies that an oil producer who does not sell the oil but converts it into another product shall be deemed to have entered into a transaction. In respect of the oil converted, the Minister may fix the transaction price for the purpose of determining the VOLWARE price for the month in question.

PART II - DETERMINATION OF PRICES

Clause 5: Minister etc. to determine reference prices

13. This clause specifies that a reference price for each month is to be set by the Minister or his delegate before the commencement of the month and gives the method of its calculation. The reference price is an estimate by the Minister or delegate of the price that will be paid for excisable crude oil. It will be used for calculating the oil producers' initial excise liability under the Excise Tariff Act 1921. Subclause 5(2) specifies the basis of setting the reference price. Subclause 5(3) permits regulations to be made in respect of the method to be used in calculating the reference price if at the time the price is determined, no interim VOLWARE price for a preceeding month has been determined. It also permits regulations to be made on the methods of calculating adjustments to the interim VOLWARE prices for the purposes of determining a reference price.

Clause 6: Oil producers to give certain information

14. The oil producing companies are required to provide such information on their crude oil transactions as is prescribed. The information is to be certified by the producers as being correct. It is to be provided at a time and in a form specified by the Minister in the Gazette. It will be used to calculate VOLWARE prices each month. A penalty is specified for the giving of false or misleading information.

Clause 7: Minister etc. to determine VOLWARE prices

15. Volume weighted average realised (VOLWARE) prices have been chosen because they are directly related to the prices actually realised by the producers.

16. An interim VOLWARE price for a month will be determined for each month at the end of the following month. This will be substituted for the reference price and used for calculating the oil producers' interim excise liability for the month under the Excise Tariff Act 1921.

17. A final VOLWARE price for a month will be determined when accurate and complete information on the crude oil transactions for that month has been provided by the oil producers. If after six months this complete information has not been fully provided, the Minister or his delegate will determine a final price at that time. The final VOLWARE price will be substituted for the interim VOLWARE and used for calculating the oil producers' final excise liability for the month under the Excise Tariff Act 1921.

18. The method of calculating the transaction prices and volumes to be used in determining the VOLWARE prices may be set out in regulations.

19. Where a Minister or his delegate has decided that a transaction between parties was not at arm's length, and for that reason the transaction price is less than it would have been had the parties to the transaction dealt at arm's length, then the Minister or his delegate may determine a price for the transaction and notify the oil producer of the price, giving reasons. This may be done for both interim and final VOLWARE prices.

20. Sub clauses 7(9) and 7(10) give the Minister, or his delegate, the discretion to redetermine the final VOLWARE price if it is discovered that there is an error in the calculation of a final VOLWARE price. This discretion may only be exercised within 3 years of the determination of the final VOLWARE price. There will be no time limit for a recalculation in respect of any fraudulent provision of inaccurate information.

Clause 8: Notification of prices

21. The reference price, interim and final VOLWARE prices for each month will be notified in writing to the producers and the Australian Customs Service.

Part III - MISCELLANEOUS

Clause 9: Inspection of documents

22. This clause provides that an authorised person may have full access to the oil producers' premises at all reasonable times, and to all their relevant documents for the purposes of verifying information provided by the oil producers under clause 6.

23. The clause also requires the oil producers to provide reasonable facilities and assistance to an authorised person exercising the powers contained in the clause. A penalty is specified for failure to comply with these requirements.

Clause 10: Obtaining of information and evidence

24. This clause enables the Minister or an authorised person to direct any person to supply information, answer questions or produce documents for the purposes of the Act. Provision for information or answers to be given on oath is included in sub-clause 10(2). Subclauses 10(7) and 10(8) create an offence for not complying with these requirements and for giving false or misleading information.

Clause 11: Conduct by directors, servants or agents

25. Clause 11 contains provisions concerning the responsibility of corporations for the conduct of their directors, servants and agents. Where such persons are acting within the scope of his or her actual or apparent authority as given to them by the corporation any conduct engaged in by a director, servant or agents on behalf of the corporation is deemed to have also been engaged in by the corporation.

Clause 12: Review of certain decisions

26. This clause confers on the oil producers the rights to seek to have the final VOLWARE price, determined under sub-clauses 7(3) or 7(9), and a non-arm's-length transaction price, determined under sub-clause 7(6), reconsidered by the Minister and, if necessary, reviewed by the Administrative Appeals Tribunal. The request to reconsider the decision has to be submitted within a period of 28 days after the decision is made.

Clause 13: Statements to accompany notification of reviewable decisions

27. Clause 13 requires oil producers, whose interests are affected by a decision made under sub-clauses 7(3) and 7(6) and 7(9), to be notified of their rights of review.

Clause 14: Regulations

28. The Governor-General may make regulations.