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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

STATES GRANTS (PETROLEUM PRODUCTS) AMENDMENT BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by Authority of the Minister for Industry,
Technology and Commerce, Senator the Honourable John N. Button).

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OUTLINE

This Bill proposes to amend the States Grants (Petroleum Products) Act 1965, to give effect to the Government's decisions announced on 7 September and 26 October 1984 to alter the provisions of the petroleum products freight subsidy scheme. The changes in the Bill relate to:

- the introduction of various administrative reforms to control the potential for abuse by claimants for subsidy, by enabling the schemes formulated under the Act to impose conditions designed to ensure that the petroleum products for which subsidy has been claimed have actually been delivered, and that the persons claiming subsidy are legitimate claimants, (sub-clause 3(1) and clause 4), and
- the extension of the subsidy scheme to sales of petroleum products produced at inland mini-refineries (sub-clauses 3(2) and 3(3)).

Financial Impact Statement

The measures contained in this Bill have no direct financial implications. The provisions relating to the extension of the subsidy scheme to products produced at inland mini-refineries, which are deemed to have come into operation on 1 January 1984, have the effect of validating subsidy payments already made since that date on production at the only current inland refinery installation.

As a consequence of the Government's decision to increase the consumer paid margin for the freight subsidy scheme from 1.2 cents to 5.2 cents per litre, announced by the Treasurer in his statement on 14 May 1985 outlining Government expenditure savings, no subsidy has been paid on products produced at that installation, as the new consumer paid margin is in excess of the freight differential applying in respect of the location of that installation.

NOTES ON CLAUSESShort title

Clause 1 is a formal machinery clause.

Commencement

Clause 2 provides for the Act to come into operation as follows:

- . clauses 1 and 2 - the day of Royal Assent (sub-clause (1));
- . sub-clauses 3(2) and (3) - 1 January 1984. The purpose of sub-clause 3(3) of the Act is to validate subsidy payments on the output of inland mini-refineries made after 1 January 1984.

Prior to the operation of the States Grants (Petroleum Products) Amendment Act 1983 on 1 January 1984, subsidy was paid on the sale of eligible petroleum products. The 1983 amending Act, amongst other things, inserted into the Principal Act the additional criteria of delivery, resulting in subsidy being paid only when delivery to a place other than the place of production occurs. This effectively precluded the payment of subsidy on the sale of products from inland mini-refineries where the products were not delivered beyond the location of the refinery.

- . clause 4 and sub-clause 3(1) - a day to be fixed by Proclamation. This is to permit the preparation of necessary amendments to the schemes formulated pursuant to the Principal Act (sub-clause (3)).

Provisions of scheme

Clause 3 Sub-clause (1) amends section 5 of the Principal Act to:

- . insert a new sub-section 4A into the Principal Act to provide that a scheme formulated under the Act may contain conditions that are to be complied with by a class of registered distributors of eligible petroleum products;

insert a new sub-section 4B into the Principal Act to provide that a person is not to be registered as a distributor under the scheme unless that person is capable of complying with the conditions (if any) that are specified in the scheme for that class of registered distributor;

insert a new sub-section 4C into the Principal Act to provide that where a claim for payment is made, a scheme may require the claimant to furnish declarations and other supporting documentation with the claim,

-- the declarations or documents might also be required from other persons involved in the transaction which relates to the claim.

These provisions are designed to provide more effective controls over the operation of the scheme and reduce the potential for abuse.

Sub-clause (2) amends section 5 of the Principal Act to provide the legislative framework for the payment of the freight subsidy on petroleum products produced at inland mini-refineries, by:

(a) inserting new provisions into the Principal Act to provide that the subsidy is not to be payable to the owners or operators of mini-refineries. This is achieved by providing -

where the person is the owner or operator of a mini-refinery or the person is a company that owns or operates a mini-refinery or is a company related to that company, such person or company will not be able to be registered as a distributor, and hence will not be able to claim for subsidy under the scheme, (proposed new sub-section 4D); and

for the purposes of proposed sub-section 4D two companies will be treated as related if they would be so treated under the Companies Act 1981 (proposed new sub-section 4E);

- (b) inserting a new paragraph 5(5)(aa) into the Principal Act, to provide that eligible petroleum products produced at inland mini-refineries shall be eligible for the subsidy where such products are sold at the place the mini-refinery is located and are not for delivery to another place. This provision will enable the subsidy to be paid on sales of eligible products produced at the inland mini-refineries at the same rate that is paid on product that is produced at coastal refining installations and delivered to the location of the inland refinery; and
- (c) inserting a new sub-section (8) into the Principal Act, to provide, for the purposes of the amendments proposed to Section 5 of the Principal Act, that a mini-refinery is defined in terms of its capacity to carry out refining processes on petroleum oil or petroleum gas, with such capacity not to exceed 238,500 litres per day.

Sub-clause (3) provides that between 1 January 1984 and the date of Proclamation of proposed sub-sections 3(2) and (3) of this Act, a scheme is deemed to have included the provisions inserted by this Act relating to the payments of the freight subsidy on petroleum products produced at inland mini-refineries. This has the effect of validating subsidy payments already made on production by the only existing inland mini-refinery from 1 January 1984.

False declarations accompanying claims for payment

- Clause 4 inserts a new section 8A into the Principal Act, creating an offence and penalty in relation to subsidy claims arising from the administration of the freight subsidy at "safe anchorage" locations;
- . the new section provides that a person is guilty of an offence, where;
 - . (a) a claim for subsidy under a scheme is required to be accompanied by a declaration by a person in charge of a ship;
 - (b) the declaration relates to the delivery of eligible petroleum products by or to the ship; and

(c) the declaration is known to be false or misleading in a material particular
(proposed sub-section (1));

- . the offence under sub-section (1) is an indictable offence punishable on conviction by a fine of \$5,000 or imprisonment for 2 years, or both (proposed sub-section (2));
- . the offence under sub-section (1) may be heard by a Court of summary jurisdiction. This can occur only with the consent of both the defendant and the prosecution and if the Court is satisfied it is proper to do so (proposed sub-section (3));
- . if the offence under sub-section (1) is heard by a Court of summary jurisdiction, the maximum penalty which might be imposed is a fine of \$2,000 or imprisonment for 1 year, or both (proposed sub-section (4));
- . if a conflict of laws arises, this new section does not effect the operation of a State law, unless that law is incapable of operating concurrently with this section (proposed sub-section (5)); and
- . for the purposes of the section, "ship" means a vessel or boat of any description.

