





# **Energy Grants (Credits) Scheme (Consequential Amendments) Act 2003**

**No. 54, 2003**

**An Act to amend or repeal certain Acts as a  
consequence of the enactment of the *Energy Grants  
(Credits) Scheme Act 2003*, and for related purposes**



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**An Act to amend or repeal certain Acts as a  
consequence of the enactment of the *Energy Grants  
(Credits) Scheme Act 2003*, and for related purposes**

[Assented to 27 June 2003]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Energy Grants (Credits) Scheme  
(Consequential Amendments) Act 2003*.

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## **2 Commencement**

This Act commences on 1 July 2003.

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendment of the Product Grants and Benefits Administration Act 2000**

### **1 Section 5**

Insert:

*electronic signature* means an entity’s unique identification in an electronic form that is approved by the Commissioner.

### **2 Section 5**

Insert:

*energy grants scheme fuel* means on-road diesel fuel, on-road alternative fuel, or off-road diesel fuel, within the meaning of the *Energy Grants (Credits) Scheme Act 2003*.

### **3 Section 8 (at the end of the table)**

Add:

3 energy grants *Energy Grants (Credits) Scheme Act 2003*

### **4 Subsection 9(1)**

After “must”, insert “, subject to subsection (1A),”.

### **5 After subsection 9(1)**

Insert:

*Telephone signature not required*

(1A) If the application is given by telephone, it need not contain a telephone signature (within the meaning of section 995-1 of the *Income Tax Assessment Act 1997*).

Note: The definition of *approved form* in section 5 of this Act would otherwise have the effect that the requirement for a telephone signature, in subsection 388-75(4) in Schedule 1 to the *Taxation Administration Act 1953*, would apply.

## 6 Paragraphs 9(2)(a) to (c)

Repeal the paragraphs, substitute:

- (a) you satisfy any specific requirements set out in this section in relation to registration for that grant or benefit; and
- (b) you satisfy any prescribed conditions; and
- (c) if paragraph (d) does not apply—you have an ABN; and
- (d) if you do not have an ABN and are not entitled to have an ABN—you have provided evidence, of a kind determined by the Commissioner, of your identity and address.

## 7 Subsections 9(4) and (5)

Repeal the subsections, substitute:

*Specific requirement for energy grants*

- (4) The specific requirement in relation to registration for the energy grant is that you notify the Commissioner that you are purchasing or importing, or propose to purchase or import, energy grants scheme fuel into Australia for a particular use or uses that, when you become registered, will entitle you to the grant in respect of the fuel.

## 8 Subsection 11(2)

Repeal the subsection, substitute:

- (2) If:
  - (a) the Commissioner registers you for entitlement to a grant or benefit; and
  - (b) after doing so, the Commissioner becomes satisfied that:
    - (i) you did not, at the time you were registered, satisfy one or more of the requirements in section 9 for registration for entitlement to that grant or benefit; or
    - (ii) you have ceased to satisfy one or more of those requirements;

the Commissioner may cancel that registration with effect from the time it took place or the time you ceased to satisfy the one or more requirements, as the case requires.

## **9 Section 12**

Repeal the section, substitute:

### **12 Claim periods**

- (1) You may, subject to any determination by the Commissioner under subsection (2), make a claim under section 15 for any period (the *claim period*) that is specified in the claim.
- (2) The Commissioner may, in writing, determine any one or more of the matters set out in subsection (3) in relation to:
  - (a) claims for all grants or benefits; or
  - (b) claims for particular grants or benefits; or
  - (c) claims by particular kinds of entities; or
  - (d) any combination of the above.
- (3) The matters are:
  - (a) the minimum period that may be covered by a claim;
  - (b) the maximum period that may be covered by a claim;
  - (c) the minimum amount of money in respect of which a claim may be made;
  - (d) the minimum volume or quantity of goods in respect of which a claim may be made;
  - (e) any other requirement to be complied with in making a claim.

### **10 After subsection 14(1)**

Insert:

- (1A) Without limiting subsection (1), guidelines under that subsection may provide that the Commissioner is not to make any advances at all in respect of payments of grants or benefits described in one or more specified items, or all of the items, in the table in section 8.

### **11 Subsection 15(1)**

Omit “in respect of a claim period unless you make a claim for payment of the grant or benefit”, substitute “unless you make a claim for payment of the grant or benefit in respect of a claim period during which the entitlement (ignoring this subsection) arose”.

**12 Paragraph 15(2)(a)**

Omit “must”, substitute “may”.

**13 Paragraph 15(2)(e)**

Omit “2 years after the end”, substitute “3 years after the start”.

**14 Subsections 15(4) to (6)**

Repeal the subsections.

**15 After section 15**

Insert:

**15A Authority for third party to make claim under section 15**

- (1) You may apply in writing to the Commissioner for permission to authorise third parties to make claims under section 15 on your behalf.
- (2) An application under subsection (1) must be in the approved form.
- (3) If the Commissioner accepts your application:
  - (a) that acceptance may be subject to such terms and conditions (including any limitations on the kinds of third parties in respect of whom an authorisation may be given) as the Commissioner determines to be appropriate; and
  - (b) when informing you of that acceptance, the Commissioner must notify those terms and conditions to you.
- (4) If the Commissioner rejects your application, the Commissioner must notify you of the rejection and specify the reasons why the application was rejected.
- (5) If the Commissioner accepts your application, you may, subject to any terms or conditions to which the acceptance is subject, authorise in writing a third party or third parties:
  - (a) to make claims under section 15 on your behalf; and
  - (b) for the purposes of making any such claim—to attach your electronic signature to claims so made.

- (6) If a third party makes, or purports to make, a claim on your behalf under such an authority, the claim is to be treated, for all purposes of this Act, as a claim made by you under section 15.
- (7) You may, at any time, revoke in writing an authorisation of a third party given under subsection (5).
- (8) If you revoke an authorisation:
  - (a) you must notify the Commissioner, in writing, of the fact of the revocation; and
  - (b) the revocation only has effect when that notification is received by the Commissioner.

## **16 After section 16**

Insert:

### **16A Obligation to notify Commissioner of payment etc. of drawback, refund, rebate or remission of customs or excise duty on certain fuel**

- (1) If:
  - (a) at any time before you claim entitlement to an energy grant in respect of an off-road credit (within the meaning of the *Energy Grants (Credits) Scheme Act 2003*), you were paid or given any drawback, refund, rebate or remission of duty of customs, or duty of excise, on the energy grants scheme fuel concerned; or
  - (b) at any time before you claim entitlement to such an energy grant you applied for any such drawback, refund, rebate or remission and by the time you make the claim:
    - (i) you have not been paid or given the drawback, refund, rebate or remission; and
    - (ii) you have not withdrawn the application; and
    - (iii) you have not been advised that the application has been rejected;

you must, at the time you claim the entitlement, notify the Commissioner of the fact.
- (2) If, at any time after you claim entitlement to an energy grant in respect of an off-road credit (within the meaning of the *Energy*

*Grants (Credits) Scheme Act 2003*), you are paid or given any drawback, refund, rebate or remission of duty of customs, or duty of excise, on the energy grants scheme fuel concerned, you must, within 21 days after that time, notify the Commissioner of the fact.

Note: Refusal or failure to notify the Commissioner as required by this section is an offence under section 8C of the *Taxation Administration Act 1953*.

### **17 Subsection 19(1)**

Omit “The”, substitute “Except where the assessment is that you are entitled to the full amount of the grant or benefit claimed, the”.

### **18 At the end of section 19**

Add:

- (3) In all cases, the Commissioner may give you the notice in any other manner or form.

### **19 Section 22**

Omit “The production of a notice of assessment under this Part”, substitute “If the Commissioner gives you a notice of assessment under this Part, the production of the notice”.

### **20 After Part 4**

Insert:

## **Part 4A—Public and private rulings**

### **24B Effect of public ruling on grants or benefits**

- (1) Expressions used in this section have the same meanings as in Part IVAAA of the *Taxation Administration Act 1953*.
- (2) Subject to section 24D, if:
  - (a) there is a public ruling on the way in which a product grant or benefit law applies to you in relation to an arrangement (the *ruled way*); and
  - (b) that law applies to you in relation to that arrangement in a different way; and

- (c) the amount of a grant or benefit under an assessment in relation to you would (apart from this section and section 24D) be less than what it would have been if that law applied in the ruled way;

the assessment and amount of the grant or benefit must be what they would be if that law applied in the ruled way.

#### **24C Effect of private ruling on grants or benefits**

- (1) Expressions used in this section have the same meanings as in Part IVAA of the *Taxation Administration Act 1953*.
- (2) Subject to section 24D, if:
  - (a) there is a private ruling on the way in which a product grant or benefit law applies to you in respect of a claim period in relation to an arrangement (the *ruled way*); and
  - (b) that law applies to you in respect of that period in relation to that arrangement in a different way; and
  - (c) the amount of the grant or benefit under an assessment in relation to you would (apart from this section and section 24D) be less than what it would have been if that law applied in the ruled way;

the grant or benefit must be what they would be if that law applied in the ruled way.

#### **24D Assessment of grants or benefits if public or private rulings conflict**

- (1) In this section:

*ruling* means:

  - (a) a public ruling; or
  - (b) a private ruling.
- (2) Expressions used in this section have the same meanings as in section 24B or 24C.
- (3) If:
  - (a) there are rulings of different ways in which the same product grant or benefit law applies to you in relation to the same arrangement; and

(b) apart from this section, because of there being those different ways, there are conflicting requirements under section 24B or 24C, or both, of what the assessment and amount of the grant or benefit in relation to you are to be;

the assessment and amount of the grant or benefit must be what they would be if that law so applied in whichever of those ways would result in the highest amount of grant or benefit.

#### **24E Final Tribunal decision about private ruling conclusive**

(1) In this section:

*arrangement, private ruling* and *product grant or benefit law* have the same meanings as in Part IVAA of the *Taxation Administration Act 1953*.

*objection decision* and *taxation objection* have the same meanings as in Part IVC of the *Taxation Administration Act 1953*.

(2) If:

(a) on the review of an objection decision about a taxation objection against a private ruling, the Tribunal decides that a product grant or benefit law would apply to you in a particular way in respect of a claim period in relation to an arrangement; and

(b) that decision becomes final;

then, for the purposes of this Act, that law applies to you in that way in respect of that period in relation to that arrangement.

(3) Subsection (2) applies in spite of any order or decision of a court, or any other decision of the Tribunal, about any application of that law.

(4) For the purposes of subsection (2), if there is no appeal against the Tribunal's decision when the period for lodging an appeal ends, the decision becomes final at the end of the period.

#### **24F Final court order about private ruling conclusive**

(1) In this section:

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*arrangement, private ruling* and *product grant or benefit law* have the same meanings as in Part IVAA of the *Taxation Administration Act 1953*.

*objection decision* and *taxation objection* have the same meanings as in Part IVC of the *Taxation Administration Act 1953*.

- (2) If:
- (a) on an appeal against:
    - (i) an objection decision about a taxation objection against a private ruling; or
    - (ii) a decision of the Tribunal on the review of such an objection decision;  
a court orders that a product grant or benefit law would apply to you in a particular way in respect of a claim period in relation to an arrangement; and
  - (b) that order becomes final;
- then, for the purposes of this Act, that law applies to you in that way in respect of that period in relation to that arrangement.
- (3) Subsection (2) applies despite any other order or decision of a court about any application of that law.
- (4) For the purposes of subsection (2):
- (a) if the order is made by the Federal Court constituted by a single judge and there is no appeal against the order when the period for lodging an appeal ends—the order becomes final at the end of the period; and
  - (b) if the order is made by the Full Court of the Federal Court and there is no application for special leave to appeal to the High Court against the order when the period of 30 days after the order is made ends—the order becomes final at the end of the period.

## **24G Final court order about Commissioner discretion**

- (1) Expressions used in this section have the same meanings as in section 24F.

- (2) For the purposes of this section, the Commissioner exercises a discretion if the Commissioner acts as described in section 14ZAD of the *Taxation Administration Act 1953*.
- (3) If:
- (a) a private ruling rules that a discretion of the Commissioner under the product grant or benefit law which the ruling is about would be exercised in a particular way; and
  - (b) on an appeal against:
    - (i) an objection decision about a taxation objection against that ruling; or
    - (ii) a decision of the Tribunal on the review of such an objection decision;a court orders that it would be in accordance with law for the Commissioner to exercise that discretion in that way in relation to the law, person, year and arrangement that the ruling is about (the *rule matters*); and
  - (c) that order becomes final;
- then, for the purposes of this Act, if the Commissioner exercises that discretion in that way in relation to the rule matters, the discretion is exercised in accordance with law.
- (4) For the purposes of subsection (3), an order becomes final if it would become final for the purposes of subsection 24F(2).
- (5) Subsection (3) applies despite any other order or decision of a court about the exercise of a discretion.

## **21 Part 5 (heading)**

Repeal the heading, substitute:

## **Part 5—Record-keeping requirements etc.**

### **22 After subsection 27(1)**

Insert:

- (1A) If the claim was in relation to an energy grant, you must keep records that enable you to substantiate that you have not lost your entitlement to the grant because of the application of section 49 or 55 of the *Energy Grants (Credits) Scheme Act 2003*.
-

(1B) You are taken to have met the requirements set out in subsection (1A) if you keep records of a kind, and in a manner, specified in a written determination made by the Commissioner.

(1C) The records must be:

- (a) in English; or
- (b) readily accessible, and easily convertible into English.

(1D) You must retain the records for the period of 5 years after the claim was made.

## **23 After section 27**

Insert:

### **27A Requirement to notify Commissioner about any disqualifying use etc. of energy grant scheme fuel**

If:

- (a) you make a claim for an energy grant; and
- (b) after you make the claim, you:
  - (i) use any of the energy grant scheme fuel to which the claim relates for a use (the *actual use*) other than the particular use for which you purchased or imported the fuel into Australia, except where you would have been entitled to an energy grant of the same amount if you had purchased the fuel for the actual use; or
  - (ii) sell or otherwise dispose of any of the fuel; or
  - (iii) lose any of the fuel (whether because of accident, theft or any other reason);

you must notify the Commissioner in writing of the fact, within 90 days, or such longer period as the Commissioner allows, after:

- (c) the use, sale or other disposal of the fuel takes place; or
- (d) the loss of the fuel becomes known to you.

Note: Failure to notify the Commissioner is an offence under paragraph 8C(1)(d) of the *Taxation Administration Act 1953*.

## **24 Paragraph 30(f)**

Repeal the paragraph, substitute:

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- (f) ending at the end of 2 years or such shorter period as is determined by the Commissioner.

**25 Subsection 42(2) (note)**

Repeal the note.

**26 After subsection 42(2)**

Insert:

- (2A) If the Commissioner is satisfied that the person has failed to comply with a requirement under subsection (2):
- (a) the Commissioner may advise the person in writing that the Commissioner is so satisfied and that the consequences in paragraph (b) will apply; and
  - (b) if the Commissioner does so, the Commissioner must not make an assessment in relation to any existing or new claim by the person for an entitlement to a grant or benefit until the person complies with the requirement.

Note: Failing to comply with a notice can also be an offence against section 8C of the *Taxation Administration Act 1953*.

**27 After section 45**

Insert:

**45A Commissioner may require claimant for grant or benefit to demonstrate record keeping system etc.**

- (1) This section applies to a person who has made a claim for entitlement to a grant or benefit.
- (2) The Commissioner may, in writing, require the person to demonstrate to the Commissioner, at a specified time, the method, or the operation of any record keeping or accounting system, employed in arriving at the particulars or estimates included in the claim.
- (3) The time specified under subsection (2) must be at least 21 days after the written requirement is given to the person.
- (4) If the Commissioner is satisfied that the person has failed to comply with a requirement under subsection (2):

- (a) the Commissioner may advise the person in writing that the Commissioner is so satisfied and that the consequences in paragraph (b) will apply; and
- (b) if the Commissioner does so, the Commissioner must not make an assessment in relation to:
  - (i) the claim; or
  - (ii) any other existing claim, or any new claim, by the person for an entitlement to a grant or benefit;until the person complies with the requirement.

Note: A refusal or failure to comply with the requirement is an offence against section 8C of the *Taxation Administration Act 1953*.

- (5) The Commissioner may conduct such testing of the record keeping or accounting system mentioned in subsection (2) as is reasonably necessary to determine the accuracy of the system in arriving at those particulars or estimates.

## **28 Application**

- (1) Subject to this item, the amendments made by this Schedule, so far as they relate to:
  - (a) applications for registration under section 9 of the *Product Grants and Benefits Administration Act 2000*; or
  - (b) claims for grants or benefits under section 15 of that Act;apply to applications or claims made after the commencement of this Schedule.
- (2) The amendment made by item 8 applies to registrations taking place before or after the commencement of that item.

## **29 Transitional—registration**

If:

- (a) an entity was registered as at the end of 30 June 2003 for entitlement to fuel grants under section 7 of the *Diesel and Alternative Fuels Grants Scheme Act 1999*; or
- (b) an entity's name was recorded as at the end of 30 June 2003, in the Generic Payments System administered by the Australian Taxation Office, as a participant in the diesel fuel rebate scheme;

then:

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- (c) the entity is taken to have been registered by the Commissioner at the start of 1 July 2003 under section 9 of the *Product Grants and Benefits Administration Act 2000*, as amended by this Schedule, for entitlement to an energy grant; and
- (d) the entity remains registered until the registration is cancelled in accordance with subsection 11(1), (2) or (3) of that Act as so amended.

### 30 Transitional—third party authorisations

- (1) This item applies if, at the end of 30 June 2003:
  - (a) an authorisation of a third party to make claims under section 15 of the *Diesel and Alternative Fuels Grants Scheme Act 1999* was in force under section 15AA of that Act as then in force; or
  - (b) an authorisation of a third party to make applications under section 164 of the *Customs Act 1901* or section 78A of the *Excise Act 1901* was in force.
- (2) For the purposes of the *Product Grants and Benefits Administration Act 2000* as amended by this Schedule:
  - (a) the authorisation has effect as if it were an authorisation of the third party to make claims for energy grants under section 15 of that Act as so amended, that was given at the start of 1 July 2003, under subsection 15A(5) of that Act as so amended; and
  - (b) the authorisation has that effect subject to any terms and conditions to which:
    - (i) if paragraph (1)(a) of this item applies—the acceptance of the application for the authorisation, under section 15AA of the *Diesel and Alternative Fuels Grants Scheme Act 1999*, was subject; or
    - (ii) if paragraph (1)(b) of this item applies—the acceptance of the application for the authorisation was subject.

## **Schedule 2—Repeal of the Diesel and Alternative Fuels Grants Scheme Act 1999**

### **1 The whole of the Act**

Repeal the Act.

### **2 Transitional—continued operation of the Diesel and Alternative Fuels Grants Scheme Act 1999**

The *Diesel and Alternative Fuels Grants Scheme Act 1999* continues to apply, as if it had not been repealed by this Schedule, in relation to the use during a grant period ending before 1 July 2003 of diesel fuel or alternative fuel, provided:

- (a) a claim under section 15 of that Act for a fuel grant in respect of the grant period was made before that day; or
- (b) the following conditions are satisfied:
  - (i) a claim under section 15 of that Act for a fuel grant in respect of the grant period is, in spite of subsection 15(1) of that Act, made at any time from the beginning of that day until the end of 30 November 2003;
  - (ii) before the claim was made, no claim was made (other than one that was withdrawn) in respect of the same fuel under section 15 of the *Product Grants and Benefits Administration Act 2000*, in its operation as a result of Schedule 7 to this Act applying to the *Energy Grants (Credits) Scheme Act 2003*.

### **3 Transitional—determination under the Diesel and Alternative Fuels Grants Scheme Act 1999 to have effect for purposes of the Energy Grants (Credits) Scheme Act 2003**

Any determination in force under section 10A of the *Diesel and Alternative Fuels Grants Scheme Act 1999* at the end of 30 June 2003 has effect for the purposes of section 9 of the *Energy Grants (Credits) Scheme Act 2003* as if it had been made under that section at the start of 1 July 2003.

## **Schedule 3—Amendment of the Customs Act 1901**

### **1 Subsection 4(1) (definition of authorised officer)**

Omit “(other than a diesel fuel rebate provision)”.

### **2 Subsection 4(1) (definition of authorised taxation officer)**

Repeal the definition.

### **3 Subsection 4(1) (definition of by authority)**

Repeal the definition, substitute:

*by authority* means by the authority of the officer of Customs doing duty in the matter in relation to which the expression is used.

### **4 Subsection 4(1) (definition of diesel fuel)**

Repeal the definition.

### **5 Subsection 4(1) (definition of diesel fuel rebate)**

Repeal the definition.

### **6 Subsection 4(1) (definition of diesel fuel rebate application)**

Repeal the definition.

### **7 Subsection 4(1) (definition of diesel fuel rebate provision)**

Repeal the definition.

### **8 Subsection 4(1) (definition of diesel fuel records)**

Repeal the definition.

### **9 Subsection 4(1) (paragraphs (c) and (d) of the definition of Officer of Customs)**

Omit “(other than a diesel fuel rebate provision)”.

### **10 Subsection 4A(1AA)**

Repeal the subsection.

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**11 Subsection 7(1)**

Omit “(other than the diesel fuel rebate provisions)”.

**12 Subsection 7(2)**

Repeal the subsection.

**13 Subsection 9(1A)**

Repeal the subsection.

**14 Sections 164 to 164AF**

Repeal the sections.

**15 Subsection 165(3)**

Omit “(other than diesel fuel rebate)”.

**16 Subsection 183UA(1) (paragraph (a) of the definition of offence)**

Omit “(other than an offence relating to diesel fuel rebate)”.

**17 Paragraph 234(1)(b)**

Omit “(other than diesel fuel rebate)”.

**18 Paragraph 234(2)(ba)**

Repeal the paragraph.

**19 Paragraph 234(2)(c)**

Omit “subsections (3) and (4)”, substitute “subsection (3)”.

**20 Subsection 234(4)**

Repeal the subsection.

**21 Section 240A**

Repeal the section.

**22 Section 244 (paragraph (a) of the definition of Customs prosecutions)**

Repeal the paragraph, substitute:

- (a) for the recovery of penalties under this Act, other than pecuniary penalties referred to in section 243B; or

**23 Subsection 273GAA(6)**

Repeal the subsection.

**24 Section 273JB**

Repeal the section.

**25 Transitional**

The *Customs Act 1901* continues to apply, as if it had not been amended by this Schedule, in relation to the purchase before 1 July 2003 of diesel fuel, provided:

- (a) an application under section 164 of that Act for a rebate in respect of the fuel was made before that day; or
- (b) the following conditions are satisfied:
- (i) an application under section 164 of that Act for a rebate in respect of the fuel is, in spite of subsection 164(1AB) of that Act, made at any time from the beginning of that day until the end of 30 November 2003;
  - (ii) before the application was made, no claim was made (other than one that was withdrawn) in respect of the same fuel under section 15 of the *Product Grants and Benefits Administration Act 2000*, in its operation as a result of Schedule 7 to this Act applying to the *Energy Grants (Credits) Scheme Act 2003*.

## **Schedule 4—Amendment of the Excise Act 1901**

**1 Section 4 (definition of diesel fuel)**

Repeal the definition.

**2 Section 4 (definition of diesel fuel rebate)**

Repeal the definition.

**3 Section 4 (definition of diesel fuel rebate application)**

Repeal the definition.

**4 Section 4 (definition of diesel fuel rebate Customs provisions)**

Repeal the definition.

**5 Section 4 (definition of diesel fuel records)**

Repeal the definition.

**6 Sections 78A to 78AG**

Repeal the sections.

**7 Subsection 80(2)**

Omit “(other than diesel fuel rebate)”.

**8 Section 80B**

Repeal the section.

**9 Paragraphs 120(1)(vc) and (vd)**

Repeal the paragraphs.

**10 Paragraphs 120(2)(ca)**

Repeal the paragraph.

**11 Subsection 120(4)**

Repeal the subsection.

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**12 Section 128A**

Repeal the section.

**13 Section 133 (paragraph (b) of the definition of Excise prosecutions)**

Repeal the paragraph.

**14 Subsection 159(6) (definition of Customs diesel fuel rebate provision)**

Repeal the definition.

**15 Subsection 159(6) (paragraph (b) of the definition of excise law)**

Omit “or”.

**16 Subsection 159(6) (paragraph (c) of the definition of excise law)**

Repeal the definition.

**17 Paragraphs 162C(1)(f) to (fa)**

Repeal the paragraphs.

**18 Transitional**

The *Excise Act 1901* continues to apply, as if it had not been amended by this Schedule, in relation to the purchase before 1 July 2003 of diesel fuel, provided:

- (a) an application under section 78A of that Act for a rebate in respect of the fuel was made before that day; or
- (b) the following conditions are satisfied:
  - (i) an application under section 78A of that Act for a rebate in respect of the fuel is, in spite of subsection 78A(1AB) of that Act, made at any time from the beginning of that day until the end of 30 November 2003;
  - (ii) before the application was made, no claim was made (other than one that was withdrawn) in respect of the same fuel under section 15 of the *Product Grants and Benefits Administration Act 2000*, in its operation as a

result of Schedule 7 to this Act applying to the *Energy Grants (Credits) Scheme Act 2003*.

## **Schedule 5—Amendment of the Taxation Administration Act 1953**

**1 Subsection 2(1) (definition of Customs diesel fuel rebate provision)**

Repeal the definition.

**2 Subsection 2(1) (paragraph (b) of the definition of taxation law)**

Omit “the *Diesel and Alternative Fuels Grants Scheme Act 1999* or”.

**3 Subsection 2(1) (paragraph (bb) of the definition of taxation law)**

Repeal the paragraph.

**4 Subsection 2(1) (note 1 to the definition of taxation law)**

Repeal the note.

**5 Paragraph 2(2)(c)**

Repeal the paragraph.

**6 Subsection 3C(9) (definition of taxation law)**

Repeal the definition.

**7 Subsection 3D(22) (definition of taxation law)**

Repeal the definition.

**8 Subsection 6D(5)**

Repeal the subsection.

**9 Subsection 8AAB(5) (table item 1A)**

Repeal the item.

**10 Section 8AAZA (definition of credit)**

After “taxation law”, insert “(other than the *Product Grants and Benefits Administration Act 2000*)”.

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**11 Section 8AAZA (definition of primary tax debt)**

After “taxation law”, insert “(other than, except in Division 4, the *Product Grants and Benefits Administration Act 2000*)”.

**12 Section 8AA**

Repeal the section.

**13 After paragraph 8C(1)(g)**

Insert:

or (h) to comply with a requirement under subsection 45A(2) of the *Product Grants and Benefits Administration Act 2000*;

**14 Paragraph 8J(2)(gb)**

Repeal the paragraph.

**15 Paragraph 8W(2A)(b)**

Omit “the *Diesel and Alternative Fuels Grants Scheme Act 1999* or”.

**16 Paragraph 8W(2A)(c)**

Before “grant” (twice occurring), insert “product”.

**17 Subsection 8W(4) (definition of grant or benefit)**

Repeal the definition.

**18 Subsection 8W(4)**

Insert:

*product grant or benefit* means a grant or benefit payable under the *Product Grants and Benefits Administration Act 2000*.

**19 Section 14ZAAA**

Insert:

*product grant or benefit law* means a law under which the extent of entitlement to a grant or benefit mentioned in section 8 of the *Product Grants and Benefits Administration Act 2000* is worked out.

**20 Section 14ZAAA (at the end of the definition of tax law)**

Add:

; or (c) a product grant or benefit law.

**21 Section 14ZAA**

Insert:

*claim period* has the meaning given by section 12 of the *Product Grants and Benefits Administration Act 2000*.

**22 Section 14ZAA**

Insert:

*product grant or benefit* means a grant or benefit mentioned in section 8 of the *Product Grants and Benefits Administration Act 2000*.

**23 Paragraph 14ZAB(c)**

After “tax”, insert “or product grant or benefit”.

**24 Sections 14ZAF and 14ZAG**

Repeal the sections, substitute:

**14ZAF Application for private ruling about own tax or product grant or benefit**

A person may apply to the Commissioner for a ruling on the way in which, in the Commissioner’s opinion:

- (a) a tax law or tax laws (not being or including a product grant or benefit law) would apply to the person in respect of a year of income in relation to an arrangement; or
- (b) a product grant or benefit law would apply to the person in respect of a claim period in relation to an arrangement.

**14ZAG Application for private ruling about another's tax or product grant or benefit**

A person may, with the written consent of another person, apply to the Commissioner for a ruling on the way in which, in the Commissioner's opinion:

- (a) a tax law or tax laws (not being or including a product grant or benefit law) would apply to the other person in respect of a year of income in relation to an arrangement; or
- (b) a product grant or benefit law would apply to the other person in respect of a claim period in relation to an arrangement.

**25 After section 14ZAH**

Insert:

**14ZAHA Claim periods to which application may apply**

A claim period to which an application applies may be:

- (a) a past claim period; or
- (b) the current claim period; or
- (c) a future claim period.

**26 Section 14ZAP**

After "a year of income", insert ", or a claim period,".

**27 Subparagraph 14ZAP(b)(ii)**

After "income", insert ", or claim period,".

**28 Subsection 14ZAS(1)**

After "year of income", insert "or claim period,".

**29 Subsection 14ZAU(4)**

After "a year of income", insert ", or claim period,".

**30 Paragraph 14ZAZA(2)(a)**

After "income", insert "or claim period".

**31 Subsections 14ZW(1D), 15(5), 15A(12) and 17B(8)**

Repeal the subsections.

**32 Subsection 250-10(2) in Schedule 1 (table item 22)**

Repeal the item.

**33 Subsection 250-10(2) in Schedule 1 (table item 24A)**

Repeal the item.

**34 Subsection 250-10(2) in Schedule 1 (table item 22 (second occurring))**

Repeal the item.

**35 Subsection 250-10(2) in Schedule 1 (table item 23 (second occurring))**

Repeal the item.

**36 Application of running balance account amendments**

- (1) The amendment made by item 10 applies to credits arising on or after 1 July 2003.
- (2) The amendment made by item 11 applies to debts becoming due on or after 1 July 2003.

**37 Transitional**

- (1) Despite the amendments made by this Schedule, the *Taxation Administration Act 1953* continues to apply, as if it had not been amended by this Schedule, in relation to any act or omission:
  - (a) that took place before 1 July 2003 under or for the purposes of the *Diesel and Alternative Fuels Grants Scheme Act 1999*; or
  - (b) that takes place on or after that day under or for the purposes of that Act in its continued operation in accordance with item 2 of Schedule 2 to this Act.

Note: The above subitem will, for example, have the effect that:

- (a) an order may be made under section 8W in the *Taxation Administration Act 1953* in relation to an offence committed in

relation to the *Diesel and Alternative Fuels Grants Scheme Act 1999* before or after its repeal; and

- (b) a document may be certified under section 15A in the *Taxation Administration Act 1953* as a true copy of a document obtained under the *Diesel and Alternative Fuels Grants Scheme Act 1999* before or after its repeal.

- (2) Despite the repeal of subsection 17B(8) of the *Taxation Administration Act 1953* by this Schedule, section 17B of that Act continues to apply in relation to conduct that constituted or would constitute a contravention of the *Diesel and Alternative Fuels Grants Scheme Act 1999*, in its continued operation in accordance with item 2 of Schedule 2 to this Act, as if that Act were a taxation law.

## **Schedule 6—Amendment of other Acts**

### ***A New Tax System (Australian Business Number) Act 1999***

#### **1 Subparagraph 30(3)(c)(v)**

Repeal the subparagraph.

### ***Income Tax Assessment Act 1936***

#### **2 Section 251A (paragraph (c) of the definition of taxation law)**

Repeal the paragraph.

## **Schedule 7—Transitional extension of Energy Grants (Credits) Scheme**

### **1 Transitional extension of Energy Grants (Credits) Scheme to certain fuel purchased or imported into Australia before 1 July 2003**

- (1) This item applies if, during the period from the beginning of 1 July 2000 until the end of 30 June 2003, a person purchased or imported into Australia on-road diesel fuel, on-road alternative fuel or off-road diesel fuel, within the meaning of the *Energy Grants (Credits) Scheme Act 2003*.
- (2) The *Energy Grants (Credits) Scheme Act 2003* applies to such fuel in the same way as it applies to on-road diesel fuel, on-road alternative fuel or off-road diesel fuel purchased or imported into Australia on or after 1 July 2003.
- (3) If, as a result of subitem (2), a person becomes entitled to an energy grant under the *Energy Grants (Credits) Scheme Act 2003*, the person is not entitled to make a claim for payment of the grant under section 15 of the *Product Grants and Benefits Administration Act 2000* if:
  - (a) the person has made a claim (other than one that has been withdrawn) in respect of the same fuel under section 15 of the *Diesel and Alternative Fuels Grants Scheme Act 1999*, including in its operation in accordance with item 2 of Schedule 2 to this Act; or
  - (b) the person has made an application (other than one that has been withdrawn) in respect of the same fuel under section 164 of the *Customs Act 1901*, including in its operation in accordance with item 25 of Schedule 3 to this Act; or
  - (c) the person has made an application (other than one that has been withdrawn) in respect of the same fuel under section 78A of the *Excise Act 1901*, including in its operation in accordance with item 18 of Schedule 4 to this Act.

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*[Minister's second reading speech made in—  
House of Representatives on 13 February 2003  
Senate on 26 March 2003]*

(11/03)