



Excise Tariff Amendment (Fuels) Act 2004

No. 66, 2004

**An Act to amend the *Excise Tariff Act 1921*, and for
related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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Excise Tariff Amendment (Fuels) Act 2004

No. 66, 2004

**An Act to amend the *Excise Tariff Act 1921*, and for
related purposes**

[Assented to 22 June 2004]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Excise Tariff Amendment (Fuels) Act 2004*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	22 June 2004
2. Part 1 of Schedule 1	1 July 2003.	1 July 2003
3. Part 2 of Schedule 1	1 January 2004.	1 January 2004
4. Part 3 of Schedule 1	1 July 2003.	1 July 2003
5. Part 4 of Schedule 1	18 September 2003.	18 September 2003
6. Part 5 of Schedule 1	The day on which this Act receives the Royal Assent. However, if the <i>Excise Tariff Amendment Act (No. 1) 2004</i> commences or has commenced, the provision(s) do not commence, and are taken never to have commenced, at all.	
7. Part 1 of Schedule 2	The provision(s) do not commence at all unless the <i>Excise Tariff Amendment Act (No. 1) 2004</i> commences, in which case the provision(s) are taken to have commenced immediately after the commencement of the provision(s) covered by table item 2.	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
8. Part 2 of Schedule 2	The provision(s) do not commence at all unless the <i>Excise Tariff Amendment Act (No. 1) 2004</i> commences, in which case the provision(s) are taken to have commenced immediately after the commencement of the provision(s) covered by table item 5.	

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

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 Excise Tariff Act 1921

Part 1—Amendments providing different excise duty rates for diesel and other fuels by reference to their sulphur content

1 Subsection 6G(1)

Omit “subsection (2) or (3)”, substitute “subsection (2), (2B) or (3)”.

2 Subsection 6G(1) (paragraph (b) of the definition of *blending rate*)

Repeal the paragraph, substitute:

- (b) if no goods included in subparagraph (a)(i) or (ii) are included in the excisable blended petroleum product and it is not an excisable blended petroleum product to which paragraph (c) applies:
 - (i) unless subparagraph (ii) applies—the rate of excise duty applicable to diesel (other than recycled product) classified to item 11 of the Schedule having a sulphur content that exceeds 50 parts per million; or
 - (ii) if the Collector is satisfied that the sulphur content of the excisable blended petroleum product does not exceed 50 parts per million—the rate of excise duty applicable to diesel (other than recycled product) classified to item 11 of the Schedule having a sulphur content that does not exceed 50 parts per million; or

3 Subsection 6G(1A)

Repeal the subsection.

4 After subsection 6G(2)

Insert:

- (2A) Subsection (2) does not apply to an excisable blended petroleum product to which subsection (2B) applies.

(2B) Duty payable under this Act on an excisable blended petroleum product, being a blend of:

- (a) goods that are classified to item 11 of the Schedule as diesel; and
- (b) goods that are classified to item 2 of the Schedule as denatured ethanol for use in an internal combustion engine, as prescribed by by-law;

with or without other substances, is worked out using the formula:

$$\left[\left(\begin{array}{c} \text{Volume} \\ \text{of} \\ \text{diesel} \end{array} + \begin{array}{c} \text{Volume} \\ \text{of other} \\ \text{substances} \end{array} \right) \times \begin{array}{c} \text{Diesel} \\ \text{rate} \end{array} \right] + \left[\begin{array}{c} \text{Volume} \\ \text{of} \\ \text{ethanol} \end{array} \times \begin{array}{c} \text{Ethanol} \\ \text{rate} \end{array} \right] - \text{Previously} \\ \text{paid duties}$$

where:

diesel rate means:

- (a) unless paragraph (b) applies—the rate of excise duty applicable to diesel (other than recycled product) classified to item 11 of the Schedule having a sulphur content that exceeds 50 parts per million; and
- (b) if the Collector is satisfied that the sulphur content of the excisable blended petroleum product does not exceed 50 parts per million—the rate of excise duty applicable to diesel (other than recycled product) classified to item 11 of the Schedule having a sulphur content that does not exceed 50 parts per million.

ethanol rate means the rate of excise duty applicable to denatured ethanol classified to item 2 of the Schedule as denatured ethanol for use in an internal combustion engine, as prescribed by by-law.

previously paid duties means the sum of:

- (a) the excise duties (if any) that have already been paid on goods that are constituent elements of the excisable blended petroleum product and that are classified to item 2, 11, 12 or 15 of the Schedule; and
- (b) to the extent that Customs duties have been paid on imported goods that are constituent elements of the excisable blended petroleum product and that would have been classified to item 11, 12 or 15 of the Schedule if produced in Australia—so much of the Customs duties paid on those imported goods

as represents the application of the excise equivalent rate in relation to those imported goods;

worked out in accordance with subsection (4).

volume of diesel means the volume of diesel in the excisable blended petroleum product.

volume of ethanol means the volume of ethanol in the excisable blended petroleum product.

volume of other substances means the volume of substances (if any) in the excisable blended petroleum product that are not either diesel or ethanol.

5 Subsection 6G(3) (formula)

Repeal the formula, substitute:

$$\left[\text{Volume of diesel} + \text{Volume of additives} \right] \times \text{Diesel rate}$$

6 Subsection 6G(3)

Insert:

diesel rate means:

- (a) unless paragraph (b) applies—the rate of excise duty applicable to diesel (other than recycled product) classified to item 11 of the Schedule having a sulphur content that exceeds 50 parts per million; and
- (b) if the Collector is satisfied that the sulphur content of the excisable blended petroleum product does not exceed 50 parts per million—the rate of excise duty applicable to diesel (other than recycled product) classified to item 11 of the Schedule having a sulphur content that does not exceed 50 parts per million.

7 Subparagraph 11(B)(1)(a) of the Schedule

Repeal the subparagraph, substitute:

- (a) for use as fuel in an internal combustion engine and having a sulphur content exceeding 50 parts per million \$0.39143 per litre
- (aa) for use as fuel in an internal \$0.38143 per litre

combustion engine and
having a sulphur content not
exceeding 50 parts per million

8 Subparagraph 11(B)(2)(a) of the Schedule

Repeal the subparagraph, substitute:

- | | |
|---|---------------------|
| (a) for use as fuel in an internal combustion engine and having a sulphur content exceeding 50 parts per million | \$0.39143 per litre |
| (aa) for use as fuel in an internal combustion engine and having a sulphur content not exceeding 50 parts per million | \$0.38143 per litre |

9 Subparagraph 11(B)(2)(d) of the Schedule

Repeal the subparagraph, substitute:

- | | |
|--|---------------------|
| (d) other, having a sulphur content exceeding 50 parts per million | \$0.39143 per litre |
| (e) other, having a sulphur content not exceeding 50 parts per million | \$0.38143 per litre |

10 Subitem 11(C) of the Schedule

Repeal the subitem, substitute:

- | | |
|---|---------------------|
| (C) Diesel: | |
| (1) Having a sulphur content exceeding 50 parts per million, other than product falling to paragraph 11(C)(3) | \$0.39143 per litre |
| (2) Having a sulphur content not exceeding 50 parts per million, other than product falling to paragraph 11(C)(3) | \$0.38143 per litre |
| (3) Recycled product, on which Customs or Excise duty has been paid, recovered by a process not being a process of refining | Free |

11 Paragraph 11(F)(1) of the Schedule

Repeal the paragraph, substitute:

- | | |
|---|---------------------|
| (1) for use as fuel in an internal combustion engine and having a sulphur content exceeding 50 parts per million | \$0.39143 per litre |
| (1A) for use as fuel in an internal combustion engine and having a sulphur content not exceeding 50 parts per million | \$0.38143 per litre |

12 Paragraph 11(F)(4) of the Schedule

Repeal the paragraph, substitute:

- | | |
|--|---------------------|
| (4) other, having a sulphur content exceeding 50 parts per million | \$0.39143 per litre |
| (5) other, having a sulphur content not exceeding 50 parts per million | \$0.38143 per litre |

13 Paragraph 11(G)(2) of the Schedule

Repeal the paragraph, substitute:

- | | |
|---|---------------------|
| (2) for use as fuel in an internal combustion engine and having a sulphur content exceeding 50 parts per million | \$0.39143 per litre |
| (2A) for use as fuel in an internal combustion engine and having a sulphur content not exceeding 50 parts per million | \$0.38143 per litre |

14 Paragraph 11(G)(5) of the Schedule

Repeal the paragraph, substitute:

- | | |
|--|---------------------|
| (5) other, having a sulphur content exceeding 50 parts per million | \$0.39143 per litre |
| (6) other, having a sulphur content not exceeding 50 parts per million | \$0.38143 per litre |

**Part 2—Amendments increasing the excise duty rate
on diesel and other fuels that have a high
sulphur content**

15 Subparagraph 11(B)(1)(a) of the Schedule

Repeal the subparagraph, substitute:

- (a) for use as fuel in an internal combustion engine and having a sulphur content exceeding 50 parts per million \$0.40143 per litre

16 Subparagraph 11(B)(2)(a) of the Schedule

Repeal the subparagraph, substitute:

- (a) for use as fuel in an internal combustion engine and having a sulphur content exceeding 50 parts per million \$0.40143 per litre

17 Subparagraph 11(B)(2)(d) of the Schedule

Repeal the subparagraph, substitute:

- (d) other, having a sulphur content exceeding 50 parts per million \$0.40143 per litre

18 Paragraph 11(C)(1) of the Schedule

Repeal the paragraph, substitute:

- (1) Having a sulphur content exceeding 50 parts per million, other than product falling to paragraph 11(C)(3) \$0.40143 per litre

19 Paragraph 11(F)(1) of the Schedule

Repeal the paragraph, substitute:

- (1) for use as fuel in an internal combustion engine and having a sulphur content exceeding 50 parts per million \$0.40143 per litre

20 Paragraph 11(F)(4) of the Schedule

Repeal the paragraph, substitute:

- | | |
|--|---------------------|
| (4) other, having a sulphur content exceeding 50 parts per million | \$0.40143 per litre |
|--|---------------------|

21 Paragraph 11(G)(2) of the Schedule

Repeal the paragraph, substitute:

- | | |
|--|---------------------|
| (2) for use as fuel in an internal combustion engine and having a sulphur content exceeding 50 parts per million | \$0.40143 per litre |
|--|---------------------|

22 Paragraph 11(G)(5) of the Schedule

Repeal the paragraph, substitute:

- | | |
|--|---------------------|
| (5) other, having a sulphur content exceeding 50 parts per million | \$0.40143 per litre |
|--|---------------------|

**Part 3—Amendments increasing the excise duty rate
on aviation fuels**

23 The rate of duty in subitem 11(A) of the Schedule

Repeal the rate, substitute “\$0.03151 per litre”.

**24 The rate of duty in subparagraph 11(H)(1)(a) of the
Schedule**

Repeal the rate, substitute “\$0.03114 per litre”.

**25 The rate of duty in subparagraph 11(H)(2)(a) of the
Schedule**

Repeal the rate, substitute “\$. 03114 per litre”.

Part 4—Amendments providing for an excise duty rate on biodiesel

26 Subsection 3(1)

Insert:

biodiesel means fuel:

- (a) for use in an internal combustion engine; and
- (b) manufactured by chemically altering vegetable oils or animal fats (including recycled oils from these sources) to form mono-alkyl esters.

27 Subsection 6G(1)

After “(2B)”, insert “, (2C)”.

28 After subsection 6G(2B)

Insert:

(2C) Duty payable under this Act on an excisable blended petroleum product containing a blend of:

- (a) goods that are classified to item 11 of the Schedule as biodiesel, or blends containing biodiesel classified to item 12 of the Schedule; and
- (b) goods that are classified to item 2, 11 or 12 of the Schedule (except gasoline);

with or without other substances, is worked out using the formula:

$$\left[\begin{array}{c} \text{Volume} \\ \text{of} \\ \text{biodiesel} \end{array} \times \begin{array}{c} \text{Biodiesel} \\ \text{rate} \end{array} \right] + \left[\begin{array}{c} \text{Volume} \\ \text{of} \\ \text{ethanol} \end{array} \times \begin{array}{c} \text{Ethanol} \\ \text{rate} \end{array} \right] + \left[\begin{array}{c} \text{Volume} \\ \text{of other} \\ \text{substances} \end{array} \times \begin{array}{c} \text{Diesel} \\ \text{rate} \end{array} \right] - \text{Previously} \\ \text{paid duties}$$

where:

biodiesel rate means the rate of excise duty applicable to goods that are classified to item 11 of the Schedule as biodiesel.

diesel rate means:

- (a) unless paragraph (b) applies—the rate of excise duty applicable to diesel (other than recycled product) classified to

item 11 of the Schedule having a sulphur content that exceeds 50 parts per million; or

- (b) if the Collector is satisfied that the sulphur content of the total volume of substances in the excisable blended petroleum product that are not biodiesel or ethanol does not exceed 50 parts per million—the rate of excise duty applicable to diesel (other than recycled product) classified to item 11 of the Schedule having a sulphur content that does not exceed 50 parts per million.

ethanol rate means the rate of excise duty applicable to denatured ethanol classified to item 2 of the Schedule as denatured ethanol for use in an internal combustion engine, as prescribed by by-law.

previously paid duties means the sum of:

- (a) the excise duties (if any) that have already been paid on goods that are constituent elements of the excisable blended petroleum product and that are classified to item 2, 11, 12 or 15 of the Schedule; and
- (b) to the extent that Customs duties have been paid on imported goods that are constituent elements of the excisable blended petroleum product and that would have been classified to item 11, 12 or 15 of the Schedule if produced in Australia—so much of the Customs duties paid on those imported goods as represents the application of the excise equivalent rate in relation to those imported goods;

worked out in accordance with subsection (4).

volume of biodiesel means the volume of biodiesel in the excisable blended petroleum product.

volume of ethanol means the volume of ethanol in the excisable blended petroleum product.

volume of other substances means the total volume of substances in the excisable blended petroleum product that are not biodiesel or ethanol.

29 Item 11 of the Schedule (at the end of the description of goods covered by the item)

Add:

; and (f) biodiesel.

30 At the end of item 11 of the Schedule

Add:

(L)	Biodiesel	\$0.38143 per litre
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Part 5—Other amendments

31 Subsection 6G(2) (formula)

Repeal the formula, substitute:

$$\left[\begin{array}{l} \text{Volume} \\ \text{of} \\ \text{gasoline} \end{array} \times \begin{array}{l} \text{Gasoline} \\ \text{rate} \end{array} \right] + \left[\begin{array}{l} \text{Volume} \\ \text{of} \\ \text{ethanol} \end{array} \times \begin{array}{l} \text{Ethanol} \\ \text{rate} \end{array} \right] - \text{Previously} \\ \text{paid duties}$$

32 Subsection 6G(2)

Insert:

previously paid duties means the sum of:

- (a) the excise duties (if any) that have already been paid on goods that are constituent elements of the excisable blended petroleum product and that are classified to item 2, 11 or 12 of the Schedule; and
 - (b) to the extent that Customs duties have been paid on imported goods that are constituent elements of the excisable blended petroleum product and that would have been classified to item 11 or 12 of the Schedule if produced in Australia—so much of the Customs duties paid on those imported goods as represents the application of the excise equivalent rate in relation to those imported goods;
- worked out in accordance with subsection (4).

TSchedule 2T Further amendments of the Excise Tariff Act 1921 to commence only if the Excise Tariff Amendment Act (No. 1) 2004 commencesT

TPart 1T Amendments relating to the amendments made by Part 1 of Schedule 1 to this ActT

Schedule 2—Further amendments of the Excise Tariff Act 1921 to commence only if the Excise Tariff Amendment Act (No. 1) 2004 commences

Part 1—Amendments relating to the amendments made by Part 1 of Schedule 1 to this Act

1 Paragraph 6G(2B)(b)

Omit “item 2”, substitute “item 11”.

2 Paragraph 6G(2B)(b)

Omit “, as prescribed by by-law”.

3 Subsection 6G(2B) (definition of *ethanol rate*)

Omit “item 2”, substitute “item 11”.

4 Subsection 6G(2B) (definition of *ethanol rate*)

Omit “, as prescribed by by-law”.

5 Subsection 6G(2B) (paragraph (a) of the definition of *previously paid duties*)

Omit “2, ”.

Part 2—Amendments relating to the amendments made by Part 4 of Schedule 1 to this Act

6 Paragraph 6G(2C)(b)

Omit “2, ”.

7 Subsection 6G(2C) (definition of *ethanol rate*)

Omit “item 2”, substitute “item 11”.

8 Subsection 6G(2C) (definition of *ethanol rate*)

Omit “, as prescribed by by-law”.

9 Subsection 6G(2C) (paragraph (a) of the definition of *previously paid duties*)

Omit “2, ”.

*[Minister’s second reading speech made in—
House of Representatives on 1 April 2004
Senate on 15 June 2004]*

(44/04)
