





# **Customs Amendment (Fuel Tax Reform and Other Measures) Act 2006**

**No. 76, 2006**

**An Act to amend the *Customs Act 1901*, and for  
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# Customs Amendment (Fuel Tax Reform and Other Measures) Act 2006

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## An Act to amend the *Customs Act 1901*, and for related purposes

[Assented to 26 June 2006]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Customs Amendment (Fuel Tax Reform and Other Measures) Act 2006*.

### 2 Commencement

This Act commences on 1 July 2006.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

### *Customs Act 1901*

**1 Subsection 4(1) (definition of *clean fuel*)**

Repeal the definition.

**2 Subsection 4(1) (definition of *designated fuel*)**

Repeal the definition.

**3 Subsection 4(1)**

Insert:

*excise-equivalent goods* means goods prescribed by the regulations for the purposes of this definition.

**4 Subsection 4(1) (definition of *marker*)**

Repeal the definition.

**5 Subparagraph 30(1)(a)(ii)**

After “warehousing”, insert “and are not excise-equivalent goods”.

**6 Subparagraph 30(1)(a)(iv)**

After “warehousing”, insert “and are not excise-equivalent goods”.

**7 At the end of paragraph 30(1)(a)**

Add:

- ; and (v) if the goods (the *dual goods*) are examinable food that has been entered for warehousing and are excise-equivalent goods—until whichever of the events mentioned in subsection (1A) happens first; and
- (vi) if the goods are excise-equivalent goods and are not examinable food—until whichever of the events mentioned in subsection (1B) happens first;

**8 After subsection 30(1)**

Insert:

- (1A) The events for the purposes of subparagraph (1)(a)(v) are as follows:
- (a) the dual goods are destroyed in accordance with an imported food inspection advice delivered to the person who has possession of the goods;
  - (b) excisable goods are manufactured and the dual goods are used in that manufacture;
  - (c) the dual goods are delivered into home consumption in accordance with an authority to deal or in accordance with a permission under section 69, 70 or 162A;
  - (d) the dual goods are exported to a place outside Australia.
- (1B) The events for the purposes of subparagraph (1)(a)(vi) are as follows:
- (a) excisable goods are manufactured and the excise-equivalent goods are used in that manufacture;
  - (b) the excise-equivalent goods are delivered into home consumption in accordance with an authority to deal or in accordance with a permission under section 69, 70 or 162A;
  - (c) the excise-equivalent goods are exported to a place outside Australia.

**9 Subsection 71K(1)**

After “subsection 69(5) or 70(7)”, insert “or section 105C”.

**10 Subsections 71L(1) and (3)**

After “subsection 69(5) or 70(7)”, insert “or section 105C”.

**11 Subsection 79(3)**

After “processing,”, insert “manufacture of excisable goods,”.

**12 Part VA (heading)**

Repeal the heading, substitute:

**Part VA—Special provisions relating to beverages**

**13 At the end of Part VA**

Add:

### **105A Delivery from Customs control of brandy, whisky or rum**

- (1) Brandy, whisky or rum imported into Australia must not be delivered from the control of the Customs unless a Collector is satisfied that it has been matured by storage in wood for at least 2 years.
- (2) In this section:

***brandy*** means a spirit distilled from grape wine in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to brandy.

***grape wine*** has the same meaning as in Subdivision 31-A of the *A New Tax System (Wine Equalisation Tax) Act 1999*.

***rum*** means a spirit obtained by the distillation of a fermented liquor derived from the products of sugar cane, being distillation carried out in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to rum.

***whisky*** means a spirit obtained by the distillation of a fermented liquor of a mash of cereal grain in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to whisky.

### **14 After Part VA**

Insert:

## **Part VAA—Special provisions relating to excise-equivalent goods**

### **105B Extinguishment of duty on excise-equivalent goods**

- (1) The liability to pay import duty on excise-equivalent goods is extinguished if:
  - (a) the goods are entered for warehousing; and
  - (b) excisable goods are manufactured and the excise-equivalent goods are used in that manufacture; and
  - (c) the excise-equivalent goods are subject to the control of the Customs at the time they are used in that manufacture; and
  - (d) that manufacture occurs at a place that is both:

- (i) a warehouse described in a warehouse licence granted under Part V of this Act; and
  - (ii) premises specified in a manufacturer licence granted under the *Excise Act 1901*.
- (2) The liability is extinguished at the time the excisable goods are manufactured.

*Ad valorem component*

- (3) Subsection (1) does not apply to an amount of duty that is calculated as a percentage of the value of the excise-equivalent goods because of section 9 of the *Customs Tariff Act 1995*.

Note: Subsection 105C(2) deals with the payment of the amount.

### **105C Returns**

- (1) This section applies if:
- (a) excisable goods are manufactured within a manufacture period; and
  - (b) excise-equivalent goods are used in that manufacture (whether or not in that period); and
  - (c) the excise-equivalent goods are subject to the control of the Customs at the time they are used in that manufacture; and
  - (d) that manufacture occurs at a place that is both:
    - (i) a warehouse described in a warehouse licence granted under Part V of this Act; and
    - (ii) premises specified in a manufacturer licence granted under the *Excise Act 1901*.
- (2) The legal owner of the excise-equivalent goods at the time they are used in that manufacture must:
- (a) give Customs a return within 8 days after the end of the manufacture period, providing particulars in accordance with section 71K or 71L in relation to the excise-equivalent goods; and
  - (b) at the time when each return is given to Customs, pay any amount of duty referred to in subsection 105B(3) that is owing at the rate applicable at the time the excisable goods are manufactured.

Penalty: 50 penalty units.

- (3) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (4) In this section:

***manufacture period*** means:

- (a) a 7-day period beginning on a Monday; or
  - (b) if the regulations prescribe a different period for the purposes of this definition—that period.
- (5) If the regulations do prescribe such a different period, the regulations may also prescribe matters of a transitional nature relating to the change to the different period.

### 105D GST matters

- (1) This section applies if:

- (a) excise-equivalent goods are entered for warehousing; and
- (b) excisable goods are manufactured and the excise-equivalent goods are used in that manufacture; and
- (c) the excise-equivalent goods are subject to the control of the Customs at the time they are used in that manufacture.

#### *Taxable importation*

- (2) For the purposes of the GST Act, the importer of the excise-equivalent goods is taken to have entered them for home consumption at the time the excisable goods are manufactured.

Note: Section 13-5 of the GST Act deals with taxable importations of goods entered for home consumption.

#### *Deferred payment of GST*

- (3) If the importer of the excise-equivalent goods is an approved entity at the time the excisable goods are manufactured, then for the purposes of the GST Act and the GST regulations the importer is taken to have entered the excise-equivalent goods for home consumption by computer at that time.

Note: Regulations made for the purposes of paragraph 33-15(1)(b) of the GST Act deal with deferred payment of GST on taxable importations

and require goods to have been entered for home consumption by computer.

*Definitions*

(4) In this section:

***approved entity*** means an entity approved under regulations made for the purposes of paragraph 33-15(1)(b) of the GST Act.

***GST regulations*** means the *A New Tax System (Goods and Services Tax) Regulations 1999*.

**105E Use of excise-equivalent goods in the manufacture of excisable goods to occur at a dual-licensed place**

A person must not use excise-equivalent goods subject to the control of the Customs in the manufacture of excisable goods unless that manufacture occurs at a place that is both:

- (a) a warehouse described in a warehouse licence granted under Part V of this Act; and
- (b) premises specified in a manufacturer licence granted under the *Excise Act 1901*.

**15 Subsection 132(1)**

Omit “section 132B”, substitute “sections 105C and 132B”.

**16 Subsection 234(2B)**

After “subsection 69(5) or 70(7)”, insert “or section 105C”.

**17 Subsections 234(4A) to (8)**

Repeal the subsections.

**18 Paragraph 240(1AA)(a)**

Omit “section 69 or 70”, substitute “section 69, 70 or 105C”.

**19 Application and transitional provisions**

(1) Sections 105B and 105D of the *Customs Act 1901* apply in relation to the manufacture of excisable goods that occurs on or after 1 July 2006, where the excise-equivalent goods:

- (a) are entered for warehousing on or after 1 July 2006; or

- (b) were entered for warehousing before 1 July 2006 and were in a warehouse immediately before 1 July 2006.

*Returns*

- (2) The first manufacture period for the purposes of section 105C of the *Customs Act 1901* is taken to be the period beginning on 1 July 2006 and ending at the end of 9 July 2006.
- (3) Section 105C of the *Customs Act 1901* then applies in relation to Monday 10 July 2006 and each later Monday. This subitem is subject to regulations made for the purposes of the definition of ***manufacture period*** in that section.
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[Minister's second reading speech made in—  
House of Representatives on 11 May 2006  
Senate on 13 June 2006]

(53/06)

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