



Excise Tariff Amendment (Condensate) Act 2008

No. 109, 2008

**An Act to amend the law relating to excise tariffs,
and for related purposes**

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

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No. 109, 2008

An Act to amend the law relating to excise tariffs, and for related purposes

[Assented to 18 October 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Excise Tariff Amendment (Condensate) Act 2008*.

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.	18 October 2008
2. Schedule 1	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) the start of the day on which the <i>Excise Legislation Amendment (Condensate) Act 2008</i> receives the Royal Assent. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	18 October 2008

Note: This table relates only to the provisions of this Act as originally passed by both Houses of 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments

Part 1—Amendments

Excise Tariff Act 1921

1 Subsection 3(1) (definition of *delayed-entry oil*)

Omit “(other than oil in respect of which subitem 20.1 of the Schedule applies)”, substitute “or condensate (other than oil or condensate in respect of which subitem 20.1 or 21.1 of the Schedule applies)”.

2 Subsection 3(1)

Insert:

exempt offshore condensate means condensate that is included in exempt offshore oil and condensate.

3 Subsection 3(1) (definition of *exempt offshore oil*)

Repeal the definition, substitute:

exempt offshore oil means stabilised crude petroleum oil that is included in exempt offshore oil and condensate.

4 Subsection 3(1)

Insert:

exempt offshore oil and condensate means the first 4767.3 megalitres of:

- (a) if a particular exempt offshore field produces stabilised crude petroleum oil and condensate—the stabilised crude petroleum oil and condensate that is produced from the field; or
- (b) if a particular exempt offshore field produces either stabilised crude petroleum oil or condensate (but not both)—the stabilised crude petroleum oil or condensate (as the case requires) that is produced from the field;

being a field from which neither petroleum oil nor condensate was produced before 1 July 1987.

5 Subsection 3(1) (definition of *installation*)

After “petroleum oil”, insert “or condensate”.

6 Subsection 3(1) (definition of *oil producing region*)

Repeal the definition, substitute:

oil producing region:

- (a) has the same meaning as in the *Petroleum Excise (Prices) Act 1987*; and
- (b) includes:
 - (i) a production area within the meaning of section 5B, being an area from which condensate is obtained and that is prescribed by the regulations as an oil producing region; or
 - (ii) 2 or more production areas within the meaning of that section from which condensate is obtained, being areas that are together so prescribed.

Note: Part IA of the *Petroleum Excise (Prices) Act 1987* gives that Act operation in relation to condensate in addition to its operation in relation to stabilised crude petroleum oil. Paragraph (b) of this definition ensures that the definition covers production areas from which condensate is obtained.

7 Subsection 3(1) (at the end of the definition of *platform*)

Add “or condensate”.

8 Subsection 3(1) (at the end of paragraph (a) of the definition of *prescribed source*)

Add “or”.

9 Subsection 3(1) (after paragraph (b) of the definition of *prescribed source*)

Insert:

- (ba) a prescribed condensate production area within the meaning of section 6CA; or

10 Subsection 3(1)

Insert:

pre-threshold onshore condensate means condensate that is included in pre-threshold onshore oil and condensate.

11 Subsection 3(1) (definition of *pre-threshold onshore oil*)

Repeal the definition, substitute:

pre-threshold onshore oil means stabilised crude petroleum oil that is included in pre-threshold onshore oil and condensate.

12 Subsection 3(1)

Insert:

pre-threshold onshore oil and condensate means:

- (a) if a particular onshore field produces stabilised crude petroleum oil and condensate—stabilised crude petroleum oil and condensate produced from the field after 30 June 1987 that is included in the first 4767.3 megalitres of stabilised crude petroleum oil and condensate produced from the field; or
- (b) if a particular onshore field produces stabilised crude petroleum oil but not condensate—stabilised crude petroleum oil produced from the field after 30 June 1987 that is included in the first 4767.3 megalitres of stabilised crude petroleum oil produced from the field; or
- (c) if a particular onshore field produces condensate but not stabilised crude petroleum oil—condensate produced from the field after 30 June 1987 that is included in the first 4767.3 megalitres of condensate produced from the field.

14 Subsection 3(3)

After “6C,” insert “6CA.”

15 Subsection 5B(1) (at the end of paragraph (a) of the definition of *production area*)

Add “or”.

16 Subsection 5B(1) (after paragraph (b) of the definition of *production area*)

Insert:

- (ba) a prescribed condensate production area within the meaning of section 6CA; or

17 Subsection 5B(2)

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

18 Subsection 5B(3)

After “prescribed petroleum”, insert “(other than condensate)”.

19 At the end of subsection 5B(3)

Add:

Note: A mixture of, or obtained from, stabilized oil and condensate is covered by subsection (2).

20 Subsection 5B(3A)

Repeal the subsection, substitute:

(3A) For the purposes of this Act, if a person enters for home consumption a mixture of, or obtained from, condensate and prescribed petroleum, the petroleum in the mixture is taken to be condensate.

Note: A mixture of, or obtained from, stabilized oil and condensate is covered by subsection (2).

21 Subsection 5B(4)

After “stabilized oil”, insert “or condensate”.

22 Subsection 5B(4)

After “that oil”, insert “or condensate (as the case requires)”.

23 Subsection 5B(4A)

After “stabilized oil”, insert “or condensate”.

24 Subsection 5B(4A)

After “that oil”, insert “or condensate (as the case requires)”.

25 Sections 6AB and 6AC

Repeal the sections, substitute:

6AB Applicable petroleum prices

For the purposes of section 6B, 6C, 6CA or 6D, at any particular time the applicable petroleum price for a month occurring after 30 June 1997 in respect of stabilized crude petroleum oil or

condensate, obtained from a production area, that is, under by-laws, a prescribed production area, a prescribed new production area, a prescribed condensate production area or a prescribed intermediate production area, as the case requires, for the purposes of that section, is:

- (a) if at that time the final VOLWARE price for stabilized crude petroleum oil or condensate (as the case requires) for the month and an oil producing region that constitutes or includes that production area has been determined under section 7 of the *Petroleum Excise (Prices) Act 1987*—that final VOLWARE price; or
- (b) if at that time the final VOLWARE price for stabilized crude petroleum oil or condensate (as the case requires) has not been so determined—the interim VOLWARE price for stabilized crude petroleum oil or condensate (as the case requires) determined under that section for the month and an oil producing region that constitutes or includes that production area.

6AC Application of section 6B, 6C, 6CA or 6D to different oil producing regions

If:

- (a) a final VOLWARE price or an interim VOLWARE price for stabilized crude petroleum oil or condensate (as the case requires) has been, or is taken to have been, determined under the *Petroleum Excise (Prices) Act 1987* for a month and an oil producing region; and
- (b) that oil producing region is constituted by or includes:
 - (i) a particular prescribed production area within the meaning of section 6B; or
 - (ii) a particular prescribed new production area within the meaning of section 6C; or
 - (iii) a particular prescribed condensate production area within the meaning of section 6CA; or
 - (iv) a particular prescribed intermediate production area within the meaning of section 6D;

that determination is taken to have effect, and, at all material times to have had effect, in the application of that section in respect of stabilized crude petroleum or condensate (as the case requires)

obtained from that production area, as if it were also a determination of that price made in respect of that particular production area.

26 Paragraphs 6B(5B)(a) and (5C)(a) and 6C(5A)(a) and (5B)(a)

After “a VOLWARE price”, insert “for stabilised crude petroleum oil”.

27 After section 6C

Insert:

6CA Duties of excise on condensate

Definitions

(1) In this section:

adjusted previous year’s duty, in relation to a prescribed condensate production area in relation to a month of a financial year, means the amount of duty that, at the end of the financial year immediately preceding the financial year in which that month occurs, would have been payable in respect of condensate produced from that area and entered for home consumption during that preceding year if, for the prices that were, at the end of that preceding year, the applicable petroleum prices for all of the months of that preceding year, there had been substituted the prices that are, at the end of that first-mentioned month, the respective applicable petroleum prices for all of those months.

non-adjusted previous year’s duty, in relation to a prescribed condensate production area in relation to a month of a financial year, means the amount of duty that, at the end of the financial year immediately preceding the financial year in which that month occurs, would have been payable in respect of condensate produced from that area and entered for home consumption during that preceding year if, for the prices that were, at the end of that preceding year, the applicable petroleum prices for all of the months of that preceding year, there had been substituted the prices that were, immediately before the commencement of that first-mentioned month, the respective applicable petroleum prices for all of those months.

prescribed condensate production area means a condensate production area prescribed by by-laws (which, without limiting the generality of the foregoing, may be a relevant accumulation, a well, an oilfield or a gas field).

Note: A by-law may be expressed to take effect before the date it is registered under the *Legislative Instruments Act 2003* (see subsection (13) of this section).

Introduction

- (2) The amount of duty in respect of condensate ascertained in accordance with this section is to be ascertained by reference to the prescribed condensate production area from which the condensate is produced and to the month of a financial year during which the condensate is entered for home consumption.

The amount of duty

- (3) Subject to subsection (4), the amount of duty in respect of condensate produced from a prescribed condensate production area and entered for home consumption during a month of a financial year is the amount worked out using the formula:

$$\text{Notional duty} + \text{Debited adjustment amount} - \left[\text{Duty paid} + \text{Credited adjustment amount} \right]$$

where:

credited adjustment amount is the credited adjustment amount (if any) for that area and that month, worked out in accordance with subsection (8).

debited adjustment amount is the debited adjustment amount (if any) for that area and that month, worked out in accordance with subsection (7).

duty paid is the amount of duty (if any) paid in respect of condensate produced from that area and entered for home consumption during the period starting at the start of that financial year and ending at the end of that month.

notional duty is the amount of notional duty in respect of condensate produced from that area and entered for home consumption during the period starting at the start of that financial year and ending at the end of that month, worked out in accordance with subsection (5).

Disregarding certain amounts when working out amount of duty

- (4) In working out, for the purposes of subsection (3), the amount of duty paid in respect of condensate produced from a prescribed condensate production area and entered for home consumption during a period starting at the start of a financial year and ending at the end of a month of that year, the following amounts are to be disregarded:
- (a) any increases in the amount of duty paid as a result of the addition of debited adjustment amounts for that area for any of the preceding months of that year;
 - (b) any decreases in that amount as a result of the subtraction of credited adjustment amounts for that area for any of those months.

The total amount of notional duty

- (5) The amount of notional duty in respect of condensate produced from a particular prescribed condensate production area and entered for home consumption during a particular period is the sum of the amounts of notional duty in respect of:
- (a) the quantity (if any) of the condensate that exceeds $A \times 10B$ but does not exceed $A \times 12B$;
 - (b) the quantity (if any) of the condensate that exceeds $A \times 12B$ but does not exceed $A \times 14B$;
 - (c) the quantity (if any) of the condensate that exceeds $A \times 14B$ but does not exceed $A \times 16B$; and
 - (d) the quantity (if any) of the condensate that exceeds $A \times 16B$;
- where:

A is the number of days in the period.

B is:

- (a) where the period in a year in which there are 365 days—
136.98630 kilolitres; or
- (b) where the period is in a year in which there are 366 days—
136.61202 kilolitres.

The amount of notional duty for a quantity of condensate—one petroleum price

- (6) Subject to subsections (9) and (12), the amount of notional duty in respect of a quantity of condensate referred to in subsection (5) is an amount equal to the relevant percentage (set out in subsection (10)) of the product of:
- (a) the amount specified in the price that is, at the end of the period referred to in subsection (5) in relation to the quantity of condensate, the applicable petroleum price for the month in which the period comes to an end; and
 - (b) the number of kilolitres in that quantity;
- calculated to the nearest cent.

The debited adjustment amount

- (7) If:
- (a) during a month of a financial year, a VOLWARE price for condensate for a month of the immediately preceding financial year and a particular prescribed condensate production area is determined under section 7 of the *Petroleum Excise (Prices) Act 1987*; and
 - (b) the adjusted previous year's duty for that prescribed condensate production area for that first-mentioned month is greater than the non-adjusted previous year's duty for that area for that first-mentioned month;
- there is a debited adjustment amount for that area for that first-mentioned month, being an amount equal to the difference between that adjusted previous year's duty and that non-adjusted previous year's duty.

The credited adjustment amount

- (8) If:
- (a) during a month of a financial year, a VOLWARE price for condensate for a month of the immediately preceding financial year and a particular prescribed condensate production area is determined under section 7 of the *Petroleum Excise (Prices) Act 1987*; and
 - (b) the adjusted previous year's duty for that prescribed condensate production area for that first-mentioned month is

less than the non-adjusted previous year's duty for that area for that first-mentioned month;

there is a credited adjustment amount for that area for that first-mentioned month, being an amount equal to the difference between that non-adjusted previous year's duty and that adjusted previous year's duty.

The amount of notional duty for a quantity of condensate—more than one petroleum price

- (9) If, at the end of a period in a financial year, the applicable petroleum prices for the months in which the period occurs and a particular prescribed condensate production area are not all the same, the amount of the notional duty in respect of a quantity of condensate referred to in subsection (5) produced from that production area and entered for home consumption during the period is an amount equal to the relevant percentage (set out in subsection (10)) of the sum of the amounts calculated in respect of each such applicable petroleum price in operation during the period in accordance with the formula:

$$\frac{P \times Q \times K}{KT}$$

where:

K is the number of kilolitres of condensate produced from that production area and entered for home consumption during that part of the period during which the applicable petroleum price was in operation.

KT is the number of kilolitres of condensate produced from that production area and entered for home consumption during the period.

P is the amount specified in the applicable petroleum price.

Q is the number of kilolitres in the quantity of condensate referred to in subsection (5).

Relevant percentage for a quantity of condensate

- (10) For the purposes of subsections (6) and (9), the relevant percentage in relation to a quantity of condensate referred to in subsection (5) is:
- (a) in the case of a quantity to which paragraph (5)(a) applies—10%; and
 - (b) in the case of a quantity to which paragraph (5)(b) applies—15%; and
 - (c) in the case of a quantity to which paragraph (5)(c) applies—20%; and
 - (d) in the case of a quantity to which paragraph (5)(d) applies—30%.

Rounding the number of kilolitres in a quantity of condensate

- (11) For the purposes of subsections (6) and (9), the number of kilolitres in a quantity of condensate is taken to be a number equal to:
- (a) unless paragraph (b) applies—the number of kilolitres in that quantity calculated to one decimal place; or
 - (b) if the number of kilolitres in that quantity calculated to 2 decimal places ends in a number greater than 4—the number of kilolitres in that quantity calculated to one decimal place increased by 0.1.

The amount of notional duty—dealing with the first year of production

- (12) When no condensate produced from a particular prescribed condensate production area was ever entered for home consumption before the end of the first month of a particular financial year, then, in ascertaining, in accordance with subsections (5), (6) and (10) or (5), (9) and (10), the notional duty in respect of condensate produced from the production area and entered for home consumption during a later month (the **relevant month**) of that financial year, those subsections have effect in relation to the condensate as if each reference in a paragraph of subsection (5) to **B** were a reference to the product of **B** and the factor ascertained in accordance with the formula:

$$\frac{M}{N}$$

where:

M is the number of days in the period commencing on the day on which condensate produced from the prescribed condensate production area was first entered for home consumption and ending on the end of the relevant month.

N is the number of days in the period commencing on the first day of the financial year and ending on the end of the relevant month.

- (13) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a by-law prescribing a condensate production area may be expressed to take effect before the date it is registered under that Act.
- (13A) Despite section 169 of the *Excise Act 1901*, a by-law prescribing a condensate production area may have the effect of imposing duty, in relation to condensate entered for home consumption before the date on which the by-law is published in the *Gazette*, at a rate higher than the rate of duty payable in respect of the condensate on the day on which the condensate was entered for home consumption.

Interpretation of the Schedule

- (14) The words set out after “, if higher,” in the column headed “Rate of Duty” in subitem 21.3 of the Schedule are taken, for the purposes of this Act or any other law of the Commonwealth, to be a rate of duty.

28 Paragraphs 6D(5A)(a) and (5B)(a)

After “a VOLWARE price”, insert “for stabilized crude petroleum oil”.

29 Subsection 6E(2) (definition of T)

After “6C”, insert “, 6CA”.

30 Item 21 of the Schedule

Repeal the item, substitute:

21	Condensate, other than: (a) condensate produced from a Resource Rent Tax area; and (b) condensate produced from a prescribed source; and (c) exempt offshore condensate	
21.1	As prescribed by by-law	Free
21.2	Pre-threshold onshore condensate	Free
21.3	Other	Free, or, if higher, the amount of duty worked out under section 6CA

Part 2—Application and transitional provisions

31 Application

Application of Schedule (other than items 2, 3, 4, 10, 11 and 12)

- (1) The amendments made by this Schedule (other than items 2, 3, 4, 10, 11 and 12) apply (subject to subitem (2)) in relation to condensate produced after midnight (by legal time in the Australian Capital Territory) on 13 May 2008.
- (2) Section 6CA of the *Excise Tariff Act 1921* (as inserted by item 27 of this Schedule) applies, in relation to condensate produced after midnight (by legal time in the Australian Capital Territory) on 13 May 2008 until midnight (by legal time in the Australian Capital Territory) on 30 June 2008, as if the following modifications were made to that section:
 - (a) the following definitions were omitted:
 - (i) the definition of *adjusted previous year's duty* in subsection 6CA(1);
 - (ii) the definition of *non-adjusted previous year's duty* in subsection 6CA(1);
 - (iii) the definition of *credited adjustment amount* in subsection 6CA(3);
 - (iv) the definition of *debited adjustment amount* in subsection 6CA(3);
 - (b) the formula in subsection 6CA(3) were replaced with the following formula:

Notional duty – Duty paid
 - (c) subsections 6CA(7) and (8) were omitted.

Application of items 2, 3, 4, 10, 11 and 12

- (3) The amendments made by items 2, 3, 4, 10, 11 and 12 of this Schedule apply in relation to stabilised crude petroleum oil and condensate produced after midnight (by legal time in the Australian Capital Territory) on 13 May 2008.
 - (4) To avoid doubt, the amendments made by those items do not affect any excise on stabilised crude petroleum oil produced before midnight (by legal time in the Australian Capital Territory) on 13 May 2008.
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- (5) In determining whether stabilised crude petroleum oil or condensate is included in pre-threshold onshore oil and condensate, take into account all stabilised crude petroleum oil and condensate produced, whether before or after midnight (by legal time in the Australian Capital Territory) on 13 May 2008, from a particular onshore field.
- (6) In determining whether stabilised crude petroleum oil or condensate is included in exempt offshore oil and condensate, take into account all stabilised crude petroleum oil and condensate produced, whether before or after midnight (by legal time in the Australian Capital Territory) on 13 May 2008, from a particular exempt offshore field.

Application of subsection 5(2) of the Excise Tariff Act 1921

- (7) For the purposes of item 21 of the Schedule to the *Excise Tariff Act 1921* (as amended by item 30 of this Act), paragraphs 5(2)(b) and (2)(c) of the *Excise Tariff Act 1921* do not apply in relation to condensate produced before midnight (by legal time in the Australian Capital Territory) on 13 May 2008.

32 Deemed entry for home consumption

- (1) This item applies if:
 - (a) a person produces condensate after midnight (by legal time in the Australian Capital Territory) on 13 May 2008; and
 - (b) the person does not have a manufacturer's licence (within the meaning of the *Excise Act 1901*) to manufacture condensate; and
 - (c) the person's grace period has not ended (see subitem (4)).
- (2) For the purposes of the *Excise Tariff Act 1921* (as amended by this Act), the person is taken to have been given a permission under section 61C of the *Excise Act 1901* to deliver the condensate for home consumption from the prescribed condensate production area from which the condensate is produced.
- (3) The permission is taken to be revoked at the end of the person's grace period.
- (4) In this item:
grace period, in relation to a person, means the period:
 - (a) beginning immediately after midnight (by legal time in the Australian Capital Territory) on 13 May 2008; and

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(b) ending at the earlier of the following times:

- (i) the time when the CEO grants, or refuses to grant, the person a manufacturer's licence to manufacture condensate under section 39A of the *Excise Act 1901*;
- (ii) the end of the transition period.

transition period means the period that would be the *transition period* within the meaning of subsection 15(3) of the *Excise Act 1901* if the references to “the first day” in paragraph (a) and subparagraph (b)(iii) of the definition of *transition period*, and in subparagraph 15(4)(a)(ii) and paragraph 15(4)(b) of the *Excise Act 1901*, were references to “the day on which Schedule 1 to the *Excise Tariff Amendment (Condensate) Act 2008* commences”.

[Minister's second reading speech made in—
House of Representatives on 15 May 2008
Senate on 16 June 2008]

(82/08)
