





# **Excise Amendment (Reducing Business Compliance Burden) Act 2012**

**No. 36, 2012**

**An Act to amend the *Excise Act 1901*, and for other purposes**

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



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## **An Act to amend the *Excise Act 1901*, and for other purposes**

[Assented to 15 April 2012]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Excise Amendment (Reducing Business Compliance Burden) Act 2012*.

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	15 April 2012
2. Schedule 1, items 1 to 12	The day this Act receives the Royal Assent.	15 April 2012
3. Schedule 1, items 13 to 15	Immediately after the commencement of the provision(s) covered by table item 2.	15 April 2012
4. Schedule 1, item 16	The day this Act receives the Royal Assent.	15 April 2012
5. Schedule 1, items 17 to 25	Immediately after the commencement of the provision(s) covered by table item 2.	15 April 2012
6. Schedule 1, items 26 to 28	The day this Act receives the Royal Assent.	15 April 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Settling excise duties**

### ***Excise Act 1901***

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

Insert:

*gaseous fuel* means compressed natural gas, liquefied natural gas or liquefied petroleum gas.

#### **2 Subsection 4(1)**

Insert:

*small business entity* has the meaning given by section 328-110 (other than subsection 328-110(4)) of the *Income Tax Assessment Act 1997*.

#### **3 Subsection 44(2)**

Omit “requirement”, substitute “condition”.

#### **4 Subsection 44(3)**

Omit “requirements” (wherever occurring), substitute “conditions”.

#### **5 Subsections 44(4), (5) and (7)**

Omit “requirement”, substitute “condition”.

#### **6 Subsection 61A(3)**

Omit “requirements” (wherever occurring), substitute “conditions”.

#### **7 Subsections 61A(4), (5) and (6)**

Omit “requirement”, substitute “condition”.

#### **8 Subsection 61C(1)**

Repeal the subsection, substitute:

- (1) A person may apply to the Collector for permission to deliver goods for home consumption without entering them for that purpose:

- (a) in respect of a recurring 7 day period; or
  - (b) in respect of a calendar month if:
    - (i) the person is a small business entity or included in a class prescribed by the regulations; or
    - (ii) the goods to be delivered for home consumption are of a kind prescribed by the regulations.
- (1A) If a person applies in respect of a recurring 7 day period, the person may specify in the application the 7 day period that the person wishes to use.
- (1B) An application must be made in an approved form.
- (1C) The Collector may, on receiving an application under subsection (1) or advice under subsection (8) or (9), by notice in writing:
- (a) give permission to the person to deliver for home consumption, from a place specified in the permission, goods:
    - (i) of a kind specified in the permission; and
    - (ii) subject to the CEO's control;even though an entry of the goods for home consumption has not been made and passed under this Act; or
  - (b) refuse to give such a permission and set out in the notice the reasons for so refusing.
- (1D) If a permission is to apply in respect of a 7 day period, the notice must specify:
- (a) the 7 day period for which permission is given; and
  - (b) the first day of the 7 day period from which permission is given.
- (1E) If a permission is to apply in respect of a calendar month, the notice must specify the calendar month from which permission is given.

## **9 Subsection 61C(2)**

Omit "subsection (1)", substitute "a permission given under subsection (1C)".

## **10 Subsection 61C(3)**

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Repeal the subsection, substitute:

- (3) A permission given under subsection (1C) is subject to the following conditions:
- (a) if the person's permission applies in respect of a 7 day period and specifies goods other than gaseous fuel—the condition that, to the extent that the permission relates to goods other than gaseous fuel, the person give the Collector a return, in an approved form, on the first business day following the end of each 7 day period, providing particulars in relation to the goods that have, during the period to which the return relates, been delivered into home consumption under the permission;
  - (b) if the person's permission applies in respect of a 7 day period and specifies gaseous fuel—the condition that, to the extent that the permission relates to gaseous fuel, the person give the Collector a return, in an approved form, on or before the sixth business day following the end of each 7 day period, providing particulars in relation to the gaseous fuel that has, during the period to which the return relates, been delivered into home consumption under the permission;
  - (c) if the person is a small business entity and the person's permission applies in respect of a calendar month—the condition that the person give the Collector a return, in an approved form, on or before the 21st day of each calendar month, providing particulars in relation to the goods that have, during the previous calendar month, been delivered into home consumption under the permission;
  - (d) if a person is included in a class mentioned in subparagraph (1)(b)(i) or has permission to enter goods of a kind mentioned in subparagraph (1)(b)(ii) in respect of a calendar month—any condition prescribed by the regulations;
  - (e) if a person ceases to be a small business entity—the condition that the person advise the Collector, in writing, of that fact as soon as practicable after ceasing to be a small business entity;
  - (f) if a person ceases to be included in a class mentioned in subparagraph (1)(b)(i)—the condition that the person advise the Collector, in writing, of that fact as soon as practicable after ceasing to be included in that class;

- (g) the condition that, at the time when each return is given to the Collector, the person pay any duty owing at the rate applicable when the goods were delivered into home consumption;
  - (h) any other condition, specified in the permission, that, in the opinion of the Collector, is necessary for the protection of the revenue or for the purpose of ensuring compliance with the Excise Acts.
- (3A) Despite paragraphs (3)(a), (b), (c) and (d), the Collector may determine different conditions for giving the Collector a return if:
- (a) a person does not have any duty liability; or
  - (b) subsection (8) or (9) applies.

#### **11 Subsection 61C(5)**

Omit “under subsection (1)”, substitute “given under subsection (1C)”.

#### **12 At the end of section 61C**

Add:

- (7) If the Collector is satisfied that a person to whom a permission has been given under subsection (1C) has failed to comply with any condition to which the permission is subject, the Collector may, at any time while the permission remains in force, by notice in writing, revoke the permission. The notice must set out the reasons for the revocation.
- (8) If:
  - (a) a person is a small business entity or included in a class mentioned in subparagraph (1)(b)(i); and
  - (b) the person’s permission applies in respect of a calendar month; and
  - (c) the person advises the Collector, in writing, that the person ceases to be a small business entity or included in a class mentioned in subparagraph (1)(b)(i);the Collector must, by notice in writing:
  - (d) revoke the permission with effect from a specified day; and
  - (e) give another permission under subsection (1C) in respect of a 7 day period.

- (9) If a person advises the Collector, in writing, that the person wishes to change the period in respect of which their permission applies, the Collector may, by notice in writing:
- (a) revoke the permission with effect from a specified day; and
  - (b) give another permission under subsection (1C) in respect of another period.
- (10) Subsections (7) to (9) do not, by implication, limit the application of subsections 33(3) and (3AA) of the *Acts Interpretation Act 1901*.

**13 Paragraph 162C(1)(ca)**

Reletter as paragraph (a).

**14 Paragraph 162C(1)(d)**

Reletter as paragraph (b).

**15 Paragraph 162C(1)(e)**

Reletter as paragraph (c).

**16 After paragraph 162C(1)(e)**

Insert:

- (d) a decision of the Collector under section 61C to refuse to give a permission under that section;
- (e) a decision of the Collector under section 61C to impose a condition on a permission given under that section;
- (f) a decision of the Collector under subsection 61C(7) to revoke a permission given under that section;

**17 Paragraph 162C(1)(eaa)**

Reletter as paragraph (g).

**18 Paragraph 162C(1)(eaaa)**

Reletter as paragraph (h).

**19 Paragraph 162C(1)(ea)**

Reletter as paragraph (i).

**20 Paragraph 162C(1)(faaa)**

Reletter as paragraph (j).

**21 Paragraph 162C(1)(fb)**

Reletter as paragraph (k).

**22 Paragraph 162C(1)(g)**

Reletter as paragraph (l).

**23 Paragraph 162C(1)(h)**

Reletter as paragraph (m).

**24 Paragraph 162C(1)(i)**

Reletter as paragraph (n).

**25 Subsection 165A(13)**

Omit “paragraph 162C(1)(i)”, substitute “paragraph 162C(1)(n)”.

***Income Tax Assessment Act 1997***

**26 Subsection 328-110(1) (note)**

Repeal the note, substitute:

Note 1: If you are a small business entity for an income year, you may apply to the Commissioner under section 61C of the *Excise Act 1901* for permission to deliver goods for home consumption (without entering them for that purpose) in respect of a calendar month.

**27 Subsection 328-110(4) (at the end of the note)**

Add:

; (e) applying for permission under the *Excise Act 1901* to deliver goods for home consumption (without entering them for that purpose) in respect of a calendar month: see section 61C of that Act.

**28 Transitional provision**

- (1) This item applies in respect of a person who, immediately before commencement, had permission under section 61C of the old law to deliver goods (specified in the permission) for home consumption without entering them for that purpose in respect of a particular recurring period.

- (2) The person is taken to have been given permission under subsection 61C(1C) of the new law to deliver those goods for home consumption without entering them for that purpose in respect of the same period.
- (3) Subject to subitem (4), a permission mentioned in subitem (2) is subject to section 61C of the new law.
- (4) Despite the repeal and substitution of subsection 61C(3) of the old law by this Schedule, that subsection continues in force for 3 months after commencement as if it had not been repealed and substituted.
- (5) In this item:  
**commencement** means the day this item commences.  
**new law** means the *Excise Act 1901*, as in force immediately after commencement.  
**old law** means the *Excise Act 1901*, as in force immediately before commencement.
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[*Minister's second reading speech made in—  
House of Representatives on 23 November 2011  
Senate on 8 February 2012*]