

[Assented to 30 June
2000]



Diesel and Alternative Fuels Grants Scheme Amendment Act 2000

No. 77, 2000



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**An Act to amend the law relating to the diesel and
alternative fuels grants scheme, and for related
purposes**

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An Act to amend the law relating to the diesel and alternative fuels grants scheme, and for related purposes

[Assented to 30 June 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Diesel and Alternative Fuels Grants Scheme Amendment Act 2000*.

2 Commencement

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

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- (2) Item 14 of Schedule 1 commences, or is taken to have commenced, immediately after the commencement of item 2 of Schedule 2 to the *A New Tax System (Tax Administration) Act (No. 2) 2000*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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 Diesel and Alternative Fuels Grants Scheme Act 1999

1 Section 5

Insert:

emergency vehicle means a vehicle that is specified in the regulations to be an emergency vehicle, or that is in a class of vehicles that are specified in the regulations to be emergency vehicles.

2 Section 5

Insert:

primary production business has the same meaning as in the *Income Tax Assessment Act 1997*.

3 Section 6B

Repeal the section, substitute:

6B Requirement for registration

- (1) Despite the other provisions of this Part, you are not entitled to a fuel grant in respect of the use, during a grant period, of diesel fuel or alternative fuel in operating a particular vehicle unless you were registered for entitlement to fuel grants in respect of the vehicle either:
 - (a) at any time during the grant period; or
 - (b) when you made a claim for payment of the grant.
- (2) For the purposes of subsection (1), if you make a claim in respect of a particular vehicle:
 - (a) after, or at the same time as, you apply for registration in respect of that vehicle; but
 - (b) before you are registered in respect of that vehicle;the claim is taken to have been made immediately after you are registered in respect of that vehicle.

4 After paragraph 10(2)(b)

Insert:

- (ba) between a point inside a metropolitan area and a point outside the metropolitan areas; or

Note: The heading to section 10 is altered by adding at the end “—**general**”.

5 After section 10

Insert:

**10AA Vehicles of 4.5 tonnes or more, but less than 20 tonnes—
primary producers**

- (1) If you carry on a primary production business, you are entitled to a fuel grant for the use of diesel fuel or alternative fuel in a vehicle that has a gross vehicle mass of 4.5 tonnes or more, but less than 20 tonnes, if:
 - (a) the vehicle is a vehicle for transporting passengers or goods; and
 - (b) you purchased the diesel fuel or alternative fuel, or imported it into Australia.
- (2) However, you are only entitled to the grant to the extent that you use the diesel fuel or alternative fuel, in carrying on your primary production business, in operating the vehicle on a public road in Australia.

**10AB Vehicles of 4.5 tonnes or more, but less than 20 tonnes—
transporting passengers or goods solely for primary
producers**

- (1) If you carry passengers or goods on behalf of a person who carries on a primary production business, you are entitled to a fuel grant for the use of diesel fuel or alternative fuel in a vehicle that has a gross vehicle mass of 4.5 tonnes or more, but less than 20 tonnes, if:
 - (a) the vehicle is a vehicle for transporting passengers or goods; and
 - (b) you purchased the diesel fuel or alternative fuel, or imported it into Australia.

- (2) However, you are only entitled to the grant to the extent that you use the diesel fuel or alternative fuel, in your enterprise, in operating the vehicle on a public road in Australia where:
- (a) the only passengers or goods being carried are being carried on behalf of one or more persons who carries on a primary production business; and
 - (b) if the passengers or goods had been carried by the person who carries on a primary production business, or by each of those persons, subsection 10AA(2) would have covered the operation of the vehicle.

Subcontractors

- (3) For the purposes of this section, you are taken to have carried passengers or goods on behalf of a person if you carry the passengers or goods as a subcontractor of a person contracted by the person to carry the passengers or goods.

10AC Vehicles of 4.5 tonnes or more, but less than 20 tonnes—buses using alternative fuel

- (1) You are entitled to a fuel grant for the use of alternative fuel in a bus that has a gross vehicle mass of 4.5 tonnes or more, but less than 20 tonnes, if you purchased the alternative fuel, or imported it into Australia.
- (2) However, you are only entitled to the grant to the extent that you use the alternative fuel, in carrying on your enterprise, in operating the bus on a public road in Australia.

10AD Vehicles of 4.5 tonnes or more, but less than 20 tonnes—emergency vehicles

- (1) You are entitled to a fuel grant for the use of diesel fuel or alternative fuel in an emergency vehicle that has a gross vehicle mass of 4.5 tonnes or more, but less than 20 tonnes, if you purchased the diesel fuel or alternative fuel, or imported it into Australia.
- (2) However, you are only entitled to the grant to the extent that you use the diesel fuel or alternative fuel, in carrying on your

enterprise, in operating the emergency vehicle on a public road in Australia.

10AE Only one grant for a particular use of fuel

If, apart from this section, you would be entitled to a grant under more than one section in relation to a particular use of diesel fuel or alternative fuel, you are only entitled to a grant under one of those sections. In this case, you may choose which of the sections you are entitled under.

6 Subsection 10B(2)

Omit “subsection 10(1)”, substitute “subsection (1) of section 10, 10AA, 10AB, 10AC or 10AD (the *applicable section*)”.

7 Subsection 10B(2)

Omit “subsection 10(2)” (wherever occurring), substitute “subsection (2) of the applicable section”.

7A After subsection 10B(2)

Insert:

Special rule for stationary vehicles

(2A) If:

- (a) more than 20% (or such higher percentage as is prescribed) of the fuel used in a vehicle during a grant period was used while the vehicle was stationary;

then:

- (b) in applying the formula in subsection (1) or (2), the total quantity of fuel is reduced by so much of the total quantity of fuel as was used while the vehicle was stationary.

8 After subsection 14A(3)

Insert:

(3A) An amount that you are liable to repay under this section is due and payable:

- (a) if subsection (2) applies—at the time that you make the claim for the grant in respect of which the advance was made; or

- (b) if subsection (3) applies—at the end of the period of 21 days referred to in that subsection.

9 After subsection 15(3)

Insert:

- (3AA) The Commissioner may treat a document that purports to be a second or subsequent claim as if it were a request for an amendment made under section 15EA in the approved form. If the Commissioner does this, the document is to be taken not to be a claim.

10 At the end of section 15E

Add:

- (3) If, as a result of an amended assessment, you are liable to pay an amount to the Commissioner, the amount is taken to have become due and payable at the time that the original assessment was made.

11 After section 15E

Insert:

15EA Request for amended assessment

- (1) You may request the Commissioner in the approved form to make an amended assessment.
- (2) The Commissioner must comply with the request if it is made within:
- (a) 2 years after the end of the claim period; or
 - (b) such further period as the Commissioner allows.

12 At the end of Part 3

Add:

16A Recovery by set-off

If an entity is liable to pay a scheme debt, the scheme debt may be deducted from one or more fuel grants that are payable to the entity and, if the scheme debt is so deducted, the fuel grant is taken to have been paid in full to the entity.

16B Interest on underpaid grants

- (1) Interest is payable by the Commissioner to a person in respect of an amount of grant that becomes payable to the person if:
 - (a) the amount relates to a grant for a period; and
 - (b) the amount is payable as a result of a decision to which this section applies (the *review decision*).
- (2) The interest is to be calculated for the period (the *interest period*):
 - (a) starting on the day on which the original assessment in relation to the grant was made; and
 - (b) ending on the day on which the amount is paid or applied by the Commissioner.
- (3) The following method statement shows how to work out the interest (which is calculated on a daily basis):

Calculating the interest payable

- Step 1.* Work out the amount that is determined by the review decision to be the amount of the grant payable in relation to the grant period.
- Step 2.* For each day in the interest period, work out the amount of the grant that had been paid or applied by the Commissioner on or before that day (reduced by any amounts repaid before that day by the person).
- Step 3.* For each day in the interest period, subtract the amount worked out in step 2 from the amount worked out in step 1. If the result is negative, it is taken to be nil.
- Step 4.* For each day in the interest period, multiply the amount worked out in step 3 by Treasury Note yield rate for the day (expressed as a daily rate).
- Step 5.* Add all of the amounts worked out under step 4.

- (4) In this section:
decision to which this section applies means:

- (a) a decision under Part IVC of the *Taxation Administration Act 1953* upon an objection relating to a fuel grant; or
- (b) a decision of the Administrative Appeals Tribunal in relation to an objection mentioned in paragraph (a); or
- (c) a decision of a court in relation to:
 - (i) an objection mentioned in paragraph (a); or
 - (ii) a decision of the kind mentioned in paragraph (b).

Treasury Note yield rate for a day has the same meaning as in section 8AAD of the *Taxation Administration Act 1953*.

13 Part 8

Repeal the Part.

14 Section 55 (table items 6 and 7)

Repeal the items.

15 Section 55 (table items 8 and 9)

Repeal the items.

16 Section 55 (note)

Repeal the note.

Schedule 2—Amendment of other Act

Taxation Administration Act 1953

1 Subsection 250-10(2) in Schedule 1 (after table item 20)

Insert:

22	amount of advance to be repaid	14A	<i>Diesel and Alternative Fuels Grants Scheme Act 1999</i>
23	amount payable as a result of an amended assessment	15E	<i>Diesel and Alternative Fuels Grants Scheme Act 1999</i>

*[Minister's second reading speech made in—
House of Representatives on 1 June 2000
Senate on 22 June 2000]*

(91/00)
