



Excise Laws Amendment Act (No. 1) 2002

No. 107, 2002+

**An Act to amend various excise laws, and for other
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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An Act to amend various excise laws, and for other purposes

[Assented to 2 December 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Excise Laws Amendment Act (No. 1) 2002*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

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	2 December 2002
2. Schedule 1	7.30 pm (by legal time in the Australian Capital Territory) on 14 May 2002	14 May 2002

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 is for additional information that is not part of this Act. This information may be included 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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 to protect the revenue and improve administration concerning alcoholic beverages

Distillation Act 1901

1 After subsection 6(2)

Insert:

- (2A) Subject to the requirements of subsection (2), the volume of alcohol (whether so called or whether referred to as the strength of spirits) contained in any goods may be ascertained in accordance with the rules (if any) made for that purpose under section 77FB of the *Excise Act 1901*.
- (2B) If the circumstances set out in section 77FA of the *Excise Act 1901* apply, the volume of alcohol contained in any goods, for the purpose of working out the duty payable on them, is to be ascertained in accordance with that section.

2 Section 46

Repeal the section.

3 Section 47

Repeal the section, substitute:

47 Obscuration

If, in the opinion of the Collector, the strength of any spirits cannot immediately be accurately ascertained by application of the rules, (if any) made for that purpose under section 77FB of the *Excise Act 1901*, the strength may be ascertained after distillation or in any prescribed manner.

Excise Act 1901

4 Part VIIA (heading)

Repeal the heading, substitute:

Part VIIA—Special provisions relating to alcoholic beverages

5 Section 77A

Insert:

alcoholic beverage means goods:

- (a) classified to item 1; or
- (b) classified between subitems 2(A) and 2(H) inclusive; or
- (c) classified to subitem 2(O);

of the Schedule to the *Excise Tariff Act 1921*.

6 At the end of Part VIIA

Add:

77FA Excise duty to be paid according to labelled alcoholic strength of certain beverages

(1) If:

- (a) an alcoholic beverage is entered for home consumption; and
- (b) the percentage by volume of the alcoholic content of the alcoholic beverage indicated on the label of the beverage exceeds the actual percentage by volume of the alcoholic content of the beverage;

excise duty is to be charged according to the percentage by volume of alcoholic content indicated on the label.

(2) If the manufacturer of an alcoholic beverage of a particular kind enters the beverage for home consumption in a labelled form and also in an unlabelled form, then, for the purposes of subsection (1), alcoholic beverage of that kind that is entered for home consumption in an unlabelled form is to be treated as if it had been labelled by the manufacturer as having the same percentage by volume of alcoholic content as alcoholic beverage of that kind entered for home consumption by the manufacturer in a labelled form.

77FB Rules for working out strength of alcoholic beverages

- (1) The CEO may, by instrument in writing, determine, in relation to an alcoholic beverage included in a class of alcoholic beverages, rules for working out the percentage by volume of alcohol in the beverage.
- (2) Without limiting the generality of subsection (1), rules determined by the CEO for working out the percentage by volume of alcohol in an alcoholic beverage:
 - (a) may specify sampling methods; and
 - (b) may, for the purposes of working out the excise duty payable, permit minor variations between the nominated or labelled volume of alcohol in the beverage and the actual volume of alcohol in the beverage so as to provide for unavoidable variations directly attributable to the manufacturing process.
- (3) The CEO may make different determinations for alcoholic beverages included in different classes of alcoholic beverages.
- (4) A determination applicable to an alcoholic beverage included in a class of alcoholic beverages applies only to an alcoholic beverage in that class that is entered for home consumption on or after the making of the determination.
- (5) Nothing in subsection (4) prevents the making of an original determination under this section that applies to alcoholic beverages that are entered for home consumption before the making of the determination but on or after the date of commencement of this section.
- (6) The CEO makes a determination public:
 - (a) by publishing it; and
 - (b) by publishing notice of it in the *Gazette*.
- (7) The notice in the *Gazette* must include a brief description of the contents of the determination.
- (8) The determination is made at the later of the time when it is published and the time when notice of it is published in the *Gazette*.

Spirits Act 1906

7 At the end of section 3

Add:

- (3) Subject to the requirements of subsection (2), the volume of alcohol (whether so called or whether referred to as the strength of spirits) contained in any spirits may be ascertained in accordance with the rules (if any) made for that purpose under section 77FB of the *Excise Act 1901*.
 - (4) If the circumstances set out in section 77FA of the *Excise Act 1901* apply, the volume of alcohol contained in any spirits, for the purpose of working out the duty payable on them, is to be ascertained in accordance with that section.
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*[Minister's second reading speech made in—
House of Representatives on 26 September 2002
Senate on 17 October 2002]*

(195/02)