



# **Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Act 2004**

**No. 42, 2004**

**An Act to deal with consequential matters arising  
from the enactment of the *Energy Grants (Cleaner  
Fuels) Scheme Act 2004*, 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 deal with consequential matters arising  
from the enactment of the *Energy Grants (Cleaner  
Fuels) Scheme Act 2004*, and for other purposes**

[Assented to 21 April 2004]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Energy Grants (Cleaner Fuels)  
Scheme (Consequential Amendments) Act 2004*.

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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 on which this Act receives the Royal Assent.	21 April 2004
2. Schedule 1, items 1 to 3	At the same time as the <i>Energy Grants (Cleaner Fuels) Scheme Act 2004</i> commences.	18 September 2003
3. Schedule 1, items 4 to 14	The day on which this Act receives the Royal Assent.	21 April 2004
4. Schedule 2, items 1 to 3	At the same time as the <i>Energy Grants (Cleaner Fuels) Scheme Act 2004</i> commences.	18 September 2003
5. Schedule 2, items 4 to 10	The day on which this Act receives the Royal Assent.	21 April 2004

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 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Product Grants and Benefits Administration Act 2000**

### **1 Section 5**

Insert:

*cleaner fuel* has the same meaning as in the *Energy Grants (Cleaner Fuels) Scheme Act 2004*.

### **2 Section 8 (at the end of the table)**

Add:

- |   |                     |  |
|---|---------------------|--|
| 4 | cleaner fuel grants | <i>Energy Grants (Cleaner Fuels) Scheme Act 2004</i> |
|---|---------------------|--|

### **3 At the end of section 9**

Add:

*Specific requirement for cleaner fuel grants*

- (5) The specific requirement in relation to registration for the cleaner fuel grant is that you:
- (a) are a licensed manufacturer (as defined in the *Excise Act 1901*) for goods of a kind including a cleaner fuel; or
  - (b) are a holder of a storage licence (as defined in the *Excise Act 1901*) for goods of a kind including a cleaner fuel; or
  - (c) are a person specified in a permission given under section 61C of the *Excise Act 1901* for goods of a kind including a cleaner fuel; or
  - (d) are importing, or propose to import, cleaner fuel into Australia; or
  - (e) are a person to whom a permission has been granted under section 69 of the *Customs Act 1901* for goods of a kind including a cleaner fuel; or
  - (f) are a person covered by paragraph (b) of the definition of **licensed person** in the *Energy Grants (Cleaner Fuels) Scheme Act 2004* for a cleaner fuel.

**4 Paragraph 16A(1)(a)**

Omit “an energy grant in respect of an off-road credit (within the meaning of the *Energy Grants (Credits) Scheme Act 2003*)”, substitute “a designated grant”.

**5 Paragraph 16A(1)(a)**

Omit “energy grants scheme”, substitute “grant”.

**6 Paragraph 16A(1)(b)**

Omit “an energy”, substitute “a designated”.

**7 Subsection 16A(2)**

Omit “an energy grant in respect of an off-road credit (within the meaning of the *Energy Grants (Credits) Scheme Act 2003*)”, substitute “a designated grant”.

**8 Subsection 16A(2)**

Omit “energy grants scheme”, substitute “grant”.

**9 At the end of section 16A**

Add:

- (3) For the purposes of this section, a grant described in an item of the following table is a *designated grant* in relation to the fuel described as a *grant fuel* in that item.

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**Table of corresponding designated grants and grant fuels**

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<b>Item</b>	<b>Designated grant</b>	<b>Grant fuel</b>
1	energy grant in respect of an off-road credit (within the meaning of the <i>Energy Grants (Credits) Scheme Act 2003</i> )	energy grants scheme fuel
2	cleaner fuel grant	cleaner fuel

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**10 After section 27A**

Insert:

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**27B Requirement to notify Commissioner about any disqualifying circumstances for cleaner fuel**

If:

- (a) you make a claim for a cleaner fuel grant in respect of a quantity of cleaner fuel; and
- (b) after you make the claim, paragraph 7(1)(a), (b) or (d) of the *Energy Grants (Cleaner Fuels) Scheme Act 2004* applies to you in relation to the fuel;

you must notify the Commissioner in writing of that fact, within 90 days, or such longer period as the Commissioner allows, after:

- (c) if paragraph 7(1)(a) or (b) of that Act applies to you—the sale, or inclusion in the fuel blend, takes place; or
- (d) if paragraph 7(1)(d) of that Act applies to you—you become aware that the regulations apply to you.

Note: Failure to notify the Commissioner is an offence under paragraph 8C(1)(d) of the *Taxation Administration Act 1953*.

**11 Subsection 45A(2)**

Repeal the subsection, substitute:

- (2) The Commissioner may, in writing, require the person to demonstrate to the Commissioner, at a specified time, one or more of the following:
  - (a) the method used to arrive at the particulars or estimates included in the claim;
  - (b) the operation of any record keeping or accounting system operated by, or on behalf of, the person and used to arrive at the particulars or estimates included in the claim;
  - (c) the operation of any process operated by, or on behalf of, the person to manufacture the goods to which the claim relates.

**12 At the end of section 45A**

Add:

- (6) The Commissioner may conduct such testing of the manufacturing process mentioned in subsection (2) as is reasonably necessary to determine the accuracy of the goods' description in the claim.

**13 After subparagraph 47(3)(c)(ib)**

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Insert:

- (ic) the Secretary of the Department responsible for administering the *Fuel Quality Standards Act 2000*, and is of information that is related to cleaner fuel grants; or

**14 After subparagraph 47(3)(d)(ib)**

Insert:

- (ic) the Secretary of the Department responsible for administering the *Fuel Quality Standards Act 2000*, and is of information that is related to cleaner fuel grants; or

## **Schedule 2—Amendment of other Acts**

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

#### **1 Subsection 15(1)**

Omit “2 months from the day on which the Excise Tariff or Excise Tariff alteration is proposed in the Parliament for compliance”, substitute “until the end of the transition period to comply”.

#### **2 Subsection 15(2)**

Omit “that period”, substitute “the transition period”.

#### **3 At the end of section 15**

Add:

(3) In this section:

***first day*** means the day on which the Excise Tariff or Excise Tariff alteration is proposed in the Parliament.

***transition period*** means the period starting at the start of the first day and ending either:

- (a) 2 months after the end of the first day; or
- (b) if, before the end of those 2 months:
  - (i) the person applies for a manufacturer licence for the goods; and
  - (ii) the Collector has not decided whether to grant, or refuse to grant, that licence;

at the earliest of the following:

- (iii) 12 months after the end of the first day;
  - (iv) the end of the last day (if any) for the goods determined under subsection (4);
  - (v) the end of the day the Collector grants, or refuses to grant, the manufacturer licence.
- (4) For the purposes of this section, the Collector may determine in writing the last possible day of the transition period (the ***last day***) for particular goods. Such a day must be a day occurring:
- (a) after:

- (i) the day the determination was made; and
  - (ii) the end of the 2 months starting at the end of the first day; but
- (b) before the end of the 12 months starting at the end of the first day.
- (5) A determination under subsection (4) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

#### **4 Subsection 39D(4)**

Repeal the subsection, substitute:

- (4) The Collector may, upon application by the licence holder and upon the production of the licence and any relevant notice given under section 39DA:
- (a) vary or revoke a condition of the licence (other than a condition covered by subsection (1) or (2)); or
  - (b) impose an additional condition for the licence;
- by making an alteration to, or an endorsement on, the licence or notice.

#### **5 After section 39D**

Insert:

##### **39DA Changing licence conditions on own initiative**

- (1) The Collector may, on his or her own initiative, do one or more of the following:
- (a) vary or revoke a condition of a licence (other than a condition covered by subsection 39D(1) or (2));
  - (b) impose an additional condition for the licence;
- by written notice given to the licence holder in accordance with subsection (3).
- (2) The Collector must be satisfied that the variation, revocation or imposition is necessary or desirable:
- (a) for the protection of the revenue; or
  - (b) for the purpose of ensuring compliance with the Excise Acts.
- (3) The notice must:

- (a) state the day (which must be at least 7 days after the day the notice is served) the variation, revocation or imposition is to take effect; and
- (b) state that contravening a licence condition may make the licence holder liable for an offence; and
- (c) be:
  - (i) served, either personally or by post, on the licence holder; or
  - (ii) served personally on a person who, at the time of service, apparently participates in the management or control of the premises specified in the licence.

**6 After subparagraph 159(3)(c)(ii)**

Insert:

- (ia) a licence holder and is of licence information to be used by the licence holder for the purposes of determining the licence holder's entitlement to a grant under the *Energy Grants (Cleaner Fuels) Scheme Act 2004*; or

**7 After subparagraph 159(3)(d)(ii)**

Insert:

- (ia) a licence holder and is of licence information to be used by the licence holder for the purposes of determining the licence holder's entitlement to a grant under the *Energy Grants (Cleaner Fuels) Scheme Act 2004*; or

**8 Subsection 159(6)**

Insert:

***licence holder*** means a person who is:

- (a) a licensed manufacturer or a holder of a storage licence; or
- (b) a person specified in a permission given under section 61C; for goods of a kind including a cleaner fuel (as defined in the *Energy Grants (Cleaner Fuels) Scheme Act 2004*).

**9 Subsection 159(6)**

Insert:

***licence information*** means information relating to another person's:

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- (a) manufacturer licence or storage licence; or
  - (b) permission given under section 61A or 61C;
- for goods of a kind including the same cleaner fuel (as defined in the *Energy Grants (Cleaner Fuels) Scheme Act 2004*) as that for the licence, or permission, held by the licence holder to whom the disclosure is to.

### ***Fuel Quality Standards Act 2000***

#### **10 Before section 68**

Insert in Part 5:

#### **67A Disclosing information to the Commissioner of Taxation**

The Secretary may disclose information obtained under this Act to the Commissioner of Taxation for use in relation to grants described in the *Energy Grants (Cleaner Fuels) Scheme Act 2004*.

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[*Minister's second reading speech made in—  
House of Representatives on 11 September 2003  
Senate on 18 September 2003*]

(143/03)

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