



Bass Strait Freight Adjustment Trust Fund Act 1984

No. 24 of 1984

An Act to establish a Trust Fund for the purpose of making payments to certain refiners of oil, and for related purposes

[Assented to 26 April 1984]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Bass Strait Freight Adjustment Trust Fund Act 1984*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
“adjustment levy” has the same meaning as it has in the Levy Act;
“base period”, in relation to a month, means—
(a) in the case of a month that ends before 1 July 1984—the period of 30 months that ended on 30 June 1983; or

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(b) in the case of any other month—the period of 30 months that ended 6 months before the last determination day in or before the month;

“determination day” means a day on which the Minister makes determinations under sub-section 9 (1);

“Freight Adjustment Fund” means the Bass Strait Freight Adjustment Trust Fund established by section 4;

“Levy Act” means the *Bass Strait Freight Adjustment Levy Act 1984*;

“Levy Collection Act” means the *Bass Strait Freight Adjustment Levy Collection Act 1984*;

“month” means one of the 12 months of the year;

“prescribed oil” has the same meaning as it has in the Levy Collection Act;

“producer” has the same meaning as it has in the Levy Collection Act;

“relevant oil” has the same meaning as it has in the Levy Collection Act;

“relevant refiner”, in relation to a base period for a month, means a person on whose behalf prescribed oil was, during that base period, transported to a refinery (whether operated by the person or by another person) for refining;

“refinery” means premises at which crude oil is refined.

(2) For the purposes of this Act, the transport of prescribed oil to a refinery shall be taken to consist of—

- (a) the transport of the oil by ship from Westernport in Victoria to the port nearest to that refinery; or
- (b) the movement of the oil by pipeline from Westernport in Victoria to the boundary of that refinery.

(3) For the purposes of this Act, prescribed oil transported to a refinery for refining shall be taken to have been transported on behalf of a person if, and only if, the oil—

- (a) was owned by the person when it was transported; and
- (b) was transported to the refinery for refining into products that, on their being produced, were, or would be, owned by the person.

Bass Strait Freight Adjustment Trust Fund

4. (1) An account is hereby established to be known as the Bass Strait Freight Adjustment Trust Fund.

(2) The Freight Adjustment Fund is a Trust Account for the purposes of section 62A of the *Audit Act 1901*.

Moneys to be paid into Freight Adjustment Fund

5. There shall be paid into the Freight Adjustment Fund out of the Consolidated Revenue Fund, which is appropriated accordingly, amounts equal to the amounts of adjustment levy received by the Commonwealth by virtue of section 5 of the Levy Act.

Application of Freight Adjustment Fund

6. (1) The amount standing to the credit of the Freight Adjustment Fund on the last day of each month that ends after the commencement of this Act shall be paid out of that Fund in accordance with sub-section (2).

(2) The amount payable out of the Freight Adjustment Fund under sub-section (1) at the end of a month (in this sub-section referred to as the “relevant month”) shall be divided in accordance with this Act among—

- (a) producers who, during the month immediately preceding the relevant month, exported prescribed oil;
- (b) producers who, during the month immediately preceding the relevant month, were, under the scheme known as the Crude Oil Allocation Scheme, entitled to retain and retained, prescribed oil for their own use or for disposal by them outside that scheme; and
- (c) persons who are relevant refiners in relation to the period that was the base period for the relevant month.

Amounts payable to producers

7. (1) The amount payable to a producer at the end of a particular month under paragraph 6 (2) (a) is an amount calculated at the rate of \$1.26 per kilolitre of the prescribed oil exported by the producer by virtue of which he is entitled to payment under that paragraph at the end of the month.

(2) The amount payable to a producer at the end of a particular month under paragraph 6 (2) (b) is an amount calculated at the rate of \$1.26 per kilolitre of the prescribed oil retained by the producer by virtue of which he is entitled to payment under that paragraph at the end of that month.

Amounts payable to refiners

8. The amount payable at the end of a particular month under paragraph 6 (2) (c) to a person who is a relevant refiner in relation to the period that was the base period for that month is an amount ascertained in accordance with the formula—

$$\frac{A(B-C)}{100}$$

where—

- A is the percentage determined under paragraph 9 (1) (d) in respect of that person that applies to that month by virtue of sub-section 9 (3);
- B is the amount standing to the credit of the Freight Adjustment Fund at the end of that month; and
- C is the sum of the amounts (if any) paid or payable out of that Fund under paragraph 6 (2) (a) or (b) at the end of that month.

Calculation of refiners percentage of monthly payments

9. (1) For the purposes of this Act, the Minister may, on the first day of a month—

- (a) determine, in respect of each refinery to which, during the base period for that month, prescribed oil was transported for refining (in this sub-section referred to as a “relevant refinery”), an amount per kilolitre that the Minister considers is the unit freight rate for transporting oil to that refinery;
- (b) determine, in respect of each relevant part of the total volume of prescribed oil that, during that base period, was transported to refineries for refining, the percentage of that volume that is represented by the relevant part;
- (c) determine the amount per kilolitre that is the weighted average assessed cost of transporting prescribed oil to refineries, being the amount ascertained by—
 - (i) calculating, in respect of each relevant refinery, the amount that is the product of the unit freight rate determined under paragraph (a) in respect of the relevant refinery and the sum of the percentages determined under paragraph (b) that relate to that refinery; and
 - (ii) adding the amounts calculated under sub-paragraph (i); and
- (d) determine, in respect of each person who is a relevant refiner in relation to that base year, the percentage of the Freight Adjustment Fund that is payable to the person, being the percentage ascertained by—
 - (i) calculating, in respect of each relevant refinery to which, during the base period, prescribed oil was transported on behalf of the person for refining, the percentage ascertained in accordance with the formula—

$$D \times E$$

$$\frac{\quad}{F}$$

where—

D is the number of dollars in the unit freight rate determined under paragraph (a) in respect of the relevant refinery;

E is the percentage determined under paragraph (b) that relates to the person and to the relevant refinery; and

F is the number of dollars in the amount calculated under paragraph (c); and

- (ii) adding the percentages calculated under sub-paragraph (i).

(2) Without limiting the generality of sub-section (1), the Minister shall make determinations under that sub-section on—

- (a) the first day of the month immediately following the month in which this Act comes into operation;

- (b) the first day of January in each year; and
- (c) the first day of July in each year.

(3) Where the Minister makes a determination under paragraph (1) (d) on the first day of a month, that determination applies to that month and to each later month (if any) that ends before the next determination day.

(4) Where the Minister is required, or wishes, to make determinations under sub-section (1) on the first day of a month, he may make those determinations during the immediately preceding month and determinations so made shall, for the purposes of this Act, be deemed to have been made on that day.

(5) If the Minister is unable to ascertain a volume of prescribed oil that he needs to know for the purpose of making a determination under paragraph (1) (b), that volume shall, for that purpose, be taken to be such volume as is estimated by the Minister, having regard to all relevant facts known to him, to be the likely volume of that oil.

(6) For the purposes of this section, so much of the total volume of prescribed oil that, during a base period, was transported to refiners for refining as was transported to a particular refinery on behalf of a particular relevant refiner in relation to that period constitutes a relevant part of that total volume.

Basis of unit freight rate

10. (1) In making a determination under paragraph 9 (1) (a) of the unit freight rate for transporting prescribed oil to a refinery by ship, the Minister shall—

- (a) base the rate on the product of—
 - (i) the rate known as the Average Freight Rate Assessment for a large range tanker of a capacity that does not exceed 80,000 tonnes; and
 - (ii) the rate known as the Worldscale rate for such a tanker;
- (b) allow for insurance and losses in the amount ascertained in accordance with the formula—

$$\frac{6 (G + H)}{1,000}$$

where—

G is the amount specified in the product, expressed as an amount per kilolitre, of the rates referred to in paragraph (a); and

H is the amount specified in the Import Parity Price within the meaning of section 6B of the *Excise Tariff Act 1921*; and

- (c) have regard to such other matters as the Minister thinks appropriate.

(2) In making a determination under paragraph 9 (1) (a) of the unit freight rate for transporting prescribed oil to a refinery by a pipeline, the Minister shall—

- (a) base the rate on the pipeline charges for that pipeline; and
- (b) have regard to such other matters as the Minister thinks appropriate.

First payments out of fund

11. For the purposes of the application of this Act in relation to the first month to which sub-section 6 (1) applies—

- (a) paragraphs 6 (2) (a) and (b) have effect as if for “the month immediately preceding the relevant month” in each of those paragraphs there were substituted “any of the months in 1984 preceding the relevant month”; and
- (b) without limiting sub-section 9 (3), the first determination made under paragraph 9 (1) (d) shall apply to that first month.

Regulations

12. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.