



Liquefied Petroleum Gas (Grants) Amendment Act 1984

No. 54 of 1984

An Act to amend the *Liquefied Petroleum Gas (Grants) Act 1980*

[Assented to 25 June 1984]

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

Short title, &c.

1. (1) This Act may be cited as the *Liquefied Petroleum Gas (Grants) Amendment Act 1984*.

(2) The *Liquefied Petroleum Gas (Grants) Act 1980*¹ is in this Act referred to as the Principal Act.

Commencement

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

Interpretation

3. Section 3 of the Principal Act is amended by omitting the definition of “period to which this Act applies” and substituting the following definition:

“ ‘period to which this Act applies’ means the period that commenced on 28 March 1980 and ends on 31 March 1987;”.

Provisions of scheme—liquefied petroleum gas

4. Section 6 of the Principal Act is amended—

- (a) by omitting paragraph (7) (b) and substituting the following paragraph:

“(b) shall provide that payments referred to in paragraph (a) made in respect of liquefied petroleum gas that, during the period to which this Act applies, has been, or is, sold by a registered distributor of the gas for eligible use shall be at the rate prescribed by section 6A.”; and

- (b) by adding at the end thereof the following sub-sections:

“(8) As soon as practicable after the Minister ascertains the rate at which payments referred to in paragraph (7) (a) are to be made in respect of sales, during the period of 6 months commencing on a prescribed day, of liquefied petroleum gas for eligible use, he shall publish for the information of the public a notice in the *Gazette* setting out that rate.

“(9) For the purposes of sub-section (8), 1 October 1984, 1 April 1985, 1 October 1985, 1 April 1986 and 1 October 1986 are prescribed days.”.

5. After section 6 of the Principal Act the following section is inserted:

Ascertainment of prescribed rate in respect of liquefied petroleum gas

“6A. (1) The prescribed rate in relation to liquefied petroleum gas for the purposes of paragraph 6 (7) (b) is—

- (a) in relation to liquefied petroleum gas sold on or before 28 March 1984—the rate of \$80 per tonne of the weight of that liquefied petroleum gas;
- (b) in relation to liquefied petroleum gas sold during the period commencing on 29 March 1984 and ending on 30 September 1984—the rate of \$20.31 per tonne of the weight of that liquefied petroleum gas; and
- (c) in relation to liquefied petroleum gas sold during—
- (i) the period of 6 months commencing on 1 October 1984; or
 - (ii) a subsequent period of 6 months, being a period ending on or before 31 March 1987,

the rate of such amount per tonne as is ascertained in accordance with the formula $A - (B - C)D$, where—

A is the amount that is the approved wholesale price per tonne in relation to that liquefied petroleum gas;

- B** is the amount that was the approved wholesale price per tonne in relation to liquefied petroleum gas sold immediately before the commencement of the period concerned;
- C** is the amount per tonne that was the prescribed rate under this sub-section in relation to liquefied petroleum gas sold on the day immediately preceding the commencement of the period concerned;
- D** is—
 - (a) the number, calculated to 3 decimal places, ascertained—
 - (i) if the period concerned commenced on 1 October in any year—by dividing the index number for the immediately preceding June quarter by the index number for the immediately preceding December quarter; or
 - (ii) if the period concerned commenced on 1 April in any year—by dividing the index number for the immediately preceding December quarter by the index number for the immediately preceding June quarter; or
 - (b) if the number so ascertained would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so ascertained increased by 0.001.

“(2) If, but for this sub-section, the amount ascertained in accordance with the formula set out in paragraph (1) (c) would include a fraction of a cent—

- (a) where the fraction of a cent would be less than one-half of one cent—the amount shall be reduced by that fraction of a cent; or
- (b) in any other case—the amount shall be increased by the amount by which the fraction of a cent is less than one cent.

“(3) The Minister for Resources and Energy may, by instrument signed by him, determine that a specified amount shall be the wholesale price per tonne of liquefied petroleum gas sold on or after the day on which the determination comes into force and, where such a determination is made, the amount specified in the determination is, for the purposes of this section but subject to any later determination made under this sub-section, the approved wholesale price per tonne in relation to liquefied petroleum gas sold while the determination is in force.

“(4) In determining under sub-section (3) the approved wholesale price of liquefied petroleum gas, the Minister for Resources and Energy may have regard to—

- (a) the official selling prices of liquefied petroleum gas adopted from time to time by the Governments of Middle East countries;
- (b) any freight advantage that may exist for Bass Strait liquefied petroleum gas at the time when the determination is made; and

- (c) the export prices being paid for Bass Strait liquefied petroleum gas as notified from time to time by the Prices Surveillance Authority.

“(5) Sections 48, 49, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to a determination made under this section as if in those sections references to regulations were references to determinations, references to a regulation were references to a determination and references to a repeal were references to a revocation.

“(6) Determinations made under this section shall be deemed not to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*, but sub-sections 5 (3) to (3C) (inclusive) of that Act apply in relation to such determinations in like manner as they apply in relation to statutory rules.

“(7) For the purposes of the application of sub-section 5 (3B) of the *Statutory Rules Publication Act 1903* in accordance with sub-section (6) of this section, the reference in that first-mentioned sub-section to the Minister of State for Administrative Services shall be read as a reference to the Minister for Resources and Energy.

“(8) Section 5 of the *Evidence Act 1905* applies to a determination made by the Minister for Resources and Energy under this section in like manner as that section applies to an order made by that Minister.

“(9) A reference in this section to an index number, in relation to a quarter, is a reference to the index number for the fuel and light component of the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

“(10) Subject to sub-section (11), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by him in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

“(11) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the consumer price index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base.

“(12) The Minister for Resources and Energy may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer of the Department of Resources and Energy all or any of his powers under this section, other than this power of delegation.

“(13) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister for Resources and Energy.

“(14) A delegation under sub-section (12) does not prevent the exercise of a power by the Minister for Resources and Energy.”.

Provisions of scheme—eligible reticulation gas

6. Section 7 of the Principal Act is amended—

(a) by omitting paragraph (7) (b) and substituting the following paragraph:

“(b) shall provide that a payment referred to in paragraph (a) to be made to a registered distributor of eligible reticulation gas shall be made only in respect of a period (in this paragraph referred to as a ‘payment period’) that falls wholly within a relevant period and shall be an amount calculated in accordance with the formula—

$$\frac{A \times B}{C + D}$$

E

where—

A is the prescribed amount in respect of the relevant period;

B is the number of cubic metres of eligible reticulation gas that was sold by the distributor during the payment period for eligible use and in respect of the sale of which he rendered accounts;

C is the number of tonnes of liquefied petroleum gas delivered to the distributor during the payment period that was purchased by him for use in the production of eligible reticulation gas for sale by him;

D is the number of tonnes of naphtha delivered to the distributor during the payment period that was purchased by him for use in the production of eligible reticulation gas for sale by him;

E is the number of cubic metres of eligible reticulation gas that during the payment period was sold by the distributor.”; and

(b) by adding at the end thereof the following sub-section:

“(8) For the purposes of paragraph (7) (b)—

(a) each of the following periods is a relevant period:

(i) the period that commenced on 28 March 1980 and ended on 28 March 1984;

(ii) the period that commenced on 29 March 1984 and ends on 30 September 1984;

(iii) the period of 6 months commencing on 1 October 1984;

(iv) a subsequent period of 6 months, being a period ending on or before 31 March 1987;

(b) if a claim for payment is made in respect of a period that falls partly within one relevant period and partly within another relevant period or other relevant periods—

- (i) the claim shall be treated as if it constituted separate claims in respect of each part that falls within a different relevant period; and
- (ii) if a quantity expressed by the letter B, C, D or E in the formula referred to in paragraph (7) (b) is not capable of being ascertained with respect to the payment period to which such a separate claim relates, that quantity shall be taken to be so much of the corresponding quantity in relation to the total period to which the separate claims relate as bears to that total period the same proportion as the number of days in that payment period bears to the total number of days in that total period; and
- (c) the prescribed amount in respect of a relevant period is—
 - (i) in the case of the relevant period referred to in sub-paragraph (a) (i)—\$80;
 - (ii) in the case of the relevant period referred to in sub-paragraph (a) (ii)—\$20.31; and
 - (iii) in the case of any subsequent relevant period—the amount that constitutes the rate per tonne in relation to liquefied petroleum gas in relation to that period for the purposes of paragraph 6 (7) (b).”.

Limitation of subsidized use by industrial users

7. (1) Section 7A of the Principal Act is amended—

- (a) by inserting after sub-section (9) the following sub-section:

“(9A) If sub-section (9) applies to a corporation, sub-sections (10) and (11) do not apply to that corporation in relation to the first consumption period.”;

- (b) by omitting from paragraph (10) (a) “(other than a corporation to which sub-section (9) applies)”;
- (c) by omitting from paragraph (11) (a) “(other than a corporation to which sub-section (9) or (10) applies)”.

(2) Section 7A of the Principal Act is amended—

- (a) by omitting from sub-section (1) the definition of “consumption period” and substituting the following definition:

“‘consumption period’ means any of the periods referred to in sub-section (1A);”;

- (b) by omitting from sub-section (1) the definitions of “first consumption period” and “second consumption period”;
- (c) by inserting after sub-section (1) the following sub-section:

“(1A) For the purposes of this section—

- (a) the first consumption period is the period of 12 months that commenced on 1 October 1982;

- (b) the second consumption period is the period that commenced on 1 October 1983 and ended on 28 March 1984;
- (c) the third consumption period is the period that commenced on 29 March 1984 and ends on 30 September 1984;
- (d) the fourth consumption period is the period of 12 months commencing on 1 October 1984;
- (e) the fifth consumption period is the period of 12 months commencing on 1 October 1985;
- (f) the sixth consumption period is the period commencing on 1 October 1986 and ending on 31 March 1987.”;
- (d) by omitting sub-paragraphs (5) (a) (i) and (ii) and substituting the following sub-paragraphs:
 - “(i) in relation to the first consumption period, the fourth consumption period and the fifth consumption period—1,000 tonnes of gas; and
 - (ii) in relation to the second consumption period, the third consumption period and the sixth consumption period—500 tonnes of gas; and ”;
- (e) by inserting after sub-section (8) the following sub-sections:

“(8A) Where the Minister has made a determination under sub-section (7) in relation to a corporation in relation to the first consumption period, the quantity of gas specified in the determination shall be deemed also to be the allowable quantity of gas in relation to the corporation in relation to the fourth consumption period and in relation to the fifth consumption period.

“(8B) Where the Minister has made a determination under sub-section (7) in relation to a corporation in relation to the second consumption period, the quantity of gas specified in the determination shall be deemed also to be the allowable quantity of gas in relation to the corporation in relation to the sixth consumption period.

“(8C) Where the Minister has made, in relation to a corporation, a determination under sub-section (7) in relation to the first consumption period and in relation to the second consumption period, the allowable quantity of gas in relation to the corporation in relation to the third consumption period is the quantity by which the quantity of gas specified in the determination in relation to the first consumption period exceeds the quantity of gas specified in the determination in relation to the second consumption period.”; and
- (f) by omitting sub-sections (19) and (20) and substituting the following sub-sections:

“(19) Where, in proceedings for an offence against sub-section (12) or (18) in respect of any conduct engaged in by a corporation, it is necessary to establish the state of mind of the corporation, it is sufficient to show that a director, servant or agent of the corporation,

being a director, servant or agent by whom the conduct was engaged in within the scope of his actual or apparent authority, had that state of mind.

“(20) Any conduct engaged in on behalf of a corporation—

- (a) by a director, servant or agent of the corporation within the scope of his actual or apparent authority; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the corporation, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent,

shall be deemed, for the purposes of sub-sections (12) and (18), to have been engaged in by the corporation.

“(20A) A reference in sub-section (19) to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person’s reasons for his intention, opinion, belief or purpose.”.

(3) The amendments made by sub-section (1) shall be deemed to have taken effect on 22 October 1982.

Effect of amendments

8. A scheme formulated before the day on which this Act receives the Royal Assent and in force immediately before that day shall be deemed to contain, and to have contained on and after 29 March 1984, the provisions referred to in paragraphs 6 (7) (b) and 7 (7) (b) of the Principal Act as amended by this Act and not to contain, or to have contained on or after 29 March 1984, the provisions referred to in paragraphs 6 (7) (b) and 7 (7) (b) of the Principal Act.

NOTE

1. No. 37, 1980, as amended. For previous amendments, see No. 173, 1980; and No. 97, 1982.