



Aviation Fuel Revenues (Special Appropriation) Amendment Act 1992

No. 73 of 1992

**An Act to amend the *Aviation Fuel Revenues (Special
Appropriation) Act 1988*, and for related purposes**

[Assented to 26 June 1992]

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Aviation Fuel Revenues (Special
Appropriation) Amendment Act 1992*.

5 (2) In this Act, “**Principal Act**” means the *Aviation Fuel Revenues
(Special Appropriation) Act 1988*¹.

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Commencement

2. This Act commences on the day on which it receives the Royal Assent.

Interpretation

3. Section 3 of the Principal Act is amended: 5

(a) by inserting the following definition:

“‘**statutory rate**’, in relation to an amount paid to the Commonwealth as duty of Excise or duty of Customs in relation to eligible aviation fuel, means the lowest of whichever of the following rates is applicable: 10

(a) in any case—the greater of:

(i) the relevant rate at the time duty was imposed on the eligible aviation fuel; and

(ii) if a determination under subsection 3A(1) was in force at the time duty was imposed on the eligible aviation fuel—the rate fixed by that determination; 15

(b) in the case of duty of Excise—the rate of duty imposed on the eligible aviation fuel under the *Excise Tariff Act 1921*;

(c) in the case of duty of Customs—the rate that would have been the rate of duty of Excise imposed on the eligible aviation fuel under the *Excise Tariff Act 1921* if the eligible aviation fuel had been subject to duty of Excise instead of duty of Customs; 20

(d) if a determination under subsection 3A(2) was in force at the time duty was imposed on the eligible aviation fuel—the rate fixed by that determination.”; 25

(b) by omitting paragraph (a) of the definition of “relevant rate” and substituting the following paragraph:

“(a) in relation to the relevant period that commenced on 1 February 1992—24.470 cents per litre; and”. 30

4. After section 3 of the Principal Act the following section is inserted:

Minister and Civil Aviation Authority may jointly fix special rates

“3A.(1) The Minister and the Civil Aviation Authority may make a joint written determination fixing a rate for the purposes of subparagraph (a)(ii) of the definition of ‘statutory rate’ in section 3. 35

“(2) The Minister and the Civil Aviation Authority may make a joint written determination fixing a rate for the purposes of paragraph (d) of the definition of ‘statutory rate’ in section 3. 40

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“(3) A determination under subsection (1) or (2) may provide that a rate is to be fixed using a method of indexation which corresponds to the method provided for by this Act for indexing the relevant rate.”.

Money to be paid to Civil Aviation Authority in relation to aviation fuel

- 5 5. Section 4 of the Principal Act is amended:
 (a) by omitting from subsection (1) all the words after “calculated”
 (first occurring) and substituting “using the formula:

$$\text{Statutory rate} \times \text{Litres of aviation fuel}$$

where:

10 ‘Statutory rate’ means the statutory rate in relation to the amount paid to the Commonwealth;

 ‘Litres of aviation fuel’ means the number of litres of eligible aviation fuel by reference to which the amount paid to the Commonwealth was calculated.”;

- 15 (b) by omitting from subsection (2) all the words after “calculated” (first occurring) and substituting “using the formula:

$$\text{Statutory rate} \times \text{Litres of aviation fuel}$$

where:

20 ‘Statutory rate’ means the statutory rate in relation to the amount paid to the Commonwealth;

 ‘Litres of aviation fuel’ means the number of litres of eligible aviation fuel by reference to which the amount repaid by the Commonwealth was calculated.”.

Indexation of relevant rate

- 25 6. Section 5 of the Principal Act is amended by omitting from subsection (1) “1988” and substituting “1992”.

Application of amendments: post-commencement payments to the Commonwealth

- 30 7. The amendments made by this Act apply in relation to amounts paid to the Commonwealth on or after the date of commencement of this section.

Special payment to Civil Aviation Authority

[Definitions]

8.(1) In this section:

- 35 “eligible payment to the Commonwealth” means an amount paid to the Commonwealth as duty of Excise or duty of Customs in relation to eligible aviation fuel during the interim period;

 “interim period” means the period:

- (a) commencing on 1 May 1992; and

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(b) ending immediately before the commencement of this section;
“retrospectivity assumption” means the assumption that the amendments made by this Act had applied in relation to eligible payments to the Commonwealth.

[Notional backdating of section 3A determinations] 5

(2) The first determination made under subsection 3A(1) or (2) of the Principal Act as amended by this Act may provide that, for the purposes of the retrospectivity assumption, the determination is taken to have come into force at a specified time during the interim period.

[Special payment to Civil Aviation Authority] 10

(3) If:

- the total amount that would have been payable to the Civil Aviation Authority under section 4 of the Principal Act in respect of eligible payments to the Commonwealth if the retrospectivity assumption was made;

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exceeds:

- the amount that was actually payable to the Civil Aviation Authority under section 4 of the Principal Act in respect of eligible payments to the Commonwealth;

the Civil Aviation Authority is to be paid an amount equal to the excess. 20

[Appropriation of Consolidated Revenue Fund]

(4) The Consolidated Revenue Fund is appropriated to the extent necessary for the payment under subsection (3).

NOTE

1. No. 54, 1988.

*[Minister's second reading speech made in—
House of Representatives on 30 April 1992
Senate on 27 May 1992]*