



Fuel Quality Standards Amendment Act 2009

No. 107, 2009

**An Act to amend the *Fuel Quality Standards Act
2000*, and for related purposes**

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Contents

1	Short title	1
2	Commencement	1
3	Schedule(s)	2
Schedule 1—Amendments		3
Part 1—Approvals		3
<i>Fuel Quality Standards Act 2000</i>		3
Part 2—Enforcement		11
<i>Fuel Quality Standards Act 2000</i>		11
Part 3—Fuel standards may apply in specified circumstances		41
<i>Fuel Quality Standards Act 2000</i>		41
Part 4—Miscellaneous		43
<i>Fuel Quality Standards Act 2000</i>		43



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An Act to amend the *Fuel Quality Standards Act 2000*, and for related purposes

[Assented to 6 November 2009]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Fuel Quality Standards Amendment Act 2009*.

2 Commencement

This Act commences on the day after it receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Part 1—Approvals

Fuel Quality Standards Act 2000

1 Subsection 4(1)

Insert:

emergency approval means an approval referred to in subsection 13(2).

2 Subsection 4(1)

Insert:

Fuel Standards Consultative Committee means the committee established by section 24.

3 Section 11 (paragraph relating to Division 3)

Repeal the paragraph, substitute:

Division 3 deals with the granting of approvals (including emergency approvals) to vary a fuel standard or a fuel quality information standard. It also deals with varying and revoking those approvals.

4 Section 11 (paragraph relating to Division 6)

Repeal the paragraph, substitute:

Division 6 deals with the making and varying of fuel standards and fuel quality information standards and the consultation required beforehand. In some cases, notification, rather than consultation, is required.

5 Before section 13

Insert:

Subdivision A—Grant of approval

6 Subsection 13(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (3), the Minister may grant a type of approval under subsection (1), known as an *emergency approval*, if the Minister is satisfied that:
- (a) a shortfall in the supply of a fuel will exist within two weeks; and
 - (b) the shortfall will have a serious impact on:
 - (i) the interests of consumers; or
 - (ii) economic or regional development; and
 - (c) the shortfall will not reasonably be met by one or more persons (other than the applicant for the approval), either separately or together; and
 - (d) granting the approval will enable, or assist in enabling, the shortfall to be met or mitigated; and
 - (e) the shortfall will exist because of exceptional circumstances.
- Note: Before granting an emergency approval, the Minister must notify, rather than consult, the Fuel Standards Consultative Committee: see subsections 24A(1) and 24C(1).
- (3) The Minister must not grant an emergency approval in respect of a particular shortfall in the supply of a fuel if the Minister has previously granted an emergency approval in respect of that shortfall.
- (4) If an application for an approval is made and the Minister does not grant an approval, the Minister must refuse to grant the approval.
- (5) If:
- (a) an application for an approval (other than an emergency approval) is made; and
 - (b) within 21 days of receiving any recommendations of the Fuel Standards Consultative Committee arising out of the consultation required by section 24A, the Minister neither grants, nor refuses to grant, the approval;
- the Minister is taken to have refused to grant the approval.

- (6) An approval granted under subsection (1) is not a legislative instrument.

7 After section 13

Insert:

13A Period of effect of approval

- (1) An approval comes into force on the day specified in the approval.
- (2) An approval (other than an emergency approval) remains in force for the period specified in the approval, unless earlier revoked.
- (3) Subject to subsection (4), an emergency approval remains in force for the shorter of the following periods, unless earlier revoked:
- (a) the period specified in the approval;
 - (b) 14 days.
- (4) If an emergency approval is varied under section 17F, at the end of the period for which the approval remained in force (whether because of subsection (3) or this subsection) the approval continues in force for the shorter of the following periods, unless earlier revoked:
- (a) the period specified in the approval;
 - (b) 14 days.

8 At the end of section 14

Add:

- (3) If the Minister is required by paragraph 24A(1)(a) to consult the Fuel Standards Consultative Committee before granting an approval, the Secretary must, within 90 days of an application for such an approval being made, give to the Committee:
- (a) a copy of:
 - (i) the application; and
 - (ii) any document accompanying it; and
 - (b) any other material or information that the Secretary considers relevant (including material or information that has become available since the application was made).

9 Section 16

Before “An”, insert “(1)”.

10 At the end of section 16

Add:

- (2) A condition specified in the approval need not relate to the supply of the fuel. However, the Minister must be satisfied that the condition promotes the objects of this Act.

11 After section 17A

Insert:

17B Notification of refusal to grant approval

If the Minister refuses, or is taken to refuse, to grant an approval, the Minister must, as soon as practicable, notify the person who applied for the approval, in writing, of the refusal.

Subdivision B—Variation of approval

17C Variation of approval—general

- (1) Except as provided by this Subdivision, an approval (other than an emergency approval) may be varied in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (2) An emergency approval may only be varied as provided by this Subdivision.

17D Variation of approval—Secretary’s initiative

- (1) The Minister may vary an approval on the Secretary’s initiative.
- (2) If the variation is of a minor nature:
 - (a) the Minister may, in writing, vary the approval; and
 - (b) the Minister must cause to be published in the *Gazette* a notice containing the following information:
 - (i) the name of the person to whom the approval was granted;
 - (ii) the nature of the variation;
 - (iii) the period of operation of the approval;

- (iv) reasons for the variation.
- (3) Any other variation of an approval on the Secretary's initiative (other than a variation covered by section 17F) must be made in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, except that an application for the variation is not required.

17E Variation of approval—adding regulated persons

- (1) A person (the *applicant*) may apply, in writing, for an approval to be varied so that one or more regulated persons are added to the approval.
- (2) The Minister may, in writing, vary the approval accordingly.
- (3) As soon as practicable after varying an approval under this section, the Minister must cause to be published in the *Gazette* a notice containing the following information:
 - (a) the name of the person or persons who have been added to the approval;
 - (b) the period of operation of the approval;
 - (c) reasons for the variation.
- (4) If the Minister does not vary the approval, the Minister must, as soon as practicable, notify the applicant, in writing, of the refusal.

17F Variation of approval—extended period of effect of emergency approval

- (1) The Minister may, in writing, vary the period of effect of an emergency approval if the Minister is satisfied that:
 - (a) the shortfall in respect of which the approval was first issued will continue to exist after the end of that period; and
 - (b) the shortfall will have, or is having, a serious impact on:
 - (i) the interests of consumers; or
 - (ii) economic or regional development; and
 - (c) the shortfall will not reasonably be met by one or more persons (other than the holder of the approval), either separately or together; and
 - (d) the variation will enable, or assist in enabling, the shortfall to be met or mitigated; and

(e) the shortfall will continue to exist because of exceptional circumstances.

Note: Before varying an emergency approval under this section, the Minister must consult the Fuel Standards Consultative Committee: see section 24B.

- (2) The Minister may vary an emergency approval under subsection (1) either:
- (a) on the written application of the holder of the approval; or
 - (b) on the initiative of the Secretary.
- (3) When deciding whether to vary an emergency approval under subsection (1), the Minister:
- (a) must have regard to the matters set out in subsection 15(1); and
 - (b) may also have regard to any other matters he or she considers relevant.
- (4) If the Minister varies an emergency approval under subsection (1), the Minister may also impose new conditions on the approval or vary or remove existing conditions.
- (5) As soon as practicable after varying an emergency approval under subsection (1), the Minister must cause to be published in the *Gazette* a notice containing the following information:
- (a) the period of operation of the approval;
 - (b) the condition or conditions (if any) imposed, varied or removed;
 - (c) reasons for the variation.
- (6) If:
- (a) the holder of an emergency approval makes an application under paragraph (2)(a) in relation to the approval; and
 - (b) the Minister does not vary the approval;
- the Minister must, as soon as practicable, notify the holder, in writing, of the refusal.

Subdivision C—Revoking an approval

17G Revoking an approval

An approval may be revoked in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, except that an application for revocation of the approval is not required.

Subdivision D—Contravening conditions of approval

12 Subsection 24A(1)

Omit “The”, substitute “Unless section 24B or 24C applies, the”.

Note: The heading to section 24A is replaced by the heading “**Consultation—general**”.

13 Paragraph 24A(1)(a)

Repeal the paragraph, substitute:

- (a) before granting, varying or revoking an approval under section 13; and

14 Subsection 24A(2)

After “granting”, insert “or varying”.

15 After section 24A

Insert:

24B Consultation—extended period of effect of emergency approval

- (1) The Minister must consult the Fuel Standards Consultative Committee before varying an emergency approval under section 17F.
- (2) The Minister must have regard to any recommendations of the Committee arising out of the consultation.

24C Notification

- (1) Before granting an emergency approval, the Minister must notify the Fuel Standards Consultative Committee of:
 - (a) the application for an emergency approval; and
 - (b) his or her intention to grant an emergency approval.

Schedule 1 Amendments

Part 1 Approvals

- (2) If a variation of an approval is of a minor nature, the Minister must, as soon as practicable after varying the approval, notify the Committee of the variation.
- (3) If an approval is varied only to add one or more regulated persons, the Minister must, as soon as practicable after varying the approval, notify the Committee of the variation.

15A After paragraph 70(1)(d)

Insert:

- (da) a decision to refuse to vary an approval, other than a decision to refuse to vary an approval under section 17F;

16 Application

- (1) The amendments made by this Part (other than items 9 and 10) apply in relation to:
 - (a) an application for an approval or the variation of an approval;
 - or
 - (b) the revocation of an approval;if the application or revocation is made after the day on which this item commences.
- (2) The amendment made by item 10 of this Schedule applies in relation to a condition of an approval that is first specified in the approval on or after the day on which this item commences.
- (3) In this item:

approval has the same meaning as in the *Fuel Quality Standards Act 2000*.

Part 2—Enforcement

Fuel Quality Standards Act 2000

17 Subsection 4(1)

Insert:

business premises means premises that:

- (a) are used for, or in connection with, the supply of fuel or a fuel additive; and
- (b) are open to the public on a regular basis.

18 Subsection 4(1)

Insert:

civil penalty provision means a subsection, or a section that is not divided into subsections, that has set out at its foot the words “civil penalty” and one or more amounts in penalty units.

19 Subsection 4(1)

Insert:

court means any court.

20 Subsection 4(1)

Insert:

Court means:

- (a) the Federal Court of Australia; or
- (b) the Supreme Court of a State or Territory.

21 Subsection 4(1)

Insert:

enforcement warrant means:

- (a) a warrant issued under section 60; or
- (b) a warrant signed by a magistrate under section 61.

22 Subsection 4(1) (definition of *evidential material*)

Repeal the definition, substitute:

evidential material means:

- (a) in relation to an offence against this Act:
 - (i) a thing with respect to which the offence has been committed or is suspected, on reasonable grounds, of having been committed; or
 - (ii) a thing that there are reasonable grounds for suspecting will afford evidence as to the commission of the offence; or
 - (iii) a thing that there are reasonable grounds for suspecting is intended to be used for the purpose of committing the offence; and
- (b) in relation to a contravention of a civil penalty provision:
 - (i) a thing with respect to which the civil penalty provision has been contravened or is suspected, on reasonable grounds, of having been contravened; or
 - (ii) a thing that there are reasonable grounds for suspecting will afford evidence as to the contravention of the civil penalty provision; or
 - (iii) a thing that there are reasonable grounds for suspecting is intended to be used for the purpose of contravening the civil penalty provision.

23 Subsection 4(1)

Insert:

infringement notice means an infringement notice given under section 65L.

24 Subsection 4(1) (definition of *offence-related warrant*)

Repeal the definition.

25 Subsection 4(1)

Insert:

penalty unit, in relation to a civil penalty provision, has the meaning given by section 4AA of the *Crimes Act 1914*.

26 Subsection 4(1)

Insert:

warrant means a monitoring warrant or an enforcement warrant.

27 Subsection 6(2)

After “liable”, insert “to a pecuniary penalty or”.

28 Section 10

Repeal the section.

29 Section 11 (paragraph relating to Division 2)

After “offences”, insert “and civil penalty provisions”.

30 Section 11 (paragraph relating to Division 5)

After “offence”, insert “and a civil penalty provision”.

31 Section 11 (paragraph relating to Division 7)

After “offences”, insert “and civil penalty provisions”.

32 Paragraph 12(1)(e)

Repeal the paragraph, substitute:

(e) either:

- (i) if the person holds an approval that varies the standard in respect of the supply—the fuel does not comply with the standard as varied; or
- (ii) if another person holds an approval that varies the standard in respect of the supply by the person—the fuel does not comply with the standard as varied; and

Note: The heading to section 12 is replaced by the heading “**Offence—supplying fuel that does not comply with fuel standards**”.

33 Subsection 12(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

34 After section 12

Insert:

12AA Civil penalty—supplying fuel that does not comply with fuel standards

- (1) A person contravenes this subsection if:
- (a) the person supplies fuel in Australia that is the subject of a fuel standard; and
 - (b) in the case where the fuel standard specifies the circumstances in which the standard applies—the person supplies the fuel in Australia in those circumstances; and
 - (c) the person is a constitutional corporation or a Commonwealth entity or the person supplies the fuel in the course of constitutional trade or commerce; and
 - (d) the fuel does not comply with the standard; and
 - (e) either:
 - (i) if the person holds an approval that varies the standard in respect of the supply—the fuel does not comply with the standard as varied; or
 - (ii) if another person holds an approval that varies the standard in respect of the supply by the person—the fuel does not comply with the standard as varied; and
 - (f) the supply is not in order to comply with a direction or order under an emergency law.

Civil penalty:

- (a) for an individual—500 penalty units; and
 - (b) for a body corporate—2,500 penalty units.
- (2) However, the person does not contravene subsection (1) if the person believes on reasonable grounds that the fuel that is supplied will be further processed for the purpose of bringing the fuel into compliance with the standard or the standard as varied.

35 Paragraph 12A(1)(e)

Repeal the paragraph, substitute:

- (e) either:
- (i) if the person holds an approval that varies the fuel quality information standard in respect of the supply—the supply does not comply with the fuel quality information standard as varied; or

- (ii) if another person holds an approval that varies the fuel quality information standard in respect of the supply by the person—the supply does not comply with the fuel quality information standard as varied; and

Note: The heading to section 12A is replaced by the heading “**Offence—supplying fuel that does not comply with fuel quality information standards**”.

36 Subsection 12A(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

37 At the end of Division 2 of Part 2

Add:

12B Civil penalty—supplying fuel that does not comply with fuel quality information standards

A person contravenes this section if:

- (a) the person supplies fuel in Australia; and
- (b) the person is a constitutional corporation or a Commonwealth entity or the person supplies the fuel in the course of constitutional trade or commerce; and
- (c) the supply is subject to a fuel quality information standard; and
- (d) the supply does not comply with the fuel quality information standard; and
- (e) either:
 - (i) if the person holds an approval that varies the fuel quality information standard in respect of the supply—the supply does not comply with the fuel quality information standard as varied; or
 - (ii) if another person holds an approval that varies the fuel quality information standard in respect of the supply by the person—the supply does not comply with the fuel quality information standard as varied; and
- (f) the supply is not in order to comply with a direction or order under an emergency law.

Civil penalty:

- (a) for an individual—60 penalty units; and
- (b) for a body corporate—300 penalty units.

38 Subsection 18(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

Note: The heading to section 18 is replaced by the heading “**Offences—contravening conditions of approval**”.

39 Subsection 18(2) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

40 At the end of Division 3 of Part 2

Add:

18A Civil penalties—contravening conditions of approval

Holder of approval

- (1) The holder of an approval contravenes this subsection if:
- (a) the holder takes an action or omits to take an action; and
 - (b) the holder is a constitutional corporation or a Commonwealth entity or the action or omission occurs in the course of constitutional trade or commerce; and
 - (c) the action or omission contravenes a condition of the approval.

Civil penalty:

- (a) for an individual—100 penalty units; and
- (b) for a body corporate—500 penalty units.

Regulated person

- (2) A regulated person contravenes this subsection if:
- (a) the person takes an action or omits to take an action; and
 - (b) the person is a constitutional corporation or a Commonwealth entity or the action or omission occurs in the course of constitutional trade or commerce; and
 - (c) the action or omission contravenes a condition of the approval concerned.

Civil penalty:

- (a) for an individual—100 penalty units; and
- (b) for a body corporate—500 penalty units.

41 Subsection 19(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

Note: The heading to section 19 is replaced by the heading “**Offence—supplying fuel without documentation**”.

42 At the end of Division 4 of Part 2

Add:

19A Civil penalty—supplying fuel without documentation

- (1) This section applies if:
 - (a) a person (the *supplier*) supplies fuel in Australia to another person and the fuel is the subject of a fuel standard; and
 - (b) in the case where the fuel standard specifies the circumstances in which the standard applies—the supplier supplies the fuel in Australia in those circumstances; and
 - (c) the supplier is a constitutional corporation or a Commonwealth entity or the supplier supplies the fuel in the course of constitutional trade or commerce; and
 - (d) the other person is not the end-user of the fuel.
- (2) The supplier contravenes this subsection if, within the period prescribed by the regulations, the supplier does not provide the other person with a document or documents containing:
 - (a) a statement as to whether or not the fuel complies with the standard; and
 - (b) any other information relating to the fuel that is prescribed by the regulations.

Civil penalty:

- (a) for an individual—60 penalty units; and
- (b) for a body corporate—300 penalty units.

43 Paragraph 20(1)(e)

Repeal the paragraph (not including the note), substitute:

- (e) another person (the *supplier*) supplied the fuel to the person in Australia, and either:
 - (i) if the supplier held an approval varying the standard in respect of the supply—the fuel as altered does not comply with the standard as varied (whether or not the

fuel complied with that standard as varied before the alteration); or

- (ii) if another person held an approval varying the standard in respect of the supply by the supplier—the fuel as altered does not comply with the standard as varied (whether or not the fuel complied with that standard as varied before the alteration).

Note: The heading to section 20 is replaced by the heading “**Offence—altering fuel the subject of a fuel standard**”.

44 Subsection 20(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

45 At the end of Division 5 of Part 2

Add:

20A Civil penalty—altering fuel the subject of a fuel standard

- (1) A person contravenes this subsection if:
 - (a) the person alters in any way fuel in Australia that is the subject of a fuel standard; and
 - (b) the person is a constitutional corporation or a Commonwealth entity or the person alters the fuel in the course of, or for any purpose that is incidental to, constitutional trade or commerce; and
 - (c) the person alters the fuel with the intention of using it in Australia; and
 - (d) in the case where the fuel standard specifies the circumstances in which the standard applies—the person alters the fuel with the intention of using it in Australia in those circumstances; and
 - (e) if the fuel standard applies only in specified circumstances—the fuel is intended to be used in those circumstances; and
 - (f) the fuel as altered does not comply with the base standard (whether or not the fuel complied with that standard before the alteration); and
 - (g) another person (the *supplier*) supplied the fuel to the person in Australia, and either:
 - (i) if the supplier held an approval varying the standard in respect of the supply—the fuel as altered does not

comply with the standard as varied (whether or not the fuel complied with that standard as varied before the alteration); or

- (ii) if another person held an approval varying the standard in respect of the supply by the supplier—the fuel as altered does not comply with the standard as varied (whether or not the fuel complied with that standard as varied before the alteration).

Note: See section 5 for the applicable standard in respect of that supply.

Civil penalty:

- (a) for an individual—500 penalty units; and
(b) for a body corporate—2,500 penalty units.
- (2) For the purposes of subsection (1), *base standard* means the standard determined under section 21, disregarding the application of subsection 21(2).

46 Subsection 30(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

Note: The heading to section 30 is replaced by the heading “**Offence—supplying a fuel additive**”.

47 After section 30

Insert:

30A Civil penalty—supplying a fuel additive

A person contravenes this section if:

- (a) the person supplies a fuel additive in Australia; and
(b) the person is a constitutional corporation or a Commonwealth entity or the person supplies the fuel additive in the course of constitutional trade or commerce; and
(c) the fuel additive is covered by an entry in the Register.

Civil penalty:

- (a) for an individual—250 penalty units; and
(b) for a body corporate—1,250 penalty units.

48 Subsection 31(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

Note: The heading to section 31 is replaced by the heading “**Offence—importing a fuel additive**”.

49 At the end of Division 7 of Part 2

Add:

31A Civil penalty—importing a fuel additive

A person contravenes this section if:

- (a) the person imports a fuel additive into Australia; and
- (b) the fuel additive is covered by an entry in the Register.

Civil penalty:

- (a) for an individual—250 penalty units; and
- (b) for a body corporate—1,250 penalty units.

50 Section 37 (paragraph relating to Division 8)

Omit “offence-related”, substitute “enforcement”.

51 Section 37 (at the end of the paragraph relating to Division 10)

Add “or a contravention of a civil penalty provision”.

52 At the end of section 37

Add:

Division 11 sets out the procedure for obtaining an order that a pecuniary penalty be paid for the contravention of a civil penalty provision.

Division 12 allows a person to be given an infringement notice and, in most cases, avoid prosecution or civil proceedings if the person pays the amount required by the notice.

Division 13 allows for the Secretary to accept and enforce enforceable undertakings in relation to an offence against this Act or a contravention of a civil penalty provision.

53 Subsection 39(3) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

54 Paragraphs 40(1)(a) and (b)

Repeal the paragraphs, substitute:

- (a) do both of the following:
 - (i) enter any premises;
 - (ii) exercise the monitoring powers set out in section 41; or
- (b) do both of the following:
 - (i) enter a public area of business premises when the premises are open to the public;
 - (ii) exercise the powers set out in section 41A.

55 Subsection 40(2)

Omit “enter the premises”, substitute “enter premises under paragraph (1)(a)”.

56 At the end of section 40

Add:

- (3) Paragraph (1)(b) does not affect any right of the occupier of business premises to refuse to allow an inspector to enter, or remain on, the premises.

57 Subsection 41(1)

Omit “section 40”, substitute “paragraph 40(1)(a)”.

Note: The heading to section 41 is altered by adding at the end “—with consent or with warrant”.

58 Paragraph 41(1)(g)

Omit “offence-related”, substitute “enforcement”.

59 After section 41

Insert:

41A Exercise of powers in public areas of business premises

An inspector may exercise the following powers in relation to a public area of business premises under paragraph 40(1)(b):

- (a) the power to inspect, examine, take measurements of, conduct tests on, or take samples of, any fuel or fuel additive in the area;
- (b) the power to take photographs, make video or audio recordings or make sketches of the area or any thing in the area;
- (c) the power to take into the area such equipment and materials as the inspector requires for the purpose of exercising powers in relation to the area.

60 Subsection 42(2) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

Note: The heading to section 42 is altered by inserting “**monitoring**” before “**warrant**”.

61 Division 4 of Part 3 (heading)

Repeal the heading, substitute:

Division 4—Search and seizure powers

62 Paragraph 43(1)(b)

Omit “offence-related”.

Note: The heading to section 43 is altered by omitting “**related to offences**”.

63 Paragraph 43(2)(b)

Omit “offence-related”, substitute “enforcement”.

64 Subsection 43(3)

Omit “offence-related”, substitute “enforcement”.

65 Subsection 44(1)

Omit “For the purposes of this Part, the following are the *offence-related powers* that an inspector may exercise”, substitute “An inspector may exercise the following powers”.

Note: The heading to section 44 is altered by omitting “**Offence-related**” and substituting “**Search and seizure**”.

66 Subsection 44(2)

Omit “For the purposes of this Part, the *offence-related powers* include”, substitute “An inspector also has”.

67 Subsection 44(3)

Omit all the words from and including “For the purposes” to and including “include”, substitute “If the inspector, after operating the equipment, finds that evidential material is accessible by doing so, the inspector also has”.

68 Subsection 44(6)

Omit “offence-related”, substitute “enforcement”.

69 Subsection 44(7)

Repeal the subsection, substitute:

Seizing other evidential material

(7) If:

- (a) in the course of searching for a particular thing, in accordance with an enforcement warrant, an inspector finds another thing that the inspector believes on reasonable grounds to be evidential material; and
- (b) the inspector believes, on reasonable grounds, that it is necessary to seize the other thing in order to prevent its concealment, loss or destruction, or its use:
 - (i) in committing, continuing or repeating an offence against this Act; or
 - (ii) in committing, continuing or repeating a contravention of a civil penalty provision;

then the inspector may seize that other thing.

70 Subsection 51(3)

Omit “the Federal Court of Australia for such reasonable amount of compensation as the Court determines”, substitute “a court of competent jurisdiction for such reasonable amount of compensation as the court determines”.

71 Subsection 53(2) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

72 Subsection 54(1)

Omit “offence-related”, substitute “enforcement”.

73 Paragraphs 57(2)(a) and (b)

Repeal the paragraphs, substitute:

- (a) for the purpose of an investigation as to whether:
 - (i) an offence against this Act has been committed; or
 - (ii) a civil penalty provision has been contravened; or
- (b) to enable:
 - (i) evidence of an offence against this Act to be secured for the purpose of a prosecution; or
 - (ii) evidence of a contravention of a civil penalty provision to be secured for the purpose of civil proceedings;

74 Subsection 58B(1)

Repeal the subsection, substitute:

- (1) This section applies to:
 - (a) proceedings for an offence against a provision of Part 2 (*offence proceedings*); or
 - (b) proceedings for a contravention of a civil penalty provision of Part 2.

75 Subsection 58B(2)

Omit “in any offence proceedings,”.

76 Paragraph 58B(6)(b)

Omit “the Court”, substitute “the court”.

77 Subsection 59(1)

After “magistrate for a”, insert “monitoring”.

Note: The heading to subsection 59(1) is altered by inserted “*a monitoring*” before “*warrant*”.

78 Subsection 59(2)

Before “warrant”, insert “monitoring”.

Note: The heading to subsection 59(2) is altered by inserting “*a monitoring*” before “*warrant*”.

79 Subsection 59(3)

Before “warrant” (first occurring), insert “monitoring”.

80 Subsection 59(4)

Before “warrant” (first occurring), insert “monitoring”.

Note: The heading to subsection 59(4) is altered by inserting “*a monitoring*” before “*warrant*”.

81 Subsection 60(1)

Omit “a warrant”, substitute “an enforcement warrant”.

Note 1: The heading to section 60 is altered by omitting “**Offence-related**” and substituting “**Enforcement**”.

Note 2: The heading to subsection 60(1) is altered by inserting “*an enforcement*” before “*warrant*”.

82 Subsection 60(2)

Before “warrant”, insert “enforcement”.

Note: The heading to subsection 60(2) is altered by inserting “*an enforcement*” before “*warrant*”.

83 Subsection 60(3)

Before “warrant” (first occurring), insert “enforcement”.

84 Subsection 60(4)

Before “warrant” (first occurring), insert “enforcement”.

Note: The heading to subsection 60(4) is altered by inserting “*an enforcement*” before “*warrant*”.

85 Subsection 61(1)

Omit “a warrant under section 60”, substitute “an enforcement warrant”.

Note 1: The heading to section 61 is altered by omitting “**Offence-related**” and substituting “**Enforcement**”.

Note 2: The heading to subsection 61(1) is altered by inserting “*an enforcement*” before “*warrant*”.

86 Subsection 61(3)

Before “warrant” (first occurring), insert “enforcement”.

87 Subsection 61(4)

Before “warrant”, insert “enforcement”.

88 Paragraph 61(5)(b)

Before “warrant”, insert “enforcement”.

Note: The heading to subsection 61(5) is altered by inserting “*an enforcement*” before “*warrant*”.

89 Subsection 61(6)

Before “warrant” (first occurring), insert “enforcement”.

Note: The heading to subsection 61(6) is altered by inserting “*an enforcement*” before “*warrant*”.

90 Subsection 61(7)

Before “warrant” (first occurring), insert “enforcement”.

91 Paragraph 61(8)(a)

Before “warrant”, insert “enforcement”.

92 Subsection 61(9)

Before “warrant” (first occurring), insert “enforcement”.

Note: The heading to subsection 61(9) is altered by inserting “*an enforcement*” before “*warrant*”.

93 Paragraph 61(10)(b)

Before “warrant”, insert “enforcement”.

94 Subsection 62(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

95 Paragraph 62(2)(a)

Before “warrant” (second occurring), insert “enforcement”.

96 Paragraph 62(2)(d)

Before “warrant” (second occurring), insert “enforcement”.

97 Subsection 62(2) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

98 Subsection 65(1)

Repeal the subsection, substitute:

Grant of injunction

- (1) If a person has engaged, is engaging, or is about to engage, in any conduct that is or would be:
- (a) an offence against this Act; or
 - (b) a contravention of a civil penalty provision;
- a Court may, on the application of the Minister or any other aggrieved person, grant an injunction restraining the person from engaging in the conduct.

99 Subsection 65(2)

Omit “the Court”, substitute “a Court”.

100 Paragraph 65(2)(b)

Repeal the paragraph, substitute:

- (b) the refusal or failure is, or would be:
- (i) an offence against this Act; or
 - (ii) a contravention of a civil penalty provision;

101 Subsection 65(2C)

Omit “the Court”, substitute “a Court”.

102 Subsection 65(3)

Omit “the Court” (first occurring), substitute “a Court”.

103 Subsection 65(4)

Repeal the subsection, substitute:

- (4) A Court may discharge or vary an injunction granted by the Court under this section.

104 Subsection 65(5)

Omit “The Court”, substitute “A Court”.

105 Subsection 65(6)

Omit “the Court”, substitute “a Court”.

106 At the end of Part 3

Add:

Division 11—Civil penalties

Subdivision A—Obtaining an order for a civil penalty

65A Court may order person to pay pecuniary penalty for contravening civil penalty provision

Application for order

- (1) Within 6 years of a person (the *wrongdoer*) contravening a civil penalty provision, the Minister may apply to a Court for an order that the wrongdoer pay the Commonwealth a pecuniary penalty.

Court may order wrongdoer to pay pecuniary penalty

- (2) If the Court is satisfied that the wrongdoer has contravened a civil penalty provision, the Court may order the wrongdoer to pay to the Commonwealth, for each contravention, the pecuniary penalty that the Court determines is appropriate (but not more than the relevant amount specified for the provision).

Determining amount of pecuniary penalty

- (3) In determining the pecuniary penalty, the Court must have regard to all relevant matters, including:
 - (a) the nature and extent of the contravention; and
 - (b) the nature and extent of any loss or damage suffered as a result of the contravention; and
 - (c) the circumstances in which the contravention took place; and
 - (d) whether the person has previously been found by a court in proceedings under this Act to have engaged in any similar conduct.

Civil evidence and procedure rules apply

- (4) The Court must apply the rules of evidence and procedure for civil matters when hearing and determining an application for an order under this section.

Note: The standard of proof in civil proceedings is the balance of probabilities: see section 140 of the *Evidence Act 1995*.

65B Persons involved in contravening civil penalty provision

- (1) A person must not:
 - (a) aid, abet, counsel or procure a contravention of a civil penalty provision; or
 - (b) induce (by threats, promises or otherwise) a contravention of a civil penalty provision; or
 - (c) be in any way directly or indirectly knowingly concerned in, or party to, a contravention of a civil penalty provision; or
 - (d) conspire to contravene a civil penalty provision.
- (2) This Act applies to a person who contravenes subsection (1) in relation to a civil penalty provision as if the person had contravened the provision.

65C Recovery of a pecuniary penalty

If a Court orders a person to pay a pecuniary penalty:

- (a) the penalty is payable to the Commonwealth; and
- (b) the Commonwealth may enforce the order as if it were a judgment of the Court.

65D Gathering information for application for pecuniary penalty

- (1) This section applies if it appears to the Secretary that a person (the *wrongdoer*) may have contravened a civil penalty provision.
- (2) If the Secretary, on reasonable grounds, suspects that a person other than the wrongdoer can give information relevant to an application for a civil penalty order in relation to the contravention, whether or not such an application has been made, the Secretary may, by writing given to the person, require the person to give all reasonable assistance in connection with such an application.
- (3) Subsection (2) does not apply in relation to a duly qualified legal practitioner who is acting, or has acted, for the wrongdoer.
- (4) If a person fails to give assistance as required under subsection (2), a Court may, on the application of the Secretary, order the person to comply with the requirement as specified in the order.
- (5) If a person fails to give assistance as required under subsection (2), the person commits an offence against this subsection.

Penalty: 30 penalty units.

- (6) A requirement made under subsection (2) is not a legislative instrument.

Subdivision B—Civil penalty proceedings and criminal proceedings

65E Civil proceedings after criminal proceedings

A Court must not order a person to pay a pecuniary penalty for contravening a civil penalty provision if the person has been convicted of an offence constituted by conduct that is substantially the same as the conduct constituting the contravention.

65F Criminal proceedings during civil proceedings

- (1) Proceedings for an order for a person to pay a pecuniary penalty for contravening a civil penalty provision are stayed if:
- (a) criminal proceedings are started, or have already been started, against the person for an offence; and
 - (b) the offence is constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.
- (2) The proceedings for the order may be resumed if the person is not convicted of the offence. Otherwise, the proceedings for the order are dismissed.

65G Criminal proceedings after civil proceedings

Criminal proceedings may not be started against a person for conduct that is substantially the same as conduct that contravenes a civil penalty provision if the person has been ordered to pay a pecuniary penalty under this Act for the contravention.

65H Evidence given in proceedings for penalty not admissible in criminal proceedings

Evidence of information given or evidence of production of documents by an individual is not admissible in criminal proceedings for an offence against the individual if:

- (a) the individual previously gave the evidence or produced the documents in proceedings for an order for a contravention of a civil penalty provision (whether or not the order was made); and
- (b) the conduct alleged to constitute the offence is substantially the same as the conduct that was claimed to constitute the contravention.

However, this does not apply to a criminal proceeding in respect of the falsity of the evidence given by the individual in the proceedings for the pecuniary penalty order.

65J Civil double jeopardy

If a person is ordered to pay a pecuniary penalty for contravening a civil penalty provision in respect of particular conduct, the person is not liable to a pecuniary penalty under some other provision of a law of the Commonwealth in respect of that conduct.

Subdivision C—Miscellaneous

65K Multiple contraventions of civil penalty provisions

- (1) Proceedings against a person for any number of orders to pay pecuniary penalties for contraventions of a civil penalty provision that are founded on the same facts or form, or are part of, a series of contraventions of the same or a similar character, may be joined.
- (2) A Court may make a single order to pay a pecuniary penalty for all the contraventions described in subsection (1), but the penalty must not exceed the sum of the maximum penalties that could be ordered if a separate penalty were ordered for each of the contraventions.

Division 12—Infringement notices

65L When an infringement notice may be given

- (1) If an inspector has reasonable grounds to believe that:
 - (a) a person has committed an offence against this Act; or
 - (b) a person has contravened a civil penalty provision;

the inspector may give the person an infringement notice relating to the offence or contravention.

- (2) The infringement notice must be given within 12 months after:
- (a) the day on which the offence is alleged to have been committed; or
 - (b) the day on which the civil penalty provision is alleged to have been contravened.

65M Matters to be included in an infringement notice

- (1) An infringement notice must:
- (a) be identified by a unique number; and
 - (b) state the day on which the notice is given; and
 - (c) state the name of the person to whom the notice is given; and
 - (d) state the name of the person who gave the notice; and
 - (e) if the notice relates to an offence—give brief details of the offence that the person is alleged to have committed, including:
 - (i) the provision of this Act that was allegedly contravened; and
 - (ii) the maximum penalty that a court could impose for the offence; and
 - (iii) the time (if known) and day on which, and the place at which, the offence was alleged to have been committed; and
 - (f) if the notice relates to the contravention of a civil penalty provision—give brief details of the civil penalty provision that the person is alleged to have contravened, including:
 - (i) the provision of this Act that was allegedly contravened; and
 - (ii) the maximum penalty that a court could impose for the contravention; and
 - (iii) the time (if known) and day on which, and the place at which, the civil penalty provision was alleged to have been contravened; and
 - (g) state the penalty that is payable under the notice; and
 - (h) give an explanation of how payment of the penalty is to be made; and

- (i) state that, if the person pays the penalty within 28 days after the day the notice is given, criminal or civil proceedings will not be brought against the person under this Act in respect of the conduct to which the notice relates, unless the notice is withdrawn; and
 - (j) state that payment of the penalty is not an admission of guilt or liability; and
 - (k) state that the person may apply to the Secretary to have the period in which to pay the penalty extended; and
 - (l) state that the person may choose not to pay the penalty and, if the person does so, criminal or civil proceedings may be brought against the person under this Act in respect of the conduct to which the notice relates; and
 - (m) set out how the notice can be withdrawn; and
 - (n) state that if the notice is withdrawn:
 - (i) any amount of penalty paid under the notice must be refunded; and
 - (ii) criminal or civil proceedings may be brought against the person in respect of the conduct to which the notice relates; and
 - (o) state that the person may make written representations to the Secretary seeking the withdrawal of the notice; and
 - (p) set out such other matters (if any) as are specified by the regulations.
- (2) For the purposes of paragraph (1)(g) in relation to an offence:
- (a) if an individual is alleged to have committed the offence—the penalty to be stated in the notice must not exceed an amount equal to one-fifth of the maximum penalty that could have been imposed on the individual for the offence; and
 - (b) if a body corporate is alleged to have committed the offence—the penalty to be stated in the notice must not exceed an amount equal to one-fifth of the maximum penalty that could have been imposed on the body corporate for the offence.
- (3) For the purposes of paragraph (1)(g) in relation to a civil penalty provision, the penalty to be stated in the notice must not exceed an amount equal to one-fifth of the maximum penalty prescribed for contravening the provision.
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65N Extension of time to pay penalty

- (1) A person to whom an infringement notice has been given may apply to the Secretary for an extension of the period referred to in paragraph 65M(1)(i).
- (2) If the application is made before the end of that period, the Secretary may, in writing, extend that period. The Secretary may do so before or after the end of that period.
- (3) If the Secretary extends that period, a reference in this Division, or in a notice or other instrument under this Division, to the period referred to in paragraph 65M(1)(i) is taken to be a reference to that period so extended.
- (4) If the Secretary does not extend that period, a reference in this Division, or in a notice or other instrument under this Division, to the period referred to in paragraph 65M(1)(i) is taken to be a reference to the period that ends on the later of the following days:
 - (a) the day that is the last day of the period referred to in paragraph 65M(1)(i);
 - (b) the day that is 7 days after the day the person was given notice of the Secretary's decision not to extend.
- (5) The Secretary may extend the period more than once under subsection (2).

65P Withdrawal of an infringement notice

Representations seeking withdrawal of notice

- (1) A person to whom an infringement notice has been given may make written representations to the Secretary seeking the withdrawal of the notice.

Withdrawal of notice (whether or not representations have been made)

- (2) An inspector may withdraw an infringement notice given to a person (whether or not the person has made written representations seeking the withdrawal).
 - (3) When deciding whether or not to withdraw an infringement notice, the inspector:
-

- (a) must take into account any written representations seeking the withdrawal that were given by the person to the Secretary; and
 - (b) may take into account the matters set out in subsection (4).
- (4) The matters to which the inspector may take into account are the following:
- (a) whether the person has previously been convicted of an offence against this Act or been ordered to pay a pecuniary penalty for the contravention of a civil penalty provision;
 - (b) if the notice relates to an offence—the circumstances in which the offence is alleged to have been committed;
 - (c) if the notice relates to a civil penalty provision—the circumstances in which the contravention took place;
 - (d) whether the person has previously been given an infringement notice relating to:
 - (i) an offence of the same type as the offence specified in the notice; or
 - (ii) a civil penalty provision that is constituted by conduct that is substantially the same as the conduct alleged to constitute the offence specified in the notice;and in relation to which the person paid the penalty stated in the notice;
 - (e) whether the person has previously been given an infringement notice relating to:
 - (i) a civil penalty provision of the same type as the civil penalty provision specified in the notice; or
 - (ii) an offence that is constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention of the civil penalty provision specified in the notice;and in relation to which the person paid the penalty stated in the notice;
 - (f) any other matter the inspector considers relevant.

Notice of withdrawal

- (5) Notice of the withdrawal of the infringement notice must be given to the person. The withdrawal notice must state:
- (a) the person's name and address; and

- (b) the day the infringement notice was given; and
- (c) that the infringement notice is withdrawn; and
- (d) that criminal or civil proceedings may be brought against the person in respect of the conduct to which the infringement notice relates.

Refund of penalty if infringement notice withdrawn

- (6) If:
 - (a) an inspector withdraws the infringement notice; and
 - (b) the person has already paid the penalty stated in the notice;the Commonwealth must refund to the person an amount equal to the amount paid.

65Q Effect of payment of penalty

Infringement notice relates to an offence

- (1) If an infringement notice relates to an offence and the person to whom the notice is given pays the penalty stated in the notice before the end of the period referred to in paragraph 65M(1)(i):
 - (a) any liability of the person for the alleged offence is discharged; and
 - (b) a prosecution for the alleged offence may not be brought against the person; and
 - (c) if a civil penalty provision relates to conduct substantially the same as the conduct alleged to constitute the offence—civil proceedings for a contravention of the civil penalty provision may not be brought against the person; and
 - (d) the person is not regarded as having admitted guilt or liability for the alleged offence; and
 - (e) the person is not regarded as having been convicted of the alleged offence.

Infringement notice relates to civil penalty provision

- (2) If an infringement notice relates to a contravention of a civil penalty provision and the person to whom the notice is given pays the penalty stated in the notice before the end of the period referred to in paragraph 65M(1)(i):

- (a) any liability of the person for the alleged contravention is discharged; and
 - (b) civil proceedings in respect of the alleged contravention may not be brought against the person; and
 - (c) if an offence relates to conduct substantially the same as the conduct alleged to constitute the contravention—a prosecution for the offence may not be brought against the person; and
 - (d) the person is not regarded as having admitted liability for the alleged contravention.
- (3) Subsections (1) and (2) do not apply if the notice has been withdrawn.

65R Effect of this Division

This Division does not:

- (a) require an infringement notice to be given to a person; or
- (b) affect the liability of a person to be prosecuted for an offence if:
 - (i) the person does not comply with an infringement notice given to the person; or
 - (ii) an infringement notice is not given to the person for the offence; or
 - (iii) if a civil penalty provision is constituted by conduct that is substantially the same as the conduct alleged to constitute the offence—an infringement notice is not given to the person in relation to the civil penalty provision; or
 - (iv) an infringement notice is given to the person and is subsequently withdrawn; or
- (c) affect the liability of a person to be subject to civil proceedings for the contravention of a civil penalty provision if:
 - (i) the person does not comply with an infringement notice given to the person; or
 - (ii) an infringement notice is not given to the person for the contravention; or
 - (iii) if an offence is constituted by conduct that is substantially the same as the conduct alleged to

- constitute the contravention—an infringement notice is not given to the person in relation to the offence; or
- (iv) an infringement notice is given to the person and is subsequently withdrawn; or
- (d) prevent the giving of 2 or more infringement notices to a person for:
- (i) an alleged offence; or
 - (ii) an alleged contravention of a civil penalty provision; or
- (e) limit a court’s discretion to determine the amount of a penalty to be imposed on a person:
- (i) convicted of an offence against this Act; or
 - (ii) who has contravened a civil penalty provision.

65S Regulations

The regulations may make further provision in relation to infringement notices.

Division 13—Enforceable undertakings

65T Acceptance of undertakings

- (1) The Secretary may accept a written undertaking given by a person if the Secretary considers that the person has committed an offence against, or contravened a civil penalty provision of, this Act.
- (2) The person may withdraw or vary the undertaking at any time, but only with the consent of the Secretary.
- (3) The Secretary may, by written notice given to the person, cancel the undertaking.
- (4) The Secretary may publish the undertaking on the internet.

65U Enforcement of undertakings

- (1) If the Secretary considers that a person who gave an undertaking under section 65T has breached any of its terms, the Secretary may apply to a Court for an order under subsection (2).

- (2) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make one or more of the following orders:
- (a) an order directing the person to comply with that term of the undertaking;
 - (b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
 - (c) any order that the Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (d) any other order that the Court considers appropriate.

107 Subsection 66(1) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

Note: The heading to section 66 is replaced by the heading “**Offence—failure to keep and maintain records**”.

108 After section 66

Insert:

66A Civil penalty—failure to keep and maintain records

- (1) This section applies if:
- (a) a person supplies fuel in Australia that is the subject of a fuel standard; and
 - (b) in the case where the fuel standard specifies the circumstances in which the standard applies—the person supplies the fuel in Australia in those circumstances; and
 - (c) the person is a constitutional corporation or a Commonwealth entity or the person supplies the fuel in the course of constitutional trade or commerce.
- (2) The person contravenes this subsection if the person does not keep and maintain records in relation to such supplies in accordance with the regulations.

Civil penalty:

- (a) for an individual—60 penalty units; and
- (b) for a body corporate—300 penalty units.

109 Subsection 67(5) (penalty)

Omit “Maximum penalty”, substitute “Penalty”.

110 At the end of section 67

Add:

Civil penalty provision

(7) A person must not contravene a requirement of this section.

Civil penalty:

- (a) for an individual—60 penalty units; and
- (b) for a body corporate—300 penalty units.

111 Application

Divisions 11, 12 and 13 of Part 3 of the *Fuel Quality Standards Act 2000* (as inserted by item 106 of this Part) apply in relation to conduct that occurs on or after the day on which this item commences.

Part 3—Fuel standards may apply in specified circumstances

Fuel Quality Standards Act 2000

112 After paragraph 12(1)(a)

Insert:

- (aa) in the case where the fuel standard specifies the circumstances in which the standard applies—the person supplies the fuel in Australia in those circumstances; and

113 After paragraph 19(1)(a)

Insert:

- (aa) in the case where the fuel standard specifies the circumstances in which the standard applies—the supplier supplies the fuel in Australia in those circumstances; and

114 After paragraph 20(1)(c)

Insert:

- (ca) in the case where the fuel standard specifies the circumstances in which the standard applies—the person alters the fuel with the intention of using it in Australia in those circumstances; and

115 Subsection 21(1)

Repeal the subsection, substitute:

Base standard

- (1) The Minister may, by legislative instrument, determine a fuel standard in respect of a specified kind of fuel.

Standard may apply only in specified circumstances

- (1A) The fuel standard may specify the circumstances in which the standard applies.

116 After paragraph 66(1)(a)

Schedule 1 Amendments

Part 3 Fuel standards may apply in specified circumstances

Insert:

- (aa) in the case where the fuel standard specifies the circumstances in which the standard applies—the person supplies the fuel in Australia in those circumstances; and

117 After paragraph 67(1)(b)

Insert:

- (ba) in the case where the fuel standard specifies the circumstances in which the standard applies—the person supplies the fuel in Australia in those circumstances; and

118 After paragraph 67(2)(b)

Insert:

- and (c) in the case where the fuel standard specifies the circumstances in which the standard applies—the person supplies the fuel in Australia in those circumstances;

119 Savings provision

- (1) A fuel standard that is in force, or purportedly in force, immediately before this item commences continues in force as if it was made, immediately after item 115 of this Part commences, under section 21 of the *Fuel Quality Standards Act 2000* as amended by that item.
- (2) In this item:
fuel standard has the same meaning as in the *Fuel Quality Standards Act 2000*.

Part 4—Miscellaneous

Fuel Quality Standards Act 2000

120 Subsection 4(1) (paragraph (b) of the definition of emergency law)

Omit “a determination”, substitute “an instrument made”.

121 Subsection 4(2)

Omit “written determination”, substitute “legislative instrument”.

122 Subsection 4(3)

Repeal the subsection.

123 Subsection 21(4)

Repeal the subsection.

124 Subsection 22(1)

Omit “(1) The Minister must develop written”, substitute “The Minister must, by legislative instrument, develop”.

125 Subsection 22(2)

Repeal the subsection.

126 Subsection 22A(1)

Omit “in writing”, substitute “by legislative instrument”.

127 Subsection 22A(4)

Repeal the subsection.

128 Section 27

Repeal the section.

129 Subsection 28(1)

Omit “or an expert adviser”.

130 Subsection 28(2)

Omit “or expert adviser”.

131 Subsection 28(3)

Omit “or an expert adviser”.

132 Section 29

Omit “and expert advisers”.

Note: The heading to section 29 is altered by omitting “etc.”.

133 Subsection 36(1)

Omit “develop written”, substitute “, by legislative instrument, develop”.

134 Subsection 36(3)

Repeal the subsection.

135 Section 67A

Repeal the section, substitute:

67A Disclosure of information

The Secretary may disclose, or authorise the disclosure of, information obtained under this Act if the Secretary reasonably believes:

- (a) that it is necessary or appropriate to do so in the course of performing functions or exercising powers under this Act; or
- (b) that the disclosure is likely to assist in the administration or enforcement of:
 - (i) a taxation law (within the meaning of the *Income Tax Assessment Act 1997*); or
 - (ii) a consumer protection law (within the meaning of the *Australian Postal Corporation Act 1989*); or
 - (iii) any other prescribed Act.

136 Subsection 68(1)

Repeal the subsection, substitute:

- (1) The Minister may, in writing, delegate to the Secretary all or any of the Minister's powers or functions under this Act, other than the following:
- (a) making a determination under section 21;
 - (b) making a determination under section 22A.
- (1A) The Minister may, in writing, delegate to an SES employee or an acting SES employee all or any of the Minister's powers or functions under this Act, other than the following:
- (a) granting, varying or revoking an emergency approval;
 - (b) making a determination under section 21;
 - (c) making a determination under section 22A.

137 Savings provision

Despite the repeal of subsection 68(1) of the *Fuel Quality Standards Act 2000*, any delegation by the Minister:

- (a) to the Secretary that was in force under that subsection immediately before the commencement of this item continues in force on and after that commencement as if it were a delegation made by the Minister under subsection 68(1) of that Act as substituted by item 136 of this Part; and
- (b) to an SES employee or acting SES employee that was in force under that subsection immediately before the commencement of this item continues in force on and after that commencement as if it were a delegation made by the Minister under subsection 68(1A) of that Act as inserted by item 136 of this Part.

*[Minister's second reading speech made in—
House of Representatives on 18 March 2009
Senate on 15 June 2009]*