



Clean Energy (Excise Tariff Legislation Amendment) Act 2011

No. 156, 2011

**An Act to amend excise tariff legislation, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 156, 2011

An Act to amend excise tariff legislation, and for related purposes

[Assented to 4 December 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Clean Energy (Excise Tariff Legislation Amendment) Act 2011*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	4 December 2011
2. Schedule 1	1 July 2012. However, the provision(s) do not commence at all if section 3 of the <i>Clean Energy Act 2011</i> does not commence on or before 1 July 2012.	1 July 2012
3. Schedule 2	Immediately after the commencement of Part 2 of Schedule 1 to the <i>Excise Tariff Amendment (Taxation of Alternative Fuels) Act 2011</i> . However, the provision(s) do not commence at all if section 3 of the <i>Clean Energy Act 2011</i> does not commence on or before 1 July 2012.	1 July 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule

concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Aircraft fuel

Excise Tariff Act 1921

1 Subsection 3(1)

Insert:

average carbon unit auction price for a substitution day mentioned in section 6FA, 6FB or 6H means the amount that:

- (a) is worked out under section 196 of the *Clean Energy Act 2011* taking account of auctions conducted in the 6 months ending at the end of:
 - (i) the last May before the substitution day, if it is 1 July (in 2015 or a later year); or
 - (ii) the last November before the substitution day, if it is 1 January (in 2016 or a later year); and
- (b) is the first amount that is worked out in that way for those 6 months and published under that section.

2 After section 6E

Insert:

6FA Changes in rate of duty on gasoline for use as fuel in aircraft

- (1) This Act has effect as if, on each day (the *substitution day*) that is one of the following days, the rate (the *replacement rate*) of duty worked out under subsection (2) for the substitution day were substituted for the rate of duty in subitem 10.6 of the Schedule:
 - (a) 1 July in 2013 and each later year;
 - (b) 1 January in 2016 and each later year.

Replacement rate

- (2) The replacement rate is the sum of:
 - (a) \$0.03556 per litre; and
 - (b) the rate (the *carbon component rate*) worked out for the substitution day using the table.

Carbon component rate	
Substitution day	Carbon component rate
1 1 July 2013	\$0.05313 per litre
2 1 July 2014	\$0.05588 per litre
3 1 July in 2015 or a later year or 1 January in 2016 or a later year	The amount that is: (a) worked out for the substitution day using the formula in subsection (3); and (b) rounded to 5 decimal places (rounding up if the sixth decimal place is 5 or more); per litre

(3) The formula is:

Average carbon unit auction price for the substitution day \times 0.0022

Note: *Average carbon unit auction price* is defined in subsection 3(1).

Application of replacement rate

(4) The replacement rate applies to gasoline that is entered for home consumption on or after the substitution day (but before the next substitution day) and is for use as fuel in aircraft.

6FB Changes in rate of duty on kerosene for use as fuel in aircraft

(1) This Act has effect as if, on each day (the *substitution day*) that is one of the following days, the rate (the *replacement rate*) of duty worked out under subsection (2) for the substitution day were substituted for the rate of duty in subitem 10.17 of the Schedule:

- (a) 1 July in 2013 and each later year;
- (b) 1 January in 2016 and each later year.

Replacement rate

(2) The replacement rate is the sum of:

- (a) \$0.03556 per litre; and
- (b) the rate (the *carbon component rate*) worked out for the substitution day using the table.

Schedule 1 Aircraft fuel

Carbon component rate	
Substitution day	Carbon component rate
1 1 July 2013	\$0.06279 a litre
2 1 July 2014	\$0.06604 a litre
3 1 July in 2015 or a later year or 1 January in 2016 or a later year	The amount that is: (a) worked out for the substitution day using the formula in subsection (3); and (b) rounded to 5 decimal places (rounding up if the sixth decimal place is 5 or more); per litre

(3) The formula is:

Average carbon unit auction price for the substitution day \times 0.0026

Note: *Average carbon unit auction price* is defined in subsection 3(1).

Application of replacement rate

(4) The replacement rate applies to kerosene that is entered for home consumption on or after the substitution day (but before the next substitution day) and is for use as fuel in aircraft.

6FC Publication of replacement rates for aircraft fuel

(1) The CEO must, on or as soon as practicable after each substitution day mentioned in sections 6FA and 6FB, publish for the information of the public a notice in the *Gazette* setting out:

- (a) each replacement rate mentioned in those sections for that day; and
- (b) the goods to which each replacement rate applies.

(2) The CEO must ensure that a copy of a notice under subsection (1) is available on the website of the Australian Taxation Office.

3 Schedule (cell at table subitem 10.6, column headed “Rate of Duty”)

Repeal the cell, substitute:

\$0.08616 per litre

4 Schedule (cell at table subitem 10.17, column headed “Rate of Duty”)

Repeal the cell, substitute:

\$0.09536 per litre

Schedule 2—Compressed natural gas

Excise Act 1901

1 Section 77HA

Repeal the section, substitute:

77HA Compressed natural gas that is exempt from excise duty

Compressed natural gas is exempt from excise duty if the gas was compressed other than in the course of carrying on an enterprise (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*).

Excise Tariff Act 1921

2 Subsection 3(1)

Insert:

carbon-rated compressed natural gas means compressed natural gas that:

- (a) was compressed for use other than as a fuel for a motor vehicle; or
- (b) was compressed for use as a fuel for a motor vehicle that:
 - (i) is designed merely to move goods with a forklift and is for use primarily off public roads; or
 - (ii) is of a kind prescribed by the regulations for the purposes of this subparagraph.

3 At the end of subsection 5(1)

Add:

Note: Sections 6A, 6FA, 6FB and 6H effectively change certain rates of duty that appear on the face of the Schedule.

4 After section 6G

Insert:

6H Changes in rate of duty on carbon-rated compressed natural gas

- (1) This Act has effect as if, on each day (the *substitution day*) that is one of the following days, the rate (the *replacement rate*) of duty worked out under subsection (2) for the substitution day were substituted for the rate of duty in subitem 10.19D of the Schedule:
- (a) 1 July in 2013 and each later year;
 - (b) 1 January in 2016 and each later year.

Replacement rate

- (2) The replacement rate for the substitution day is the rate worked out using the table.

Replacement rate	
Substitution day	Rate of duty
1 1 July 2013	\$0.07004 per kilogram
2 1 July 2014	\$0.07366 per kilogram
3 1 July in 2015 or a later year or 1 January in 2016 or a later year	The amount that is: <ol style="list-style-type: none"> (a) worked out for the period using the formula in subsection (3); and (b) rounded to 5 decimal places (rounding up if the sixth decimal place is 5 or more); per kilogram

- (3) The formula is:

Average carbon unit auction price for the substitution day \times 0.0029

Note: *Average carbon unit auction price* is defined in subsection 3(1).

Application of replacement rate

- (4) The replacement rate applies to carbon-rated compressed natural gas that is entered for home consumption on or after the substitution day (but before the next substitution day).

Publication of replacement rate

- (5) The CEO must, on or as soon as practicable after the substitution day, publish for the information of the public a notice in the *Gazette* setting out:
 - (a) the replacement rate; and
 - (b) the goods to which the replacement rate applies.
- (6) The CEO must ensure that a copy of a notice under subsection (5) is available on the website of the Australian Taxation Office.

5 Schedule (after the heading)

Insert:

Note 1: See section 5.

Note 2: Sections 6A, 6FA, 6FB and 6H effectively change certain rates of duty that appear on the face of this Schedule, especially in items 1, 2, 3 and 5 and subitems 10.6, 10.17 and 10.19D.

6 Schedule (table heading)

Omit “duties”, substitute “duties (subject to sections 6A, 6FA, 6FB and 6H)”.

7 Schedule (cell at table subitem 10.19C, column headed “Description of goods”)

After “other than”, insert “carbon-rated compressed natural gas and”.

8 Schedule (after table subitem 10.19C)

Insert:

10.19D	Carbon-rated compressed natural gas, other than compressed natural gas exempted from excise duty by section 77HA of the <i>Excise Act 1901</i>	\$0.0667 per kilogram
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Excise Tariff Amendment (Taxation of Alternative Fuels) Act 2011

9 Item 9 of Schedule 1 (new table subitem 10.19C)

After “other than”, insert “carbon-rated compressed natural gas and”.

10 Item 10 of Schedule 1 (new table subitem 10.19C)

After “other than”, insert “carbon-rated compressed natural gas and”.

11 Item 11 of Schedule 1 (new table subitem 10.19C)

After “other than”, insert “carbon-rated compressed natural gas and”.

*[Minister’s second reading speech made in—
House of Representatives on 13 September 2011
Senate on 12 October 2011]*

(173/11)
