

Energy Grants (Credits) Scheme Amendment Regulations 2003 (No. 1) 2003 No. 242

EXPLANATORY STATEMENT

STATUTORY RULES 2003 No. 242

Issued by authority of the Minister for Revenue and Assistant Treasurer

Energy Grants (Credits) Scheme Act 2003

Energy Grants (Credits) Scheme Amendment Regulations 2003 (No. 1)

The purpose of the Energy Grants (Credits) Scheme (EGCS) is to provide active encouragement for the move to the use of cleaner fuels. The EGCS provides businesses and other entities with grants to compensate them for the excise that they incur when purchasing specified fuels for use in activities that the Government has deemed eligible for relief.

Section 58 of the *Energy Grants (Credits) Scheme Act 2003* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 4 of the Act provides that off-road diesel fuel means diesel fuel or any other like fuel of a kind that is specified in the regulations. Section 4 also provides that on-road diesel fuel has the meaning given by the regulations, and that on-road alternative fuel means: compressed natural gas; liquefied petroleum gas; ethanol; or such other fuel as is specified in the regulations.

The purpose of the Regulations was to clarify the grant treatment of biodiesel and biodiesel blends from 18 September 2003, when biodiesel became subject to excise (and customs) duty under the *Excise Tariff Act 1921* and the *Customs Tariff Act 1925*, in accordance with the Government's announcement of fuel taxation reform measures in the 2003-2004 Federal Budget. Biodiesel and the component of biodiesel contained in fuel blends will, however, continue to be effectively excise free until 1 July 2008 because of the payment of production subsidies equal to the amount of duty levied.

Biodiesel was already prescribed in the *Energy Grants (Credits) Scheme Regulations 2003* (the principal regulations) as an on-road alternative fuel for the purposes of the EGCS. The changes to the excise (and customs) duty arrangements for biodiesel announced in the 2003-2004 Federal Budget, however, required that the treatment of biodiesel products, either pure or in blends, under the EGCS be more clearly defined.

The principal regulations required a more precise definition of off-road diesel because the previous definition of off-road diesel fuel would have covered pure biodiesel once it became subject to excise (and customs) duty at the same rate that applied to diesel. This would have allowed users to claim credits on their purchases of biodiesel for use in eligible activities, even though these users had effectively incurred no excise on their purchases.

The Regulations also more clearly define the treatment of products containing blends of biodiesel and other fuels. The Regulations allow blended products consisting principally of biodiesel to qualify for a credit when used in eligible on-road applications and activities, just as pure-biodiesel products qualify.

However, blended products consisting principally of biodiesel are ineligible for a credit when used in off-road activities, for the same reason that pure-biodiesel products do not qualify. But the Regulations treat blended biodiesel products consisting principally of diesel as diesel products,

and under the Regulations these products qualify for an off-road credit when used in eligible activities.

The Regulations specify that:

- a fuel that comprises a blend of biodiesel and regular diesel, and that consists principally of biodiesel, is defined as an on-road alternative fuel (paragraph 7(c));
- a fuel that comprises a blend of biodiesel and regular diesel, and that consists principally of diesel, is defined as an off-road diesel fuel (paragraph 9(1)(d));
- a fuel that is wholly biodiesel does not meet the definition of an off-road diesel fuel (paragraph 9(3)(d));
- a fuel that comprises a blend of biodiesel and diesel, and that consists principally of biodiesel, does not meet the definition of an off-road diesel fuel (paragraph 9(3)(e));
- a fuel that is made up of biodiesel and diesel, and that complies with subparagraph 7(c)(ii) of the regulations, meets the definition of an on-road alternative fuel.

The Regulations commenced on gazettal.