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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Excise Laws Amendment (Fuel Tax
Reform and Other Measures) Bill 2006**

No. , 2006

(Treasury)

**A Bill for an Act to amend the law relating to
excise, and for other purposes**

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1 **A Bill for an Act to amend the law relating to**
2 **excise, and for other purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Excise Laws Amendment (Fuel Tax*
6 *Reform and Other Measures) Act 2006*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

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 on which this Act receives the Royal Assent.	
2. Schedule 1, items 1 to 91	1 July 2006.	1 July 2006
3. Schedule 1, items 92 to 94	Immediately after the commencement of the <i>Fuel Tax Act 2006</i> .	1 July 2006
4. Schedule 1, items 95 to 109	1 July 2006.	1 July 2006
5. Schedule 2	1 July 2006.	1 July 2006

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Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

7

3 Schedule(s)

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1
2 **Schedule 1—Amendments**

3 **Part 1—Amendments**

4 *Administrative Decisions (Judicial Review) Act 1977*

5 **1 Paragraph (e) of Schedule 1**

6 Omit “*Coal Excise Act 1949*”.

7 *Aviation Fuel Revenues (Special Appropriation) Act 1988*

8 **2 Section 3 (definition of aviation gasoline)**

9 Omit “item 11 of the Schedule to the *Excise Tariff Act 1921* as gasoline
10 for use as a fuel in aircraft”, substitute “subitem 10.6 of the Schedule to
11 the *Excise Tariff Act 1921* (about gasoline for use as fuel in aircraft)”.

12 **3 Section 3 (definition of aviation kerosene)**

13 Omit “item 11 of the Schedule to the *Excise Tariff Act 1921* as kerosene
14 for use as a fuel in aircraft”, substitute “subitem 10.17 of the Schedule
15 to the *Excise Tariff Act 1921* (about kerosene for use as fuel in
16 aircraft)”.

17 *Energy Grants (Cleaner Fuels) Scheme Act 2004*

18 **4 After paragraph 2A(a)**

19 Insert:

20 (aa) grants to fully offset any excise duty or customs duty payable
21 in relation to the manufacture or importation of renewable
22 diesel for which a provisional entitlement arises during the
23 period starting on 1 July 2006 and ending on 30 June 2011;

24 **5 Paragraph 2A(b)**

25 Omit “LPG or methanol”, substitute “LPG, methanol or renewable
26 diesel”.

27 **6 Subsection 4(1) (definition of biodiesel)**

28 Repeal the definition, substitute:

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biodiesel means fuel that:

- (a) is manufactured by chemically altering vegetable oils or animal fats (including recycled oils from these sources) to form mono-alkyl esters; and
- (b) complies with the applicable fuel standard for such fuel.

7 Subsection 4(1) (paragraph (a) of the definition of *cleaner fuel*)

Omit “LPG or methanol”, substitute “LPG, methanol or renewable diesel”.

8 Subsection 4(1) (paragraph (a) of the definition of *end day*)

Omit “LPG or methanol”, substitute “LPG, methanol or renewable diesel”.

9 Subsection 4(1) (definition of *manufacture*)

Omit “petroleum blending as described in section 77H”, substitute “fuel blending as described in section 77G”.

10 Subsection 4(1)

Insert:

renewable diesel has the meaning given by section 4A.

11 Subsection 4(1) (after paragraph (a) of the definition of *start day*)

Insert:

(aaa) for renewable diesel—1 July 2006; or

12 At the end of Part 1

Add:

4A Definition of *renewable diesel*

(1) For the purposes of this Act, *renewable diesel* means liquid fuel that:

- (a) is manufactured by chemically altering vegetable oils or animal fats (including recycled oils from these sources) through a process of hydrogenation (whether or not that process was part of some other process); and

- 1 (b) complies with the applicable fuel standard for diesel.
- 2 (2) If:
- 3 (a) a quantity of liquid fuel (the *final fuel*) is manufactured; and
- 4 (b) a part of the final fuel was manufactured by chemically
- 5 altering vegetable oils or animal fats (including recycled oils
- 6 from these sources) through a process of hydrogenation; and
- 7 (c) a part of the final fuel is diesel; and
- 8 (d) the final fuel satisfies the applicable fuel standard for diesel;
- 9 then the amount of the final fuel worked out in accordance with the
- 10 regulations is taken to be *renewable diesel* for the purposes of this
- 11 Act.

12 **13 Subsection 8(1)**

13 Omit “LPG or methanol” (first occurring), substitute “LPG, methanol or

14 renewable diesel”.

15 **14 Subsection 8(1) (after table item 1)**

16 Insert:

1A	Renewable diesel	The period:	100% of
		(a) starting at the start	biodiesel’s
		of renewable	excise duty
		diesel’s start day;	rate.
		and	
		(b) ending at the end of	
		30 June 2011.	

17 **15 Subsection 8(1) (table items 2 to 5)**

18 Omit “LPG or methanol”, substitute “LPG, methanol or renewable

19 diesel”.

20 ***Excise Act 1901***

21 **16 Subsection 4(1) (definition of *clean fuel*)**

22 Repeal the definition.

23 **17 Subsection 4(1) (definition of *designated fuel*)**

24 Repeal the definition.

25 **18 Subsection 4(1) (definition of *Excise Acts*)**

1 Omit “(including the *Distillation Act 1901*)”.

2 **19 Subsection 4(1) (definition of *fuel*)**

3 Omit “item 11, 12 or 17”, substitute “item 10, 20 or 21”.

4 **20 Subsection 4(1) (definition of *marker*)**

5 Repeal the definition.

6 **21 Subsection 4(1) (definition of *other excisable beverage*)**

7 Repeal the definition.

8 **22 Subsection 4(1) (definition of *Spirit*)**

9 Omit “item 2 (other than subitem 2(H))”, substitute “item 3”.

10 **23 Section 24**

11 Repeal the section, substitute:

12 **24 Excisable goods and goods liable to duties of Customs may be**
13 **used in manufacturing excisable goods**

14 (1) Excisable goods may, while subject to the CEO’s control, be used
15 in the manufacture of other excisable goods in accordance with this
16 Act.

17 (2) Goods liable to duties of Customs may, while subject to control of
18 the Customs, be used in the manufacture of excisable goods in
19 accordance with this Act.

20 (3) The regulations may prescribe conditions on the use of:
21 (a) excisable goods, while subject to the CEO’s control, in the
22 manufacture of other excisable goods; or
23 (b) goods liable to duties of Customs, while subject to the
24 control of the Customs, in the manufacture of excisable
25 goods.

26 **24 Section 32**

27 Repeal the section.

28 **25 Section 37**

29 Repeal the section.

1 **26 Paragraph 39A(2)(d)**

2 Omit “an employee of the applicant”, substitute “a natural person”.

3 **27 After paragraph 39A(2)(f)**

4 Insert:

5 (fa) if the applicant is a natural person—he or she does not have,
6 and he or she does not have available to him or her, the skills
7 and experience to carry out the activity that would be
8 authorised by the licence; or

9 (fb) if the applicant is a company—the company does not have
10 available to it the skills and experience to carry out the
11 activity that would be authorised by the licence; or

12 **28 After paragraph 39A(2)(i)**

13 Insert:

14 (ia) the applicant would not have a market for goods of a kind the
15 licence would relate to; or

16 **29 Paragraphs 39B(a) and (b)**

17 Omit “making the application”, substitute “the application was made”.

18 **30 After paragraph 39B(b)**

19 Insert:

20 (ba) the extent of the person’s compliance, within 4 years before
21 the application was made, with any law administered by the
22 CEO; and

23 **31 After paragraph 39B(c)**

24 Insert:

25 (ca) the person’s financial resources; and

26 **32 Paragraph 39B(e)**

27 Before “any”, insert “if the person is the applicant—”.

28 **33 Paragraph 39B(f)**

29 Omit “where”, substitute “if the person is the applicant and”.

30 **34 Paragraphs 39C(a) and (b)**

1 Omit “making the application”, substitute “the application was made”.

2 **35 After paragraph 39C(b)**

3 Insert:

4 (ba) the extent of the company’s compliance, within 4 years
5 before the application was made, with any law administered
6 by the CEO; and

7 **36 After paragraph 39C(c)**

8 Insert:

9 (ca) the company’s financial resources; and

10 **37 Section 39E**

11 Repeal the section, substitute:

12 **39E Duration of licences**

13 (1) A licence comes into force on the day it is granted.

14 (2) It remains in force, unless cancelled earlier, until the end of the
15 next 31 March after the second anniversary of the day on which it
16 is granted.

17 Example 1: A licence is granted on 15 April 2007. It ends on 31 March 2010.

18 Example 2: A licence is granted on 15 March 2007. It ends on 31 March 2009.

19 **38 Subsection 39F(1)**

20 Omit “manufacturer”.

21 Note: The heading to section 39F is altered by omitting “**manufacturer**”.

22 **39 Subsection 39F(2)**

23 Omit “manufacturer”.

24 **40 At the end of section 39F**

25 Add:

26 *Automatic extension of licence*

27 (4) If the Collector has not decided an application for renewal of a
28 licence before the end of the expiry day, the licence continues in
29 force until the Collector decides the application.

1 *Period of renewal*

2 (5) If the Collector renews a licence, it is renewed for a period of 3
3 years, unless cancelled earlier, starting on the day after the expiry
4 day.

5 Example: A licence is due to expire on 31 March 2008 (the expiry day). On
6 1 March 2008 the licence holder applies to renew the licence. The
7 Collector has not decided the application by the end of 31 March
8 2008.

9 The licence continues in force automatically past 31 March 2008 until
10 the Collector decides the application.

11 On 15 April 2008 the Collector decides to renew the licence. The 3
12 year period of renewal starts on 1 April 2008.

13 *Licence may be renewed more than once*

14 (6) A licence may be renewed more than once under this section.

15 *Definition*

16 (7) In this section:

17 *expiry day*, in relation to a licence, means the 31 March on which
18 the licence is due to expire.

19 **41 Paragraph 39G(1)(d)**

20 Omit “an employee of the licence holder”, substitute “a natural person”.

21 **42 After paragraph 39G(1)(f)**

22 Insert:

23 (fa) if the licence holder is a natural person—he or she does not
24 have, and he or she does not have available to him or her, the
25 skills and experience to carry out the activity that is
26 authorised by the licence; or

27 (fb) if the licence holder is a company—the company does not
28 have available to it the skills and experience to carry out the
29 activity that is authorised by the licence; or

30 **43 After paragraph 39G(1)(i)**

31 Insert:

32 (ia) the licence holder does not have a market for goods of a kind
33 the licence relates to; or

1 **44 After paragraph 39H(b)**

2 Insert:

3 (ba) the extent of the person's compliance, within 4 years before
4 the day of the Collector's consideration, with any law
5 administered by the CEO; and

6 (bb) the person's financial resources; and

7 **45 After paragraph 39I(b)**

8 Insert:

9 (ba) the extent of the company's compliance, within 4 years
10 before the day of the Collector's consideration, with any law
11 administered by the CEO; and

12 (bb) the company's financial resources; and

13 **46 Paragraph 39K(6)(d)**

14 Omit “, in a manner prescribed by the regulations,”.

15 **47 Section 47**

16 Repeal the section.

17 **48 Section 48**

18 Repeal the section.

19 **49 Subsection 50(1)**

20 After “manufacturer”, insert “, licensed producer and licensed dealer”.

21 Note: The heading to section 50 is replaced by the heading “**Record keeping**”.

22 **50 At the end of subsection 54(1)**

23 Add:

24 Note: For provisions about collection and recovery of the duty, see Part 4-15
25 in Schedule 1 to the *Taxation Administration Act 1953*.

26 **51 At the end of section 54**

27 Add:

28 (3) If excisable goods are delivered to a relevant traveller (within the
29 meaning of section 61E) under a permission under that section,
30 then, despite subsection (1) of this section, the relevant traveller
31 (and no-one else) is liable to pay excise duty on the goods.

1 **52 Section 57**

2 Repeal the section.

3 **53 At the end of section 58**

4 Add:

5 (6) In subsections (4) and (5):

6 *other excisable beverage* means goods covered by item 2 of the
7 Schedule to the *Excise Tariff Act 1921*.

8 **54 Section 59**

9 Omit “section 59A”, substitute “sections 59A and 59AA”.

10 **55 After section 59A**

11 Insert:

12 **59AA Payment of duty by relevant travellers**

13 (1) Excise duty on goods payable by a relevant traveller under
14 subsection 54(3) must be paid at the rate in force at the time the
15 goods are taken by the relevant traveller for reporting to an officer
16 of Customs doing duty in relation to clearance through Customs of
17 the personal baggage of the relevant traveller.

18 (2) The excise duty is due and payable at that time.

19 Note: For provisions about collection and recovery of the duty, see Part 4-15
20 in Schedule 1 to the *Taxation Administration Act 1953*.

21 (3) In this section:

22 *officer of Customs* has the same meaning as in section 61E.

23 *relevant traveller* has the same meaning as in section 61E.

24 **56 Paragraph 59B(1)(b)**

25 Omit “, under regulations made by virtue of section 59D,”.

26 **57 At the end of subsections 60(1), (1A), (1B) and (1C)**

27 Add:

28 Note: For provisions about collection and recovery of the amount, see
29 Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

1 **58 Subsections 60(2) and (3)**

2 Repeal the subsections.

3 **59 After subsection 61A(2)**

4 Insert:

5 (2AA) A Collector must not give permission under subsection (1) or (2) in
6 circumstances prescribed by the regulations.

7 **60 At the end of Part VI**

8 Add:

9 **65 Rules for working out the volume or weight etc. of excisable**
10 **goods**

11 *Making of rules*

12 (1) The CEO may, by legislative instrument, determine rules for
13 working out one or more of the following:

- 14 (a) the volume of excisable goods;
15 (b) the weight of excisable goods;
16 (c) the percentage by volume of alcohol in excisable goods.

17 Note: The rules may make different provision with respect to different
18 matters or different classes of matters (see subsection 33(3A) of the
19 *Acts Interpretation Act 1901*).

20 (2) The rules may, for example:

- 21 (a) specify sampling methods; and
22 (b) permit minor variations between:
23 (i) the nominated or labelled volume of excisable goods
24 and the actual volume of the goods; or
25 (ii) the nominated or labelled weight of excisable goods and
26 the actual weight of the goods; or
27 (iii) the nominated or labelled volume of alcohol in
28 excisable goods and the actual volume of alcohol in the
29 goods;

30 so as to provide for unavoidable variations directly
31 attributable to the manufacturing process.

1 *Application of rules*

- 2 (3) The rules apply to excisable goods entered for home consumption
3 on or after the time when the rules take effect.

4 Note: Section 12 of the *Legislative Instruments Act 2003* deals with when a
5 legislative instrument takes effect.

6 **61 Section 67**

7 Repeal the section.

8 **62 Section 69**

9 Repeal the section.

10 **63 Section 70**

11 Repeal the section.

12 **64 Section 75**

13 Omit “as prescribed”.

14 **65 At the end of Part VII**

15 Add:

16 **77AA Tobacco leaf stock may be checked**

- 17 (1) If a person has or had possession, custody or control of tobacco
18 leaf, a Collector may request, in writing, the person to account for
19 the tobacco leaf.

20 *Payment of duty equivalent*

- 21 (2) If the person does not account for the tobacco leaf to the
22 satisfaction of the Collector, the person must, on demand in writing
23 made by a Collector, pay to the Commonwealth an amount equal to
24 the amount of the duty that would have been payable on the
25 deficient tobacco leaf if:

- 26 (a) it had been manufactured into excisable goods classified to
27 subitem 5.5 of the Schedule to the *Excise Tariff Act 1921*;
28 and
29 (b) it had been entered for home consumption on the day on
30 which the Collector made the demand.

1 Note: For provisions about collection and recovery of the amount, see
2 Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

3 (3) In subsection (2):

4 *deficient tobacco leaf* means the weight, in kilograms, of the
5 tobacco leaf that has not been accounted for to the satisfaction of
6 the Collector who made the request.

7 *No effect on other liabilities*

8 (4) This section does not affect the liability of a person arising under
9 or because of:

- 10 (a) any other provision of this Act; or
11 (b) a security given under this Act.

12 *Request or demand not a legislative instrument*

13 (5) The following are not legislative instruments:

- 14 (a) a request under subsection (1);
15 (b) a demand under subsection (2).

16 **66 Section 77A (definition of *alcoholic beverage*)**

17 Repeal the definition, substitute:

18 *alcoholic beverage* means goods classified to item 1 or 2, or
19 subitem 3.1, 3.2 or 3.10, of the Schedule to the *Excise Tariff Act*
20 *1921*.

21 **67 Section 77A (definition of *bulk container*)**

22 Repeal the definition.

23 **68 Section 77A (definition of *container*)**

24 Repeal the definition.

25 **69 Section 77B**

26 Repeal the section.

27 **70 Section 77C**

28 Repeal the section.

29 **71 Section 77FB**

1 Repeal the section.

2 **72 At the end of Part VIIA**

3 Add:

4 **77FC Repackaged beer**

5 If:

- 6 (a) beer classified to subitem 1.2, 1.6 or 1.11 of the Schedule to
7 the *Excise Tariff Act 1921* is delivered for home consumption
8 (beer packaged in an individual container exceeding 48
9 litres); and
10 (b) the beer is repackaged into sealed individual containers not
11 exceeding 48 litres;

12 then, for the purposes of this Act, that repackaging is taken to be
13 the manufacture of beer.

14 Note: Subitems 1.1, 1.5 and 1.10 of that Schedule set out the rates of duty
15 for beer packaged in individual containers not exceeding 48 litres.

16 **73 After Part VIIA**

17 Insert:

18 **Part VIIAA—Special provisions relating to spirits**

19

20 **77FD Spirit for fortifying Australian wine or Australian grape must**

21 *Grant of approval*

22 (1) For the purposes of subitem 3.5 of the Schedule to the *Excise Tariff*
23 *Act 1921*, the CEO may grant a person a written approval to use
24 spirit for fortifying Australian wine or Australian grape must.

25 (2) The approval must be for:

- 26 (a) the use of a one-off specified quantity of spirit; or
27 (b) the use of a specified quantity of spirit in a calendar month or
28 a calendar year.

29 Note: See also section 77FH (about payment of duty equivalent if the spirit
30 is not used for the approved purpose).

1 *Conditions*

2 (3) The CEO must specify in an approval any conditions to which the
3 approval is subject.

4 *Approval not a legislative instrument*

5 (4) An approval under subsection (1) is not a legislative instrument.

6 **77FE Spirit for an industrial, manufacturing, scientific, medical,**
7 **veterinary or educational purpose—class determinations**

8 (1) The CEO may, by legislative instrument, determine a class of
9 persons for the purposes of subitem 3.6 of the Schedule to the
10 *Excise Tariff Act 1921*.

11 (2) For the purposes of that subitem, the determination may also
12 specify a quantity of spirit that a person included in the class may
13 use in a calendar month or a calendar year.

14 Note: See also section 77FH (about payment of duty equivalent if spirit is
15 delivered to a person included in such a class and the person does not
16 use the spirit for an industrial, manufacturing, scientific, medical,
17 veterinary or educational purpose).

18 **77FF Spirit for an industrial, manufacturing, scientific, medical,**
19 **veterinary or educational purpose—specific approvals**

20 *Grant of approval*

21 (1) For the purposes of subitem 3.7 of the Schedule to the *Excise Tariff*
22 *Act 1921*, the CEO may grant a person a written approval to use
23 spirit for a specified industrial, manufacturing, scientific, medical,
24 veterinary or educational purpose.

25 (2) The approval must be for:
26 (a) the use of a one-off specified quantity of spirit; or
27 (b) the use of a specified quantity of spirit in a calendar month or
28 a calendar year.

29 Note: See also section 77FH (about payment of duty equivalent if the spirit
30 is not used for the approved purpose).

1 *Conditions*

- 2 (3) The CEO must specify in an approval any conditions to which the
3 approval is subject.

4 *Approval not a legislative instrument*

- 5 (4) An approval under subsection (1) is not a legislative instrument.

6 *Guidelines*

- 7 (5) The CEO must, by legislative instrument, develop guidelines that
8 he or she must have regard to when deciding whether or not to
9 grant an approval under subsection (1).

10 **77FG Denatured spirits**

- 11 (1) For the purposes of subitem 3.8 of the Schedule to the *Excise Tariff*
12 *Act 1921*, the CEO may, by legislative instrument, determine a
13 formula for the denaturing of spirits.
14 (2) The CEO must give the greatest weight to the protection of the
15 revenue in determining a formula under subsection (1).

16 **77FH When an amount is payable on spirit covered by section 77FD,**
17 **77FE or 77FF**

- 18 (1) If spirit classified to subitem 3.5 or 3.7 of the Schedule to the
19 *Excise Tariff Act 1921* is delivered for home consumption, a
20 Collector may request, in writing, the person holding the approval
21 concerned to account to the satisfaction of the Collector that the
22 spirit has been used for the purpose specified in the approval.
23 (2) If spirit classified to subitem 3.6 of the Schedule to the *Excise*
24 *Tariff Act 1921* is:
25 (a) delivered for home consumption; and
26 (b) delivered to a person who is included in a class determined
27 under section 77FE of this Act;
28 a Collector may request, in writing, the person to account to the
29 satisfaction of the Collector that the spirit has been used for an
30 industrial, manufacturing, scientific, medical, veterinary or
31 educational purpose.

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Payment of duty equivalent

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- (3) If a person does not account as requested under subsection (1) or (2), the person must, on demand in writing made by a Collector, pay to the Commonwealth an amount equal to the amount of the duty that would have been payable on the spirit if:

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Note 1: Subitems 3.1, 3.2 and 3.10 of the Schedule to the *Excise Tariff Act 1921* set out the non-free rates of duty for spirit.

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Note 2: For provisions about collection and recovery of the amount, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

14

No effect on other liabilities

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- (4) This section does not affect the liability of a person arising under or because of:

(a) any other provision of this Act; or

(b) a security given under this Act.

19

Request or demand not a legislative instrument

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- (5) The following are not legislative instruments:

(a) a request under subsection (1) or (2);

(b) a demand under subsection (3).

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77FI Delivery from CEO's control of brandy, whisky or rum

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- (1) Brandy, whisky or rum manufactured in Australia must not be delivered from the CEO's control unless it has been matured by storage in wood for at least 2 years.

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- (2) In this section:

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brandy means a spirit distilled from grape wine in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to brandy.

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grape wine has the same meaning as in Subdivision 31-A of the *A New Tax System (Wine Equalisation Tax) Act 1999*.

1 **rum** means a spirit obtained by the distillation of a fermented
2 liquor derived from the products of sugar cane, being distillation
3 carried out in such a manner that the spirit possesses the taste,
4 aroma and other characteristics generally attributed to rum.

5 **whisky** means a spirit obtained by the distillation of a fermented
6 liquor of a mash of cereal grain in such a manner that the spirit
7 possesses the taste, aroma and other characteristics generally
8 attributed to whisky.

9 **77FJ Person must not abstract denaturing substances in spirit**
10 **classified to subitem 3.8**

- 11 (1) A person commits an offence if:
12 (a) spirit classified to subitem 3.8 of the Schedule to the *Excise*
13 *Tariff Act 1921* is delivered for home consumption; and
14 (b) the person abstracts the whole or a part of a denaturing
15 substance from the spirit; and
16 (c) the person has not been given permission by the CEO to
17 abstract the whole or the part of the denaturing substance.

18 Penalty: 50 penalty units.

- 19 (2) The CEO may, in writing, give a person permission to abstract the
20 whole or a part of a denaturing substance for the purposes of
21 paragraph (1)(c).
22 (3) A permission under subsection (2) is not a legislative instrument.

23 **77FK Offence in relation to stills**

- 24 (1) A person commits an offence if:
25 (a) the person does any of the following things:
26 (i) makes or commences to make any still;
27 (ii) removes, sets up or erects any still;
28 (iii) sells or otherwise disposes of, or purchases or otherwise
29 acquires any still, either by itself or with other property,
30 or as part of any premises;
31 (iv) imports any still;
32 (v) has possession, custody or control of any still; and
33 (b) the still is of a capacity exceeding 5 litres; and

- 1 (c) the person is not a licensed manufacturer; and
2 (d) the person has not been given permission by the CEO to do
3 the thing.

4 Penalty: 50 penalty units.

- 5 (2) Subsection (1) does not apply to an act done by an officer in the
6 course of performing a function or exercising a power under this
7 Act or the *Excise Tariff Act 1921*.

8 Note: A defendant bears an evidential burden in relation to the matter in
9 subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- 10 (3) The CEO may, in writing, give a person permission to do a thing
11 mentioned in paragraph (1)(a).

- 12 (4) A permission under subsection (3) is not a legislative instrument.

13 **77FL Offence in relation to describing spirits as “old” or “very old”**

- 14 (1) A person commits an offence if the person:

15 (a) does either of the following:

16 (i) describes any spirit as “old”, or in a way which could
17 reasonably lead to the belief that the spirit has been
18 matured for at least 5 years;

19 (ii) describes any spirit as “very old”, or in a way which
20 could reasonably lead to the belief that the spirit has
21 been matured for at least 10 years; and

22 (b) does so in relation to trade or commerce between Australia
23 and another country, between 2 States, between a State and a
24 Territory or between 2 Territories.

25 Penalty: 10 penalty units.

- 26 (2) Subparagraph (1)(a)(i) does not apply if the spirit has been matured
27 by storage in wood for at least 5 years.

28 Note: A defendant bears an evidential burden in relation to the matter in
29 subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- 30 (3) Subparagraph (1)(a)(ii) does not apply if the spirit has been
31 matured by storage in wood for at least 10 years.

32 Note: A defendant bears an evidential burden in relation to the matter in
33 subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

1 (4) Absolute liability applies to paragraph (1)(b).

2 **74 Part VIIB (heading)**

3 Repeal the heading, substitute:

4 **Part VIIB—Special provisions relating to fuel**

5 **75 Sections 77G to 77J**

6 Repeal the sections, substitute:

7 **77G Fuel blending is to be treated as manufacture**

8 (1) For greater certainty so far as concerns the application of the
9 provisions of this Act, fuel blending to produce goods covered by
10 paragraph 10(g) of the Schedule to the *Excise Tariff Act 1921* is
11 taken to constitute the manufacture of those goods.

12 (2) Subsection (1) does not imply that, in the absence of such a
13 provision, the blending of substances (whether fuel products or
14 not) would not constitute the manufacture of the substance
15 produced by the blending.

16 (3) In this section:

17 *fuel product* means:

18 (a) any excisable goods classified to item 10, 15, 20 or 21 of the
19 Schedule to the *Excise Tariff Act 1921*; or

20 (b) any imported goods that would be classified to item 10 or 15
21 of that Schedule if they were manufactured in Australia.

22 **77H Blending exemptions**

23 (1) Goods that are the product of the blending of 1 or more eligible
24 goods (with or without other substances) are taken not to be goods
25 covered by paragraph 10(g) of the Schedule to the *Excise Tariff Act*
26 *1921* if:

27 (a) excise duty or a duty of Customs has been paid at the same
28 rate on all the eligible goods and the other substances (if
29 any); or

30 (b) the goods are covered by a determination in force under
31 subsection 95-5(1) of the *Fuel Tax Act 2006*.

- 1 (2) However, subsection (1) does not apply if any of the eligible goods
2 or other substances on which excise duty or a duty of Customs has
3 been paid are:
4 (a) denatured ethanol for use as fuel in an internal combustion
5 engine; or
6 (b) biodiesel; or
7 (c) taxable fuel for which any entity has been entitled to a fuel
8 tax credit under the *Fuel Tax Act 2006*.

9 *Legislative instrument*

- 10 (3) Goods that are the product of the blending of 1 or more eligible
11 goods (with or without other substances) are taken not to be goods
12 covered by paragraph 10(g) of the Schedule to the *Excise Tariff Act*
13 *1921* if the circumstances specified in an instrument under
14 subsection (4) exist.
15 (4) The CEO may, by legislative instrument, specify circumstances for
16 the purposes of subsection (3).

17 *Definition*

- 18 (5) In this section:
19 *eligible goods* means goods covered by paragraph 10(a), (b), (c),
20 (d), (e) or (f) of the Schedule to the *Excise Tariff Act 1921*.

21 **77J Goods that are not covered by subitem 10.25, 10.26, 10.27, 10.28**
22 **or 10.30**

23 If:

- 24 (a) goods (the *delivered goods*) classified to subitem 10.25,
25 10.26, 10.27, 10.28 or 10.30 of the Schedule to the *Excise*
26 *Tariff Act 1921* are delivered for home consumption; and
27 (b) a person uses the delivered goods as a solvent; and
28 (c) the person manufactures or produces other goods by carrying
29 out a recycling process on the delivered goods; and
30 (d) the other goods are for use as a solvent by the person; and
31 (e) apart from this section, the other goods would be classified to
32 the subitem of that Schedule that applied to the delivered
33 goods;

34 then that subitem does not apply to the other goods.

1 **76 Section 77K**

2 Omit “item 17”, substitute “item 20 or 21”.

3 **77 Section 77K**

4 Omit “item 11”, substitute “item 10”.

5 **78 After subsection 78(1)**

6 Insert:

7 (1A) Regulations made for the purposes of subsection (1) may make
8 provision for and in relation to the CEO granting approvals.

9 **79 At the end of section 78**

10 Add:

- 11 (3) Excise duty is taken to be remitted in respect of fuel if:
12 (a) the fuel is used in the manufacture of goods that are not
13 excisable goods; and
14 (b) the fuel has been chemically transformed (other than by
15 combustion) in that manufacture.

16 **80 Section 78AAAA**

17 Repeal the section.

18 **81 Section 105**

19 Repeal the section.

20 **82 Section 107AA (definition of *forfeited goods*)**

21 Repeal the definition, substitute:

22 *forfeited goods* means goods forfeited to the Crown under
23 section 116.

24 **83 Section 107AA (definition of *offence*)**

25 Repeal the definition, substitute:

26 *offence* means an offence against this Act.

27 **84 Subsection 107FF(9) (definition of *special forfeited goods*)**

28 Repeal the definition, substitute:

1 *special forfeited goods* means goods forfeited to the Crown under
2 paragraph 116(1)(da).

3 **85 After paragraph 116(1)(d)**

4 Insert:

5 (da) a still made, removed, set up, erected, sold or otherwise
6 disposed of, purchased or otherwise acquired, imported, or in
7 the possession, custody or control of a person, in
8 contravention of section 77FK;

9 **86 Subsections 120(1A) and (1B)**

10 Repeal the subsections.

11 **87 Subsections 120(4A) to (9)**

12 Repeal the subsections.

13 **88 Subsection 159(6) (definition of *excise law*)**

14 Repeal the definition, substitute:

15 *excise law* means any Excise Act.

16 **89 Paragraph 162C(1)(e)**

17 After “section 60”, insert “, 77AA or 77FH”.

18 **90 After paragraph 162C(1)(e)**

19 Insert:

20 (eaa) a decision of the CEO to refuse to give an approval under
21 section 77FD or 77FF;

22 (eaaa) a decision of the CEO to specify conditions in an approval
23 given under section 77FD or 77FF;

24 **91 Section 163**

25 Repeal the section.

26 ***Fuel Tax Act 2006***

27 **92 Section 110-5 (paragraph (c) of the definition of *taxable***
28 ***fuel*)**

29 Omit “or 17”, substitute “, 20 or 21”.

1 **93 Section 110-5 (note to the definition of *taxable fuel*)**

2 Omit “17”, substitute “20”.

3 **94 Section 110-5 (at the end of the note to the definition of**
4 ***taxable fuel*)**

5 Add “Item 21 of that Schedule deals with certain condensate.”.

6 ***Petroleum Excise (Prices) Act 1987***

7 **95 Subsection 4(1) (definition of *excisable crude petroleum***
8 ***oil*)**

9 Omit “paragraph 17A(2) in”, substitute “subitem 20.5, 20.6 or 20.7 of”.

10 ***Sea Installations Act 1987***

11 **96 The Schedule**

12 Omit “*Spirits Act 1906*”.

13 ***Taxation Administration Act 1953***

14 **97 Subsection 2(2)**

15 Repeal the subsection, substitute:

16 (2) Despite the definition of *taxation law* in subsection (1), an Excise
17 Act (as defined in subsection 4(1) of the *Excise Act 1901*) is not a
18 taxation law for the purposes of Part III of, and Subdivision 284-B
19 in Schedule 1 to, this Act.

20 **98 Subsection 250-10(2) in Schedule 1 (table items 21 and 23)**

21 Repeal the items.

22 **99 Subsection 250-10(2) in Schedule 1 (table item 24B)**

23 Repeal the item, substitute:

24A	accounting for excisable goods	60(1), (1A), (1B) and (1C)	<i>Excise Act 1901</i>
24B	tobacco leaf stock deficiency	77AA	<i>Excise Act 1901</i>
24C	accounting for spirit	77FH	<i>Excise Act 1901</i>

- 1 **100 Subsection 250-10(2) in Schedule 1 (table item 37)**
2 Repeal the item.

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2 **Part 2—Application, saving and transitional**
3 **provisions**

4 **101 Application—biodiesel and renewable diesel**

5 The amendments made by items 4 to 8 and 10 to 15 apply in relation to
6 fuel imported or manufactured after the commencement of this item.

7 **102 Application and transitional—licences**

8 *Licence applications*

9 (1) The amendments made by items 26 to 36 apply in relation to
10 applications made after the commencement of this item.

11 *Period of new licences*

12 (2) The amendment made by item 37 applies to licences granted after the
13 commencement of this item (whether the application for the licence was
14 made before or after that commencement).

15 *Renewal of licences*

16 (3) The amendments made by items 38 to 40 apply in relation to renewal
17 applications made after the commencement of this item (whether the
18 licence was granted before or after that commencement).

19 *Suspension or cancellation of licences*

20 (4) The amendments made by items 41 to 45 apply in relation to licences
21 granted before or after the commencement of this item.

22 *Existing licences to end on 31 March 2007*

23 (5) A licence in force under Part IV of the *Excise Act 1901* immediately
24 before the commencement of this item is taken to continue in force
25 under that Part until the end of 31 March 2007 (unless cancelled
26 earlier).

27 **103 Application—record keeping**

1 The amendment made by item 49 applies in relation to producer
2 licences or dealer licences granted before or after the commencement of
3 this item.

4 **104 Application—relevant travellers**

5 The amendment made by item 51 applies in relation to goods delivered
6 to a relevant traveller after the commencement of this item (under a
7 permission given before or after that commencement).

8 **105 Application—tobacco leaf**

9 The amendment made by item 65 applies in relation to:

- 10 (a) tobacco leaf that a person has or had possession, custody or
11 control of after the commencement of this item; and
12 (b) tobacco leaf that a person had possession, custody or control
13 of immediately before the commencement of this item.

14 **106 Saving—volume and strength of alcoholic beverages**

15 Despite the amendments made by items 69 and 71, sections 77B and
16 77FB of the *Excise Act 1901*, as in force immediately before the
17 commencement of this item, continue in effect, after that
18 commencement, until the first set of rules made under section 65 of that
19 Act after that commencement take effect.

20 **107 Application and transitional—repackaged beer**

- 21 (1) The amendment made by item 72 applies in relation to repackaging that
22 occurs after the commencement of this item.
- 23 (2) Paragraph 77FC(a) of the *Excise Act 1901*, as added by this Act, is
24 taken to be satisfied if, before the commencement of this item, beer
25 classified to paragraph 1(C)(2) of the Schedule to the *Excise Tariff Act*
26 1921 was delivered for home consumption (beer packaged in an
27 individual container exceeding 48 litres).

28 **108 Transitional—stabilised crude petroleum oil and**
29 **petroleum condensate**

1 A reference in section 77K of the *Excise Act 1901* to excise duty
2 attaching to stabilised crude petroleum oil or condensate under item 20
3 or 21 of the Schedule to the *Excise Tariff Act 1921* is taken to include a
4 reference to excise duty that attached to stabilised crude petroleum oil
5 or condensate under item 17 of that Schedule before the commencement
6 of this item.

7 **109 Saving—confidentiality**

8 Despite the amendment made by item 88, section 159 of the *Excise Act*
9 *1901*, as in force immediately before the commencement of this item,
10 continues to apply after that commencement in relation to the following
11 that a person obtained in the course of official employment before that
12 commencement:

- 13 (a) protected information to the extent that the information was
14 disclosed or obtained under the *Fuel (Penalty Surcharges)*
15 *Administration Act 1997* or regulations made under that Act;
16 (b) a protected document to the extent that the document was
17 made or given under, or for the purposes of, the *Fuel*
18 *(Penalty Surcharges) Administration Act 1997* or regulations
19 made under that Act.

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Schedule 2—Repeal of Acts

1 Repeal of Acts

The Acts specified in this Schedule are repealed.

Coal Excise Act 1949

Distillation Act 1901

Fuel Blending (Penalty Surcharge) Act 1997

Fuel Misuse (Penalty Surcharge) Act 1997

Fuel (Penalty Surcharges) Administration Act 1997

Fuel Sale (Penalty Surcharge) Act 1997

Spirits Act 1906