

DIESEL FUEL TAXATION (ADMINISTRATION).

No. 98 of 1957.

An Act relating to Taxation imposed on certain
Diesel Fuel.

[Assented to 13th December, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

- Short title.** 1. This Act may be cited as the *Diesel Fuel Taxation (Administration) Act* 1957.
- Commence-
ment.** 2. This Act shall come into operation on the day on which it receives the Royal Assent.
- Parts.** 3. This Act is divided into Parts, as follows:—
Part I.—Preliminary (Sections 1–4).
Part II.—Rebates of Duty (Sections 5–9).
Part III.—Diesel Fuel Tax (Sections 10–14).
Part IV.—Miscellaneous (Sections 15–22).
- Definitions.** 4. In this Act, unless the contrary intention appears—
“authorized officer” means a Collector or an officer appointed by a Collector to be an authorized officer for the purposes of this Act;
“certificate” means a certificate issued by the Minister, or a delegate of the Minister, certifying that a person specified in the certificate is a person who requires diesel fuel for use otherwise than in propelling road vehicles on public roads;
“Collector” has the same meaning as in the *Customs Act* 1901–1957 ;
“duty” means—
(a) duty of Customs imposed by the *Customs Tariff* 1933–1957; or
(b) duty of Excise imposed by the *Excise Tariff* 1921–1957;
“officer” has the same meaning as in the *Customs Act* 1901–1957;
“rebate” means rebate under this Act;

“road vehicle” means a vehicle designed solely or principally for transporting persons, goods or animals by road;

“tax” means tax imposed by the *Diesel Fuel Tax Act (No. 1) 1957* or the *Diesel Fuel Tax Act (No. 2) 1957*.

PART II.—REBATES OF DUTY.

5. Subject to this Act, a rebate is payable to a person who, on or after the fourth day of September, One thousand nine hundred and fifty-seven, has— Rebate of duty.

- (a) purchased diesel fuel on which duty has been paid; and
- (b) used that diesel fuel otherwise than for the purpose of propelling a road vehicle on a public road.

6.—(1.) The rebate payable in respect of any diesel fuel is at the rate of One shilling per gallon. Rate of rebate.

(2.) Rebates are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

7. Except where a Collector for special reasons otherwise directs, a rebate is not payable unless application for the rebate is made within the prescribed period and otherwise in accordance with the regulations. Applications for rebate to be made in accordance with regulations

8. A rebate is not payable to a person in respect of any diesel fuel purchased by him after the commencement of this Act unless, at the time of the purchase or at any subsequent time before applying for the rebate, he obtained from the vendor an invoice or other document setting out the names and addresses of the vendor and purchaser respectively, the quantity of diesel fuel purchased and the price paid for it. Invoice relating to purchase of diesel fuel.

9.—(1.) A person shall not—

- (a) obtain rebate that is not payable; or
- (b) obtain payment of rebate by means of a false or misleading statement.

Offences in relation to rebates.

Penalty: Five hundred pounds.

(2.) A person who applies for rebate in respect of diesel fuel purchased by him after the commencement of this Act—

- (a) shall retain, until the expiration of a period of twelve months after the application is made, any invoice or other document referred to in the last preceding section that was obtained by him in connexion with the purchase of the diesel fuel; and
- (b) shall, when so requested by an officer at any time before the expiration of that period, produce the invoice or other document to the officer.

Penalty: Two hundred pounds.

(3.) It is a defence to a prosecution for an offence against the last preceding sub-section if the person charged satisfies the court that he had a reasonable excuse for not complying with that sub-section.

(4.) Where a person is convicted of an offence against this section, the court may, in addition to imposing a penalty under this section, order the person to refund to the Commonwealth the amount of any rebate wrongfully obtained.

PART III.—DIESEL FUEL TAX.

Persons liable
to pay the
taxes.

10.—(1.) Tax imposed by the *Diesel Fuel Tax Act (No. 1) 1957* is payable by the person who sells or otherwise disposes of the diesel fuel.

(2.) Tax imposed by the *Diesel Fuel Tax Act (No. 2) 1957* is payable by the person who owns the diesel fuel immediately before it is used in propelling a road vehicle on a public road.

Recovery
of tax.

11. Tax is a debt due to the Commonwealth by the person by whom the tax is payable and may be sued for and recovered in a court of competent jurisdiction by proceedings in the name of a Collector.

Offences.

12.—(1.) The diesel fuel to which this section applies is diesel fuel—

- (a) that has been purchased, whether before or after the commencement of this Act, by a person, being the holder of a certificate, at a price which, by virtue of that person being the holder of a certificate, was less than the price that would have been payable if that person had not been the holder of a certificate; and
- (b) on which tax has not been imposed by the *Diesel Fuel Tax Act (No. 1) 1957*.

(2.) A person shall not, without the consent in writing of a Collector, sell or otherwise dispose of to another person diesel fuel to which this section applies.

(3.) A person who uses diesel fuel to which this section applies in propelling a road vehicle on a public road shall, within twenty-one days after that use, notify a Collector, in writing, that he has so used the diesel fuel.

(4.) A person who is or has been the owner of diesel fuel to which this section applies shall, when so requested by a Collector, account to the satisfaction of the Collector for that diesel fuel.

Penalty: Five hundred pounds.

General
provisions with
respect to
offences.

13.—(1.) It is a defence to a prosecution for an offence against the last preceding section if the person charged satisfies the court that he had a reasonable excuse for not complying with, or for contravening, that section.

(2.) Where a person is convicted of an offence against the last preceding section, the court may, in addition to imposing a penalty under that section, order the person to pay to the Commonwealth any tax payable by that person.

14. Where a certificate is revoked, the person to whom the certificate was issued shall, on demand by an authorized officer, deliver the certificate to the authorized officer.

Revoked
certificates.

Penalty: Fifty pounds.

PART IV.—MISCELLANEOUS.

15. Where a court has made an order under sub-section (4.) of section nine of this Act or under sub-section (2.) of section thirteen of this Act, a certificate under the hand of the clerk or other appropriate officer of the court, specifying the amount ordered to be refunded or paid and the person by whom the amount is payable, may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

Certain orders
may be filed in
courts having
civil
jurisdiction.

16. The provisions of section two hundred and fifty-five of the *Customs Act* 1901–1957 apply in proceedings under section nine, eleven or twelve of this Act in like manner as those provisions apply in Customs prosecutions under that Act.

Averment.

17.—(1.) For the purposes of this Act, an authorized officer may, at all reasonable times—

Powers of
authorized
officers.

- (a) enter any place in which diesel fuel is used or stored and inspect and take stock of any diesel fuel in that place;
- (b) enter any place in which accounts, books or documents relating to diesel fuel are kept and inspect, and make copies of, or take extracts from, any such accounts, books or documents; and
- (c) examine vehicles and engines owned by or under the control of a person who—
 - (i) has applied for or received rebate; or
 - (ii) is, or has been, the holder of a certificate.

(2.) The occupier or person in charge of any place referred to in the last preceding sub-section shall provide an authorized officer with all reasonable facilities and assistance for the effective exercise of his powers under that sub-section.

(3.) A person shall not obstruct, molest or hinder an authorized officer in the exercise of his powers under this section.

Penalty: Fifty pounds.

Power to
require persons
to answer
questions and
produce
documents.

18.—(1.) An authorized officer may, by notice in writing—

(a) require a person who—

(i) has applied for or received rebate; or

(ii) is, or has been, the holder of a certificate; or

(b) require any other person whom the authorized officer believes to be capable of giving information with respect to the acquisition, storage, use or disposal of diesel fuel by a person referred to in the last preceding paragraph,

to attend before him at the time and place specified in the notice and then and there to answer questions and to produce to him such accounts, books and documents in relation to the acquisition, storage, use or disposal of diesel fuel as are referred to in the notice.

(2.) The authorized officer to whom any accounts, books or documents are produced in pursuance of this section may make copies of, or take extracts from, those accounts, books or documents.

(3.) A person is not excused from answering a question or producing any accounts, books or documents when required so to do under this section on the ground that the answer to the question or the production of the accounts, books or documents might tend to incriminate him or make him liable to a penalty, but his answer to any such question is not admissible in evidence against him in proceedings other than proceedings in respect of the falsity of the answer or in respect of a refusal or failure to answer such a question.

(4.) Where a person fails to attend or to answer a question, or to produce any account, book or document, when required so to do under this section, the Minister may, if he thinks fit, withhold payment of any rebate that is or becomes payable to that person until that person has attended, answered the question or produced the account, book or document, as the case may be.

Power to
examine on
oath.

19.—(1.) An authorized officer may administer an oath to a person required to attend before him in pursuance of the last preceding section and may examine that person on oath.

(2.) Where any such person conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions asked him.

(3.) An affirmation so made is of the same force and effect, and entails the same penalties, as an oath.

Penalty for
refusing to
answer
questions, &c.

20. A person shall not refuse or fail—

(a) to attend before an authorized officer;

(b) to be sworn or to make an affirmation; or

(c) to answer a question or produce an account, book or document,

when so required in pursuance of this Act.

Penalty: Fifty pounds.

21. A person shall not present to an officer doing duty in relation to this Act or the regulations an account, book or document, or make to such an officer a statement, which is false or misleading in a particular. False or misleading statements, &c.

Penalty: Five hundred pounds.

22. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing penalties not exceeding Fifty pounds for offences against the regulations. Regulations.
