



Diesel and Alternative Fuels Grants Scheme Act 1999

[Note: Subsections 2(1), (2), (5), (6) and (7) amended by Act No. 155 of 1999.
The amendments made by No. 155 of 1999 commenced on 11 November 1999]

No. 88, 1999



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**An Act to provide for grants for use of diesel fuels
and alternative fuels in road transport, and for
related purposes**

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	2
3 States and Territories are bound	4
4 The Energy Grants (Credits) Scheme	4
5 Definitions	4
6 Metropolitan areas	6
Part 2—Entitlement to fuel grants	7
7 Registration for entitlement to fuel grants	7
8 Refusal to register	7
9 Vehicles of 20 tonnes or more	8
10 Vehicles of 4.5 tonnes or more, but less than 20 tonnes	8
11 Amounts of fuel grants	9
12 Use of diesel or alternative fuel on or after 1 July 2002	9
13 Overlap with the Diesel Fuel Rebate Scheme	9
Part 3—Payment of fuel grants	10
14 Grant periods	10
15 Claims for payment	10
16 Payment of fuel grants	11
Part 4—Miscellaneous	12
17 Review	12
18 Meaning of <i>approved form</i>	12
19 Appropriation	12
20 Regulations	13



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**An Act to provide for grants for use of diesel fuels
and alternative fuels in road transport, and for
related purposes**

[Assented to 8 July 1999]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

Section 2

2 Commencement

- (1) Subject to subsections (2), this Act commences:
 - (a) if the *Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Act 1999* commences on or after 1 July 2000—on the commencement of that Act; or
 - (b) if that Act commences before 1 July 2000—on 1 July 2000.
- (2) If, before the day on which this Act would (but for this subsection) commence under subsection (1), vehicle standards have not been determined under section 7 of the *Motor Vehicle Standards Act 1989* that:
 - (a) relate to motor vehicle emission standards; and
 - (b) adopt the technical requirements, relating to motor vehicle emission standards, of the following:
 - (i) Regulation 83 of the United Nations Economic Commission for Europe, relating to uniform provisions concerning the approval of vehicles with regard to the emission of pollutants according to engine fuel requirements, incorporating all amendments up to and including the 04 Series of Amendments;
 - (ii) subject to subsection (3), European Council Directive 98/69/EC, relating to measures to be taken against air pollution by emissions from motor vehicles and amending European Council Directive 70/220/EEC;
 - (iii) a European Council Directive, made after 1 July 1999, amending European Council Directive 88/77/EEC and relating to measures to be taken against the emission of gaseous and particulate pollutants from diesel engines for use in vehicles; and
 - (c) come into effect as specified in subsection (4);this Act does not commence until the day on which those vehicle standards are determined.
- (3) Subparagraph (2)(b)(ii) does not apply to the extent that the technical requirements in European Council Directive 98/69/EC relate to the standard commonly known as Euro 4, for emissions from petrol vehicles.

- (4) The vehicle standards must come into effect as follows:
- (a) in relation to the technical requirements referred to in subparagraph (2)(b)(i):
 - (i) from 1 January 2002 for light diesel vehicles that are models first produced on or after 1 January 2002; and
 - (ii) from 1 January 2003 for all light diesel vehicles produced on or after 1 January 2003; and
 - (iii) from 1 January 2003 for petrol vehicles that are models first produced on or after 1 January 2003; and
 - (iv) from 1 January 2004 for all petrol vehicles produced on or after 1 January 2004;
 - (b) in relation to the technical requirements referred to in subparagraph (2)(b)(ii):
 - (i) from 1 January 2005 for petrol vehicles that are models first produced on or after 1 January 2005; and
 - (ii) from 1 January 2006 for all petrol vehicles produced on or after 1 January 2006; and
 - (iii) from 1 January 2006 for light diesel vehicles that are models first produced on or after 1 January 2006; and
 - (iv) from 1 January 2007 for all light diesel vehicles produced on or after 1 January 2007;
 - (c) in relation to the technical requirements referred to in subparagraph (2)(b)(iii) to the extent that they relate to the standard commonly known as Euro 3:
 - (i) from 1 January 2002 for medium and heavy diesel vehicles that are models first produced on or after 1 January 2002; and
 - (ii) from 1 January 2003 for medium and heavy diesel vehicles produced on or after 1 January 2003;
 - (d) in relation to the technical requirements referred to in subparagraph (2)(b)(iii) to the extent that they relate to the standard commonly known as Euro 4:
 - (i) from 1 January 2006 for medium and heavy diesel vehicles that are models first produced on or after 1 January 2006; and
 - (ii) from 1 January 2007 for medium and heavy diesel vehicles produced on or after 1 January 2007.

Section 3

3 States and Territories are bound

This Act binds the Crown in right of each of the States, of the Australian Capital Territory and of the Northern Territory. However, it does not make the Crown liable to be prosecuted for an offence.

4 The Energy Grants (Credits) Scheme

- (1) The Parliament acknowledges that the Commonwealth intends to replace:
 - (a) grants under this Act; and
 - (b) the Diesel Fuel Rebate Scheme under the *Customs Act 1901* and the *Excise Act 1901*;with an Energy Grants (Credits) Scheme to start on 1 July 2002 or earlier.
- (2) The purpose of the Energy Grants (Credits) Scheme will be to provide active encouragement for the move to the use of cleaner fuels by measures additional to those under this Act, while at the same time maintaining entitlements that are equivalent to those under this Act and the Diesel Fuel Rebate Scheme, including for use of alternative fuels.
- (3) In the case of diesel fuel, the Commonwealth intends to restrict entitlements available under the Energy Grants (Credits) Scheme to ultra low sulphur diesel from 1 January 2006 when a mandatory standard of 50 parts per million of sulphur will come into effect.

5 Definitions

In this Act, unless the contrary intention appears:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

alternative fuel means:

- (a) compressed natural gas; or
- (b) liquefied petroleum gas; or
- (c) recycled waste oil; or

- (d) ethanol; or
- (e) canola oil; or
- (f) such other fuel as is specified in the regulations.

approved form has the meaning given by section 18.

carrying on an enterprise includes doing anything in the course of the commencement or termination of the enterprise.

Commissioner means the Commissioner of Taxation.

diesel fuel has the meaning given by the regulations.

fuel grant means a grant payable under this Act.

enterprise has the meaning given by section 38 of the *A New Tax System (Australian Business Number) Act 1999*.

entity has the meaning given by section 37 of the *A New Tax System (Australian Business Number) Act 1999*.

grant period has the meaning given by section 14.

gross vehicle mass, in relation to a vehicle, means:

- (a) if the vehicle is not a prime mover—the maximum laden mass specified by the manufacturer of the vehicle in respect of the vehicle; or
- (b) if the vehicle is a prime mover—the gross combination mass of the vehicle within the meaning of the *Interstate Road Transport Regulations 1986*.

import into Australia: You import diesel fuel or alternative fuel into Australia if:

- (a) you enter the goods for home consumption (within the meaning of the *Customs Act 1901*); and
- (b) at the time they are so entered for home consumption, you are the owner (within the meaning of that Act) of the goods.

metropolitan area has the meaning given by section 6.

prime mover has the meaning given by the *Interstate Road Transport Regulations 1986*.

Section 6

type of fuel: each of the following is a type of fuel:

- (a) diesel fuel;
- (b) each of the kinds of fuel referred to in paragraphs (a) to (e) of the definition of *alternative fuel*;
- (c) each kind of fuel (if any) specified in regulations made for the purposes of paragraph (f) of that definition.

you: if a provision of this Act uses the expression **you**, it applies to entities generally, unless its application is expressly limited.

Note: The expression **you** is not used in provisions that apply only to entities that are not individuals.

6 Metropolitan areas

- (1) These are the *metropolitan areas*:
 - (a) the Newcastle-Sydney-Wollongong metropolitan area;
 - (b) the Melbourne-Geelong metropolitan area;
 - (c) the Sunshine Coast-Brisbane-Gold Coast metropolitan area;
 - (d) the Perth metropolitan area;
 - (e) the Adelaide metropolitan area;
 - (f) the Canberra metropolitan area.
- (2) The area included in each metropolitan area referred to in subsection (1) is the area specified in the regulations in relation to that metropolitan area.

Part 2—Entitlement to fuel grants

7 Registration for entitlement to fuel grants

- (1) You may apply for registration for entitlement to fuel grants in respect of a particular vehicle. The application must:
 - (a) be in the approved form; and
 - (b) include such information relating to the vehicle as is specified in the regulations.
- (2) If you apply in accordance with subsection (1), the Commissioner must register you for entitlement to fuel grants in respect of the vehicle if the Commissioner is satisfied that:
 - (a) you have an ABN; and
 - (b) you use, or propose to use, in Australia diesel fuel or alternative fuel in the vehicle for the purposes of an enterprise that you carry on; and
 - (c) the vehicle has a gross vehicle mass of 4.5 tonnes or more and is registered for use on public roads.

8 Refusal to register

- (1) If the Commissioner refuses your application for registration, the Commissioner must give you written notice of:
 - (a) the refusal; and
 - (b) the reasons for the refusal.

Note: Sections 27A and 27B of the *Administrative Appeals Tribunal Act 1975* require the notice to be accompanied by a statement of your right to seek AAT review.

- (2) If the Commissioner has not decided your application for registration within 28 days after your application is made, you may, at any time, give the Commissioner written notice that you wish to treat your application as having been refused.

Section 9

- (3) For the purposes of section 17, if you give notice under subsection (2), the Commissioner is taken to have refused your application for registration on the day on which the notice is given.

9 Vehicles of 20 tonnes or more

- (1) You are entitled to a fuel grant for the use of diesel fuel or alternative fuel in a vehicle that has a gross vehicle mass of 20 tonnes or more if:
- (a) you are registered for entitlement to fuel grants in respect of the vehicle; and
 - (b) you purchased the diesel fuel or alternative fuel, or imported it into Australia.
- (2) However, you are only entitled to the grant to the extent that you use the diesel fuel or alternative fuel, in carrying on your enterprise, in operating the vehicle on a public road in Australia.

10 Vehicles of 4.5 tonnes or more, but less than 20 tonnes

- (1) You are entitled to a fuel grant for the use of diesel fuel or alternative fuel in a vehicle that has a gross vehicle mass of 4.5 tonnes or more, but less than 20 tonnes, if:
- (a) you are registered for entitlement to fuel grants in respect of the vehicle; and
 - (b) the vehicle is a vehicle for transporting passengers or goods; and
 - (c) you purchased the diesel fuel or alternative fuel, or imported it into Australia.
- (2) However, you are only entitled to the grant to the extent that you use the diesel fuel or alternative fuel, in carrying on your enterprise, in operating the vehicle on a public road in Australia on a journey:
- (a) between a point outside the metropolitan areas and another point outside the metropolitan areas; or
 - (b) between a point outside the metropolitan areas and a point inside a metropolitan area; or
 - (c) between different metropolitan areas.

11 Amounts of fuel grants

- (1) If you are entitled to a fuel grant in respect of the use, during a grant period, of diesel fuel or alternative fuel in operating the vehicle in question, the amount of the fuel grant for the grant period is worked out by multiplying:
 - (a) the number of litres (or, if the fuel is a gas, the number of cubic metres) of the type of fuel in question used during the period; and
 - (b) the amount per litre (or, if the fuel is a gas, the amount per cubic metre) specified in the regulations in respect of that type of fuel.
- (2) However, the amount cannot exceed the amount payable by you for the diesel fuel or alternative fuel.
- (3) If you are entitled to a fuel grant in respect of the use, during a grant period, of more than one type of fuel in operating the vehicle in question, amounts of fuel grants for the grant period are worked out separately in respect of each of those types of fuel.

12 Use of diesel or alternative fuel on or after 1 July 2002

Despite the other provisions of this Part, fuel grants are not payable for use of diesel fuel or alternative fuel on or after 1 July 2002.

13 Overlap with the Diesel Fuel Rebate Scheme

Despite the other provisions of this Part, fuel grants are not payable for use of diesel fuel or alternative fuel if a rebate is payable in respect of the fuel under section 164 of the *Customs Act 1901* or section 78A of the *Excise Act 1901*.

Part 3—Payment of fuel grants

14 Grant periods

- (1) You may choose the *grant periods* applying to you, but they must be one of the following:
 - (a) each calendar month;
 - (b) each period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year;
 - (c) each calendar year.You must notify the Commissioner, in the approved form, of your choice of grant periods.
- (2) However, the *grant periods* for entities of a kind in respect of which a determination under subsection (3) is in force are the periods worked out in accordance with that determination.
- (3) The Commissioner may, in writing, determine the grant periods for entities of a kind specified in the determination.

15 Claims for payment

- (1) If you are entitled to a fuel grant in respect of a grant period, you may claim for payment of the grant within 21 days after the end of the period.
- (2) The claim:
 - (a) may relate to all the vehicles in respect of which the entity is entitled to a fuel grant in respect of the grant period in question; and
 - (b) must be in the approved form; and
 - (c) must be signed by you, unless it is transmitted to the Commissioner in an electronic format approved by the Commissioner and contains your electronic signature.
- (3) However, you cannot make more than one claim under this section, in respect of a grant period, relating to use of the same type of fuel.

(4) In this section:

electronic signature means an entity's unique identification in an electronic form that is approved by the Commissioner.

16 Payment of fuel grants

(1) If:

- (a) you are entitled to a fuel grant in respect of a grant period;
and
- (b) you have made a claim under section 15 for the fuel grant;
the Commissioner must, on behalf of the Commonwealth, pay that amount of the entitlement to you.

(2) Fuel grants are payable by the Commonwealth in the manner determined by the Commissioner.

Part 4—Miscellaneous

17 Review

- (1) An application may be made to the Administrative Appeals Tribunal for a review of a decision of the Commissioner:
 - (a) refusing an application for registration under section 7; or
 - (b) refusing to make a payment of a fuel grant under section 16; or
 - (c) as to the amount of such a payment.

- (2) In this section:

decision has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

18 Meaning of *approved form*

- (1) A notice, application or other document is in the *approved form* if:
 - (a) it is in the form approved in writing by the Commissioner in relation to that kind of notice, application or other document; and
 - (b) it contains the information that the form requires, and such further information as the Commissioner requires; and
 - (c) it is given, to the entity to which it is required to be given, in the manner (if any) that the Commissioner requires; and
 - (d) it is, if required by this Act to be given to the Commissioner, lodged at the place that the Commissioner requires.
- (2) The Commissioner may combine in the same approved form more than one notice, application or other document.

19 Appropriation

Grants payable under this Act must be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

20 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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*[Minister's second reading speech made in—
House of Representatives on 22 June 1999
Senate on 28 June 1999]*

(121/99)