



Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Act 1999

No. 201, 1999



Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Act 1999

No. 201, 1999

**An Act to amend the *Diesel and Alternative Fuels
Grants Scheme Act 1999*, and for other purposes**

Contents

1	Short title	1
2	Commencement	1
3	Schedule(s)	2
Schedule 1—Amendment of the Diesel and Alternative Fuels Grants Scheme Act 1999		3
Part 1—Amendment of the commencement provisions		3
Part 2—General amendments		4
Part 3—Amendment of the grants entitlement provisions		41
Schedule 2—Amendment of the Taxation Administration Act 1953		42
Schedule 3—Amendment of the A New Tax System (Australian Business Number) Act 1999		45



Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Act 1999

No. 201, 1999

An Act to amend the *Diesel and Alternative Fuels Grants Scheme Act 1999*, and for other purposes

[Assented to 23 December 1999]

The Parliament of Australia enacts:

1 Short title

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

2 Commencement

- (1) The following provisions of this Act commence on the day on which this Act receives the Royal Assent:

Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Act 1999 No.
201, 1999 1

-
- (a) sections 1, 2 and 3;
 - (b) Part 1 of Schedule 1.
- (2) Part 3 of Schedule 1 commences immediately after the commencement of sections 9 and 10 of the *Diesel and Alternative Fuels Grants Scheme Act 1999*.
- (3) The remaining provisions of this Act commence on the day after the day on which this Act receives the Royal Assent.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Diesel and Alternative Fuels Grants Scheme Act 1999

Part 1—Amendment of the commencement provisions

1 Before subsection 2(1)

Insert:

(1A) Sections 1 and 2 are taken to have commenced on the day on which this Act received the Royal Assent.

(1B) This Act (other than sections 1, 2, 9 and 10) commences immediately after the commencement of section 1 of the *Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Act 1999*.

Note: Sections 9 and 10 are the grants entitlement provisions.

2 Subsection 2(1)

Omit all the words from and including “this Act” to the end of the subsection, substitute “sections 9 and 10 commence on 1 July 2000”.

3 Subsection 2(2)

Omit “this Act” (first occurring), substitute “sections 9 and 10”.

4 Subsection 2(2)

Omit “this Act does not”, substitute “sections 9 and 10 do not”.

Part 2—General amendments

5 Section 5

Insert:

amount includes a nil amount.

6 Section 5 (definition of *approved form*)

Omit “18”, substitute “56”.

7 Section 5

Insert:

APS employee includes a person appointed or employed under the *Public Service Act 1922*.

8 Section 5

Insert:

assessment includes an assessment of a nil amount.

9 Section 5

Insert:

authorised officer means an APS employee who has been authorised by the Commissioner under section 62 for the purposes of the provision in which the expression occurs.

10 Section 5

Insert:

Deputy Commissioner means a Deputy Commissioner of Taxation.

11 Section 5

Insert:

false statement means a statement (whether made orally, in a document or in any other way) that:

(a) is false or misleading in a material particular; or

(b) omits any matter or thing without which the statement is misleading in a material particular;
but does not include a statement made in a document produced under paragraph 41(2)(b) or (c) or 50(1)(a).

12 Section 5

Insert:

goods includes a substance and a tangible thing.

13 Section 5

Insert:

occupier, in relation to premises, includes a person present at the premises who is in apparent control of the premises.

14 Section 5 (paragraph (a) of the definition of *gross vehicle mass*)

After “vehicle” (last occurring), insert “(excluding any trailer)”.

15 Section 5

Insert:

overpayment debt means:

- (a) so much of an amount paid, or purportedly paid, to an entity by way of a fuel grant as represents an overpayment; or
- (b) an amount that is repayable as mentioned in subsection 14A(2) or (3) (which deals with advances).

16 Section 5

Insert:

premises includes the following:

- (a) a structure, building, aircraft, vehicle or vessel;
- (b) a place (whether enclosed or built on or not);
- (c) a part of a thing referred to in paragraph (a) or (b).

17 Section 5

Insert:

public road means:

- (a) a road, street or lane (including a road, street or lane forming part of a bridge) that is open to or used by the public; or
- (b) a busway or bus lane used for the purposes of public transport.

18 Section 5

Insert:

scheme debt means:

- (a) an overpayment debt; or
- (b) an amount payable by way of a penalty under Part 7.

19 Section 5

Insert:

trustee includes an executor and an administrator.

20 After section 6

Insert:

6A Commissioner has general administration of this Act

The Commissioner has the general administration of this Act.

21 Before section 7

Insert:

6B Registration must precede a claim for fuel grant

Despite the other provisions of this Part, you are not entitled to a fuel grant in respect of the use, during a grant period, of diesel fuel or alternative fuel in operating a particular vehicle unless you were registered for entitlement to fuel grants in respect of the vehicle when you made a claim for payment of the grant.

22 Subsection 7(1)

Omit “You”, substitute “On or after 1 March 2000, you”.

23 At the end of section 7

Add:

Change of registration details to be notified

- (3) If:
- (a) you are registered for entitlement to fuel grants in respect of a particular vehicle; and
 - (b) any of your prescribed registration details change;
- you must notify the Commissioner of the change within 28 days after the change happens.

- (4) In this section:

prescribed registration details means matters or circumstances specified in the regulations.

24 Subsection 8(1) (note)

Repeal the note.

25 Subsection 8(3)

Omit “17”, substitute “55”.

26 After section 8

Insert:

8A Cancellation of registration

- (1) If:
- (a) the Commissioner has registered you for entitlement to fuel grants in respect of a particular vehicle; and
 - (b) you do not make a claim for a fuel grant in respect of that vehicle within a 13 month period beginning on or after the date of commencement of sections 9 and 10;
- the Commissioner may cancel that registration.
- (2) If:
- (a) the Commissioner has registered you for entitlement to fuel grants in respect of a particular vehicle; and
 - (b) the Commissioner is not satisfied that:
 - (i) you have an ABN; or
 - (ii) 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; or

- (iii) the vehicle has a gross vehicle mass of 4.5 tonnes or more and is registered for use on public roads;
the Commissioner may cancel that registration.
- (3) The Commissioner must cancel your registration in respect of a particular vehicle if you ask the Commissioner to do so.
- (4) This section does not prevent you applying for fresh registration in respect of a particular vehicle.
- (5) If the Commissioner cancels your registration in respect of a particular vehicle, the Commissioner must give you written notice of the cancellation.

27 After section 10

Insert:

10A What operation of a vehicle constitutes a journey etc.

- (1) The Commissioner may, in writing, determine that, if the operation of a vehicle between 2 points occurs in such circumstances as are ascertained in accordance with the determination, that operation is taken to be a journey in its own right for the purposes of this Act.
 - (2) The Commissioner may, in writing, determine that, if the operation of a vehicle between 2 points occurs in such circumstances as are ascertained in accordance with the determination, that operation is taken not to be a journey for the purposes of this Act.
 - (3) Before making a determination under subsection (1) or (2), the Commissioner must consult:
 - (a) the Bus Industry Confederation; and
 - (b) the Australian Trucking Association Ltd; and
 - (c) the National Farmers Federation; and
 - (d) such other organisations (if any) as are specified in the regulations.
 - (4) A determination under subsection (1) or (2) must be an instrument of a legislative character.
 - (5) A determination under subsection (1) or (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
-

10B Statutory formulas for working out eligible use of fuel

Vehicles of 20 tonnes or more

- (1) If subsection 9(1) applies to you in relation to the use of a particular type of fuel in a vehicle during a grant period, the extent to which you use that type of fuel in the vehicle in the circumstances mentioned in subsection 9(2) is to be worked out using the formula:

$$\text{Total quantity of fuel} \times \frac{\text{Eligible kilometres}}{\text{Total kilometres}}$$

where:

eligible kilometres means the number of whole kilometres travelled by the vehicle during that grant period in the circumstances mentioned in subsection 9(2) using that type of fuel, where you purchased the fuel, or imported it into Australia.

total kilometres means the number of whole kilometres travelled by the vehicle during that grant period (whether or not in the circumstances mentioned in subsection 9(2)) using that type of fuel, where you purchased the fuel, or imported it into Australia.

total quantity of fuel means the number of litres (or, if the fuel is a gas, the number of cubic metres) of that type of fuel used in the vehicle during that grant period (whether or not in the circumstances mentioned in subsection 9(2)), where you purchased the fuel, or imported it into Australia.

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

- (2) If subsection 10(1) applies to you in relation to the use of a particular type of fuel in a vehicle during a grant period, the extent to which you use that type of fuel in the vehicle in the circumstances mentioned in subsection 10(2) is to be worked out using the formula:

$$\text{Total quantity of fuel} \times \frac{\text{Eligible kilometres}}{\text{Total kilometres}}$$

where:

eligible kilometres means the number of whole kilometres travelled by the vehicle during that grant period in the circumstances mentioned in subsection 10(2) using that type of fuel, where you purchased the fuel, or imported it into Australia.

total kilometres means the number of whole kilometres travelled by the vehicle during that grant period (whether or not in the circumstances mentioned in subsection 10(2)) using that type of fuel, where you purchased the fuel, or imported it into Australia.

total quantity of fuel means the number of litres (or, if the fuel is a gas, the number of cubic metres) of that type of fuel used in the vehicle during that grant period (whether or not in the circumstances mentioned in subsection 10(2)), where you purchased the fuel, or imported it into Australia.

Effect of disqualification

- (3) In applying the formula in subsection (1) or (2), disregard any part of the grant period during which you were disqualified under Part 5 from receiving a fuel grant.

28 Subsection 11(1)

Omit “diesel fuel or alternative fuel in operating the vehicle in question”, substitute “a particular type of diesel fuel or alternative fuel in operating a particular vehicle”.

29 Paragraph 11(1)(a)

Omit “the type of fuel in question used during the period”, substitute “that type of fuel worked out in relation to that period under whichever of subsections 10B(1) and (2) is applicable”.

30 Paragraph 11(1)(b)

Omit “specified in the regulations in respect of that type of fuel”, substitute “that, under the regulations, is the applicable amount in respect of that type of fuel in relation to the last day of the period”.

31 Subsection 14(2)

Omit “However”, substitute “Despite subsection (1)”.

32 At the end of section 14

Add:

- (4) You may apply to the Commissioner, in the approved form, for approval to:
 - (a) divide each financial year into a continuous sequence of 2 or more smaller periods that comply with subsection (5); and
 - (b) treat each of those smaller periods as a **grant period** applying to you.
- (5) For the purposes of subsection (4):
 - (a) the smaller periods do not have to be of the same length; and
 - (b) a smaller period must not be shorter than a calendar month; and
 - (c) a smaller period must be not longer than 11 calendar months.
- (6) The Commissioner may, in writing, grant an application under subsection (4).
- (7) If the Commissioner refuses to grant an application made by an entity under subsection (4), the Commissioner must give written notice of the refusal to the entity.

33 After section 14

Insert:

14A Advances on account of fuel grants

- (1) The Commissioner may, on behalf of the Commonwealth, make an advance on account of a fuel grant that may become payable.
- (2) If:
 - (a) you receive an advance on account of a fuel grant that may become payable; and
 - (b) the amount of the advance is greater than the amount of the fuel grant;you are liable to repay the amount of the excess to the Commonwealth.
- (3) If:
 - (a) you receive an advance on account of a fuel grant that may become payable; and

- (b) you do not make a claim for payment of the fuel grant within 21 days after the end of the grant period concerned;
you are liable to repay the amount of the advance to the Commonwealth.
- (4) The Commissioner must not make an advance to an entity unless the entity has requested the Commissioner to make the advance. The amount of the advance must not exceed the amount requested by the entity.
- (5) A request for an advance may be included in the same document as:
 - (a) an application for a rebate under section 164 of the *Customs Act 1901*; or
 - (b) an application for a rebate under section 78A of the *Excise Act 1901*.
- (6) The Commissioner must not make an advance before the commencement of sections 9 and 10.

14B Guidelines for making advances

- (1) The Commissioner may, by writing, formulate guidelines to be complied with by him or her in deciding whether to make advances under section 14A.
- (2) In deciding whether to make advances under section 14A, the Commissioner must comply with any relevant guidelines under subsection (1).
- (3) Guidelines under subsection (1) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

34 Subsection 15(1)

Repeal the subsection, substitute:

- (1) Despite the provisions of Part 2, you are not entitled to a fuel grant in respect of a grant period unless you make a claim for payment of the grant before 1 December 2002.

Note: The heading to section 15 is altered by omitting “payment” and substituting “fuel grants”.

35 After paragraph 15(2)(b)

Insert:

- (ba) must include such information as is specified in the regulations; and

36 After subsection 15(2)

Insert:

- (2A) Section 7 does not, by implication, limit subsection (2) of this section.

37 After subsection 15(3)

Insert:

- (3A) Despite the provisions of Part 2, if you contravene subsection (3) in relation to a particular grant period, you are not entitled, and are taken never to have been entitled, to a fuel grant in respect of that grant period.

38 After section 15

Insert:

15A Further information

- (1) This section applies to you if you have made a claim for a fuel grant.
- (2) The Commissioner may, within 28 days after the claim is made, request you to give the Commissioner, within the period specified in the request, further information about the claim.
- (3) The Commissioner may refuse to consider the claim until you give the Commissioner the information.

15B Assessment

- (1) This section applies to you if you have made a claim for a fuel grant in respect of a grant period.
- (2) The Commissioner must make an assessment of the amount of the fuel grant to which you are entitled in respect of the grant period.

Note: Under section 5, *assessment* includes a nil assessment.

15C Reliance by Commissioner on claim

- (1) If you make a claim for a fuel grant in respect of a grant period, the Commissioner may, for the purposes of making an assessment, accept (either in whole or in part):
 - (a) a statement in the claim; and
 - (b) any other statement otherwise made by you or on your behalf.
- (2) In determining whether an assessment is correct, any determination, opinion or judgment of the Commissioner made, held or formed in connection with the consideration of an objection against the assessment is taken to have been made, held or formed when the assessment was made.

15D Commissioner must give notice of an assessment

- (1) The Commissioner must give you notice of an assessment as soon as practicable after the assessment is made. However, failing to do so does not affect the validity of the assessment.
- (2) The Commissioner may give you the notice electronically if you transmitted the relevant claim to the Commissioner in an electronic format.

15E Amendment of assessment

- (1) The Commissioner may at any time amend an assessment under this Part.
- (2) An amended assessment is an assessment for all purposes of this Act.

15F Production of assessment is conclusive evidence

The production of a notice of assessment under this Part is conclusive evidence:

- (a) that the assessment was properly made; and
- (b) except in proceedings under Part IVC of the *Taxation Administration Act 1953* on a review or appeal relating to the assessment—that the amounts and particulars in the assessment are correct.

39 Subsection 16(1)

Repeal the subsection, substitute:

- (1) If you are entitled to a fuel grant in respect of a grant period:
 - (a) the fuel grant is a debt due to you by the Commissioner on behalf of the Commonwealth; and
 - (b) you may recover the fuel grant by action in a court of competent jurisdiction.

40 After Part 3

Insert:

Part 4—Record-keeping requirements

17 No entitlement to fuel grants unless record-keeping requirements met

- (1) Despite the provisions of Part 2:
 - (a) you are not entitled to a fuel grant in respect of a particular grant period unless you comply with the pre-claim record-keeping requirements set out in section 18; and
 - (b) if you have made a claim for a fuel grant in respect of a particular grant period—you are not entitled, and are taken never to have been entitled, to a fuel grant in respect of that grant period unless you have complied with the post-claim record-keeping requirements set out in section 19.
- (2) If:
 - (a) you make a claim for a fuel grant in respect of a grant period; and
 - (b) you make a statement in the claim to the effect that you undertake to comply with the post-claim record-keeping requirements set out in section 19;the Commissioner may, for the purposes of making an assessment, assume that you will comply with those requirements. However, if you do not comply with those requirements, the Commissioner may amend your assessment under section 15E.

18 Pre-claim record-keeping requirements

- (1) This section sets out the pre-claim record-keeping requirements that apply to you in relation to a fuel grant in respect of a particular grant period.
- (2) You must:
 - (a) keep records that enable you to substantiate your claim for the fuel grant; and
 - (b) retain those records until you make the claim.

Note: Section 19 provides that you must continue to retain those records for 5 years after you make the claim.

- (3) The records must be:
 - (a) in English; or
 - (b) readily accessible, and easily convertible into English.
- (4) You are taken to have met the requirement set out in paragraph (2)(a) if you keep records of a kind, and in a manner, specified in a written determination made by the Commissioner.
- (5) A determination under subsection (4) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Note: Sections 8L, 8Q and 8T of the *Taxation Administration Act 1953* deal with keeping records incorrectly.

19 Post-claim record-keeping requirements

- (1) This section sets out the post-claim record-keeping requirements that apply to you in relation to a fuel grant in respect of a particular grant period.
- (2) You must continue to retain, for the period of 5 years after the claim was made, the records that the pre-claim record-keeping requirements set out in section 18 required you to retain.
- (3) If the Commissioner gives you a written notice telling you to produce records that subsection (2) required you to retain, you must comply with the notice.
- (4) A notice under subsection (3) must give you 28 days or more to comply, starting on the day after the notice is given. The

Commissioner may allow you more time to comply with the notice.

- (5) Despite subsection (2), it is not necessary to continue to retain records:
- (a) if the Commissioner tells you that you do not need to retain them; or
 - (b) for a company that has been finally dissolved.
- (6) Despite section 8C of the *Taxation Administration Act 1953*, you do not commit an offence merely by not complying with a notice under subsection (3).

Note: Sections 8L, 8Q and 8T of the *Taxation Administration Act 1953* deal with keeping records incorrectly.

20 Records that are lost or destroyed

- (1) This section applies to you if:
- (a) section 18 or 19 requires you to retain a particular record; and
 - (b) the record is lost or destroyed.
- (2) If you have a complete copy of the record that is lost or destroyed, it is treated as the original from the time of the loss or destruction.
- (3) If you don't have such a copy, but the Commissioner is satisfied that you took reasonable precautions to prevent the loss or destruction, your entitlement to a fuel grant is not affected by your failing to retain or produce the original record.
- (4) This section has effect despite anything in section 17, 18 or 19.

Part 5—Disqualification for fraud

21 Disqualification of claimant for fraud

Despite the provisions of Part 2, if:

- (a) you make a false statement to a person who is exercising powers, or performing functions, under or in connection with this Act; and

- (b) you do so knowing that, or reckless as to whether, the statement:
 - (i) is false or misleading in a material particular; or
 - (ii) omits any matter or thing without which the statement is misleading in a material particular; and
 - (c) the amount of a fuel grant that would have been payable to you in respect of a grant period if the statement was not false exceeds the amount of the fuel grant properly payable to you in respect of that grant period;
- you are disqualified, and are taken to have been disqualified, from receiving a fuel grant for any use of diesel fuel or alternative fuel that occurs, or occurred, at any time during:
- (d) the period:
 - (i) beginning at the start of that grant period; and
 - (ii) ending at the end of 30 June 2002; or
 - (e) if the Commissioner determines a shorter period in relation to you—that shorter period.

Note: Recklessly making a false statement can be an offence against section 8N of the *Taxation Administration Act 1953*, and knowingly making a false statement can be an offence against section 8P of that Act.

22 Disqualification for aiding and abetting fraud

Despite the provisions of Part 2, if:

- (a) an entity makes a false statement to a person who is exercising powers, or performing functions, under or in connection with this Act; and
- (b) the entity does so knowing that, or reckless as to whether, the statement:
 - (i) is false or misleading in a material particular; or
 - (ii) omits any matter or thing without which the statement is misleading in a material particular; and
- (c) the amount of a fuel grant that would have been payable to the entity in respect of a grant period if the statement was not false exceeds the amount of the fuel grant properly payable to the entity in respect of that grant period; and
- (d) you:
 - (i) aided, abetted, counselled or procured the making of the statement by the entity; or

- (ii) were in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the making of the statement by the entity;

you are disqualified, and are taken to have been disqualified, from receiving a fuel grant for any use of diesel fuel or alternative fuel that occurs, or occurred, at any time during:

- (e) the period:

- (i) beginning at the start of that grant period; and
- (ii) ending at the end of 30 June 2002; or

- (f) if the Commissioner determines a shorter period in relation to you—that shorter period.

Note: Recklessly making a false statement can be an offence against section 8N of the *Taxation Administration Act 1953*, and knowingly making a false statement can be an offence against section 8P of that Act.

23 Disqualification of body corporate—executive disqualified etc.

Despite the provisions of Part 2, a body corporate is disqualified, and is taken to have been disqualified, from receiving a fuel grant for the use of diesel fuel or alternative fuel at a particular time if any of the following individuals is disqualified under section 21 or 22 from receiving a fuel grant for the use of diesel fuel or alternative fuel at that time:

- (a) a director of the body corporate;
- (b) the secretary of the body corporate;
- (c) a person (by whatever name called and whether or not a director of the body corporate) who is concerned in, or takes part in, the management of the body corporate.

24 Disqualification of partnership—partner disqualified etc.

Despite the provisions of Part 2, a partnership is disqualified, and is taken to have been disqualified, from receiving a fuel grant for the use of diesel fuel or alternative fuel at a particular time if any of the following entities is disqualified under section 21 or 22 from receiving a fuel grant for the use of diesel fuel or alternative fuel at that time:

- (a) a partner;
- (b) an individual who:
 - (i) is an employee of the partnership; and

- (ii) is concerned in, or takes part in, the management of the partnership;
- (c) in a case where a partner is a body corporate:
 - (i) a director of the body corporate;
 - (ii) the secretary of the body corporate;
 - (iii) a person (by whatever name called and whether or not a director of the body corporate) who is concerned in, or takes part in, the management of the body corporate.

25 Disqualification of trust—trustee disqualified etc.

Despite the provisions of Part 2, a trust is disqualified, and is taken to have been disqualified, from receiving a fuel grant for the use of diesel fuel or alternative fuel at a particular time if any of the following entities is disqualified under section 21 or 22 from receiving a fuel grant for the use of diesel fuel or alternative fuel at that time:

- (a) a trustee;
- (b) an individual who:
 - (i) is an employee of the trust; and
 - (ii) is concerned in, or takes part in, the management of the trust;
- (c) in a case where a trustee is a body corporate:
 - (i) a director of the body corporate;
 - (ii) the secretary of the body corporate;
 - (iii) a person (by whatever name called and whether or not a director of the body corporate) who is concerned in, or takes part in, the management of the body corporate.

Part 6—Contrived schemes etc.

26 Contrived schemes etc.

- (1) If:
 - (a) one or more entities enter into, commence to carry out, or carry out a scheme; and
 - (b) it would be concluded that the entity, or any of the entities, who entered into, commenced to carry out, or carried out the

scheme or any part of the scheme did so for the sole or dominant purpose of enabling:

- (i) a particular use of diesel fuel or alternative fuel; or
- (ii) a particular journey; or
- (iii) a particular operation of a vehicle;

to be taken into account in determining the fuel grant entitlement of any entity (whether or not the entity, or any of the entities, who entered into, commenced to carry out, or carried out the scheme or any part of the scheme); and

- (c) the scheme or part of the scheme has achieved, or apart from this section, would achieve, that purpose;

the Commissioner may determine that this Act has, and is taken always to have had, effect as if:

- (d) if subparagraph (b)(i) applies—the use of the diesel fuel or alternative fuel, as the case may be, had never happened; or
- (e) if subparagraph (b)(ii) applies—the journey had never happened; or
- (f) if subparagraph (b)(iii) applies—the operation had never happened.

- (2) A determination under subsection (1) has effect accordingly.

- (3) In this section:

scheme means:

- (a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and
- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

Part 7—Civil penalties

27 Penalty for unpaid scheme debts

- (1) For the purposes of this section, a ***designated scheme debt*** is:

- (a) an overpayment debt; or
- (b) an amount payable by way of a penalty under section 28.

- (2) If an amount of a designated scheme debt that is payable by you remains unpaid after the day by which it must be paid, you are liable to a penalty at the rate of 16% per year on the unpaid amount.
- (3) The penalty is calculated from the day on which the amount becomes due to be paid.
- (4) The fact that a judgment is entered or given in a court for the payment of an amount of a designated scheme debt, or of a composite amount that includes an amount of a designated scheme debt, does not of itself cause the amount of a designated scheme debt to stop being unpaid for the purposes of this section.
- (5) If the judgment debt bears interest, the penalty payable under this section is reduced (but not beyond nil) by the following amount:

$$\text{Interest on judgment debt} \times \frac{\text{Designated scheme debt component}}{\text{Judgment debt}}$$

where:

designated scheme debt component means so much of the judgment debt as consists of a designated scheme debt.

- (6) For the purposes of this section, the day on which an overpayment debt is due to be paid is worked out using the following table:

Day by which overpayment debt is due to be paid		
Item	Type of overpayment debt	Day on which debt is due to be paid
1	so much of an amount paid, or purportedly paid, to an entity by way of a fuel grant as represents an overpayment	the day on which the fuel grant was paid
2	an amount that is repayable as mentioned in subsection 14A(2) or (3) (which deals with advances)	the day on which the advance concerned was paid

- (7) This section does not apply to an overpayment debt that is attributable (in whole or in part) to an error made by the Commissioner, where the fuel grant concerned was received in good faith.
-

- (8) This section does not apply to an overpayment debt that is attributable (in whole or in part) to a change in regulations made for the purposes of section 11.
- (9) This section has no effect to the extent (if any) to which it imposes taxation (within the meaning of section 55 of the Constitution).

28 Penalty for making false statements

- (1) You are liable to a penalty if:
 - (a) you make a false statement to a person who is exercising powers, or performing functions, under or in connection with this Act (whether or not you know that the statement is a false statement); and
 - (b) the amount of a fuel grant that would have been payable to you in respect of a grant period if the statement was not false exceeds the amount of the fuel grant properly payable to you in respect of that grant period.
- (2) The amount of the penalty is double the excess.

29 Assessment of penalty

- (1) The Commissioner must make an assessment of the penalty payable by you under section 28.
- (2) The Commissioner must give you notice of an assessment as soon as practicable after the assessment is made. However, failing to do so does not affect the validity of the assessment.
- (3) The Commissioner may give you the notice electronically if you transmitted the relevant claim to the Commissioner in an electronic format.
- (4) The notice may be included in any other notice the Commissioner gives you.
- (5) The penalty becomes due for payment on the day specified in the notice, which must be at least 14 days after the notice is given to you.

30 Remission of penalty

- (1) The Commissioner may remit some or all of the penalty that an entity is liable to pay under this Part if the Commissioner is satisfied that it is fair and reasonable to do so.
- (2) The Commissioner may decide to do this before or after making an assessment under this Part.

31 Amendment of assessment

- (1) The Commissioner may at any time amend an assessment under this Part.
- (2) An amended assessment is an assessment for all purposes of this Act.

32 Production of assessment is conclusive evidence

The production of a notice of assessment under this Part is conclusive evidence:

- (a) that the assessment was properly made; and
- (b) except in proceedings under Part IVC of the *Taxation Administration Act 1953* on a review or appeal relating to the assessment—that the amounts and particulars in the assessment are correct.

33 Relationship with offence provisions

Nothing in this Part makes it an offence to do or omit to do anything.

Note: However, some of the conduct covered by this Part might constitute an offence against a provision outside this Part. An entity that is prosecuted for such an offence is not liable to pay any penalty under this Part: see section 8ZE of the *Taxation Administration Act 1953*.

Part 8—Recovery of scheme debts

34 Scheme debts are debts due to the Commonwealth

A scheme debt is a debt due to the Commonwealth.

35 Recovery by legal proceedings

- (1) A scheme debt may be recovered by the Commonwealth by action in a court of competent jurisdiction.
- (2) An action under subsection (1) may be brought by the Commissioner in his or her official name on behalf of the Commonwealth.

36 Recovery by set-off

If an entity is liable to pay a scheme debt, the scheme debt may be deducted from one or more fuel grants that are payable to the entity, and if the scheme debt is so deducted, the fuel grant is taken to have been paid in full to the entity.

37 Commissioner may collect money from a person who owes money to an entity

What this section does

- (1) This section allows the Commissioner to collect money from a person who owes money to an entity that has a scheme debt.

Commissioner may give direction

- (2) The Commissioner may direct a person (the **third party**) who owes, or may later owe, money (the **available money**) to the entity to pay some or all of the available money to the Commissioner in accordance with the direction. The Commissioner must give a copy of the direction to the entity.

Limit on directions

- (3) The direction cannot require an amount to be paid to the Commissioner at a time before it becomes owing by the third party to the entity.

Third party to comply

- (4) The third party must comply with the direction, so far as the third party is able to do so.

Penalty: 20 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Court orders

- (5) If a person is convicted of an offence in relation to a refusal or failure of the third party to comply with subsection (4), the court may (in addition to imposing a penalty on the convicted person) order the convicted person to pay to the Commissioner an amount up to the amount involved in the refusal or failure of the third party.

Indemnity

- (6) Any payment made by the third party under this section is taken to have been made with the authority of the entity and of all other persons concerned, and the third party is indemnified for the payment.

Notice

- (7) If the whole of the scheme debt of the entity is discharged before any payment is made by the third party, the Commissioner must immediately give notice to the third party of that fact.
- (8) If a part of the scheme debt of the entity is discharged before any payment is made by the third party, the Commissioner must:
- (a) immediately give notice to the third party of that fact; and
 - (b) make an appropriate variation to the direction; and
 - (c) give a copy of the varied direction to the entity.

When third party is taken to owe money

- (9) The third party is taken to owe money to the entity if:
- (a) money is due or accruing by the third party to the entity; or
 - (b) the third party holds money for or on account of the entity; or
 - (c) the third party holds money on account of some other person for payment to the entity; or
 - (d) the third party has authority from some other person to pay money to the entity;

whether or not the payment of the money to the entity is dependent on a pre-condition that has not been fulfilled.

38 Recovery of scheme debt from trustee of deceased estate

- (1) This section applies if, at the time of a person's death, a scheme debt that the person must pay has not been paid.
- (2) The Commissioner has the same powers and remedies for the recovery of the amount from the trustee of the person's estate as the Commissioner would have had against the person if he or she were still alive.
- (3) The trustee must provide any information that the person was required to provide, or would have been required to provide if he or she had not died. The trustee must also provide any other information that the Commissioner requires.
- (4) If the trustee fails to provide the information, the Commissioner may make an assessment of a scheme debt in relation to the deceased person.

Note: An assessment made under this subsection is a reviewable fuel grants decision (see section 55).

- (5) The trustee is liable to penalty under Part 7 for an unpaid scheme debt to the same extent as the deceased person would be if he or she were still alive.
- (6) Any amount payable by the trustee is a charge on all of the deceased person's estate in the trustee's hands.
- (7) The Commissioner may at any time amend an assessment under this section.
- (8) An amended assessment is an assessment for all purposes of this Act.

39 Recovery of scheme debt from unadministered deceased estate

- (1) This section applies if neither of the following are granted within 6 months after a person's death:
 - (a) probate of the person's will;
 - (b) letters of administration of the person's estate.

- (2) The Commissioner may make an assessment of an amount of scheme debt in relation to the deceased person. If the person resided in a State or Territory at the time of death, the Commissioner must publish notice of the assessment twice in a daily newspaper circulating in the State or Territory.
- (3) Anyone who:
 - (a) claims an interest in the estate; or
 - (b) is granted probate of the deceased person's will, or letters of administration of the estate;and who is dissatisfied with the assessment, may object in the manner set out in Part IVC of the *Taxation Administration Act 1953*. That Part applies in relation to the objection as if the person were the deceased person.
- (4) The Commissioner may at any time amend an assessment under this section.
- (5) An amended assessment is an assessment for all purposes of this Act.
- (6) Anyone who:
 - (a) claims an interest in the estate; or
 - (b) is granted probate of the deceased person's will, or letters of administration of the estate;and who is dissatisfied with an amendment of an assessment under this section, may object in the manner set out in Part IVC of the *Taxation Administration Act 1953*. That Part applies in relation to the objection as if the person were the deceased person.

40 Production of assessment is conclusive evidence

The production of a notice of assessment under this Part is conclusive evidence:

- (a) that the assessment was properly made; and
- (b) except in proceedings under Part IVC of the *Taxation Administration Act 1953* on a review or appeal relating to the assessment—that the amounts and particulars in the assessment are correct.

Part 9—Information-gathering powers

41 Commissioner may obtain information and documents

- (1) This section applies to a person if the Commissioner has reason to believe that the person:
 - (a) has information or a document that is relevant to the operation of this Act; or
 - (b) is capable of giving evidence which the Commissioner has reason to believe is relevant to the operation of this Act.
- (2) The Commissioner may, by written notice given to the person, require the person:
 - (a) to give to the Commissioner, within the period and in the manner and form specified in the notice, any such information; or
 - (b) to produce to the Commissioner, within the period and in the manner specified in the notice, any such documents; or
 - (c) to attend before the Commissioner at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents.

Note: Failing to comply with a notice can be an offence against section 8C of the *Taxation Administration Act 1953*.

- (3) The regulations may prescribe scales of expenses to be allowed to persons who are required to attend under this section.

42 Self-incrimination

- (1) An individual is not excused from giving information or evidence or producing a document under this Part on the ground that the information or evidence or the production of the document might tend to incriminate the individual or expose the individual to a penalty.
- (2) However:
 - (a) giving the information or evidence or producing the document; or
 - (b) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document;

is not admissible in evidence against the individual in criminal proceedings other than proceedings for an offence against section 8C, 8K, 8N or 8P of the *Taxation Administration Act 1953*, being an offence that relates to this Part.

43 Copies of documents

The Commissioner may inspect a document produced under this Part and may make and retain copies of, or take and retain extracts from, such a document.

44 Commissioner may retain documents

- (1) The Commissioner may take, and retain for as long as is necessary, possession of a document produced under this Part.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Commissioner to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Commissioner must, at such times and places as the Commissioner thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

45 Commonwealth bound by this Part

- (1) This Part binds the Crown in right of the Commonwealth.
However, it does not make the Crown liable to be prosecuted for an offence.
- (2) This section has effect in addition to section 3.

Part 10—Protection of confidentiality of information

46 Protection of confidentiality of information

- (1) This section restricts what a person (the *entrusted person*) may do with protected information, or protected documents, that the person has obtained in the course of official employment.
- (2) The entrusted person:
- (a) must not make a record of protected information; and
 - (b) must not disclose it to anyone else;
- if the recording or disclosure is not in accordance with subsection (3).

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (3) It is not an offence against subsection (2) if any of the following apply to the recording or disclosure:
- (a) the recording or disclosure is for the purposes of this Act;
 - (b) the recording or disclosure happens in the course of the performance of the duties of the entrusted person's official employment;
 - (c) the entrusted person is the Commissioner or a Deputy Commissioner and the disclosure is to:
 - (i) the Chief Executive Officer of Customs; or
 - (ii) the Australian Statistician and is of information to be used for the purposes of the *Census and Statistics Act 1905*; or
 - (iii) another person for the purpose of that other person carrying out functions under a taxation law; or
 - (iv) the Administrative Appeals Tribunal in connection with proceedings under a taxation law;
 - (d) the disclosure is by a person authorised by the Commissioner or a Deputy Commissioner to disclose the information and the disclosure is to:
 - (i) the Chief Executive Officer of Customs; or

- (ii) the Australian Statistician and is of information to be used for the purposes of the *Census and Statistics Act 1905*; or
- (iii) another person for the purpose of that other person carrying out functions under a taxation law.

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

- (4) Subsection (3) does not authorise the disclosure of information to a Minister.
- (5) Unless it is necessary for the purposes of this Act, the entrusted person is not to be required:
 - (a) to produce any protected document to a court; or
 - (b) to disclose protected information to a court.

- (6) In this section:

disclose means divulge or communicate.

official employment means:

- (a) appointment or employment by the Commonwealth, or the performance of services for the Commonwealth; or
- (b) the exercise of powers or performance of functions under a delegation by the Commissioner.

protected document means any document made or given under, or for the purposes of, this Act.

protected information means information that meets all the following conditions:

- (a) it relates to the affairs of a person other than the entrusted person;
- (b) it was obtained by the entrusted person, or by any other person, in the course of official employment;
- (c) it was disclosed or obtained for the purposes of this Act.

taxation law has the same meaning as in the *Taxation Administration Act 1953*.

Part 11—Access to premises

47 Access to premises etc.

- (1) This section applies to premises if an authorised officer has reason to believe that:
 - (a) there are on the premises any documents or goods that are relevant to the operation of this Act; or
 - (b) there is on the premises any other property that is relevant to the operation of this Act.
- (2) The authorised officer:
 - (a) may at all reasonable times enter and remain on those premises; and
 - (b) is entitled to full and free access at all reasonable times to any such documents, goods or other property on those premises; and
 - (c) may inspect, examine, make copies of, or take extracts from, any such documents on those premises; and
 - (d) may inspect, examine, count, measure, weigh, gauge, test or analyse any such goods or other property on those premises and, to that end, take samples.
- (3) An authorised officer is not entitled to enter or remain on any premises if, after having been requested by the occupier to produce his or her identity card, the officer fails to comply with that request.
- (4) If an authorised officer enters, or proposes to enter, premises under this section, the occupier must provide the officer with all reasonable facilities and assistance for the effective exercise of powers under this section.
- (5) An occupier who contravenes subsection (4) is guilty of an offence punishable on conviction by a fine not exceeding 10 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

48 Identity cards

- (1) The Commissioner must issue an identity card to a person who is an authorised officer for the purposes of section 47.

- (2) The identity card must be in the form prescribed by the regulations.
- (3) The identity card must contain a recent photograph of the authorised officer.
- (4) A person is guilty of an offence if:
 - (a) the person has been issued with an identity card under subsection (1); and
 - (b) the person ceases to be an authorised officer for the purposes of section 47; and
 - (c) the person does not immediately return the identity card to the Commissioner.

Penalty: 1 penalty unit.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (5) A person who is an authorised officer for the purposes of section 47 must carry the identity card at all times when exercising the powers or performing the functions of such an authorised officer.

49 Commonwealth bound by this Part

- (1) This Part binds the Crown in right of the Commonwealth.
However, it does not make the Crown liable to be prosecuted for an offence.
- (2) This section has effect in addition to section 3.

Part 12—Power to stop and search vehicles

50 Power to stop and search vehicles

- (1) If an authorised officer believes on reasonable grounds that a particular vehicle is a vehicle in respect of which an entity is registered for entitlement to fuel grants, the officer may:
 - (a) require the driver of the vehicle to do any or all of the following:
 - (i) stop the vehicle;
 - (ii) provide the driver's name and address;

- (iii) provide the name and address of the entity that holds that registration;
 - (iv) provide information about the origins and destinations of any passengers or goods being carried by or in the vehicle;
 - (v) if the vehicle is on a journey—provide details about the journey;
 - (vi) for the purposes of verifying the matters referred to in subparagraph (iv) or (v), produce to the officer a consignment note, passenger manifest or other document; and
 - (b) detain the vehicle for such period as is reasonably necessary to carry out a search or inspection of the vehicle and to take fuel samples from the vehicle.
- (2) A person is guilty of an offence if:
- (a) the person is subject to a requirement under paragraph (1)(a); and
 - (b) the person refuses or fails to comply with the requirement to the extent that the person is capable of doing so.
- Penalty: 20 penalty units.
- Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.
- (3) Before exercising any powers under subsection (1) (other than the power conferred by subparagraph (1)(a)(i)), an authorised officer must show the driver of the vehicle his or her identity card.

51 Identity cards

- (1) The Commissioner must issue an identity card to a person who is an authorised officer for the purposes of section 50.
- (2) The identity card must be in the form prescribed by the regulations.
- (3) The identity card must contain a recent photograph of the authorised officer.
- (4) A person is guilty of an offence if:
 - (a) the person has been issued with an identity card under subsection (1); and

- (b) the person ceases to be an authorised officer for the purposes of section 50; and
- (c) the person does not immediately return the identity card to the Commissioner.

Penalty: 1 penalty unit.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (5) A person who is an authorised officer for the purposes of section 50 must carry the identity card at all times when exercising the powers or performing the functions of such an authorised officer.

52 Self-incrimination

- (1) An individual is not excused from giving information or producing a document under this Part on the ground that the information or the production of the document might tend to incriminate the individual or expose the individual to a penalty.
- (2) However:
 - (a) giving the information or producing the document; or
 - (b) any information, document or thing obtained as a direct or indirect consequence of giving the information or producing the document;is not admissible in evidence against the individual in criminal proceedings other than proceedings for:
 - (c) an offence against subsection 50(2); or
 - (d) an offence against section 8C, 8K, 8N or 8P of the *Taxation Administration Act 1953*, being an offence that relates to this Part.

Part 13—Special rules for certain entities

53 Treatment of partners

- (1) This Act applies to a partnership as if the partnership were a person, but it applies with the following changes.

- (2) Obligations that are imposed under this Act on a partnership are imposed on each partner, but may be discharged by any of the partners.
- (3) The partners are jointly and severally liable to pay any amount that is payable under this Act by the partnership.
- (4) Any offence against this Act that is committed by a partnership is taken to have been committed by each partner who:
 - (a) aided, abetted, counselled or procured the relevant act or omission; and
 - (b) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).
- (5) For the purposes of this Act, a change in the composition of a partnership does not affect the continuity of the partnership.
- (6) In this section:

this Act includes the *Taxation Administration Act 1953*, to the extent to which that Act relates to this Act.

54 Treatment of unincorporated associations

- (1) This Act applies to an unincorporated association or body of persons as if the association or body were a person, but it applies with the following changes.
 - (2) Obligations that would be imposed under this Act on an unincorporated association or body of persons are imposed on each member of the committee of management of the association or body, but may be discharged by any of those members.
 - (3) Any offence against this Act that is committed by the association or body is taken to have been committed by each member of its committee of management who:
 - (a) aided, abetted, counselled or procured the relevant act or omission; and
 - (b) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the entity).
 - (4) In this section:
-

this Act includes the *Taxation Administration Act 1953*, to the extent to which that Act relates to this Act.

41 Part 4 (heading)

Repeal the heading, substitute:

Part 14—Miscellaneous

42 Section 17

Repeal the section, substitute:

55 Reviewable fuel grants decisions

- (1) If you are dissatisfied with a reviewable fuel grants decision relating to you, you may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.
- (2) Each of the following decisions is a *reviewable fuel grants decision*:

Reviewable fuel grants decisions		
Item	Decision	Provision under which decision is made
1	refusing an application for registration	section 8
2	cancelling registration	section 8A
3	refusing to grant an application under subsection 14(4)	section 14
4	making an assessment of the amount of a fuel grant	section 15B
5	amending an assessment of the amount of a fuel grant	section 15E
6	making an assessment of the amount of a penalty	section 29
7	amending an assessment of the amount of a penalty	section 31
8	making an assessment where there is a trustee of a deceased estate	subsection 38(4)
9	amending an assessment where there is a trustee of a deceased estate	subsection 38(7)

Note: In cases where there is an unadministered deceased estate, certain persons may object against an assessment made in relation to the deceased person: see subsection 39(3).

43 Section 18

Renumber as section 56.

44 After section 18

Insert:

57 Application of the *Criminal Code*

The *Criminal Code* applies to all offences against this Act.

45 Section 19

Renumber as section 58.

46 Section 19

Omit “Grants payable under this Act”, substitute “Fuel grants, and advances on account of fuel grants,”.

47 After section 19

Insert:

59 Fuel grants to be treated as subsidies for the purposes of section 15-10 of the *Income Tax Assessment Act 1997*

A fuel grant is taken to be a subsidy for the purposes of section 15-10 of the *Income Tax Assessment Act 1997*.

60 Address for service

- (1) An entity’s address for service for the purposes of this Act is:
- (a) if the entity is registered in the Australian Business Register—the address shown in the Register as the entity’s address for service; or
 - (b) if the entity is not registered in that Register—the address last notified by the entity in a claim, application or any other document under this Act; or
 - (c) any other address that the Commissioner reasonably believes to be the entity’s address for service.
-

- (2) If an entity on whom a notice or other document must be served:
 - (a) under this Act; or
 - (b) in proceedings for recovery of a scheme debt;has notified the Commissioner of an Australian address for service, the Commissioner may serve the notice or document by post to that address.
- (3) However, if an entity that has made claims electronically notifies the Commissioner of an address for effecting service by way of electronic transmission, the Commissioner may serve a notice under this Act on the entity by electronic transmission to that address.

61 Service of documents if entity absent from Australia or cannot be found

- (1) This section applies if:
 - (a) a document needs to be served on an entity in respect of any proceeding to recover a scheme debt; and
 - (b) the Commissioner, after making reasonable inquiries, is satisfied that:
 - (i) the entity is absent from Australia and does not have any agent in Australia on whom the document can be served; or
 - (ii) the entity cannot be found.
- (2) The Commissioner may, without the court's leave, serve the document by posting it, or a sealed copy of it, in a letter addressed to the entity at any Australian address of the entity (including the entity's Australian place of business or residence) that is last known to the Commissioner.

62 Authorised officers

The Commissioner may, by writing, authorise an APS employee to be an authorised officer for the purposes of a specified provision or provisions of this Act.

48 Section 20

Renumber as section 63.

Part 3—Amendment of the grants entitlement provisions

49 Subsection 9(1)

Omit all the words after “more”, substitute “if you purchased the diesel fuel or alternative fuel, or imported it into Australia”.

50 Paragraph 10(1)(a)

Repeal the paragraph.

51 Paragraph 10(1)(b)

Reletter as paragraph (a).

52 Paragraph 10(1)(c)

Reletter as paragraph (b).

Schedule 2—Amendment of the Taxation Administration Act 1953

1 Section 2 (paragraph (b) of the definition of *taxation law*)

After “other than”, insert “the *Diesel and Alternative Fuels Grants Scheme Act 1999* or”.

2 Section 2 (at the end of the definition of *taxation law*)

Add:

Note: See also section 8AA, which deals with the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

3 Subsection 3C(9)

Insert:

taxation law includes the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

4 Subsection 3D(22)

Insert:

taxation law includes the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

5 At the end of section 6D

Add:

(5) In this section:

taxation law includes the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

6 After section 8A

Insert:

8AA Application of Part to the *Diesel and Alternative Fuels Grants Scheme Act 1999*

In addition to its effect apart from this section, this Part also has the effect it would have if:

- (a) each reference in this Part (other than subsections 8J(12), (13), (14) and (15) and section 8XB) to a **taxation law** were read as a reference to the *Diesel and Alternative Fuels Grants Scheme Act 1999*; and
- (b) each reference in this Part to a **taxation liability** were read as a reference to a liability to the Commonwealth arising under the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

7 Paragraph 8J(2)(a)

After “return”, insert “, claim”.

8 After paragraph 8J(2)(ga)

Insert:

- (gb) paragraph 41(2)(b) or (c) or 50(1)(a) of the *Diesel and Alternative Fuels Grants Scheme Act 1999*; or

9 After subsection 8W(2)

Insert:

(2A) If:

- (a) a person (the **convicted person**) is convicted before a court of:
 - (i) an offence against subsection 8K(1) or section 8N or 8P in relation to a statement made to a taxation officer; or
 - (ii) an offence against subsection 8L(1) or section 8Q in relation to the keeping of any records; and
- (b) the offence relates to the *Diesel and Alternative Fuels Grants Scheme Act 1999*; and
- (c) the court is satisfied that the amount that would have been the amount of a fuel grant payable to the convicted person or another person, determined on the basis that:
 - (i) the statement were not false or misleading; or
 - (ii) on the basis of those records as they were kept;as the case may be, exceeds the proper amount of the fuel grant payable to the convicted person or the other person;

the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commissioner an amount not exceeding:

- (d) in a case where the offence is an offence to which subsection 8R(2) applies—3 times the amount of the excess; or
- (e) in any other case—double the amount of the excess.

10 At the end of section 8W

Add:

- (4) In this section:

fuel grant has the same meaning as in the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

11 After subsection 14ZW(1C)

Insert:

- (1D) Subsection (1C) does not apply to an assessment under the *Diesel and Alternative Fuels Grants Scheme Act 1999*.

12 At the end of section 15

Add:

- (5) This section applies in relation to the *Diesel and Alternative Fuels Grants Scheme Act 1999* as if that Act were a taxation law.

13 At the end of section 15A

Add:

- (12) This section applies in relation to the *Diesel and Alternative Fuels Grants Scheme Act 1999* as if that Act were a taxation law.

14 At the end of section 17B

Add:

- (8) This section applies in relation to the *Diesel and Alternative Fuels Grants Scheme Act 1999* as if that Act were a taxation law.

Schedule 3—Amendment of the A New Tax System (Australian Business Number) Act 1999

1 At the end of paragraph 30(3)(c)

Add:

; or (v) another person for the purposes of that other person carrying out functions under the *Diesel and Alternative Fuels Grants Scheme Act 1999*;

*[Minister's second reading speech made in—
House of Representatives on 23 September 1999
Senate on 13 October 1999]*

(175/99)