



Fuel Indexation (Road Funding) Special Account Act 2015

No. 103, 2015

An Act to establish the Fuel Indexation (Road Funding) special account, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 103, 2015

An Act to establish the Fuel Indexation (Road Funding) special account, and for related purposes

[Assented to 30 June 2015]

The Parliament of Australia enacts:

Section 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Fuel Indexation (Road Funding) Special Account Act 2015*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	30 June 2015
2. Sections 3 to 15	The provisions do not commence at all unless all of the following have commenced, in which case they commence immediately after the last of the following to commence: (a) section 1 of the <i>Excise Tariff Amendment (Fuel Indexation) Act 2015</i> ; (b) section 1 of the <i>Customs Tariff Amendment (Fuel Indexation) Act 2015</i> .	30 June 2015

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

Section 3

3 Simplified outline of this Act

- This Act sets up the Fuel Indexation (Road Funding) special account.
- The Treasurer may determine that amounts are to be credited to the Fuel Indexation (Road Funding) special account.
- Amounts may be debited from the Fuel Indexation (Road Funding) special account in accordance with the purposes of the Fuel Indexation (Road Funding) special account.
- The purpose of the Fuel Indexation (Road Funding) special account is to ensure that amounts equal to the net revenue from indexation on customs and excise duties on fuel are transferred to the COAG Reform Fund in order to provide funding to the States and Territories for expenditure in relation to Australian road infrastructure investment.
- The Infrastructure Minister is responsible for authorising debits (the amounts of which will be credited to the COAG Reform Fund).

4 Definitions

In this Act:

Appropriation Act means an Act appropriating money for expenditure out of the Consolidated Revenue Fund.

COAG Reform Fund means the COAG Reform Fund established by section 5 of the *COAG Reform Fund Act 2008*.

fuel indexation amount has the meaning given by subsection 9(2).

Fuel Indexation (Road Funding) special account means the Fuel Indexation (Road Funding) special account established by section 7.

fuel tax has the meaning given by the *Fuel Tax Act 2006*.

Section 5

Infrastructure Department means the Department administered by the Infrastructure Minister.

Infrastructure Minister means the Minister who administers the *Infrastructure Australia Act 2008*.

Treasury Department means the Department administered by the Treasurer.

5 Crown to be bound

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

6 Extension to external Territories

This Act extends to every external Territory.

Part 2—Fuel Indexation (Road Funding) special account

Division 1—Establishment of the Fuel Indexation (Road Funding) special account

7 Establishment of the Fuel Indexation (Road Funding) special account

- (1) The Fuel Indexation (Road Funding) special account is established by this section.
- (2) The Fuel Indexation (Road Funding) special account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

Section 8

Division 2—Credits of amounts to the Fuel Indexation (Road Funding) special account

8 Credits to special account—determinations by the Treasurer

- (1) The Treasurer may, by writing, determine that a specified amount is to be credited to the Fuel Indexation (Road Funding) special account on a specified day.

Note: For variation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) In making a determination under subsection (1), the Treasurer must have regard to the purpose of the Fuel Indexation (Road Funding) special account.
- (3) A determination under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.
- (4) For each financial year starting on or after 1 July 2014, the Treasurer must:
 - (a) make one, and only one, determination under subsection (1); and
 - (b) make that determination as soon as practicable after the end of the financial year.

Division 3—Debits of amounts from the Fuel Indexation (Road Funding) special account

9 Purpose of the Fuel Indexation (Road Funding) special account

- (1) The purpose of the Fuel Indexation (Road Funding) special account is to ensure that amounts equal to the fuel indexation amount mentioned in subsection (2) are transferred to the COAG Reform Fund in order to provide funding to the States and Territories for expenditure in relation to Australian road infrastructure investment.
- (2) For the purposes of subsection (1), the *fuel indexation amount* is the difference between:
 - (a) the amount of revenue that is attributable to the indexation of fuel tax from and including 10 November 2014 as a result of the *Excise Tariff Amendment (Fuel Indexation) Act 2015* and the *Customs Tariff Amendment (Fuel Indexation) Act 2015*; and
 - (b) the tax credits, rebates and grants under any of the following that offset the amount mentioned in paragraph (a):
 - (i) the *Energy Grants (Cleaner Fuels) Scheme Act 2004*;
 - (ii) the *Fuel Tax Act 2006*;
 - (iii) the scheme known as the Ethanol Production Grants Scheme.

10 Grants to the States and Territories—channelling of State/Territory grants payments through the COAG Reform Fund

- (1) The purpose of this section is to ensure that amounts in the Fuel Indexation (Road Funding) special account are transferred to the COAG Reform Fund as soon as practicable in order to make grants of financial assistance to the States and Territories for expenditure in relation to Australian road infrastructure investment.
- (2) The Infrastructure Minister may, by writing, direct that a specified amount is to be:

Section 11

- (a) debited from the Fuel Indexation (Road Funding) special account; and
- (b) credited to the COAG Reform Fund; on a specified day.

(3) The direction must be expressed to be given in order to enable the amount to be debited from the COAG Reform Fund for the purpose of making a specified grant of financial assistance to the States and Territories for expenditure in relation to Australian road infrastructure investment.

(4) Two or more directions under subsection (2) may be set out in the same document.

(5) A direction under subsection (2) is not a legislative instrument.

11 Grants to States and Territories—debit from the COAG Reform Fund

Scope

(1) This section applies if:

- (a) the Infrastructure Minister gives a direction under subsection 10(2) for a purpose in relation to a grant of financial assistance to a State or Territory; and
- (b) the amount specified in the direction is credited to the COAG Reform Fund.

Debit from the COAG Reform Fund

(2) The Treasurer must ensure that, as soon as practicable after the amount is credited, the COAG Reform Fund is debited for the purposes of making the grant.

12 Grants to States and Territories

Scope

(1) This section applies if:

Section 12

- (a) an amount is to be debited from the COAG Reform Fund for the purpose of making a grant of financial assistance to a State or Territory; and
- (b) the grant is a grant of financial assistance to the States and Territories for expenditure in relation to Australian road infrastructure investment; and
- (c) the grant is covered by subsection 11(2).

Note: Subsection 11(2) deals with grants channelled through the COAG Reform Fund.

Terms and conditions

- (2) The terms and conditions on which that financial assistance is granted are to be set out in a written agreement between the Commonwealth and the State or Territory.
- (3) An agreement under subsection (2) of this section may be entered into by a Minister on behalf of the Commonwealth.

Section 13

Part 3—Miscellaneous

13 Delegation by the Infrastructure Minister

(1) The Infrastructure Minister may, by writing, delegate any or all of his or her functions under section 10 to:

- (a) the Secretary of the Infrastructure Department; or
- (b) an SES employee, or acting SES employee, in the Infrastructure Department.

Note: The expressions **SES employee** and **acting SES employee** are defined in section 2B of the *Acts Interpretation Act 1901*.

(2) In exercising powers under a delegation, the delegate must comply with any directions of the Infrastructure Minister.

14 Delegation by the Treasurer

The Treasurer may, by writing, delegate any or all of his or her functions under section 11 to:

- (a) the Secretary of the Treasury Department; or
- (b) an SES employee, or acting SES employee, in the Treasury Department.

Note: The expressions **SES employee** and **acting SES employee** are defined in section 2B of the *Acts Interpretation Act 1901*.

15 The rules

The Minister may, by legislative instrument, make rules prescribing matters:

- (a) required or permitted by this Act to be prescribed by the rules; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
House of Representatives on 23 June 2015
Senate on 24 June 2015]*

(124/15)