

EXPLANATORY STATEMENT

CUSTOMS REGULATIONS (AMENDMENT)

STATUTORY RULES 1987 NO. 124

ISSUED BY THE AUTHORITY OF THE MINISTER OF STATE FOR
INDUSTRY, TECHNOLOGY AND COMMERCE

Sections 8 to 11 (inclusive) of the Customs and Excise Legislation Amendment Act 1987 revised the arrangements for the Diesel Fuel Rebate Scheme provided for by section 164 of the Act, as a part of the Government's May Economic Statement. Proclamation of sections 8 to 11 was deferred pending the making of suitable supporting regulations and administrative arrangements.

Sections 8 to 11 (inclusive) of the Customs and Excise Legislation Amendment Act 1987 have been proclaimed to come into operation with effect from 1 August 1987.

This Statutory Rule amends the Customs Regulations ("the Regulations") to introduce the provisions necessary for the revised scheme.

Regulation 1 of the Statutory Rule is a formal machinery provision to refer to the Regulations as the "Principal Regulations".

Regulation 2 of the Statutory Rule provides that the amendments shall come into operation on 1 August 1987, the same day as the proclamation of sections 8 to 11 (inclusive) of the Customs and Excise Legislation Amendment Act 1987.

Regulation 3 of the Statutory Rule omits subregulation 127(7) of the Regulations to remove a restriction which requires an applicant to lodge an application for rebate in respect of diesel fuel within 12 months after the date of purchase.

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Regulation 4 of the Statutory Rule amends regulation 128, which provides for the form in which rebates generally are to be submitted. New subregulation 128D (as to which see regulation 5 of the Statutory Rule, below) separately provides for the form in which applications for rebate in respect of diesel fuel are to be submitted.

Regulation 5 of the Statutory Rule inserts new regulations 128D and 128E into the Regulations.

Subregulation 128D(1) provides for the form in which an application for rebate in respect of diesel fuel must be submitted, and the details which must accompany the application.

Paragraph 128D(1)(a) provides that rebate in respect of diesel fuel is not payable unless the application is in a form approved by the Comptroller, signed in accordance with directions given by the Comptroller, and delivered or posted to a Collector at an address specified by the Comptroller for that purpose.

Paragraph 128D(1)(b) provides that rebate in respect of diesel fuel is not payable unless the application contains such of the following particulars as are specified in subregulation 128D(2):

- (i) the address, telephone number and occupation of the applicant;
- (ii) particulars of the bank account, or other financial account, into which the rebate is to be paid;
- (iii) the quantity in litres of fuel to which the application relates;
- (iv) the eligible usage in respect of which the fuel is eligible for rebate;
- (v) particulars of the activities and operations in which the fuel to which the application relates is to be used, including the location of those activities or operations;

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- (vi) the number of invoices and like documents which accompany the application;
- (vii) particulars of the equipment owned or used by the applicant that is operated on diesel fuel, specifying the equipment is likely to be operated on the fuel to which the application relates;
- (viii) a statement whether any other person is involved, or likely to be involved, in the use of the diesel fuel to which the application relates;
- (ix) the relevant registration numbers of vehicles (other than road vehicles), ships or equipment used by the applicant that is capable of being operated on diesel fuel, and any licence numbers pertinent to such use;
- (xii) the number of road vehicles owned or used by the applicant that operate on diesel fuel, including the make, body type, tare weight and registration number;

Paragraph 128D(1)(c) provides that each application must contain estimates of the applicant's usage of diesel fuel for the 12 months after the date of the application.

Paragraph 128D(1)(d) provides that the applicant must provide such particulars as are required by the Collector relating to the method of calculation of the estimates given in accordance with paragraph 128D(1)(c).

Paragraph 128D(1)(e) provides that the applicant must provide with each application an invoice or invoices, or such like documents, as are provided by the seller of the diesel fuel, containing the following particulars:

- (i) the name of the seller;
- (ii) the name of the purchaser of the fuel;
- (iii) the quantity in litres of the fuel purchased;
- (iv) the date of delivery;
- (v) the point of delivery; and
- (vi) the total amount paid or payable for the fuel;

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Subregulation 128D(2) provides that, in a first application under the Act for rebate in respect of diesel fuel, an applicant shall provide all of the particulars specified in paragraph 128D(1)(b) above - paragraph 128D(2)(a). In relation to a subsequent application, the applicant is only obliged to provide particulars of those details which have changed since the previous application, together with details of the fuel to which that subsequent application relates, the documents accompanying that subsequent application, and diesel fuel used and equipment disposed of and acquired since the previous application - paragraph 128D(2)(b)

Subregulation 128D(3) provides that any alteration appearing on an invoice or like document provided by the applicant, must be certified by the seller of the diesel fuel.

New Regulation 128E prescribes matters for the purposes of paragraph 164(4C)(b) of the Act, being matters that the Collector may have regard to in approving a payment where he is not satisfied that particulars provided in an application, or estimates, are correct. The new regulation prescribes the following matters:

- (a) the type and size of the person's business or premises;
- (b) the quantity of diesel fuel used by another person having a comparable business or premises, and engaged in similar activities and operations to the applicant;
- (c) particulars set out in the application other than particulars of the correctness of which the Collector is not satisfied;
- (d) the method used by the person to estimate the quantity of diesel fuel to which the application relates;
- (e) estimates supplied by the applicant in previous applications.

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