

# **Fuel Sales Grants Amendment Regulations 2000 (No. 1) 2000 No. 368**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2000 No. 368**

Issued by authority of the Assistant Treasurer

*Fuel Sales Grants Scheme Act 2000*

*Fuel Sales Grants Amendment Regulations 2000 (No. 1)*

Section 9 of the *Fuel Sales Grants Act 2000* (the Act) provides that the Governor-General may make regulations prescribing matters required to give effect to the Act.

The purpose of the regulations was to correct an anomaly in existing regulations in order to permit a special rate of grant to be paid under the Fuel Sales Grants Scheme where fuel has sold consistently in a remote area for an amount greater than \$1.20 per litre.

The Act came into effect on 1 July 2000. The legislation was introduced for the purpose of maintaining fuel price relativities between metropolitan and non-metropolitan areas following the introduction of the goods and services tax and the contemporaneous reduction in the excise rate on fuel. Section 8 of the Act provides for the amount of fuel sales grant payable for a grant period to be worked out in accordance with the regulations.

The principal regulations specify that a grant rate of one cent per litre is payable for sales of petrol and diesel to consumers in non-metropolitan areas and that a grant rate of two cents per litre is payable for sales of petrol and diesel in remote areas. The original regulations also provided that where fuel was sold in a remote area for an amount greater than \$1.20 for a litre, the Commissioner of Taxation was able, in a written determination, to set out the circumstances in which a special rate of grant could be paid, and determine the amount payable (Subregulation 6(3)).

However, legal advice was subsequently received that section 8 of the Act, under which the Subregulation 6(3) was made, does not allow a subdelegation of the rule making power. Regulations must contain all of the rules for working out the rate of grant and could not provide for a determination to change or supplement a rule set out in the regulations. As such, Subregulation 6(3) was invalid if it was regarded as allowing a general determination which set out the special rate of grant and the circumstances under which the special rate of grant would be paid.

To resolve this problem this regulation has amended the previous Subregulations 6(2) and 6(3) to prescribe the special rate of grant and the circumstances under which it will be paid.

The regulations provide that the special rate of grant is one cent per litre.

The regulations provide that for the first payment period, a client can claim the special rate of grant for sales of a particular type of fuel if:

a) the client is eligible to claim a grant for sales of that fuel at a site that is in remote zone 2; and

b) the price per litre of that type of fuel at that site has exceeded \$1.20 by one cent or more continually for the preceding four weeks; and

c) competitors in the client's same general location are also selling the same type of fuel for a price per litre that exceeds \$1.20 by one cent or more.

For subsequent payment periods, a client can claim the special rate of grant for sales of that particular type of fuel if:

- a) the price per litre of that type of fuel at that site continues to exceed \$1.20; and
- b) competitors in the client's same general location continue to sell the same type of fuel for a price per litre that exceeds \$1.20.

The regulations provide that if the required conditions in any subsequent payment period are not met then all the prerequisite conditions of the first payment period must be satisfied again to resume entitlement to the special rate of grant.

The regulations commenced on gazettal.