



Excise Amendment Regulations 2011 (No. 1)¹

Select Legislative Instrument 2011 No. 195

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Excise Act 1901*.

Dated 19 October 2011

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

BILL SHORTEN
Assistant Treasurer

1 Name of Regulations

These Regulations are the *Excise Amendment Regulations 2011 (No. 1)*.

2 Commencement

These Regulations commence on the commencement of Schedules 1 and 2 to the *Taxation of Alternative Fuels Legislation Amendment Act 2011*.

3 Amendment of *Excise Regulations 1925*

Schedule 1 amends the *Excise Regulations 1925*.

4 Transitional

The amendments made by Schedule 1 apply in relation to circumstances that first exist on or after the day on which the item commences.

Schedule 1 Amendments

(regulation 3)

[1] After Part II

insert

Part 2A Fuel

49AAA Notice requirements for sales or supplies of LPG to which LPG remission applies — content

- (1) For paragraph 77L (3) (b) of the Act, a notice to which subsection 77L (2) of the Act relates must include the following words:

‘Not to be used, or supplied, for transport use. Penalties apply’.

Note The notice is to be given by a person (described in subsection 77L (2) of the Act as a **supplier**) who sells or supplies LPG to another person.

- (2) The words must be included on the first page of the tax invoice provided by the supplier.

49AAB Circumstances in which notice for sales or supplies of LPG to which LPG remission applies not required

- (1) For subsection 77L (4) of the Act, this regulation sets out circumstances in which a notice is not required to be given by a person under section 77L of the Act.
- (2) A circumstance is that LPG is being supplied in, or into, a container that is capable of containing not more than 210 kilograms of LPG.
- (3) A circumstance is that:
- (a) LPG is being supplied to residential premises (within the meaning of the *Fuel Tax Act 2006*); and

- (b) the LPG is not being supplied, in part or in full, for the purpose of carrying on an enterprise (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*).

49AAC Conversion of measurements of LPG and compressed natural gas

- (1) For the purposes of the Excise Acts, and for the purpose of determining a person's liability to pay duty, if a quantity of LPG:
 - (a) is entered for home consumption as a quantity measured in kilograms; and
 - (b) is not measured using volumetric measurement equipment to calculate the amount of duty;the quantity of LPG may be converted to litres at the rate of 1 kilogram of LPG to 1.885 litres of LPG.
- (2) If:
 - (a) a person's first dealing with a quantity of LPG in a financial year, for the purpose of determining the person's liability to pay duty on LPG in the financial year, uses kilograms or litres; and
 - (b) the person proposes to deal with another quantity of LPG in the same financial year, for the same purpose in the same financial year, using the other unit of measurement;the Commissioner is not required to accept the other unit of measurement, but may give the person permission to use the other unit.
- (3) For the purposes of the Excise Acts, a quantity of compressed natural gas that is measured in megajoules may be converted to kilograms at the rate of 1 megajoule of compressed natural gas to 0.01893 kilograms of compressed natural gas.

[2] Paragraph 50 (1) (c)*substitute*

- (c) if paragraph (ca) does not apply — Excise duty has been paid through manifest error of fact or patent misconception of the law;
- (ca) all of the following apply:
- (i) the goods on which Excise duty has been paid are liquefied petroleum gas, liquefied natural gas or compressed natural gas;
 - (ii) Excise duty has been paid through manifest error of fact or patent misconception of the law;
 - (iii) the person claiming a refund of the Excise duty reasonably believes that the entity to which the goods were sold or supplied considered, at the time of the sale or supply, that Excise duty was not payable on the goods;

[3] Paragraph 76 (1) (c)*omit***[4] Subregulation 77 (1), definition of *excisable goods****omit*

liquefied petroleum gas obtained from unstabilized crude petroleum oil or from naturally occurring petroleum gas,

[5] Schedule 1, after item 7*insert*

- 8 The goods are liquefied natural gas.
- Either:
- (a) at the time the goods are used by a licensed person or a holder of a permission under section 61C of the Act, they are not used in an internal combustion engine in either a motor vehicle or vessel; or

- (b) at the time the goods are delivered by a licensed person or holder of a permission under that section, they are not intended for use in an internal combustion engine in either a motor vehicle or vessel.

The goods are not used for both the purposes of transport and for other purposes.

Excise duty is payable on the goods.

Note These are circumstances in which an automatic remission of excise duty on liquefied natural gas applies for the purposes of section 78 of the Act.

- 9 The goods are liquefied petroleum gas.

Either:

- (a) at the time the goods are used by a licensed person or a holder of a permission under section 61C of the Act, they are not used in an internal combustion engine in either a motor vehicle or vessel; or
- (b) at the time the goods are delivered by a licensed person or holder of a permission under that section, they are not intended for use in an internal combustion engine in either a motor vehicle or vessel.

The goods are not used for both the purposes of transport and for other purposes.

Excise duty is payable on the goods.

Note These are circumstances in which an automatic remission of excise duty on liquefied petroleum gas applies for the purposes of section 78 of the Act.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.