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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

FUEL LEGISLATION AMENDMENT (GRANT AND REBATE SCHEMES)
BILL 2001

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Treasurer, the Hon Peter Costello, MP)

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

| <i>Abbreviation</i> | <i>Definition</i> |
|---------------------|--|
| ATO | Australian Taxation Office |
| Commissioner | Commissioner of Taxation |
| Customs Act | <i>Customs Act 1901</i> |
| DAFGS | Diesel and Alternative Fuels Grants Scheme |
| DAFGSA 1999 | <i>Diesel and Alternative Fuels Grants Scheme Act 1999</i> |
| DFRS | Diesel Fuel Rebate Scheme |
| Excise Act | <i>Excise Act 1901</i> |
| GVM | gross vehicle mass |

General outline and financial impact

Fuel Legislation Amendment (Grant and Rebate Schemes) Bill 2001

This bill amends the Customs Act, the DAFGSA 1999 and the Excise Act to:

- extend the expiry dates of the DAFGS and DFRS from 30 June 2002 to 30 June 2003;
- extend the scope of the DAFGS, insofar as it relates to fuel used by emergency vehicles; and
- make a number of administrative amendments to the DAFGS.

Date of effect: The amendments to be made by this bill, relating to the eligible use of fuel and to grant periods, will commence on a day to be fixed by proclamation. All other amendments will commence from the date of Royal Assent.

Proposal announced: Not announced.

Financial impact: The extension of the expiry dates of the DAFGS and the DFRS will not involve additional expenditure as the DAFGSA 1999 provides for the schemes to be replaced by an Energy Grants (Credits) Scheme from 1 July 2002 that would maintain entitlements equivalent to those under the DFRS and the DAFGS.

The amendment to extend the scope of the DAFGS, in relation to fuel used by emergency service vehicles, will involve a small additional expenditure, estimated at around \$1 million per annum.

Compliance cost impact: The amendments to the expiry dates of the DAFGS and the DFRS and the extension of the DAFGS, in relation to emergency vehicles, will not involve additional compliance costs.

The proposed administrative amendments are intended to reduce the cost of compliance for businesses by simplifying record keeping requirements and claiming arrangements.

Chapter 1

Expiry dates

Outline of chapter

1.1 This chapter explains the amendments to the Customs Act, the DAFGSA 1999 and the Excise Act necessary to extend the expiry dates of the DAFGS and DFRS.

Context of amendments

1.2 The amendments extend the expiry dates of the DAFGS and DFRS from 30 June 2002 to 30 June 2003.

1.3 The DAFGS and DFRS were due to be replaced, on 1 July 2002, by an Energy Grants (Credits) Scheme. The amendments mean the introduction of the Energy Grants (Credits) Scheme will be postponed until 1 July 2003.

Detailed explanation of amendments

Background

1.4 The DFRS provides a rebate for the excise or customs duty which has been paid on locally produced or imported diesel and like fuels purchased for use in certain eligible business activities. These include specific *off-road* uses in mining, primary production, marine and rail transport, at a hospital, nursing home, aged persons home and for certain residential electricity generation.

1.5 The DAFGS provides for grants to be paid for the *on-road* use of diesel and alternative fuels in vehicles over 20 tonnes GVM and in vehicles between 4.5 and 20 tonnes GVM that are used to transport goods and passengers in non-metropolitan areas.

1.6 Both the Customs and Excise Acts provide the legislative basis for the operation of the DFRS. The DAFGSA 1999 provides the legislative basis for the operation of the DAFGS.

1.7 At present, the DAFGS and DFRS have a fixed expiry date of 30 June 2002. These amendments extend the expiry dates of these schemes until 30 June 2003 and allow for claims to be lodged under the schemes before 1 December 2003.

Amendment of the Customs Act

Changes to defined dates

1.8 A defined date of 1 July 2003 will replace the date of 1 July 2002 specified in paragraphs 164(1AB)(a) and (b) of the Customs Act. *[Schedule 1, item 1]*

Amendment of the Excise Act

Changes to defined dates

1.9 A defined date of 1 July 2003 will replace the date of 1 July 2002 specified in paragraphs 78A(1AB)(a) and (b) of the Excise Act. *[Schedule 1, item 7]*

Amendment of the DAFGSA 1999

Changes to defined dates

1.10 A defined date of 1 July 2003 will replace the date of 1 July 2002 specified in subsection 4(1) and section 12. *[Schedule 1, items 2 and 3]*

1.11 A defined date of 1 December 2003 will replace the date of 1 December 2002 specified in subsection 15(1). *[Schedule 1, item 4]*

1.12 A defined date of 30 June 2003 will replace the date of 30 June 2002 specified in subparagraphs 21(d)(ii) and 22(e)(ii). *[Schedule 1, items 5 and 6]*

Chapter 2

Emergency vehicles

Outline of chapter

2.1 This chapter explains the amendments to the DAFGSA 1999, relating to fuel used by emergency vehicles.

Context of amendments

2.2 The amendments extend the scope of the DAFGS, to allow for a grant to be payable on all fuel used in an emergency vehicle with a GVM of 4.5 tonnes or more and any auxiliary equipment carried on that emergency vehicle.

Detailed explanation of amendments

Background

2.3 The DAFGSA 1999 provides the legislative basis for the operation of the DAFGS.

2.4 The DAFGS provides for grants to be paid for the *on-road* use of diesel and alternative fuels in vehicles over 20 tonnes GVM and in emergency vehicles between 4.5 and 20 tonnes GVM that are operated on a public road.

2.5 Currently, emergency service vehicles are only eligible for a grant in respect of on-road travel and are generally excluded from claiming a grant for off-road and stationary use of fuel, including use of fuel used in auxiliary equipment.

2.6 There are practical difficulties for emergency service personnel in keeping records and in identifying the eligible portion of fuel used on-road. The amendments will address these administrative problems.

Amendment of the DAFGSA 1999

Changes to defined terms

2.7 A new subsection to section 5 has been inserted, which states that a reference to fuel used in an emergency vehicle includes the use of fuel in, or in operating, any auxiliary equipment that is carried on the vehicle

and used for a purpose related to the principal purpose of the vehicle.
[Schedule 1, item 9]

2.8 The provisions of subsection 10AD(1) will be amended to allow for the payment of a grant on fuel used in all emergency vehicles over 4.5 tonnes GVM. *[Schedule 1, item 11]*

2.9 The reference in subsection 10AD(2), restricting payment of a grant to fuel used in operating an emergency vehicle on a 'public road', is to be deleted. *[Schedule 1, item 12]*

2.10 A new subsection to section 9 has been inserted, which provides that the provisions relating to vehicles of 20 tonnes or more GVM will not apply to fuel used in an emergency vehicle. *[Schedule 1, item 10]*

Application and transitional provisions

2.11 Section 4 of the DAFGSA 1999 provides that the amendment to emergency vehicles applies to the use of diesel or alternative fuel on or after the day on which the Act received Royal Assent.

Chapter 3

Administrative amendments

Outline of chapter

3.1 This chapter explains the administrative amendments to the DAFGSA 1999 to improve the administration of the DAFGS and reduce the cost of compliance to claimants.

Context of amendments

- 3.2 The amendments will:
- allow DAFGS claimants to authorise a third party to submit claims on their behalf;
 - remove the statutory formula in the DAFGSA 1999 for calculation of eligible fuel use and provide for regulations to be made prescribing alternative methods of calculating eligible fuel in different circumstances;
 - amend the DAFGSA 1999 to extend the period for reconciling and repaying advances from 21 to 28 days; and
 - remove the requirement for DAFGS claimants, who do not claim an advance, to nominate a specific grant period.

Detailed explanation of amendments

Background

3.3 The DAFGSA 1999 provides the legislative basis for the operation of the DAFGS.

3.4 The amendments will facilitate the introduction of electronic lodgement of claims, by allowing claimants to authorise a third party to submit claims on their behalf.

3.5 The DAFGSA 1999 contains a statutory formula for calculation of eligible fuel use. The statutory formula does not facilitate the calculation of eligible fuel usage in all circumstances. The amendments remove the statutory formula and provide for regulations to be made prescribing alternative methods of calculating fuel usage.

3.6 In relation to advances under the DAFGS that have not been repaid or reconciled, a client will be liable for repayment of the advance after 28 days, instead of the current 21 days. This amendment will provide for greater consistency across a number of payment schemes administered by the ATO.

3.7 All claimants for the DAFGS are currently required to nominate a specified claim period. The amendment removes this requirement for claimants who do not claim an advance, allowing them to claim the grant when it suits their requirements.

Amendment of the DAFGSA 1999

Changes to defined terms

3.8 Subsection 15(4), which defines an electronic signature, will be repealed. The defined term ‘electronic signature’ will be inserted in section 5. *[Schedule 1, items 8 and 18]*

Formula for calculating eligible fuel

3.9 Section 10B will be repealed and a new section inserted, that provides for regulations prescribing one or more methods of calculating eligible fuel usage. A reference to the new regulations will be inserted in paragraph 11(1)(a). *[Schedule 1, items 13 and 14]*

Advances of fuel grants

3.10 Section 14A will be amended to reflect the increased period of 28 days for repayment of an advance. *[Schedule 1, item 17]*

Authority for a third party to make claims

3.11 New section 15AA will be inserted to provide for DAFGS claimants to apply to the Commissioner of Taxation (Commissioner) for permission to authorise a third party to make claims on their behalf. *[Schedule 1, item 19]*

Reviewable fuel grants decisions

3.12 Section 55 will be amended to make a decision to refuse to grant an application under subsection 15AA(1) a ‘reviewable fuel grants’ decision. *[Schedule 1, item 21]*

Grant periods

3.13 Section 14, which currently requires a claimant to nominate an approved grant period, will be repealed and replaced with a provision that allows a claimant to make a claim for any period specified in the claim. The provision allows the Commissioner to determine the grant period

applying to applications for advances and make a determination specifying a minimum amount in respect of which a claim can be made and/or the minimum period that a claim must cover. *[Schedule 1, item 15]*

Application and transitional provisions

3.14 The amendments to section 10B, paragraph 11(1)(a) and sections 14 and 16 will take effect on a day to be fixed by proclamation.

3.15 Section 16 provides that the amendment to section 14 only applies in respect of a period that has not been subject to a claim and does not affect any claim that has already been lodged.

3.16 There are no transitional provisions for the other amendments.

