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Bills Digest

No. 75 2001–02

Fuel Legislation Amendment (Grant and Rebate  
Schemes) Bill 2001

ISSN 1328-8091

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Published by the Department of the Parliamentary Library, 2001

I N F O R M A T I O N   A N D   R E S E A R C H   S E R V I C E S

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No. 75 2001–02

Fuel Legislation Amendment (Grant and Rebate Schemes)  
Bill 2001

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23 October 2001

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# Fuel Legislation Amendment (Grant and Rebate Schemes) Bill 2001

**Date Introduced:** 20 September 2001

**House:** House of Representatives

**Portfolio:** Treasury

**Commencement:** The amendments dealing with the eligible use of fuel and grant periods will begin on a day to be fixed by proclamation. All other amendments will begin on the date the Bill receives the Royal Assent.

## Purposes

The Bill has four main purposes:

- to extend the Diesel Fuel Rebate Scheme beyond its expiry date of 30 June 2002 to 30 June 2003
- to extend the Diesel and Alternative Fuels Grants Scheme beyond its expiry date of 30 June 2002 to 30 June 2003
- to extend the application of the Diesel and Alternative Fuels Grants Scheme to fuel used in auxiliary equipment of emergency vehicles, and
- to make a number of changes to the administration of the Diesel and Alternative Fuels Grants Scheme to simplify record keeping requirements and arrangements for claiming grants.

## Background

The Diesel Fuel Rebate Scheme and the Diesel and Alternative Fuel Grants Scheme are schemes whereby the Commonwealth subsidises the use of diesel and certain other fuels used principally by businesses but also by certain other users.

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## The Diesel Fuel Rebate Scheme

The Diesel Fuel Rebate Scheme (DFRS) provides a rebate of the excise paid on diesel used in specified activities. Since 1 July 2000, the use of diesel (and like fuels) in the following activities has been eligible for rebate subject to certain exemptions:

- mining operations (use of any vehicle on a public road is not eligible)
- primary production, being forestry, agriculture and fishing (use of a road vehicle on a public road is not eligible)
- at residential premises to generate electricity in the provision of normal domestic services
- at hospitals, nursing homes, homes for the aged and any other institution providing medical or nursing care
- rail transport (otherwise than for the purpose of propelling a road vehicle on a public road) in the course of carrying on an enterprise, and
- marine transport (otherwise than for the purpose of propelling a road vehicle on a public road) in the course of carrying on an enterprise.

Rebate rates are adjusted to take account of movements in the consumer price index. The amount of rebate paid is based on an average of the rates applying in the six months before the claim for rebate is lodged. The rate of rebate depends on the rate of excise. For example, in September 2001, the rebate for 'diesel and like fuels' subject to excise of \$0.38143 per litre was also \$0.38143 per litre, whereas the rebate for 'like fuels' that attract the lower rate of excise duty was \$0.07557 per litre.

The legislative authority for the DFRS is section 78A of the *Excise Act 1901*, section 164 of the *Customs Act 1901*, and the regulations under those Acts.

## The Diesel and Alternative Fuels Grants Scheme

Under the Diesel and Alternative Fuels Grants Scheme (DAFGS), the Commonwealth government pays grants for the business-related on-road use of diesel (and like and alternative fuels) in all vehicles over 20 tonnes gross vehicle mass (GVM), and in vehicles weighing between 4.5 and 20 tonnes GVM operating in regional areas.<sup>1</sup> The grant from 1 February 2001 was 18.510 cents per litre. The grant reduces the 'effective' diesel excise to around 20 cents a litre for business users operating in regional areas. In contrast, businesses making non-eligible journeys in metropolitan areas pay the full amount of excise of around 38 cents.

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The Scheme's origins lie in the Government's proposals for the taxation of diesel contained in *A New Tax System* (ANTS). Under ANTS, the Government proposed to reduce the tax on diesel. This proposal had two elements:

- a reduction (of about seven cents) in the amount of excise to 36 cents per litre, and
- a 'GST credit' equal to 'around half the excise paid on the diesel'.<sup>2</sup>

The effect of these two elements would have been to reduce the 'effective' rate of excise on diesel from 43 cents to 18 cents per litre. The proposal would apply to vehicles weighing over 3.5 tonnes and to railways. Vehicles weighing less than 3.5 tonnes would receive a GST credit 'equal to the GST paid' on the diesel they used.

The refusal of the Senate to pass the ANTS legislation led to the agreement—announced on 28 May 1999—between the Government and the Australian Democrats, which modified the ANTS proposal in a number of important respects. In particular, the Government converted the proposed diesel fuel credit scheme into the DAFGS.

Legislative authority for the DFRS is the *Diesel and Alternative Fuels Grants Scheme Act 1999* (DAFGS Act).

## Energy Grants (Credits) Scheme

Section 4 of the DAFGS Act states the Government's intention to replace both the DAFGS and the DFRS with an Energy Grants (Credits) Scheme (EGCS) to start on 1 July 2002 or earlier. In particular, subsection 4(2) states:

The purpose of the Energy Grants (Credits) Scheme will be to provide active encouragement for the move to the use of cleaner fuels by measures additional to those under this Act, while at the same time maintaining entitlements that are equivalent to those under this Act and the Diesel Fuel Rebate Scheme, including for the use of alternative fuels.

No details of the EGCS have been released.

## Fuel Taxation Inquiry and Timing

On 8 July 2001, the Government announced an inquiry into the taxation of fuels.<sup>3</sup> The inquiry will examine, among other things, the proposed EGCS. The inquiry is to report in March 2002. If the Government were to proceed as originally intended, only three months would elapse between the fuel taxation inquiry's reporting deadline and the implementation of the EGCS. Given that the taxation of fuel and the EGCS are very complex issues, the three month period would, in all likelihood, have been too short to allow the government to consider the inquiry's report and formulate its response, let alone make any changes to the legislation for the EGCS. The proposed amendments in the Bill

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will provide 'breathing space' for the Government to consider the inquiry's recommendations, formulate its policy response, and draft legislation to give effect to that policy.

### Position of significant interest groups and party positions

With the deadline for implementing the EGCS approaching, the recipients of the rebates and grants have been pressing for details of the EGCS. For example, the Australian Trucking Association, whose members receive grants under the DAFGS, has been campaigning to ensure that the Government adheres to its undertaking to maintain entitlements. The Association has also been pressing all political parties to state their positions.<sup>4</sup>

The Labor Party has promised to extend the DAFGS for 12 months from June 2002. Labor also pledged that the energy credit scheme and arrangements would maintain the equivalent benefits to the trucking industry available under the DAFGS.<sup>5</sup>

In May 2001, Australian Democrats Senator, Lyn Allison, issued a draft discussion paper on the EGCS, which examines a range of options for the proposed scheme. On 8 July 2001, Senator Allison noted that the reporting date of the fuel taxation inquiry gave little time before the start of the EGCS.<sup>6</sup>

## Main Provisions

### Schedule 1

**Proposed sections 1-3 and 7** change the dates in the relevant Acts to ensure that the new start date for the EGCS becomes 1 July 2003. For example, section 78A of the *Excise Act 1901* is the legislative authority for the DFRS. **Proposed section 7** would change section 78A so that the new start date for the EGCS is 1 July 2003. **Proposed section 4** changes the deadline for making a claim under the DAFGS from 1 December 2002 to 1 December 2003. **Proposed sections 5 and 6** change the dates for disqualification for fraud of the DAFGS from 30 June 2002 to 30 June 2003.

**Proposed section 8** adds a definition of 'electronic signature' to the terms used in the DAFGS Act.

**Proposed sections 9 to 12** seek to ensure that all fuel used in emergency vehicles with a GVM of 4.5 tonnes or more, and in auxiliary equipment that such vehicles carry or use, is eligible for grant.

- **Proposed section 9** adds subsection 5(2) to DAFGS Act. This extends the definition of fuel used in emergency vehicles to include fuel used in auxiliary equipment that the vehicle carries or uses. This has the effect of ensuring that fuel used in auxiliary equipment becomes eligible for grant.

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- Existing section 9 of the DAFGS Act relates to vehicles weighing 20 tonnes or more. It requires, among other things, that such vehicles be used in an 'enterprise' and on a 'public road'. **Proposed section 10** makes emergency vehicles exempt from existing section 9
- **Proposed section 11** makes eligible for grant all fuel used in emergency vehicles weighing 4.5 tonnes or more.
- Currently, for fuel used in an emergency vehicle to be eligible for grant, the vehicle must have travelled on a public road. **Proposed section 12** deletes the public road requirement.

The remaining proposed sections contain various administrative amendments. One amendment is the proposal to allow greater flexibility in the way 'eligible fuel use' is calculated. Currently, section 10B of the DAFGS Act contains a formula for calculating eligible fuel use. Judging by the discussion in paragraph 3.2 of the Explanatory Memorandum, this formula is not suitable for all circumstances. **Proposed sections 13 and 14** provide for the repeal of existing section 10B and its replacement with a new section 10B that provides for regulations to be made that prescribe one or more methods. The methods can differ depending on the kind of claim or the circumstances in which the claim is made or both.

**Proposed section 15** relates to grants periods. The proposal repeals section 14 of the DAFGS Act and substitutes a provision that allows the Commissioner of Taxation to determine the grant period applying to applications for advances, and to make a determination of the minimum amount in respect of which a claim can be made or the minimum period that a claim must cover or both.

## Endnotes

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- 1 The Digest is at <http://www.aph.gov.au/library/pubs/bd/1999-2000/2000BD034.htm>
- 2 The GST credit should not be confused with the 'input tax credit' under which businesses are able to claim the GST paid on fuel used for business purposes.
- 3 See Hon. P. Costello and Senator the Hon. N. Minchin, 'Fuel taxation Inquiry', Treasurer's Press Release No. 50, 8 July 2001. For an analysis of some of the issues in fuel taxation, see R. Webb, 'Some Issues in Fuel Taxation, Department of the Parliamentary Library, Current Issues Brief, No. 2, 2001-02 at <http://www.aph.gov.au/library/pubs/cib/2001-02/02cib02.htm>
- 4 See Australian Trucking Association at <http://www.trucknbus.com.au/ata/national.cfm>
- 5 See Martin Ferguson, Shadow Minister for Transport, Media Statement, 31 August 2001 at <http://www.alp.org.au/media/0801/mfmsfuel310801.html>
- 6 Senator Lyn Allison, 'Cautious welcome for petrol inquiry', Media Release 01/405, 8 July 2001 at <http://www.democrats.org.au/media/display.htm?id=1507>

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