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Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003

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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. 120 2002–03

Energy Grants (Credits) Scheme (Consequential
Amendments) Bill 2003

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28 February 2003

Contents

Purpose	1
Background	1
Main Provisions	2
Schedule 1: Amendment of the Product Grants and Benefits Administration Act 2000 . . .	2
Part 4A—Public and private rulings	3
Part 5—Record-keeping requirements etc.	3
Schedule 2—Repeal of the Diesel and Alternative Fuels Grants Scheme Act 1999	3
Schedule 4—Amendment of the Excise Act 1901.	3
Schedule 7—Transitional extension of Energy Grants (Credits) Scheme	4

Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003

Date Introduced: 13 February 2003

House: House of Representatives

Portfolio: Treasury

Commencement: 1 July 2003

Purpose

To amend or repeal seven Acts consequent to the enactment of the Energy Grants (Credits) Scheme.

Background

As discussed in the companion Bills Digest for the Energy Grants (Credits) Scheme Bill 2003 (Bills Digest No. 119, 2002–03), the Energy Grants (Credits) Scheme [EG(C)S] will replace the Diesel and Alternative Fuels Grants Scheme (DAFGS) and the Diesel Fuel Rebate Scheme (DFRS). The basis of the policy commitment, the positions of interest groups/press commentary, pros and cons, and ALP/Australian Democrat/Greens policy positions are discussed in that Bills Digest.

The implementation of the EG(C)S affects seven Acts:

- [A New Tax System \(Australian Business Number\) Act 1999](#)
- [Customs Act 1901](#)
- [Diesel and Alternative Fuels Grants Scheme Act 1999](#)
- [Excise Act 1901](#)
- [Income Tax Assessment Act 1936](#)
- [Product Grants and Benefits Administration Act 2000](#) and

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- [Taxation Administration Act 1953](#).

Main Provisions

The Bill is arranged such that each of **Schedules 1 to 5** deals with the amendments to a particular Act while **Schedule 6** deals with two Acts [*A New Tax System (Australian Business Number) Act 1999* and the *Income Tax Assessment Act 1936* (ITAA 1936)]. **Schedule 7** contains transition provisions.

Schedule 1: Amendment of the *Product Grants and Benefits Administration Act 2000*

Schedule 1 amends the Product Grants and Benefits Administration Act (PGBAA). To be able to claim a grant under the EG(C)S, claimants must be registered. Section 9 of the PGBAA deals with registration requirements. They include, among other things, that applicants who wish to be registered must have an ABN [paragraph 9(2)(a)]. **Item 6** repeals paragraphs 9(2)(a) to (c) and substitutes **proposed new paragraphs (a) to (d)** to allow, among other things, the registration of applicants who do not have an ABN and are not entitled to have one. To register, such applicants must provide evidence of identity and address, where the Commissioner of Taxation determines the kind of evidence.

Item 7 repeals subsections 9(4) and 9(5) and substitutes **proposed new subsection 9(4)**, which deals with specific registration requirements for energy grants. To register for an energy grant, applicants must notify the Commissioner that they are buying energy grants scheme fuel for a particular use or uses that, when applicants are registered, will entitle applicants to receive a grant in respect of that fuel.

Section 13 of the PGBAA allows the Commissioner to make an advance on account of a grant or benefit that may become payable while section 14 allows the Commissioner to formulate guidelines concerning advances. **Item 10** adds a **new subsection 14(1A)** that provides that the guidelines can include circumstances under which the Commissioner is not to pay advances.

Section 15 of the PGBAA provides that applicants for grants must make a claim before they can receive a grant. It further provides [paragraph 15(2)(a)] that the claim *must* relate to all the goods in respect of which applicants are entitled to a grant or benefit for the claim period in question. **Item 12** substitutes 'may' for 'must'. This seems to allow claims to encompass some as distinct from all of the goods in respect of which a grant is payable.

Section 19 provides that the Commissioner must issue a notice of an assessment. **Item 17** amends subsection 19(1) so that it reads:

Except where the assessment is that you are entitled to the full amount of the grant or rebate claimed, the Commissioner must give you notice of an assessment as soon as

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practicable after the assessment is made. However, failing to do so does not affect the validity of the assessment.

This seems to limit the circumstances under which the Commissioner must issue a notice of an assessment to cases where the claimant is entitled to less than the amount claimed.

Part 4A—Public and private rulings

Proposed Part 4A deals with public and private rulings. In essence, this Part extends the system of public and private rulings in the [Income Tax Assessment Act 1997](#) to the EG(C)S. The implications are discussed in paragraphs 3.20 to 3.36 of the Explanatory Memorandum.

Part 5—Record-keeping requirements etc.

Proposed Part 5 deals with record keeping requirements. (The reference to sections 225 and 255 of the Energy Grants (Credits) Scheme Bill 2003 in paragraph 3.37 of the Explanatory Memorandum should be to **proposed sections 49 and 55**, which deal with disqualifying use).

Section 27 of the PGBAA deals with post-claim record-keeping requirements. **Item 23** adds **proposed section 27A**. In short, this provides that the claimant, having made a claim for the use of fuel but does subsequently does not use the fuel for an eligible activity, must inform the Commissioner. The purpose of this section seems to be to ensure that claims relate only to the eligible use of fuel.

Schedule 2—Repeal of the *Diesel and Alternative Fuels Grants Scheme Act 1999*

Schedule 2 deals with the repeal of the DAFGS Act and transitional provisions. **Item 1** repeals this Act.

Item 2 provides that claims already made under the DAFGS Act will continue as if the Act had not been repealed. This provision ensures that claims are not rejected on account of the ending of the DAFGS. Item 2 further provides that claims for fuel used before 1 July 2003 can be made between 1 July 2003 and 30 November 2003, provided that no claim has already been made. This seems to be aimed at ensuring that claimants who have not submitted claims by 1 July 2003 are not disadvantaged.

Schedule 4—Amendment of the *Excise Act 1901*

Items 1 to 24 in **Schedule 3** remove from the Customs Act redundant wording relevant to the DFRS. **Item 25** continues claims made before 1 July 2003 as if the above sections had not been repealed. Further, item 25 allows claims to be made in the five-month period

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beginning 1 July 2003 for fuel used before 1 July 2003. **Schedule 4** similarly amends the Excise Act.

Schedule 7—Transitional extension of Energy Grants (Credits) Scheme

Item 1 in **Schedule 7** contains transitional arrangements relating to entitlements. The DFRS and DAFGS have sunset provisions that allow entitlements to expire. Item 1 treats claimable fuel bought between 1 July 2000 and 30 June 2003 as if it were bought under the EG(C)S. Claimants can claim an energy grant provided they have not already made a claim under the DFRS or the DAFGS.

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