



Excise Legislation Amendment (Condensate) Bill 2008

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Excise Legislation Amendment (Condensate) Bill 2008

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House: House of Representatives

Portfolio: Treasury

Commencement: On date of the Royal Assent.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of the Bill, in conjunction with the Excise Tariff Amendment (Condensate) Bill 2008, is to impose excise on condensate, which is currently excise-free.

Background

Condensate is a light crude oil. It is extracted from so-called ‘wet’ gas, and is processed mainly to produce petrol. Whereas some crude oil—technically called ‘stabilised crude petroleum oil’—is subject to excise, condensate is excise-free. The exemption of condensate from excise was introduced in the 1977-78 Budget when the then Treasurer, the Hon. Phillip Lynch, announced:

The levy will not apply to condensate marketed separately from a crude oil stream; such condensate may now be sold at commercially negotiated prices. Nor will the levy apply to liquefied petroleum gas fields not yet in production. This will assist the marketing of L.P.G. and condensate from fields already discovered but not yet developed in the North West Shelf and the Cooper basin. Condensate sold commingled in a crude oil stream will continue to be treated as crude oil for pricing and levy purposes.¹

The exemption was intended to encourage the development of the liquefied natural gas industry in the North West Shelf.

1. Hon. Phillip Lynch, Treasurer, Budget Speech 1977-78, pp. 23–24.

Warning:

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For further background, the reaction of the industry to the proposal, arguments for and against the proposal, and financial implications, see the [Bills Digest](#) for the Excise Tariff Amendment (Condensate) Bill 2008.²

Main provisions

Part 1 of the Schedule of amendments in the Bill contains provisions which amend the *Excise Act 1901* (the Excise Act), the *Petroleum Excise (Prices) Act 1987* (the Petroleum Excise Prices Act), and the *Petroleum Revenue Act 1985* (the Petroleum Revenue Act). **Part 2** of the Schedule of amendments contains application and transitional provisions.

The amendments to the Petroleum Excise Prices Act are intended to ensure the method for determining the price of condensate for calculating the crude oil excise payable in relation to the production of condensate is the same as the method for determining the price of stabilised crude petroleum oil. The amendments to the Excise Act and the Petroleum Revenue Act are intended to ensure consistency of the treatment of condensate with stabilised crude petroleum oil for the purposes of the crude oil excise.³

Items 1 to 3 amend the Excise Act.

Item 3 inserts **proposed section 164A**. Under **proposed subsection 164A(1)** regulations relating to condensate are able to take effect from a date before the regulations are registered under the *Legislative Instruments Act 2003*. However this does not apply in circumstances where the regulations create, modify or otherwise affect a provision that makes a person liable to an offence or civil penalty: **proposed subsection 164(2)**. Although the Explanatory Memorandum for the Bill notes this amendment (and the similar one made by **item 6** below), it does not appear to provide any policy rationale for the need for relevant regulations to take effect before registration.⁴

Items 4 to 10 amend the Petroleum Excise Prices Act.

Item 5 inserts a new definition of ‘excisable condensate’ in existing subsection 4(1).

Item 6 inserts **proposed subsection 4(1C)**. Like **proposed subsection 164A(1)**, it provides that regulations relating to condensate are able to take effect from a date before the regulations are registered under the *Legislative Instruments Act 2003*. However this does not apply in circumstances where the regulations create, modify or otherwise affect a

2. Richard Webb, Excise Tariff Amendment (Condensate) Bill 2008, *Bills Digest No. 114, 2007–08*, Parliamentary Library, Canberra, Australia, 27 May 2008.

3. Explanatory memorandum, p. 11.

4. *Ibid.*, p. 14.

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provision that makes a person liable to an offence or civil penalty: **proposed subsection 4(1D)**.

Item 7 inserts **proposed Part IA—Determination of prices for condensate**.

Proposed subsection 5(1) provides that the purpose of **Part IA** is to allow the Minister to establish prices of condensate, which are used in imposing excise on condensate. It does so partly by treating references to excisable crude petroleum oil as if they were references to excisable condensate: **proposed paragraph 5(2)(a)** and as if references to stabilised crude petroleum oil, crude petroleum oil and oil were references to condensate: **proposed paragraph 5(2)(b)**.

Proposed section 5A of Part IA extends the Petroleum Excise Prices Act to enable interim and final VOLWARE prices to be set for condensate.⁵ It does so by treating:

- references to ‘excisable crude petroleum oil’ as references to ‘excisable condensate’: **proposed subsection 5(2)** and
- references to ‘stabilised crude petroleum oil’ ‘crude petroleum oil’ and ‘oil’ as references to condensate: **proposed subsection 5(3)**.

Items 11 and 12 contain consequential amendments to the Petroleum Revenue Act

Subitem 13(1) provides that the amendments to the Excise Act, the Petroleum Excise Prices Act, and the Petroleum Revenue Act in **Schedule 1** of the Bill come into effect on midnight, 13 May 2008, Australian Capital Territory time.

Subitem 13(2) gives condensate producers a grace period of three months during which time the producers do not have to provide information which they would otherwise have to provide under subsections 6(1A) to 6(1G) and 7(3A) of the Petroleum Excise Prices Act.

Item 14 also provides a grace period as a transitional measure. In this case, the grace period applies to a person who does not have a licence to manufacture condensate. During the grace period, the person is allowed to enter condensate for home consumption thus allowing excise to be imposed on the condensate. The purpose of this provision is to allow condensate producers, who previously did not have to enter condensate for home consumption because it was excise-free, to apply for a manufacturer’s licence.

5. The value of sales of a quantity of condensate etc is known as VOLWARE (or ‘volume-weighted average realised price’).

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