



Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2010

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Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2010

Date introduced: 2 February 2010

House: House of Representatives

Portfolio: Home Affairs

Commencement: The main operative sections (Schedule 1) commence on 1 July 2011 provided that section 3 of the *Carbon Pollution Reduction Scheme Act 2010*¹ commences before 1 July 2011. All other sections commence on the day of 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 is to ensure that reductions in fuel excise, resulting from the government's commitment to cut fuel taxes to offset the initial effect on fuel prices of the Carbon Pollution Reduction Scheme (CPRS), also apply to the customs tariffs (duty) on imported fuels.

Background

Reintroduction of the Carbon Pollution Reduction Scheme Bills and this Digest

This is the third time this form of Bill, as part of the eleven-Bill Carbon Pollution Reduction Scheme (CPRS) legislative package, has been introduced into Parliament.

The Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 (the original Bill), along with nine other CPRS Bills, was first introduced into Parliament on 14 May 2009. On 28 May 2009, an eleventh Bill was introduced which completed the package. All the CPRS Bills were passed by the House of Representatives on 4 June 2009—with government amendments made to some of the Bills. On 13 August 2009, the Senate voted down all of the Bills at second reading.

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1. This Act will come into force upon the passage of the Carbon Pollution Reduction Scheme Bill 2009 [No. 2], as that Bill has been titled by the House of Representatives Table Office.

Warning:

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Following this, the Customs Tariff Amendment (Carbon Pollution Reduction Scheme) [No. 2], along with the other Bills in the CPRS package, was re-introduced into Parliament on 22 October 2009.² They were passed unamended by the House of Representatives on 17 November 2009, thus satisfying the three month 'waiting period' required under the double dissolution provisions of the Constitution.³ The package of Bills was introduced into the Senate on 17 November 2009. Following much negotiation, on 24 November 2009, the Government released amendments to a number of the Bills, and these were subsequently adopted by the Senate Committee of the Whole. However, following the Liberal party leadership spill on 1 December 2009, the new leader of the Coalition, the Hon. Tony Abbott, stated that he would seek to have Senate consideration of the CPRS Bills delayed until Parliament reconvened in 2010 or, in the absence of a delay, vote against the Bills at that time. With no delay forthcoming, on 2 December 2009, the Senate voted down the CPRS Bills for a second time. This provided the government with a trigger to call for a double dissolution election.

The CPRS Bills, including the Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2010, were again re-introduced into Parliament on 2 February 2010 and passed the House of Representatives on 11 February 2010. The content of the Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2010 (the current Bill) differs slightly from the original Bill and from Bill [No. 2]. **The Digest for the current Bill highlights these changes.**

Fuel and the CPRS

The Rudd Government made the commitment to cut fuel taxes in its CPRS White Paper.⁴ The government expects that the CPRS will result in higher fuel prices, and proposes to cut fuel taxes to offset the initial effects of the CPRS on prices. In essence, the proposal is a form of adjustment assistance to fuel users. The proposals to reduce fuel excise are contained in the Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2010. For further background and information on the excise proposals, see the Bills Digest for that Bill.

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2. These 'No.2' Bills contained the amendments made to the original Bills by the House of Representatives and passed by that House of 4 June 2009. As noted above, not all of the original Bills were amended. The Customs Tariff Amendment (Carbon Pollution Reduction Scheme) was amongst those that were unamended. As such, the Digest for Bill [No. 2] was unchanged from the [Digest](#) produced in June for the original Bill.
 3. Section 57 of the Australian Constitution.
 4. Department of Climate Change, *Carbon Pollution Reduction Scheme: Australia's Low Pollution Future*, December 2008. pp. 17–16 and 17–17, viewed 28 October 2009, <http://www.climatechange.gov.au/en/publications/cprs/white-paper/cprs-whitepaper.aspx> .

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Tariffs (customs duties) on imports are set at the same levels as excises on comparable domestically-produced goods. A lower rate of excise than customs duty on a good would amount to 'protection' for local producers of that good. The Bill seeks to ensure that any excise reductions are also incorporated into reduced customs tariffs. As with the excise proposals, the Bill provides for:

- a reduction, on 1 July 2011, of 2.455 cents per litre in the general rate of customs duty on fuels (38.143 cents per litre) to 35.688 cents per litre for one year
- if warranted, further customs duty reductions on five 'rate-reducing' days with the first additional reduction beginning on 1 July 2012 and last on 1 July 2014, and
- the amount of the reductions will depend on how much emissions permit auction prices have increased.

This Bills Digest should be read in conjunction with the related Bills Digest for the Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2010.

Details of the proposed Carbon Pollution Reduction Scheme are set out in the Bills Digest for Carbon Pollution Reduction Scheme Bill 2010.

Committee consideration

The original Bill, along with the others in the CPRS package, was referred to the Senate Standing Committee on Economics for inquiry and report by 15 June 2009. Details of the inquiry are at

http://www.aph.gov.au/senate/committee/economics_ctte/cprs_2_09/index.htm

Financial implications

The Explanatory Memorandum does not identify separately the financial consequences of the Bill. Rather, it shows the estimated combined consequences of the Bill and related Bills as shown below.

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	2009-10	2010-11	2011-12	2012-13	2013-14
Revenue (\$m)					
Australian Customs and Border Protection Service	–	–	–\$30m	–\$60m	–\$60m
ATO	–	–	–\$1 150m	–\$3 110m	–\$3 500m
Total	–	–	–\$1 180m	–\$3 170m	–\$3 560m
Expense (\$m)					
ATO	–	–	–\$160m	–\$940m	–\$1 000m
Total	–	–	–\$160m	–\$940m	–\$1 000m

Source: Explanatory Memorandum, p. 8.

Main provisions

Schedule 1—Amendment of the Customs Tariff Act 1995

Schedule 1 of the Bill amends the [Customs Tariff Act 1995](#) (the Customs Tariff Act).

Item 1 inserts a **new section 19A**. **Proposed subsection 19A(1)** provides for the substitution of a new customs tariff rate by allowing for, on a ‘*rate-reducing day*’,⁵ the lowering of an existing rate of customs duty (the ‘designated amount’) by the amount of a ‘*rate reduction*’.⁶

Proposed subsection 19A(2) defines ‘designated amount’ to mean \$0.35688 (that is, the amount from 1 July 2011):**paragraph 19A(2)(a)** or, if another amount has been previously substituted, that substituted amount: **paragraph 19A(2)(b)**. This means that, under **proposed paragraph 19A(2)(b)**, the designated amount can be an amount that was inserted on a rate-reducing day.

Proposed subsection 19A(3) provides for the alteration of the customs tariff rates applying to different fuels, as set out in various schedules of the Customs Tariff Act, in accordance with **proposed subsection 19A(2)**.

Item 2 contains bulk amendments which substitute the first revised rate (that is, the \$0.35688 per litre applying from 1 July 2011) into the customs tariff schedule which lists all the goods subject to duty and the respective rates of duty.

5. This term has the same meaning as in proposed section 6AA of the *Excise Tariff Act 1921*.

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Item 3 is an applications provision which provides, for the absence of doubt, that the rate amendments in item 2 apply only to goods imported into Australia on or after 1 July 2011 and goods imported into Australia before that date where the time for working out the import duty on the goods had not occurred before that date.

Schedule 2—Amendment of the Customs Tariff Amendment (ASEAN-Australia-New Zealand Free Trade Agreement Implementation) Act 2009

The current Bill adds a **new Schedule 2**. The Explanatory Memorandum explains the reason for this provision as follows:

Schedule 2 amends the *Customs Tariff Amendment (ASEAN-Australia-New Zealand Free Trade Agreement Implementation) Act 2009* (Act No. 98 of 2009) (ASEAN FTA Act). The commencement provisions of this Act contain a reference to the *Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Act 2009*. The amendment in Schedule 2 replaces '2009' with '2010', so that the ASEAN FTA Act correctly refers to the *Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Act 2010*. [*Schedule 2, item 1, Customs Tariff Amendment Bill*].⁷

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7. Explanatory Memorandum, p. 16.

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