



## Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2010

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### Contents

Purpose.....	2
Background.....	2
Reintroduction of the Carbon Pollution Reduction Scheme Bills and this Digest.....	2
Fuel and the CPRS.....	3
Basis of policy commitment.....	4
Committee consideration.....	4
Position of significant interest groups/press commentary.....	4
Financial implications.....	5
Standing appropriations.....	5
Main provisions.....	5
Schedule 1—Amendments.....	5
Concluding comments.....	6

## **Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2010**

**Date introduced:** 2 February 2010

**House:** House of Representatives

**Portfolio:** Treasury

**Commencement:** The main operative sections (Schedule 1) commence when section 2-1 of the proposed Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Act 2010 commences.<sup>1</sup> 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**

To amend the *Fuel Tax Act 2006*, the *Income Tax Assessment Act 1997* and the *Taxation Administration Act 1953* consequent to the introduction of the proposed Carbon Pollution Reduction Scheme (CPRS) fuel credits scheme.

### **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 Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Consequential Amendments) Bill 2009 (the original Bill), along with the Carbon Pollution Reduction Scheme Bill 2009 and 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

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

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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.

Following this, the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 [No. 2], along with the other Bills in the CPRS package, was re-introduced into Parliament on 22 October 2009.<sup>2</sup> 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.<sup>3</sup> 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, including the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 [No. 2], 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 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 Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2010, were again reintroduced into Parliament on 2 February 2010 and passed the House of Representatives on 11 February 2010. The content of the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) 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 implementation of the CPRS is likely to result in a rise in the price of fuels such as petrol and diesel. To help businesses adjust to the price rises, the government pledged to provide temporary assistance. This will take the form of a reduction in fuel excise, which will offset the expected rise in fuel prices.

Under the *Fuel Tax Act 2006*, eligible businesses receive ‘fuel tax credits’ which offset, fully or in part, the excise on fuel that they use. These businesses would not, therefore,

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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 Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 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.

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benefit from the proposed excise reductions. To assist these businesses, the government proposes to establish the ‘CPRS fuel credit’ program. This will provide credits, equal to the excise reductions, to offset the expected rise in fuel prices. These businesses will, therefore, receive both the fuel tax credit and the CPRS fuel credit.

Liquid petroleum gas (LPG), liquid natural gas (LNG) and compressed natural gas (CNG) will incur an emissions unit obligation. These fuels are now not subject to excise so they, too, would not benefit from the excise reductions applying to other fuels such as petrol and diesel. To ensure price relativities are maintained, that is, so that no fuel is advantaged or disadvantaged relative to other fuels by the excise reductions, LPG, LNG and CNG will also be eligible to receive CPRS credits.

For details of the CPRS fuel credits scheme, see the Bills Digest for the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2010.

The Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2010 implements the CPRS fuel credits scheme. The Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2010 implements consequential amendments to three Acts—the [Fuel Tax Act 2006](#) (Fuel Tax Act), the [Income Tax Assessment Act 1997 \(ITAA 1997\)](#), and the [Taxation Administration Act 1953 \(TAA 1953\)](#)—needed to ensure that the CPRS fuel credits scheme can go into effect.

### **Basis of policy commitment**

The government announced that it would provide assistance to the agriculture, fishing, and heavy on-road transport industries in its White Paper, *Carbon Pollution Reduction Scheme: Australia’s Low Pollution Future*.<sup>4</sup>

### **Committee consideration**

The original Bill, along with others in the CPRS package, was referred to the Senate Economics Legislation Committee 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](http://www.aph.gov.au/senate/Committee/economics_ctte/cprs_2_09/index.htm)

### **Position of significant interest groups/press commentary**

See the [Bills Digest](#) for the Carbon Pollution Reduction Scheme Bill 2009.

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4. Department of Climate Change, *Carbon Pollution Reduction Scheme: Australia’s Low Pollution Future*, White Paper, 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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## Financial implications

The Bill itself does not have any direct financial implications. However, in so far as it supports the implementation of the CPRS fuel credits scheme, it indirectly will reduce revenue from excise and increase expenses under the ‘fuel and energy’ functional category.

## Standing appropriations

The Bill is not a special appropriation and does not appropriate funds.

## Main provisions

The Explanatory Memorandum for Bill [No. 2] noted:

The measures in the CPRS Fuel Credits (Consequential Amendments) Bill are mechanical in nature, necessary to update the Fuel Tax Act, the ITAA 1997 and the TAA 1953 for the introduction of the CPRS Fuel Credits Bill and the administrative arrangements announced by the Government.<sup>5</sup>

## Schedule 1—Amendments

**Items 1 to 17** amend the *Fuel Tax Act 2006*.

**Item 4** repeals the formula for the ‘net fuel amount’ in subsection 60-5(1) (formula). In the original Bill, **item 4** appeared as ‘subsection 60-5 (formula)’. **Item 5** substitutes a new formula in subsection 60-5(1) which incorporates both the fuel tax credits and the CPRS credits. **The new formula is:**

$$\begin{array}{rcccc} & & \text{Sum of} & & \text{Sum of total} & & \text{Sum of total} \\ & & \text{total fuel} & & \text{increasing fuel tax} & & \text{decreasing fuel tax} \\ \text{Total} & - & \text{tax credits} & + & \text{adjustments and} & - & \text{adjustments and} \\ \text{fuel tax} & & \text{and total} & & \text{total increasing} & & \text{total decreasing} \\ & & \text{CPRS fuel} & & \text{CPRS fuel credit} & & \text{CPRS fuel credit} \\ & & \text{credits} & & \text{adjustments} & & \text{adjustments} \end{array}$$

This amendment is necessary because applicants are entitled to claim both the fuel tax credits and CPRS credits.

The current Bill adds **item 12A**, which alters the *Fuel Tax Act 2006*. Section 95-10 of the *Fuel Tax Act 2006* deals with its application to the Commonwealth. Subsection 95-10(1)

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5. Explanatory Memorandum, Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 [No. 2], p. 26.

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provides that it is Parliament's intention that the Commonwealth and untaxable Commonwealth entities should be notionally entitled to fuel tax credits and have notional fuel tax adjustments. Subsection 95-10(2) provides that the Finance Minister may give written directions to ensure that the intent of subsection 95-10(1) is satisfied. **Item 12A** adds **subsection 95-10(6)** which provides that the Finance Minister must ensure that a copy of a direction made under subsection 95-10(2) is available on the website of the Department administered by the Finance Minister.

## Concluding comments

See the Bills Digest for the Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2010.

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