



Excise Legislation Amendment (Condensate) Act 2008

No. 108, 2008

**An Act to amend the law relating to excise, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Excise Legislation Amendment (Condensate) Act 2008

No. 108, 2008

An Act to amend the law relating to excise, and for related purposes

[Assented to 18 October 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Excise Legislation Amendment
(Condensate) Act 2008*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	18 October 2008
2. Schedule 1	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) the start of the day on which the <i>Excise Tariff Amendment (Condensate) Act 2008</i> receives the Royal Assent. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	18 October 2008

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments

Excise Act 1901

1 Subsection 58(2)

After “stabilised crude petroleum oil”, insert “, condensate”.

2 Paragraph 58(3)(a)

After “stabilized crude petroleum oil”, insert “, or condensate,”.

3 After section 164

Insert:

164A Effect of regulations relating to condensate

- (1) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, regulations made for the purposes of this Act in relation to condensate may be expressed to take effect from a date before the regulations are registered under the *Legislative Instruments Act 2003*.
- (2) Subsection (1) does not apply to regulations that create, modify or otherwise affect a provision that makes a person liable to an offence or civil penalty.

Petroleum Excise (Prices) Act 1987

4 Title

After “oil”, insert “**and condensate**”.

5 Subsection 4(1)

Insert:

excisable condensate means condensate in respect of which subitem 21.3 of the Schedule to the *Excise Tariff Act 1921* applies, or will, upon the entry of the condensate for home consumption, apply.

Note: The following heading to subsection 4(1A) is inserted “*Effect of regulations*”.

6 After subsection 4(1B)

Insert:

(1C) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, regulations made for the purposes of this Act in relation to condensate may be expressed to take effect from a date before the regulations are registered under the *Legislative Instruments Act 2003*.

(1D) Subsection (1C) does not apply to regulations that create, modify or otherwise affect a provision that makes a person liable to an offence or civil penalty.

Note: The following heading to subsection 4(2) is inserted “*Transaction price where no sale*”.

7 After Part I

Insert:

Part IA—Determination of prices for condensate

5 Purpose of Part

- (1) The purpose of this Part is to allow the Minister to establish prices of condensate which are used in imposing duties of excise on condensate.
- (2) It does so by providing that the Act, in addition to its general operation, operates as if:
 - (a) references to excisable crude petroleum oil were references to excisable condensate; and
 - (b) references to stabilised crude petroleum oil, crude petroleum oil and oil were references to condensate.

5A Additional operation of Act

- (1) In addition to the operation of this Act apart from this Part, this Act applies as if the modifications set out in subsections (2) and (3) were made.

- (2) The first modification is that each reference in this Act (other than the definition of *excisable crude petroleum oil* in subsection 4(1)) to excisable crude petroleum oil is taken to be a reference to excisable condensate.
- (3) The second modification is that each reference to:
- (a) stabilised crude petroleum oil; or
 - (b) crude petroleum oil; or
 - (c) oil;
- in this Act (other than the title of this Act) is taken to be a reference to condensate.
- (4) Nothing in this section affects the operation of references to the following in the regulations, or in the *Excise Act 1901* or the *Excise Tariff Act 1921*:
- (a) excisable crude petroleum oil;
 - (b) stabilised crude petroleum oil;
 - (c) crude petroleum oil;
 - (d) oil.

8 Subsection 6(1G)

After “6C”, insert “, 6CA”.

9 Subsection 6(1G) (note)

Omit “Note”, substitute “Note 1”.

10 At the end of subsection 6(1G)

Add:

Note 2: Subsection 6CA(5) of the *Excise Tariff Act 1921* specifies, among other things, the minimum volume of condensate to which notional duty becomes applicable. The effect of that subsection is modified by subsection 6CA(12) of that Act.

Petroleum Revenue Act 1985

11 At the end of paragraph 7(2)(a)

Add “or”.

12 After paragraph 7(2)(b)

Insert:

Schedule 1 Amendments
Part 1 Amendments

- (ba) prescribing any condensate production area for the purposes of the definition of *prescribed condensate production area* in subsection 6CA(1) of that last-mentioned Act; or

Part 2—Application and transitional provisions

13 Application

Application of Schedule

- (1) The amendments made by this Schedule apply in relation to condensate produced after midnight (by legal time in the Australian Capital Territory) on 13 May 2008.

Limited production areas

- (2) Subsections 6(1A) to 6(1G) and 7(3A) of the *Petroleum Excise (Prices) Act 1987* (as amended by this Act) do not apply in relation to condensate produced during the period:
- (a) beginning on the day on which this item commences; and
 - (b) ending at the end of the third month that begins on or after the day on which this item commences.

Determination of interim VOLWARE prices

- (2A) Subsections 7(2), (3) and (4) of the *Petroleum Excise (Prices) Act 1987* apply, in relation to a prescribed condensate production area and the pre-commencement period, as if those subsections were replaced with the following:
- “
- (2) The Minister, or a person authorised by the Minister to exercise the Minister’s powers under this section, must, not later than 2 months, or such longer period as the Minister allows, after the day on which Schedule 1 to the *Excise Tariff Amendment (Condensate) Act 2008* commences, determine a price in relation to each month in the pre-commencement period and an oil producing region, to be known as the interim VOLWARE price for that month and that region, being an estimate by the Minister or authorised person, on the basis of the information available to him or her at the time (being information obtained under section 6 or otherwise), of the amount that will finally be determined to be the volume weighted average of realised prices for that month and that region.”
 - (3) The Minister, or a person authorised by the Minister to exercise the Minister’s powers under this section, must, not later than 6 months after the day on which an interim VOLWARE price is determined
- ”

for a month in relation to an oil producing region, determine a price in relation to that month and that region, to be known as the final VOLWARE price for that month and that region, being the final determination by the Minister or authorised person of the volume weighted average of realised prices for that month and that region.”

- “
- (4) A determination of the final VOLWARE price for a month and an oil producing region must not be made unless:
- (a) the Minister or authorised person is satisfied that accurate and complete information concerning all of the transactions relevant to determining the price has become available to the Minister or authorised person; or
 - (b) 5 months and 20 days have passed since the day on which an interim VOLWARE price was determined for that month and information that the Minister or authorised person is satisfied is accurate and complete concerning all of those transactions has not yet become available to the Minister or authorised person.”

Definitions

- (3) In this item:

month means one of the 12 months of a calendar year.

pre-commencement period means the period:

- (a) beginning at midnight (by legal time in the Australian Capital Territory) on 30 April 2008; and
- (b) ending at midnight on the last day of the last month that ends before the day on which Schedule 1 to the *Excise Tariff Amendment (Condensate) Act 2008* commences.

14 Deemed entry for home consumption

- (1) This item applies if:
- (a) a person produces condensate after midnight (by legal time in the Australian Capital Territory) on 13 May 2008; and
 - (b) the person does not have a manufacturer’s licence (within the meaning of the *Excise Act 1901*) to manufacture condensate; and
 - (c) the person’s grace period has not ended (see subitem (4)).

- (2) For the purposes of the *Excise Act 1901* and the *Petroleum Excise (Prices) Act 1987* (as amended by this Act), the person is taken to have been given a permission under section 61C of the *Excise Act 1901* to deliver the condensate for home consumption from the prescribed condensate production area from which the condensate is produced.
- (3) The permission is taken to be revoked at the end of the person's grace period.
- (4) In this item:
grace period, in relation to a person, means the period:
- (a) beginning immediately after midnight (by legal time in the Australian Capital Territory) on 13 May 2008; and
 - (b) ending at the earlier of the following times:
 - (i) the time when the CEO grants, or refuses to grant, the person a manufacturer's licence to manufacture condensate under section 39A of the *Excise Act 1901*;
 - (ii) the end of the transition period.

transition period means the period that would be the ***transition period*** within the meaning of subsection 15(3) of the *Excise Act 1901* if the references to "the first day" in paragraph (a) and subparagraph (b)(iii) of the definition of ***transition period***, and in subparagraph 15(4)(a)(ii) and paragraph 15(4)(b) of the *Excise Act 1901*, were references to "the day on which Schedule 1 to the *Excise Tariff Amendment (Condensate) Act 2008* commences".

15 Time for compliance with *Excise Act 1901*

Section 15 of the *Excise Act 1901* applies in relation to condensate as if the references to "the first day" in the following provisions were references to "the day on which Schedule 1 to the *Excise Tariff Amendment (Condensate) Act 2008* commences":

- (a) paragraph (a) and subparagraph (b)(iii) of the definition of ***transition period*** in subsection 15(3);
- (b) subparagraph 15(4)(a)(ii);
- (c) paragraph 15(4)(b).

*[Minister's second reading speech made in—
House of Representatives on 15 May 2008
Senate on 16 June 2008]*

(83/08)