



Energy Grants (Credits) Scheme Amendment Regulations 2003 (No. 2)¹

Statutory Rules 2003 No. 371²

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Energy Grants (Credits) Scheme Act 2003*.

Dated 18 December 2003

P. M. JEFFERY
Governor-General

By His Excellency's Command

HELEN COONAN
Minister for Revenue and Assistant Treasurer

1 Name of Regulations

These Regulations are the *Energy Grants (Credits) Scheme Amendment Regulations 2003 (No. 2)*.

2 Commencement

These Regulations commence on gazettal.

3 Amendment of *Energy Grants (Credits) Scheme Regulations 2003*

Schedule 1 amends the *Energy Grants (Credits) Scheme Regulations 2003*.

Schedule 1 Amendments

(regulation 3)

[1] Paragraph 9 (1) (d)

omit

principally of diesel.

insert

principally of diesel;

[2] After paragraph 9 (1) (d)

insert

(e) an excisable blended petroleum product:

- (i) that consists of diesel and another substance or substances; and
- (ii) on which duty has been paid at a rate that is applicable to diesel fuel; and
- (iii) that is intended for use for a purpose specified in subsection 53 (6) of the Act.

[3] After subregulation 9 (3)

insert

- (4) In this regulation:

excisable blended petroleum product has the meaning given by section 77G of the *Excise Act 1901*.

Note Section 77G of the *Excise Act 1901* defines excisable blended petroleum products by reference to exempt blended petroleum products. Exempt blended petroleum products are prescribed in the *Excise Regulations 1925*.

[4] Regulation 10

substitute

10 Qualifying uses

- (1) Subject to subregulation (2), for paragraph 53 (6) (b) of the Act, the use of off-road diesel fuel other than as a fuel is specified.
- (2) If the off-road diesel fuel is used as an ingredient in the manufacture of a blended petroleum product, the use is specified only if the product is an exempt blended petroleum product that is not suitable for use as a fuel.
- (3) For paragraph 53 (7) (b) of the Act, the kind of off-road diesel fuel mentioned in paragraph 9 (1) (c) of these Regulations is specified.

- (4) In this regulation:

blended petroleum product has the meaning given by section 77G of the *Excise Act 1901*.

exempt blended petroleum product has the meaning given by section 77G of the *Excise Act 1901*.

Note Exempt blended petroleum products are prescribed in the *Excise Regulations 1925*.

[5] Schedule 7, Part 3, after table 3*insert***4. For off-road diesel fuel of a kind specified in paragraph 9 (1) (d)**

Qualifying uses of fuel	Amount per litre
Use in mining operations or in primary production (other than agriculture) as specified in subsection 53 (2) of the Act	For a claim made between 1 July 2003 and 31 December 2005 (inclusive) — \$0.38143 per litre
Use in mining operations or in primary production (including agriculture) as specified in subsection 53 (2) of the Act	For a claim made on or after 1 January 2006 — \$0.38143 per litre
Use in agriculture (otherwise than for the purpose of propelling a road vehicle on a public road)	For a claim made between 1 July 2003 and 31 December 2003 (inclusive) — \$0.38143 per litre plus \$0.00714 per litre
	For a claim made between 1 January 2004 and 30 June 2004 (inclusive) — \$0.38143 per litre plus \$0.01143 per litre
	For a claim made between 1 July 2004 and 31 December 2004 (inclusive) — \$0.38143 per litre plus \$0.00857 per litre
	For a claim made between 1 January 2005 and 30 June 2005 (inclusive) — \$0.38143 per litre plus a second amount of \$0.00571 per litre
	For a claim made between 1 July 2005 and 31 December 2005 (inclusive) — \$0.38143 per litre plus a second amount of \$0.00286 per litre
Use in rail transport or use in marine transport as specified in subsection 53 (3) of the Act	\$0.38143 per litre

Qualifying uses of fuel	Amount per litre
Use at the premises, and for the purposes, specified in subsection 53 (4) of the Act	\$0.38143 per litre
Use as an ingredient in the manufacture of explosives, as specified in paragraph 53 (5) (c) of the Act	\$0.38143 per litre
A use that qualifies under subsection 53 (6) of the Act	\$0.38143 per litre

5. For off-road diesel fuel of a kind specified in paragraph 9 (1) (e)

Qualifying use of fuel	Amount per litre
A use that qualifies under subsection 53 (6) of the Act	\$0.38143 per litre

[6] Schedule 8, subclause 1.2 (4), at the foot

insert

Note Subclause (4) prescribes the commonly used methods of apportionment. However, because of the diverse range of activities that qualify for a grant, it is not possible to prescribe every possible measure a claimant can apply to apportion use of fuel. For example, where the fuel is used to power a generator for the purpose of generating electricity, an acceptable method of apportionment of qualifying and disqualifying uses would be by reference to kilowatt hours of electricity generated.

The claimant determines the measure of apportionment and demonstrates to the Commissioner that the measure chosen to apportion fuel use was appropriate to their circumstances.

Notes

1. These Regulations amend Statutory Rules 2003 No. 179, as amended by 2003 No. 242.
2. Notified in the *Commonwealth of Australia Gazette* on 23 December 2003.