BILLS DIGEST NO. 82, 2013–14
16 JUNE 2014

Customs Tariff Amendment (Product Stewardship for Oil) Bill 2014 [and] Excise Tariff Amendment (Product Stewardship for Oil) Bill 2014

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Contents

Purpose of the Bill .......................................................... 2
Structure of the Bill ....................................................... 2
Background ................................................................. 2
Committee consideration ................................................. 3
   Economics Legislation Committee .............................. 3
   Parliamentary Joint Committee on Human Rights ...... 3
Policy position of non-government parties/independents .... 3
Position of major interest groups .................................... 3
Financial implications ..................................................... 3
Statement of Compatibility with Human Rights ............... 4
Key issues and provisions .................................................
   Increase in product stewardship levy ......................... 4
   Impact of increase in product stewardship levy .......... 4
   Continuance of the scheme ........................................ 4

Date introduced: 29 May 2014
House: House of Representatives
Portfolio: Immigration and Border Protection and Treasury

Links: The links to the Bills, their Explanatory Memoranda and second reading speeches can be found on the Bills’ home pages for the Customs Tariff Amendment (Product Stewardship for Oil) Bill 2014 and the Excise Tariff Amendment (Product Stewardship for Oil) Bill 2014, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.
Purpose of the Bill

The purpose of the Customs Tariff Amendment (Product Stewardship for Oil) Bill 2014 (Customs Bill) is to amend the Customs Tariff Act 1995 (Customs Act) to increase the rate of excise-equivalent customs duty collected on certain classes of oil and grease imported into Australia. The rate will increase from 5.449 cents per litre or kilogram to 8.5 cents per litre or kilogram.1

The purpose of the Excise Tariff Amendment (Product Stewardship for Oil) Bill 2014 (Excise Bill) is to amend the Excise Tariff Act 1921 (Excise Act) to increase the rate of excise duty collected on the same classes of oil and grease produced in Australia from 5.449 cents per litre or kilogram to 8.5 cents per litre or kilogram.2

Structure of the Bill

The Customs Bill has one Schedule, which amends certain rates of customs duty specified in the Customs Act.3

The Excise Bill has one Schedule, which amends certain rates of excise duty specified in the Excise Act.4

Background

The Product Stewardship for Oil (PSO) program was established in 2001. It is a scheme designed to incentivise the recycling of used lubricating oils and greases, thereby reducing their improper disposal which can be environmentally harmful. It consists of a levy on imports or manufacture of oils and greases and a cash benefit paid to recyclers of oil and grease.5 The levy component of the scheme is enabled by the Excise Act and Customs Act, and the benefit component of the scheme is enabled by the Product Stewardship (Oil) Act 2000 (Cth)6 and the Product Grants and Benefits Administration Act 2000 (Cth).7

Under the PSO, cash incentives are provided for a range of activities that reuse or recycle used lubricating oil or grease. The benefits paid vary, depending on the type of reuse or recycling undertaken.8 The Explanatory Memorandum to part of the original PSO scheme legislation, the Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000, makes clear that it was intended that the cost of the benefit scheme would be paid for by the excise and customs duties:

Excise tariff legislation is being amended to provide for an excise style levy on domestically produced oils and greases. [The Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000] legislates a customs rate of duty for similar imported oils and greases. The revenue collected through the imposition of excise and customs duties on these goods will fund payments to eligible companies recycling waste oil in environmentally appropriate ways.9 (emphasis added).

Although the intention is that the scheme would be self-funding, there is no actual link between the scheme’s revenue and expenses. The excise and customs levies are paid into consolidated revenue, and the amounts paid for the product stewardship benefit are appropriated from consolidated revenue, but there is no legislated requirement that these amounts match.10

In 2013, a regular independent review of the scheme undertaken in accordance with section 36 of the Product Stewardship (Oil) Act 2000, found that since 2007–08, the benefits paid by the scheme have slightly exceeded...
the revenue collected by the levy. The report also found that this deficit between levy revenue and benefit expenses was likely to widen as new oil recycling facilities commence operation, exceeding $25 million annually by 2017–18. This Bills are designed to reduce that shortfall by between $19–21 million annually over the forward estimates from 2014–15 to 2017–18.

Committee consideration

Economics Legislation Committee

The Bills were referred to the Senate Standing Committee on Economics for inquiry and report. The Committee report stated that it was of the view ‘that there are no substantive matters that require examination’.14

Parliamentary Joint Committee on Human Rights

As at the time of writing this digest, the Joint Committee on Human Rights had not considered these Bills.

Policy position of non-government parties/independents

The package of Bills does not appear to have raised concerns or commentary from non-government parties, as at the time of writing.

Position of major interest groups

Oil recyclers have argued strongly for an increase in the product stewardship levy. Transpacific Industries reportedly argued for an increase to ten cents per litre in 2014–15 and 12 cents per litre in 2018–19 in a statement following the latest independent review.15 Other recyclers have also made similar arguments.16 In addition, the Australian Council of Recyclers advocated for:

... continuation of the 5.449 cents per litre levy on all sales as a minimum with the reintroduction of indexation or equivalent revenue generation for financial sustainability (i.e. levied on producers and/or purchasers). The level of the levy should be calibrated at the rate necessary to achieve the schemes objectives.17 (emphasis added).

Motorists’ lobby groups, represented by the Australian Automobile Association, noted that an increase of the order proposed in the package of Bills would ‘not place a major financial burden on motorists’, but suggested that at a rate of eight cents per litre, the scheme would still rely on additional consolidated revenue to supplement levy revenues.18

Financial implications

The Bills raise the excise duty and excise-equivalent customs duty on a range of petroleum-based and synthetic lubricating oils and greases, and are therefore expected to increase revenue attributable to Government by $79 million over the forward estimates between 2014–15 and 2017–18. This is comprised of $19 million per year in 2014–15 and 2015–16, $20 million in 2016–17 and $21 million in 2017–18. As the measures in the Bills only change the rate of existing levies, they would be unlikely to generate significant additional administration costs for Government or industry.

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12. Ibid., p. x–xiii.
Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights can be found at page seven of the Explanatory Memorandum to the Bills. As required under Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth), the Government has assessed the Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government considers that the Bills are compatible.

Key issues and provisions

Increase in product stewardship levy

Item 1 of the Excise Bill and items 1 to 103 of the Customs Bill increase the duty on a range of petroleum-based and synthetic lubricating oils and greases from 5.449 to 8.5 cents per litre of oil or kilogram of grease.20

Impact of increase in product stewardship levy

The change in the product stewardship levy from 5.449 to 8.5 cents per litre of oil or kilogram of grease represents a relatively small, but not entirely trivial impost on the cost of oil and grease. According to figures from the Bureau of Resources and Energy Economics, the average cost of a litre of commodity lubricating oil (at import, before taxes and retail costs are applied) was about $1.42 per litre in 2012–13.21 The cost of lubricating oil for retail consumers is much higher than this, and consequently the additional three cents per litre that these Bills impose is likely not to be a large impost. However, for consumers that use large volumes of lubricating oil (and buy it at a wholesale price), the increase in the stewardship levy could increase oil input costs by a small, but noticeable amount.22

Continuance of the scheme

The introduction of this package of Bills seems to indicate the Government’s commitment to the continuance of the scheme. Confronted by a growing disparity between levy revenue and benefit expenses, the Government could have elected to reduce the rates or eligibility of benefits instead of raising the rate of the levy. The independent review of the Act canvassed a number of options for the scheme’s future, including cessation. It characterised the scheme as a subsidy, and mentioned that there were no means in place to determine when the scheme should be ended.23

Others have disputed the characterisation of the scheme as a subsidy. In a review completed for several oil recycling companies, ACIL Allen consultants argue that:

Aither incorrectly characterised the scheme as a temporary industry development subsidy for the re-refining industry, which it considers “should be phased out”. The PSO scheme is not an industry assistance scheme. It is an environmental policy instrument that is designed to address issues like waste oil and has a solid conceptual foundation underpinned by economic analysis.24

However, regardless of how it is characterised, the independent review concluded that the scheme was worth retaining:

Ceasing the PSO Scheme altogether at this stage is unlikely to be a viable or sensible option. Doing so could put at risk the significant environmental and other achievements of the Scheme to date.25

The independent review recommended retaining the existing scheme with a number of modifications. These included raising the PSO levy to seven cents per litre.26 This package of Bills implements that recommendation,
although the levy is being raised to 8.5 cents per litre. The review also recommended a number of changes to benefits under the scheme, including reducing benefits for some activities under the scheme. It is not yet clear if the Government intends to implement these additional recommendations, and they are not dealt with in this package of Bills.

26. Ibid., p. 87.

27. Customs Tariff Amendment (Product Stewardship for Oil) Bill 2014, Schedule 1, items 1 to 103; Excise Tariff Amendment (Product Stewardship for Oil) Bill 2014, Schedule 1, Item 1.
