Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011

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Contents

Purpose ............................................................................................................................................. 2
Background ....................................................................................................................................... 3
Committee consideration .................................................................................................................. 4
Key provisions .................................................................................................................................. 4
Schedule 1—Amendment of the Customs Tariff Act 1995 ................................................................. 4
  Part 1—Amendments to commence on 1 December 2011 .............................................................. 4
  Part 2—Amendments to commence on 1 January 2012 ................................................................. 5
  Part 3—Amendments to commence on 1 July 2012 ..................................................................... 5
  Part 4—Amendments to commence on 1 July 2013 ................................................................... 5
  Part 5—Amendments to commence on 1 July 2014 ................................................................... 5
  Part 6—Amendments to commence on 1 July 2015 ................................................................. 5
Concluding comments ..................................................................................................................... 6
Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011

Date introduced: 12 May 2011

House: House of Representatives

Portfolio: Home Affairs

Commencement: Clauses 1 to 3—and anything in the Bill not covered by the table in clause 2—commence on Royal Assent. Part 7 of Schedule 1 also commences on Royal Assent. Part 1 of Schedule 1 commences on 1 December 2011 but will not commence if elements of three proposed Bills do not commence on or before 1 December 2011. These elements are:

- Part 1 of Schedule 1 to the Excise Tariff Amendment (Taxation of Alternative Fuels) Act 2011
- Schedule 1 to the Taxation of Alternative Fuels Legislation Amendment Act 2011, and
- Schedule 1 to the Energy Grants (Cleaner Fuels) Scheme Amendment Act 2011.

Part 2 of Schedule 1 commences immediately after the commencement of item 1 of Schedule 1 to the Customs Tariff Amendment (2012 Harmonized System Changes) Act 2011. However, this is subject to the proviso that Part 2 of Schedule 1 will not commence unless all of the elements in the three Bills listed above commence.

Parts 3 to 6 of Schedule 1 commence on four different days as set out in clause 2 subject to the proviso that these Parts will not commence unless all of the provisions in the three Bills listed above commence.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/bills/. 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

The main purpose of the Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011 (the Bill) is to impose customs duty on certain fuels at the same rates as the proposed excise rates on those fuels. The Bill is one of four related Bills. The other three Bills are the Taxation of Alternative Fuels Legislation Amendment Bill 2011, the Energy Grants (Cleaner Fuels) Scheme Amendment Bill 2011, and the Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011. Together, the four Bills have two main purposes. The first is to impose excise and customs duty on certain fuels. The
second purpose is to provide for the continued subsidisation of the use of renewable fuels. This Bills Digest should therefore be read in conjunction with the Digests for those three Bills.¹

Background

The Customs Tariff Act 1995 (Customs Tariff Act) contains eight Schedules which list goods that are subject to customs duty and the rates of duty applicable to those goods. A ‘typical’ good is subject to multiple rates. The rates fall into two broad categories: the general rate and other (special) rates of duty. The general rate is that applied to imports from countries that are signatories to the World Trade Organisation—the so-called most favoured nation rate. The special category includes, for example, preferential rates for imports from developing countries, and the rates agreed under various bilateral free trade agreements.

Rates of custom duty are generally set at the same levels as the excise on equivalent or comparable domestically-produced goods. If the customs duty on an excise-like good were, for example, higher than the excise on a comparable domestically-produced good, the effect would be to protect the domestic industry against imports. Accordingly, the Bill sets customs duty rates at the same levels as the proposed excise rates so there is no protection to domestic industries. The proposed excise rates are contained in the Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011.² The Government proposes to phase in the customs duty rates as shown in Table 1.

Table 1: Proposed customs duty rates on CNG, LNG and LPG (cents)

<table>
<thead>
<tr>
<th>Fuel/date of effect</th>
<th>1 December 2011</th>
<th>1 July 2012</th>
<th>1 July 2013</th>
<th>1 July 2014</th>
<th>1 July 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquefied petroleum gas</td>
<td>2.50</td>
<td>5.00</td>
<td>7.50</td>
<td>10.00</td>
<td>12.50</td>
</tr>
<tr>
<td>Liquefied natural gas, compressed natural gas</td>
<td>5.22</td>
<td>10.45</td>
<td>15.67</td>
<td>20.90</td>
<td>26.13</td>
</tr>
</tbody>
</table>

Source: Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011, Parts 1 to 6. Note: rate for LPG is per litre; rate for LNG and CNG is per kilogram.

¹ Bills Digests can be accessed via each Bill’s homepage. For the Taxation of Alternative Fuels Legislation Amendment Bill 2011, see: http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22legislation%2Fbillhome%2Fr4554%22; for the Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011, see http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fr4556%22; and for the Energy Grants (Cleaner Fuels) Scheme Amendment Bill 2011, see http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv%3Dyes;orderBy%3Dcustomrank;page%3D0;query%3DEnergy%20Grants%20(Cleaner%20Fuels)%20Scheme%20Amendment%20Bill%202011%20Dataset%3AbillsCurBef;rec%3D0;resCount%3D0
² Ibid.

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Additional background can be found in the Bills Digests for the Taxation of Alternative Fuels Legislation Amendment Bill 2011 and the Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011. 3

Committee consideration

The Bill—together with the other three Bills listed above—was referred to the House of Representatives Standing Committee on Economics for inquiry. The Committee reported on 1 June 2011. Details of the inquiry are at:

Key provisions

Schedule 1—Amendment of the Customs Tariff Act 1995

Part 1—Amendments to commence on 1 December 2011

Schedule 3 to the Customs Tariff Act is titled ‘Classification of goods, and general and special rates of duty’. It is divided into Sections and Chapters, each dealing with particular categories of goods. For example, Section 5 deals with ‘mineral products’ while Chapter 27 of Section 5 deals with ‘mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes’. Further, each good has an item number (the Bill refers to these numbers as subheadings). Thus item 2710.19.22 is blends of diesel and ethanol.

Item 1 inserts into Schedule 3 a note relating to denatured ethanol. This is potable (drinkable) alcohol ‘denatured’ by additives (often petrol) to render it non-potable. Item 1 specifies the minimum (one per cent) and maximum (1.5 per cent) proportions by volume that the additives must comply with before ethanol is classified as denatured. If the proportion of the additives exceeds 1.5 per cent, the goods are classified as mixtures under headings 3824 and 2710.

Item 2 inserts into Schedule 3 a definition of LPG while item 3 inserts a definition of CNG and how the quantity of CNG is to be determined for customs duty purposes.

Items 4 to 12 insert the rates on particular goods into Schedule 3. For example, item 4 inserts into 2710.11.62 (blends of diesel and ethanol) the general and special rates. In this example, the general and special rates are the same (38.143 cents per litre). Items 10 inserts the rates for LNG and LPG, and item 11 the rates for CNG. Items 4 to 9 and 12 insert rates for two new categories of fuel blends. The Explanatory Memorandum explains:

3. Ibid.

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The amendments to the Customs Tariff Act 1995 also include the creation, in Schedule 3, of new subheadings to separately identify blends of ethanol and gasoline and blends of diesel and other substances. This enables the calculation of customs duty for such blends based on the appropriate duty rate for each component, equivalent to the provisions of section 6G of the Excise Tariff Act 1921. [Schedule 1, Part 1, Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011].

It is necessary to amend all the Schedules in the Customs Tariff Act when new subheadings are created. Schedule 5 of the Customs Tariff Act, for example, deals with ‘US originating goods’, that is, Schedule 5 contains the rates pursuant to the free trade agreement with the United States. Items 13 to 20 insert customs duty rates for new items into Schedule 5. For example, item 13 inserts rates for new item 2710.11.62 (blends of diesel and ethanol). Similarly, items 21 to 28 insert rates in Schedule 6—Thai originating goods; items 29 to 36 into Schedule 7—Chilean originating goods, and items 37 to 44 into Schedule 8—ASEAN-Australia-New Zealand (AANZ) originating goods.

**Part 2—Amendments to commence on 1 January 2012**

**Items 45 to 53** amend the Customs Tariff Act to incorporate revisions to the descriptions of certain goods. The revisions update changes to the Harmonized Commodity Description and Coding System, which is the international system designed to ensure internationally-consistent descriptions of goods in customs duty schedules. Australia, as a signatory to the World Customs Organisation, undertakes to apply agreed changes.

**Part 3—Amendments to commence on 1 July 2012**

**Part 4—Amendments to commence on 1 July 2013**

**Part 5—Amendments to commence on 1 July 2014**

**Part 6—Amendments to commence on 1 July 2015**

As noted above, the Government proposes to increase the excise and customs duty on LNG, LPG and CNG on 1 July in each of 2012, 2013, 2014, and 2015. **Parts 3 to 6** implement this proposal. The items in **Parts 3 to 6** are identical except that each successive Part inserts the new proposed rates. For example, **Part 5—Amendments to commence on 1 July 2014** replaces the rates that came into effect on 1 July 2013 with the rates that will apply on 1 July 2014.

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Concluding comments

See the Comments in the Bills Digest for Taxation of Alternative Fuels Legislation Amendment Bill 2011.\(^6\)

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\(^6\) Taxation of Alternative Fuels Legislation Amendment 2011, Bills Digest, op.cit.

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