

EXPOSURE DRAFT

2010-2011

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Taxation of Alternative Fuels Legislation Amendment Bill 2011

No. , 2011

(Treasury)

**A Bill for an Act to change the law relating to
certain fuels, and for related purposes**

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1 **A Bill for an Act to change the law relating to**
2 **certain fuels, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Taxation of Alternative Fuels*
6 *Legislation Amendment Act 2011*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

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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 this Act receives the Royal Assent.	
2. Schedule 1	30 June 2011.	30 June 2011
3. Schedules 2 to 4	1 December 2011. However, the provision(s) do not commence at all if any of the following do not commence on 1 December 2011: (a) Part 2 of the <i>Ethanol Production Grants Act 2011</i> ; (b) Part 1 of Schedule 1 to the <i>Excise Tariff Amendment (Taxation of Alternative Fuels) Act 2011</i> ; (c) Part 1 of Schedule 1 to the <i>Customs Tariff Amendment (Taxation of Alternative Fuels) Act 2011</i> .	
4. Schedule 5	1 July 2020.	1 July 2020

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

3 Schedule(s)

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9 repealed as set out in the applicable items in the Schedule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

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Amendment of the Energy Grants (Cleaner Fuels) Scheme Act 2004 2TSchedule 12T

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Schedule 1—Amendment of the Energy Grants (Cleaner Fuels) Scheme Act 2004

1 Paragraphs 2A(a) and (aa)

Omit “30 June 2011”, substitute “30 November 2011”.

2 Paragraph 2A(b)

Omit “1 July 2011”, substitute “1 December 2011”.

3 Subsection 4(1) (paragraph (aa) of the definition of *start day*)

Omit “1 July 2011”, substitute “1 December 2011”.

4 Subsection 8(1) (paragraph (b) of the cell at table item 1, column headed “And the fuel’s qualifying time happens during this period:”)

Omit “30 June 2011”, substitute “30 November 2011”.

5 Subsection 8(1) (paragraph (b) of the cell at table item 1A, column headed “And the fuel’s qualifying time happens during this period:”)

Omit “30 June 2011”, substitute “30 November 2011”.

6 Subsection 8(1) (paragraph (a) of the cell at table item 2, column headed “And the fuel’s qualifying time happens during this period:”)

Omit “1 July 2011”, substitute “1 December 2011”.

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2TSchedule 22T Repeal of the Energy Grants (Cleaner Fuels) Scheme Act 2004

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Schedule 2—Repeal of the Energy Grants (Cleaner Fuels) Scheme Act 2004

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5

1 The whole of the Act

6

Repeal the Act.

7

2 Application

8

The repeal of the *Energy Grants (Cleaner Fuels) Scheme Act 2004*

9

applies to fuel imported into, or manufactured in, Australia on or after

10

1 December 2011.

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Taxation of Alternative Fuels Legislation Amendment Bill 2011 No. , 2011

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Amendments 2TSchedule 32T
Excise Act 1901 0TPart 10T

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Schedule 3—Amendments

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Part 1—Excise Act 1901

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1 Subsection 58(2)

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Omit “, condensate or liquefied petroleum gas”, substitute “or condensate”.

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7

2 Subsection 58(3)

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Repeal the subsection, substitute:

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(3) Subsection (2) does not apply to excisable goods that are stabilised crude petroleum oil, or condensate, obtained from prescribed petroleum, within the meaning of section 5B of the *Excise Tariff Act 1921*, produced from a Resource Rent Tax area as defined in that Act.

10

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14

3 At the end of subsection 65(1)

15

Add:

16

; (d) the energy content of excisable goods.

17

4 Subsection 77H(5) (definition of *eligible goods*)

18

After “(d),”, insert “(da), (db),”.

19

5 After section 77H

20

Insert:

21

77HA Compressed natural gas that is exempt from excise duty

22

Compressed natural gas is exempt from excise duty if it was compressed for any of the following uses:

23

24

(a) use other than as a fuel for a motor vehicle;

25

(b) use other than in the course of carrying on an enterprise

26

(within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*);

27

28

(c) use as a fuel for a motor vehicle that:

29

(i) is designed merely to move goods with a forklift and is for use primarily off public roads; or

30

EXPOSURE DRAFT

2TSchedule 32T Amendments

0TPart 10T Excise Act 1901

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(ii) is of a kind prescribed by the regulations for the purposes of this subparagraph.

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Amendments 2TSchedule 32T
Fuel Tax Act 2006 0TPart 20T

1

2 Part 2—Fuel Tax Act 2006

3 6 Section 2-1

4 Omit “It is intended that this Act be extended to apply to certain
5 compressed and liquefied gaseous fuels.”.

6 7 Section 41-1

7 After “domestic heating”, insert “, to make a taxable supply of LPG into
8 a small tank”.

9 8 After subsection 41-10(1)

10 Insert:

11 (1A) You are entitled to a fuel tax credit for taxable fuel that is *LPG
12 that you acquire or manufacture in, or import into, Australia to the
13 extent that you do so for making a *taxable supply of the LPG
14 involving the transfer of the LPG to a tank that:

- 15 (a) has a capacity of not more than 210 kilograms of LPG; and
16 (b) is not for use in a system for supplying fuel to an internal
17 combustion engine of either a *motor vehicle or a vessel,
18 either directly or by filling another tank connected to such an
19 engine.

20 9 Application

21 Subsection 41-10(1A) of the *Fuel Tax Act 2006* applies to taxable fuel
22 acquired, manufactured or imported on or after 1 December 2011.

23 10 Subsection 41-15(1)

24 After “credit” (wherever occurring), insert “(under this Division or
25 Division 42)”.

26 11 Previous interpretation preserved

27 The amendment of subsection 41-15(1) of the *Fuel Tax Act 2006* made
28 by this Schedule does not affect by implication the interpretation of the
29 subsection before the amendment.

30 12 Section 42-1

31 Repeal the section, substitute:

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2TSchedule 32T Amendments
0TPart 20T Fuel Tax Act 2006

1 **42-1 What this Division is about**

2 Fuel tax credits are provided under this Division to non-business
3 taxpayers for fuel for use for certain domestic purposes.

4 **13 At the end of Subdivision 42-A**

5 Add:

6 **42-10 Fuel tax credit for LPG for domestic use**

7 You are entitled to a fuel tax credit for taxable fuel that is *LPG
8 that you acquire in Australia for your domestic use (except in a
9 *motor vehicle or vessel) to the extent that the LPG is delivered to
10 a tank that:

- 11 (a) has a capacity of more than 210 kilograms of LPG; and
12 (b) is not for use in a system for supplying fuel to an internal
13 combustion engine of either a motor vehicle or a vessel,
14 either directly or by filling another tank connected to such an
15 engine.

16 **14 Application**

17 Section 42-10 of the *Fuel Tax Act 2006* applies to taxable fuel acquired
18 on or after 1 December 2011.

19 **15 Section 43-1**

20 Omit “to fund cleaner fuel grants and”.

21 **16 Subsection 43-5(2)**

22 Repeal the subsection, substitute:

23 *Amount of effective fuel tax*

24 (2) The *amount of *effective fuel tax* that is payable on the fuel is the
25 amount (but not less than nil) worked out using the formula:

26 Fuel tax amount - Grant or subsidy amount

27 where:

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Amendments 2TSchedule 32T
Fuel Tax Act 2006 0TPart 20T

1 *fuel tax amount* means the *amount of fuel tax that was or would
2 be payable on the fuel at the rate in force on the day worked out
3 using the table in subsection (2A).

4 *grant or subsidy amount* means the *amount of any grant or
5 subsidy, except a grant specified in subsection (3), that was or
6 would be payable in respect of the fuel by the Commonwealth at
7 the rate in force on the day worked out using the table in
8 subsection (2A).

9 Note: Subsections (4) and (6) affect how this subsection applies to some
10 fuel.

11 *Day for rate of fuel tax, grant or subsidy*

12 (2A) Work out the day using the table:

Day for rate of fuel tax, grant or subsidy	
If:	The day is:
1 You: (a) acquired, manufactured or imported the fuel after 30 November 2011 and before 1 July 2020; and (b) are *registered for GST or *required to be registered for GST	The day you acquired, manufactured or imported the fuel
2 You: (a) acquired, manufactured or imported the fuel after 30 June 2020; and (b) are *registered for GST or *required to be registered for GST	The first day of the *tax period to which the credit is attributable
3 You are neither *registered for GST nor *required to be registered for GST	The day the Commissioner receives your return relating to the fuel

13 Note: Division 65 sets out which tax period a credit is attributable to.

14 **17 Paragraph 43-5(3)(c)**

15 Repeal the paragraph.

16 **18 Subsection 43-5(4)**

17 Repeal the subsection, substitute:

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2TSchedule 32T Amendments
0TPart 20T Fuel Tax Act 2006

1

Fuel tax for blended fuels

2

- (4) For the purposes of working out under subsection (2) the *effective fuel tax payable on taxable fuels that are blends, the Commissioner may determine by legislative instrument rules for working out the proportions of one or more of the constituents of the blends.

3

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Note: The rules may make different provision for different blends or different classes of blends (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

7

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- (5) The rules may, for example, provide that blends with a range of proportions of a constituent contain a specified proportion (which may be 100%) of that constituent.

10

11

12

Fuel tax for fuel containing ethanol

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- (6) Work out the *effective fuel tax under subsection (2) for taxable fuel that you acquired, manufactured or imported before 1 July 2020 and that is a blend containing ethanol as if:

14

15

16

- (a) a grant under the *Ethanol Production Grants Act 2011* was payable for all the ethanol; and

17

18

- (b) the grant was payable at the rate at which it would have been if:

19

20

- (i) excise duty had been payable on the blend; and

21

- (ii) the time worked out under section 59 of the *Excise Act 1901* for determining the rate of that excise duty had been the day you acquired, manufactured or imported the fuel.

22

23

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19 Application and saving

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- (1) The amendments of section 43-5 (except the repeal of paragraph 43-5(3)(c)) of the *Fuel Tax Act 2006* made by this Schedule apply to fuel acquired, manufactured or imported on or after 1 December 2011.

27

28

29

- (2) Despite the repeal of paragraph 43-5(3)(c) of the *Fuel Tax Act 2006*, that paragraph continues to apply for working out the amount of fuel tax credit for fuel:

30

31

32

- (a) imported into Australia before 1 December 2011; or

33

- (b) manufactured in Australia before 1 December 2011.

34

20 Subsections 43-10(1) and (2)

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Amendments 2T Schedule 32T
Fuel Tax Act 2006 0T Part 20T

1 Repeal the subsections.

2 **21 Subsection 43-10(6)**

3 Omit “(1) or”.

4 **22 Subsection 43-10(6)**

5 Omit “fuel tax or”.

6 **23 Application**

7 The amendments of section 43-10 of the *Fuel Tax Act 2006* made by
8 this Schedule apply to an entity’s fuel tax credit for taxable fuel the
9 entity acquired, manufactured or imported on or after 1 December 2011.

10 **24 Subsection 60-5(1)**

11 Omit “(1)”.

12 **25 Subsection 60-5(1) (note at the end of the definition of**
13 ***total fuel tax*)**

14 Omit the second sentence.

15 **26 Section 110-5 (definition of *fuel tax credit*)**

16 Omit “or 42-5”, substitute “, 42-5 or 42-10”.

17 **27 Section 110-5**

18 Insert:

19 ***LPG*** means:

- 20 (a) liquid propane; or
21 (b) a liquid mixture of propane and butane; or
22 (c) a liquid mixture of propane and other hydrocarbons that
23 consists mainly of propane; or
24 (d) a liquid mixture of propane, butane and other hydrocarbons
25 that consists mainly of propane and butane.
26

EXPOSURE DRAFT

2TSchedule 32T Amendments

0TPart 30T Product Grants and Benefits Administration Act 2000

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2 **Part 3—Product Grants and Benefits Administration**
3 **Act 2000**

4 **28 Section 5 (definition of *cleaner fuel*)**

5 Repeal the definition.

6 **29 Section 8 (table item 4)**

7 Repeal the item, substitute:

4 ethanol production grants *Ethanol Production Grants Act 2011*

8 **30 Saving**

9 Despite the amendment of section 8 of the *Product Grants and Benefits*
10 *Administration Act 2000* made by this Schedule, Part 9 of that Act
11 continues to operate in relation to the former *Energy Grants (Cleaner*
12 *Fuels) Scheme Act 2004* as if it were still an entitlement Act for the
13 purposes of the *Product Grants and Benefits Administration Act 2000*.

14 **31 Subsection 9(5)**

15 Repeal the subsection.

16 **32 Sections 16A and 27B**

17 Repeal the sections.

18

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Amendments **2T**Schedule **32T**
Taxation Administration Act 1953 **0T**Part **40T**

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2

Part 4—Taxation Administration Act 1953

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33 Section 357-55 in Schedule 1

4

Before “Provisions of Acts”, insert “(1)”.

5

34 At the end of section 357-55 in Schedule 1

6

Add:

7

(2) Provisions of the *Ethanol Production Grants Act 2011* or
regulations made under that Act are relevant for rulings.

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EXPOSURE DRAFT

2TSchedule 42T Transitional provisions for excise on gaseous fuels and methanol

Schedule 4—Transitional provisions for excise on gaseous fuels and methanol

1 Definitions

In this Schedule:

CEO has the same meaning as in the *Excise Act 1901*.

Collector has the same meaning as in section 15 of the *Excise Act 1901*.

excisable goods has the same meaning as in the *Excise Act 1901*.

factory has the same meaning as in the *Excise Act 1901*.

licence has the same meaning as in the *Excise Act 1901*.

manufacture has the same meaning as in the *Excise Act 1901*.

manufacturer licence has the same meaning as in the *Excise Act 1901*.

2 Application

(1) This Schedule applies in relation to a person and any of the following excisable goods that the person manufactures, or proposes to manufacture, while the person does not have a manufacturer licence for the goods:

- (a) liquefied petroleum gas;
- (b) liquefied natural gas;
- (c) compressed natural gas;
- (d) methanol.

Note: Not all compressed natural gas is excisable goods.

(2) However, this Schedule does not apply in relation to the person and the goods after the time described in an item of the table.

When this Schedule does not apply if manufacturer licence is not granted

If:	This Schedule does not apply after:
1 Before 1 February 2012: (a) the person applies for a manufacturer licence for the goods; and (b) the Collector refuses to grant the licence	The Collector refuses to grant the licence

EXPOSURE DRAFT

Transitional provisions for excise on gaseous fuels and methanol 2TSchedule 42T

When this Schedule does not apply if manufacturer licence is not granted

If:	This Schedule does not apply after:
2 Before 1 February 2012: (a) the person applies for a manufacturer licence for the goods; and (b) the Collector has not decided whether to grant or refuse to grant the licence	The earliest of the following times: (a) the time the Collector refuses to grant the licence; (b) the end of 30 November 2012; (c) the time (if any) determined under subitem (3) for the goods
3 The person does not apply for a manufacturer licence for the goods before 1 February 2012	31 January 2012

1 Note: This Schedule does not apply after the Collector grants the person a manufacturer
2 licence for the goods (because this Schedule applies only while the person does not have
3 such a licence).

4 (3) The Collector may by legislative instrument determine for goods a time
5 after 31 January 2012 and before the end of 30 November 2012. The
6 time must be after the determination is made. The Collector may
7 determine different times for different goods.

8 **3 Operation of rules about licences**

9 (1) The person need not comply with the provisions of the *Excise Act 1901*,
10 and regulations made under that Act, relating to licences for the goods.

11 (2) However, if the person manufactures the goods:
12 (a) the person must comply with that Act and those regulations
13 as if the person held a manufacturer licence to manufacture
14 the goods; and
15 (b) the premises on which the person manufactures the goods are
16 taken to be a factory for the purposes of that Act and those
17 regulations.

18 **4 Permission to deliver goods for home consumption**

19 (1) If the person manufactures the goods, the person is taken to have been
20 given permission under section 61C of the *Excise Act 1901* to deliver
21 the goods for home consumption from the place where they are subject
22 to the CEO's control.

EXPOSURE DRAFT

2TSchedule 42T Transitional provisions for excise on gaseous fuels and methanol

- 1 (2) The permission is taken for the purposes of that section to be revoked at
2 the first time this Schedule does not apply in relation to the person and
3 the goods.
4

EXPOSURE DRAFT

Repeal of the Ethanol Production Grants Act 2011 **2TSchedule 52T**
Repeal **0TPart 10T**

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Schedule 5—Repeal of the Ethanol Production Grants Act 2011

Part 1—Repeal

1 The whole of the Act

Repeal the Act.

2 Saving

Despite the repeal of the *Ethanol Production Grants Act 2011* by this Part, that Act continues to apply in relation to fuel manufactured before 1 July 2020.

EXPOSURE DRAFT

2TSchedule 52T Repeal of the Ethanol Production Grants Act 2011
0TPart 20T Consequential amendments

1

2 **Part 2—Consequential amendments**

3 *Fuel Tax Act 2006*

4 **3 Subsection 43-5(2A) (table item 1)**

5 Repeal the item.

6 **4 Subsection 43-5(6)**

7 Repeal the subsection.

8 **5 Saving**

9 Despite the amendments of section 43-5 of the *Fuel Tax Act 2006* made
10 by this Part, that section continues to apply in relation to fuel acquired,
11 manufactured or imported on or after 1 December 2011 and before
12 1 July 2020 as if those amendments had not been made.

13 *Product Grants and Benefits Administration Act 2000*

14 **6 Section 8 (table item 4)**

15 Repeal the item.

16 **7 Saving**

17 Despite the amendment of section 8 of the *Product Grants and Benefits*
18 *Administration Act 2000* made by this Part, that Act continues to
19 operate in relation to the former *Ethanol Production Grants Act 2011* as
20 if that amendment had not been made.

21 *Taxation Administration Act 1953*

22 **8 Subsection 357-55(1) in Schedule 1**

23 Omit “(1)”.

24 **9 Subsection 357-55(2) in Schedule 1**

25 Repeal the subsection.

26 **10 Saving**

EXPOSURE DRAFT

Repeal of the Ethanol Production Grants Act 2011 **2TSchedule 52T**
Consequential amendments **0TPart 20T**

1 Despite the amendments of section 357-55 in Schedule 1 to the
2 *Taxation Administration Act 1953* made by this Part, that Act continues
3 to operate in relation to the former *Ethanol Production Grants Act 2011*
4 as if those amendments had not been made.