

**1993**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**BUSINESS FRANCHISE (TOBACCO AND PETROLEUM  
PRODUCTS) (AMENDMENT) 1993**

**EXPLANATORY MEMORANDUM**

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**Rosemary Follett, MLA**

**BUSINESS FRANCHISE (TOBACCO AND PETROLEUM  
PRODUCTS) (AMENDMENT) BILL 1993**

**Summary**

The Business Franchise (Tobacco and Petroleum Products) Act 1984 provides for the imposition of business franchise licence fees on the supply of tobacco and petroleum products in the ACT.

A diesel fuel exemption scheme for off-road users of diesel fuel has operated since 1987 primarily designed to provide relief to primary producers in the forestry, pastoral, agriculture and fishing industries. In the ACT only about 1% of exempt fuel is used for farming operations with the remainder being used for various other business activities, including off-road plant and heating.

There is widespread abuse of the scheme with exempt fuel being diverted to on-road use in vehicles servicing the transport and construction industries, as well as personal use in four wheel drive and other diesel powered vehicles. The current scheme is not means tested. It provides concessions to users of a particular fuel (diesel) and commensurate benefits are not available to users of other types of fuel used for similar purposes (eg. gas and electricity).

The Business Franchise (Tobacco and Petroleum Products) (Amendment) Bill proposes to modify the present scheme by limiting benefits to pensioners and beneficiaries in order to properly target disadvantaged groups such as the unemployed and low income families.

Details of the Bill are attached.

**DETAILS OF THE BUSINESS FRANCHISE (TOBACCO AND PETROLEUM  
PRODUCTS) (AMENDMENT) BILL 1993**

**Short Title**

Clause 1 - provides for the short title for this Act to be the Business Franchise (Tobacco and Petroleum Products) (Amendment) Act 1993 (the Act).

**Commencement**

**Clause 2**

Subsection (1) - provides that sections 1,2,3 and 13 commence on the date of gazettal.

Subsection (2) - provides that the remaining provisions commence on 1 November 1993.

**Principal Act**

Clause 3 - refers to the Principal Act being amended, being the Business Franchise (Tobacco and Petroleum Products) Act 1984.

**Substitution**

Clause 4 - repeals section 36A of the Principal Act thereby removing the general exemption for diesel fuel used for any purpose, other than for propelling a diesel engined road vehicle on a public road and substitutes a new interpretation section.

**Interpretation**

New section 36A - provides that for the purposes of this Division, "benefits card" is a card known either as a "Pensioner Health Benefits Card" or a "Health Care Card" issued by the Commonwealth to eligible persons who may be pensioners or beneficiaries of a Commonwealth benefit.

**Diesel fuel exemption certificate**

**Clause 5 - amends section 36B of the Principal Act**

(a) by omitting subsection (1), which is consequential to the repeal of the definition of exempt purpose;

- (b) by inserting in subsection (2) the words "for an exemption certificate" after "application" to clarify the subsection following the repeal of subsection (1);
- (c) by omitting paragraph 2(c) as there is no longer any need to specify a purpose for which the diesel fuel may be used, the only allowed purpose now being for home space heating;
- (d) by adding the word "and" at the end of paragraph 2(d); and
- (e) by adding paragraph 2(e) to the end of subsection (2), requiring that an application for diesel fuel exemption certificate must be accompanied by a person's benefits card.

#### **Issue of exemption certificate**

**Clause 6 - amends section 36C of the Principal Act**

- (a) by omitting subsection (1) and substitutes a new subsection (1) which requires the Commissioner to issue an exemption certificate unless he or she has reasonable grounds to believe that the applicant is not entitled to hold a benefits card or will not use the diesel fuel purchased pursuant to the exemption certificate for home space heating;
- (b) by omitting subsection (3), which is consequential to the amendment contained within the new subsection (1), and substitutes a new subsection (3) which requires the Commissioner to endorse an exemption certificate with an identifying number.

#### **Revocation of exemption certificate**

**Clause 7 - amends section 36D of the Principal Act by omitting subsection (c) and substitutes a new subsection (c) which provides that the Commissioner may revoke an exemption certificate if the holder of the certificate uses diesel fuel purchased pursuant to the certificate for other than home space heating.**

#### **Insertion**

**Clause 8 - inserts a new section 36DA after section 36D of the Principal Act.**

#### **Cessation of entitlement to hold benefits card**

**New section 36DA provides that if a person holding a benefits card ceases to be entitled to hold that card, a diesel fuel exemption certificate ceases to be in force from the date their entitlements under the benefits card ends.**

#### **Renewal of exemption certificate**

Clause 9 - amends section 36F of the Principal Act by omitting the word "The" and substitutes "Subject to this Division, the", making renewal conditional upon the applicant satisfying the requirements of this Division.

#### **Returns**

Clause 10 - amends section 36I of the Principal Act by omitting the reference to use of diesel fuel for other than an exempt purpose and substituting the specific reference to use for purposes other than for the heating of a persons residence.

#### **Liability for fees for use of fuel for non-exempt purpose**

Clause 11 - amends section 36J of the Principal Act by omitting the reference to use of diesel fuel for other than an exempt purpose and substituting the specific reference to use for purposes other than for the heating of a persons residence.

#### **Insertion**

Clause 12 - inserts a new section 36L after section 36K of the Principal Act.

#### **Return of exemption certificates**

New section 36L provides that where an exemption certificate is either revoked under section 36D, ceases to be in force under the new section 36DA or lapses under section 36E then the certificate holder must return the certificate and/or any copy of the certificate issued by the Commissioner, within 14 days of the certificate being revoked, ceasing to be in force or lapsing. Failing to do so, without reasonable excuse may render the certificate holder liable to a penalty of \$500.

#### **Non-renewal of existing certificates**

Clause 13 - provides that sections 36E and 36F of the Principal Act do not automatically apply to diesel fuel exemption certificates issued prior to the commencement date of 1 November 1993. Therefore all applicants for renewal of exemption certificates are subject to this amended Division.

#### **Note about section heading**

On 1 November 1993, the heading to section 36K of the Principal Act is omitted and the following section substituted:

#### **Sale of fuel purchased pursuant to exemption certificate**