



AUSTRALIAN CAPITAL TERRITORY

**Business Franchise (Tobacco and
Petroleum Products) (Amendment) Act
1993**

No. 79 of 1993

**An Act to amend the *Business Franchise (Tobacco and
Petroleum Products) Act 1984***

[Notified in ACT Gazette S223: 1 November 1993]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Business Franchise (Tobacco and Petroleum Products) (Amendment) Act 1993*.

Commencement

2. (1) Sections 1, 2, 3 and 13 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on 1 November 1993.

Principal Act

3. In this Act, “Principal Act” means the *Business Franchise (Tobacco and Petroleum Products) Act 1984*.¹

Substitution

4. Section 36A of the Principal Act is repealed and the following section substituted:

Interpretation

“36A. For the purposes of this Division—

‘benefits card’, in relation to a person, means a card issued to the person by the Commonwealth and known as—

- (a) a Health Care Card; or
- (b) a Pensioner Health Benefits Card;

‘purposes of primary production’, in relation to the use of diesel fuel, does not include the use of the fuel for propelling a diesel-engined road vehicle on a public road.”.

Diesel fuel exemption certificate

5. Section 36B of the Principal Act is amended—

- (a) by omitting subsection (1);
- (b) by inserting in subsection (2) “for an exemption certificate” after “application”;
- (c) by adding at the end of paragraph (2) (d) “and”; and
- (d) by adding at the end of subsection (2) the following paragraph:
 - “(e) if the application relates to the use of diesel fuel for residential heating—be accompanied by the applicant’s benefits card.”.

Issue of exemption certificate

6. Section 36C of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsection:

“(1) On application under section 36B, the Commissioner shall issue an exemption certificate to the applicant unless he or she has reasonable grounds for believing that the applicant—

 - (a) if the application relates to the use of diesel fuel for residential heating—
 - (i) is not entitled to hold a benefits card; or

- (ii) will not use diesel fuel purchased pursuant to the certificate for the purpose of heating his or her residence; or
- (b) if the application relates to the use of diesel fuel for the purposes of primary production—will not use the diesel fuel purchased pursuant to the certificate for the purposes of primary production.”; and
- (b) by omitting subsection (3) and substituting the following subsections:
 - “(3) The Commissioner shall specify in an exemption certificate the purposes for which diesel fuel purchased pursuant to the certificate may be used, being either or both of the following purposes:
 - (a) residential heating;
 - (b) the purposes of primary production.
 - “(4) The Commissioner shall endorse an exemption certificate with an identifying number.”.

Revocation of exemption certificate

7. Section 36D of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:

- “(c) uses diesel fuel purchased pursuant to the certificate for a purpose not specified in the certificate.”.

Insertion

8. After section 36D of the Principal Act the following section is inserted:

Cessation of entitlement to hold benefits card

“36DA. Where an exemption certificate specifies that diesel fuel purchased pursuant to the certificate may only be used for residential heating, the certificate ceases to be in force if the holder of the certificate ceases to be entitled to hold a benefits card.”.

Renewal of exemption certificate

9. Section 36F of the Principal Act is amended by omitting “The” and substituting “Subject to this Division, the”.

Returns

10. Section 36I of the Principal Act is amended by omitting from paragraph (d) “other than an exempt purpose” and substituting “not specified in the certificate”.

Liability for fees for use of diesel fuel for non-exempt purpose

11. Section 36J of the Principal Act is amended by omitting “other than an exempt purpose” and substituting “not specified in the certificate”.

Insertion

12. After section 36K of the Principal Act the following section is inserted in Division 2 of Part III:

Return of exemption certificates

“36L. Within 14 days after an exemption certificate—

- (a) is revoked under section 36D;
- (b) ceases to be in force under section 36DA; or
- (c) lapses under section 36E;

the person who was issued with the certificate shall not, without reasonable excuse, fail to return to the Commissioner the certificate, together with any copy of the certificate issued under section 36G.

Penalty: \$500.”.

Non-renewal of existing certificates

13. Sections 36E and 36F of the Principal Act do not apply so as to enable the renewal of exemption certificates issued before 1 November 1993.

NOTE

1. Reprinted as at 31 August 1993.

NOTE ABOUT SECTION HEADING

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

Sale of fuel purchased pursuant to exemption certificate

[Presentation speech made in Assembly on 15 September 1993]

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