

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

**TOBACCO LICENSING (AMENDMENT) BILL
1998**

EXPLANATORY MEMORANDUM

Circulated by the Authority of the Chief Minister and Treasurer

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TOBACCO LICENSING (AMENDMENT) BILL 1998

Summary

This is an amending Bill and is consequential to the Subsidies (Liquor and Diesel) Bill 1998

The Bill amends the Business Franchise (Tobacco and Petroleum Product) Act 1984 (the Principal Act) which provides for the licensing of tobacco and petroleum wholesalers and retailers in the Territory and the collection of both fixed licence fees and ad valorem licence fees based on sales of those products into the Territory

This amending Bill

- a) repeals all provisions in relation to the diesel exemption certificate scheme contained in the Principal Act, which are now to be replaced by arrangements under the Subsidies (Liquor and Diesel) Bill 1998,
- b) repeals all provisions relating to the licensing of tobacco wholesalers and petroleum wholesalers and retailers and the collection of licence fees from those licensees. Equivalent revenue is now collected by the Commonwealth under an agreement between the Commonwealth and all States and Territories,
- c) amends existing provisions for the licensing of persons retailing tobacco products in the Territory by the repeal of ad valorem licence fees but retains the collection of fixed annual licence fees, and
- d) renames the amended Principal Act as the Tobacco Licensing Act 1984

The retention of the retail tobacco licensing scheme will ensure the continued collection of licence fees which are allocated specifically to the administration of the regulatory provisions of the Tobacco Act 1927 and in particular the prohibition of the sale of tobacco products to minors

Financial/Cost Implications

Fixed retail tobacco licence fees are currently estimated at \$50,000 per annum

Details of the Bill are attached

Details of the Tobacco Licensing (Amendment)Bill 1998

Clause 1

This is the name of the new Act

Clause 2

This Act is enacted as a consequence of the Subsidies (Liquor and Diesel) Act 1998 and commences on the same day

Clause 3

The Business Franchise (Tobacco and Petroleum Products) Act 1984 is the name of the existing legislation that is being amended. It is referred to as the 'Principal Act'

Clause 4-5

The renaming of the Business Franchise (Tobacco and Petroleum Products) Act 1984 to the Tobacco Licensing Act 1984, is to accurately reflect the purpose of the remaining amended provisions in the Principal Act

Clause 6

All definitions relating to petroleum products under section 3 of the Principal Act are removed. The provisions relating to the supply of petroleum products under the Principal Act are now replaced by new provisions under the Subsidies (Liquor and Diesel) Bill 1998

Clause 7

Section 3A of the Principal Act is repealed since the use of 'relevant period' is only used in relation to excise-type tobacco licensing fees. Since the provisions for tobacco licensing will be amended to remove ad valorem imposts, this provision is no longer appropriate

Clause 8

Section 23 of the Principal Act is amended. These penalty provisions are in relation to petroleum products. These are removed as a consequence of new provisions provided under the Subsidies (Liquor and Diesel) Bill 1998. The heading for this clause is changed to remove reference to petroleum products

Clause 9

Sections 25 and 27 of the Principal Act are repealed. These provisions are for the grant of licences for the sale of petroleum products, and for offences relating to the sale of petroleum products. Since the licence provisions are a ad valorem impost, they need to be removed

Clause 10

Section 27A of the Principal Act is amended. This provision is amended to remove reference to a group petroleum retailer's licence or a group petroleum wholesaler's licence.

Clause 11

Section 28 of the Principal Act is repealed and a new section substituted. The new provisions remove all ad valorem imposts from the grant of tobacco licensing arrangements. The grant or renewal of tobacco licences will now be accompanied by a new determined fee based on the type of premises from which tobacco is sold.

Clause 12

Section 31 and 32 of the Principal Act are repealed. These provisions relate to the granting of petroleum product licences as an ad valorem charge and are therefore repealed.

Clause 13

Section 34 of the Principal Act is amended. These provisions are amended to remove all references to petroleum product sales or the determination of licence fees by way of an ad valorem charge.

Clause 14

Section 35 of the Principal Act is amended. This removes the term of licences for retail and group petroleum wholesale sales since these licences are now no longer applicable. This also removes reference to a group petroleum retailer's licence or a group petroleum wholesaler's licence.

Clause 15

Section 35A of the Principal Act is amended. These provisions are for the renewal of licences. Amendment is made to remove reference to a group petroleum retailer's licence or a group petroleum wholesaler's licence and the payment of ad valorem fees or the basis on which ad valorem fees were charged.

Clause 16

Section 36 of the Principal Act is repealed and a new section substituted. This section relates to the expiry of licences. All reference to a group petroleum retailer's licence or a group petroleum wholesaler's licence is now removed so that the provision only relates to a retail tobacconist's licence or a group retail tobacconist's licence. When a licence expires and is subsequently renewed, the licence period shall be from the date of expiry.

Clause 17

Division 2 - Part III of the Principal Act is repealed. This division relates to the operation of the diesel fuel exemption scheme. Since the provision of diesel fuel exemptions are now provided more appropriately under the Subsidies (Liquor and Diesel) Bill 1998, the corresponding provisions in this Act are now removed.

Clause 18

Section 37 of the Principal Act is amended as a grammatical tidying up exercise and to remove provisions relating to the diesel fuel exemption scheme which is replaced by new provisions under the Subsidies (Liquor and Diesel) Bill 1998

Clause 19

Section 38 of the Principal Act is amended as a grammatical tidying up exercise and to remove provisions relating to the diesel fuel exemption scheme which is replaced by new provisions under the Subsidies (Liquor and Diesel) Bill 1998

Clause 20

Section 38A of the Principal Act is repealed. These provisions relate to the tobacco licensing returns. Since licensing fees will no longer be based on sales turnover, the requirement to submit returns is no longer necessary. The maintenance of records would however, remain

Clause 21

Section 40 of the Principal Act is amended. These refer to holders of a petroleum wholesaler's licence or a retailer's petroleum licence. These licences are to be abolished under this Act

Clause 22

Section 44A of the Principal Act is repealed and a new section substituted. The new section provides for a new determination of the tobacco licensing fees on a basis that does not include an ad valorem impost

Clause 23

Section 45 of the Principal Act is amended to remove reference to petroleum products

Clause 24

The Schedule to the Principal Act is repealed

Clause 25

Other Acts specified in Schedule 1 are amended to remove reference to the Business Franchise (Tobacco and Petroleum Products) Act 1984, and to substitute the relevant provisions with a reference to the Tobacco Licensing Act 1984