

**NORTHERN TERRITORY OF AUSTRALIA**

**FUEL SUBSIDIES REGULATIONS**

As in force at 9 February 2000

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 9 February 2000

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## FUEL SUBSIDIES REGULATIONS

### Regulations under the *Fuel Subsidies Act*

#### 1 Citation

These Regulations may be cited as the *Fuel Subsidies Regulations*.

#### 2 Definitions

In these Regulations, unless the contrary intention appears:

**McArthur River Project** has the same meaning as in the *McArthur River Project Agreement Ratification Act*.

**mother ship** means a vessel used for the purpose of providing diesel and provisions to a trawler.

**trawler** means a vessel used to take fish or aquatic life under a licence granted under the Fisheries Act or under an Act of the Commonwealth or a State or another Territory of the Commonwealth that corresponds, as near as practicable, to the Fisheries Act.

#### 3 Diesel

- (1) The petroleum or shale products described in the following items of Schedule 3 to the *Customs Tariff Act 1995* of the Commonwealth are prescribed as diesel for the purposes of the definition of **diesel** in section 3(1) of the Act:

|            |            |            |
|------------|------------|------------|
| 2707.10.19 | 2707.10.99 | 2707.20.19 |
| 2707.10.91 | 2707.20.91 | 2707.20.99 |
| 2707.30.19 | 2709.00.29 | 2707.30.91 |
| 2709.00.99 | 2707.30.99 | 2710.00.15 |
| 2707.50.29 | 2710.00.29 | 2707.50.91 |
| 2710.00.39 | 2707.50.99 | 2710.00.69 |

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2710.00.89.

- (2) The petroleum or shale products described in the following items of the Schedule to the *Excise Tariff Act 1921* of the Commonwealth are prescribed as diesel for the purposes of the definition of **diesel** in section 3(1) of the Act:

|             |             |                 |
|-------------|-------------|-----------------|
| 11(B)(1)(a) | 11(D)(3)    | 11(I)(1)(b)(ii) |
| 11(B)(2)(a) | 11(I)(2)(a) | 11(E)(1)        |
| 11(I)(3)(a) | 11(C)(1)(a) | 11(C)(2)(a)     |
| 11(F)(1)    | 11(J)(1)(a) | 11(J)(1)(b)     |
| 11(G)(2)    | 11(J)(2)(a) | 11(J)(2)(b).    |

- (3) The items listed in subregulation (1) are to be interpreted in accordance with the *Customs Tariff Act 1995* of the Commonwealth and any other Commonwealth Act relevant for that purpose.
- (4) The items listed in subregulation (2) are to be interpreted in accordance with the *Excise Tariff Act 1921* of the Commonwealth and any other Commonwealth Act relevant for that purpose.

#### **4 Prescribed fuel**

- (1) The fuel described in the following items of Schedule 3 to the *Customs Tariff Act 1995* of the Commonwealth are prescribed fuel for the purposes of the definition of **prescribed fuel** in section 3(1) of the Act:

|            |            |             |
|------------|------------|-------------|
| 2707.10.19 | 2707.30.19 | 2710.00.15  |
| 2707.10.91 | 2707.30.91 | 2710.00.29  |
| 2707.10.99 | 2707.30.99 | 2710.00.39  |
| 2710.00.57 | 2707.20.19 | 2707.50.29  |
| 2710.00.59 | 2707.20.91 | 2707.50.91  |
| 2710.00.69 | 2707.20.99 | 2707.50.99  |
| 2710.00.89 | 2709.00.29 | 2709.00.99. |

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- (2) The goods described in the following items of the Schedule to the *Excise Tariff Act 1921* of the Commonwealth are prescribed fuel for the purposes of the definition of **prescribed fuel** in section 3(1) of the Act:

|             |             |                 |
|-------------|-------------|-----------------|
| 11(B)(1)(a) | 11(F)(1)    | 11(I)(1)(b)(ii) |
| 11(B)(2)(a) | 11(I)(2)(a) | 11(G)(2)        |
| 11(I)(3)(a) | 11(C)(1)(a) | 11(C)(2)(a)     |
| 11(H)(1)(b) | 11(J)(1)(a) | 11(H)(1)(c)     |
| 11(J)(1)(b) | 11(D)(3)    | 11(H)(2)(b)     |
| 11(J)(2)(a) | 11(H)(2)(c) | 11(J)(2)(b)     |
| 11(E)(1).   |             |                 |

- (3) The items listed in subregulation (1) are to be interpreted in accordance with the *Customs Tariff Act 1995* of the Commonwealth and any other Commonwealth Act relevant for that purpose.
- (4) The items listed in subregulation (2) are to be interpreted in accordance with the *Excise Tariff Act 1921* of the Commonwealth and any other Commonwealth Act relevant for that purpose.

## 5 Indexation of special subsidy rate

- (1) The special subsidy rate is to be indexed in accordance with the following formula:

$$\text{Indexed SSR} = [(\text{existing SSR} + 1.1) \times \text{CPI}] - 1.1$$

Where:

SSR is the special subsidy rate; and

CPI has the same meaning as **factor** has in section 6A(4) of the *Excise Tariff Act 1921* of the Commonwealth.

- (2) If CPI is less than one, the formula will not apply.
- (3) The indexed special subsidy rate is to be rounded to 3 decimal places.
- (4) The indexed special subsidy rate is to apply from the 6 month period commencing 1 February 1999 and from the commencement of each subsequent 6 month period.

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- (5) The indexed special subsidy rate is only to apply to prescribed fuel or diesel that is supplied in accordance with the Act after the commencement of the relevant 6 month period.
  - (6) An amount prescribed under paragraph (b) of the definition of **special subsidy rate** in section 3(1) of the Act is not to be indexed in accordance with this regulation.

## **6 Exemption of mother ship operators**

The operator of a mother ship is exempted from the requirement to be licensed under section 6 of the Act in respect diesel supplied by the operator to a trawler at sea by way of the mother ship.

## **7 Fee for licence**

For the purposes of section 7(2) of the Act, the prescribed fee is \$500.

## **8 Period of licence**

For the purposes of section 8(2) of the Act, the prescribed period is 12 months.

## **9 Records**

For the purposes of section 11(1) of the Act, the prescribed records are:

- (a) the invoice number;
- (b) the name and address of the person supplied;
- (c) the delivery address;
- (d) the date of supply;
- (e) the quantity supplied;
- (f) the price per litre; and
- (g) the type of fuel supplied.

## **10 Special subsidy**

- (1) Subject to subregulation (1A), the special subsidy is payable to McArthur River Mining Pty Ltd in respect of prescribed fuel and diesel that is purchased and delivered from a place in the Territory and used by it or its contractors on the McArthur River Project.

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- (1A) If McArthur River Mining Pty Ltd or a contractor of McArthur River Mining Pty Ltd is eligible for a rebate of duty under regulation 126(1)(s)(i) of the *Customs Regulations* of the Commonwealth or a rebate of excise duty under regulation 50(1)(x) of the *Excise Regulations* of the Commonwealth in respect of a quantity of prescribed fuel or diesel, McArthur River Mining Pty Ltd is not in respect of that quantity of prescribed fuel or diesel a prescribed person to whom the special subsidy is payable under subregulation (1).
- (2) Subject to subregulation (3), the special subsidy is payable to a person in respect of:
- (a) diesel supplied by the person to a trawler at sea by way of a mother ship; and
  - (b) diesel used by the mother ship in supplying the diesel referred to in paragraph (a).
- (3) If a person is eligible for a drawback of duty under section 168 of the *Customs Act 1901* of the Commonwealth or a drawback of excise duty under section 79 of the *Excise Act 1901* of the Commonwealth in respect of a quantity of diesel used by a mother ship in supplying diesel to a trawler at sea or a quantity of diesel used by a trawler supplied at sea by a mother ship, the person is not in respect of that quantity of diesel a prescribed person to whom the special subsidy is payable under subsection (2).

## **11 Reduction of fuel subsidies**

- (1) If a subsidy claim is made for prescribed fuel or diesel supplied from a place in Australia outside of the Territory to a person who took delivery of it in the Territory, the subsidy is to be calculated as provided in this regulation.
- (2) In the case of the general subsidy, if under a law or scheme of a State or another Territory of the Commonwealth, a subsidy is payable on the prescribed fuel at a rate that equals or exceeds the general subsidy rate, no general subsidy is payable.
- (3) In the case of the general subsidy, if under a law or scheme of a State or another Territory of the Commonwealth, a subsidy is payable on the prescribed fuel at a rate that is less than the general subsidy rate, the general subsidy is to be calculated as follows:

general subsidy = quantity in litres x (general subsidy rate – other jurisdiction subsidy rate).

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(4) In the case of the ORD subsidy, if under a law or scheme of a State or another Territory of the Commonwealth, a subsidy is payable on the diesel at a rate that equals or exceeds the sum of the general subsidy rate and the ORD subsidy rate, no subsidy is payable.

(5) In the case of the ORD subsidy, if under a law or scheme of a State or another Territory of the Commonwealth, a subsidy is payable on the diesel at a rate that is greater than the general subsidy rate, but is less than the sum of the ORD subsidy rate and the general subsidy rate, the ORD subsidy is to be calculated as follows:

$$\text{ORD subsidy} = \text{quantity in litres} \times [\text{ORD subsidy rate} - (\text{other jurisdiction subsidy rate} - \text{general subsidy rate})].$$

(6) In the case of the ORD subsidy, if under a law or scheme of a State or another Territory of the Commonwealth, a subsidy is payable on the diesel at a rate that is less than the general subsidy rate, the ORD subsidy is to be calculated as follows:

$$\text{ORD subsidy} = \text{quantity in litres} \times \text{ORD subsidy rate}.$$

(7) In the case of the special subsidy, if under a law or scheme of a State or another Territory of the Commonwealth, a subsidy is payable on the prescribed fuel or diesel at a rate that equals or exceeds the sum of the general subsidy rate and the special subsidy rate, no subsidy is payable.

(8) In the case of the special subsidy, if under a law or scheme of a State or another Territory of the Commonwealth, a subsidy is payable on the prescribed fuel or diesel at a rate that is greater than the general subsidy rate, but is less than the sum of the special subsidy rate and the general subsidy rate, the special subsidy is to be calculated as follows:

$$\text{special subsidy} = \text{quantity in litres} \times [\text{special subsidy rate} - (\text{other jurisdiction subsidy rate} - \text{general subsidy rate})].$$

(9) In the case of the special subsidy, if under a law or scheme of a State or another Territory of the Commonwealth, a subsidy is payable on the prescribed fuel or diesel at a rate that is less than the general subsidy rate, the special subsidy is to be calculated as follows:

$$\text{special subsidy} = \text{quantity in litres} \times \text{special subsidy rate}.$$



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## 12 Applying for fuel subsidies

- (1) An application for the general subsidy is to be made for supplies of prescribed fuel made in a calendar month beginning on the first day of the month and the first prescribed period is the month beginning 1 February 1999.
- (2) Subject to subregulation (3), an application for the ORD subsidy or the special subsidy may be made at any time.
- (3) An application for a fuel subsidy is to be made within 3 years after the prescribed fuel or diesel was supplied.
- (4) An application cannot be made for the ORD subsidy or the special subsidy in respect of prescribed fuel or diesel supplied before 1 February 1999.

## 13 Calculation of fuel subsidies

- (1) The amount of general subsidy payable to a licensed supplier is the sum of the quantity in litres of prescribed fuel:
  - (a) supplied at the general subsidised price; and
  - (b) used by the licensed supplier,multiplied by the general subsidy rate.
- (2) The amount of ORD subsidy payable to an applicant is the quantity in litres of eligible diesel multiplied by the ORD subsidy rate.
- (3) The amount of special subsidy payable to an applicant is the quantity in litres of eligible prescribed fuel or diesel multiplied by the special subsidy rate.
- (4) This regulation is subject to regulation 11.
- (5) In this regulation, **eligible**, in respect of prescribed fuel or diesel, means the prescribed fuel or diesel qualifies for a fuel subsidy.

## 14 Expenses for attending examination

- (1) If a person is required under section 36 of the Act to attend for examination and the person lives more than 7 kilometres from the place of the examination, the Commissioner is to pay to the person travelling expenses that the Commissioner thinks reasonable (but not exceeding the actual travelling expenses incurred by the person).

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- (2) Subregulation (1) does not apply if the person is a subsidy applicant or an employee of a subsidy applicant.

## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2 LIST OF LEGISLATION

***Fuel Subsidies Regulations (SL No. 2, 1999)***

|           |                 |
|-----------|-----------------|
| Notified  | 1 February 1999 |
| Commenced | 1 February 1999 |

***Amendment of Fuel Subsidies Regulations (SL No. 4, 2000)***

|           |                 |
|-----------|-----------------|
| Notified  | 9 February 2000 |
| Commenced | 9 February 2000 |

### 3 LIST OF AMENDMENTS

r 10            amd No. 4, 2000