



Queensland

Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Bill 2015

Includes amendments agreed during Consideration



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2015

A Bill

for

An Act to amend the *Liquid Fuel Supply Act 1984* to introduce a mandate for biofuels including ethanol and biodiesel, and for other particular purposes

[s 1]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Liquid Fuel Supply (Ethanol and Other Biofuels Mandate) Amendment Act 2015*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act amended

This Act amends the *Liquid Fuel Supply Act 1984*.

4 Amendment of s 5 (Interpretation)

(1) Section 5, heading—

omit, insert—

5 Definitions

(2) Section 5—

insert—

approved form means a form approved under section 56A.

biobased diesel means—

- (a) biodiesel; or
- (b) other fuel for diesel engines produced from—
 - (i) plant oils or animal oils; or
 - (ii) biomass; or
 - (iii) waste.

biobased petrol means—

- (a) ethanol; or
- (b) other fuel for petrol engines produced from—
 - (i) plant oils or animal oils; or
 - (ii) biomass; or
 - (iii) waste.

biodiesel has the meaning given under the *Fuel Quality Standards Act 2000* (Cwlth).

calendar quarter means a period of 3 calendar months starting on 1 January, 1 April, 1 July or 1 October of a year.

diesel means fuel for diesel engines produced from petroleum.

diesel-biobased diesel blend means a blend of diesel and biobased diesel.

fuel facility means a place from which a fuel seller supplies petrol or diesel sold by the fuel seller.

Example for a fuel retailer—

a service station

Examples for a fuel wholesaler—

a depot, refinery or terminal

fuel retailer means a person who sells petrol or diesel to the public other than for resale by members of the public.

fuel seller means a fuel retailer or fuel wholesaler.

fuel wholesaler means a person who sells petrol or diesel to fuel retailers for resale by the fuel retailers, whether or not the person also sells petrol or diesel to another person for the person's own use.

[s 4]

low aromatic fuel means petrol, or petrol-biobased petrol blend, that is low aromatic fuel under the *Low Aromatic Fuel Act 2013* (Cwlth).

low aromatic fuel service station means a service station—

- (a) where low aromatic fuel is sold to the public; or
- (b) that is in a low aromatic fuel area, or fuel control area, under the *Low Aromatic Fuel Act 2013* (Cwlth).

petrol does not include aviation fuel or liquid petroleum gas.

petrol-biobased petrol blend means a blend of petrol and biobased petrol.

premium petrol means petrol that complies with the fuel standard for premium unleaded petrol under the *Fuel Quality Standards Act 2000* (Cwlth).

premium petrol-biobased petrol blend means a blend of premium petrol and biobased petrol.

registration information, for a fuel seller, means—

- (a) the fuel seller's name, business address, phone number, and email address (if any); and
- (b) the address of each of the fuel seller's fuel facilities; and
- (c) the type of fuel supplied from each of the fuel seller's fuel facilities.

regular petrol means petrol that is not premium petrol.

regular petrol-biobased petrol blend means a blend of regular petrol and biobased petrol.

service station means a place where petrol or diesel is sold to the public, whether or not the place is used for another purpose, including, for example, for selling other products.

stakeholder means an entity with expertise or an interest in biobased diesel or biobased petrol, including, for example—

- (a) a government agency of Queensland, another State or the Commonwealth; and
- (b) an entity involved in, or representing, the biofuel industry, feedstock industry, fuel industry, motor vehicle industry, consumers of feedstock or motor vehicle users.

standard service station means a service station that is not a low aromatic fuel service station.

sustainable biobased diesel means biobased diesel that complies with the sustainability criteria for biobased diesel prescribed by regulation.

sustainable biobased petrol means biobased petrol that complies with the sustainability criteria for biobased petrol prescribed by regulation.

sustainable biofuel means—

- (a) sustainable biobased diesel; or
- (b) sustainable biobased petrol.

sustainable biofuel blend means—

- (a) a diesel-biobased diesel blend containing sustainable biobased diesel; or
- (b) a petrol-biobased petrol blend containing sustainable biobased petrol.

sustainable biofuel requirement means a requirement under section 35B or 35C.

[s 5]

- (3) Section 5, ‘In this Act—’—

omit, insert—

The dictionary in schedule 1 defines particular words used in this Act.

- (4) Section 5, all definitions—

relocate to schedule 1, as inserted by this Act.

5 Amendment of s 26 (Application for permit)

Section 26(1), ‘prescribed’—

omit, insert—

approved

6 Replacement of pt 5A (Ethanol substitution)

Part 5A—

omit, insert—

Part 5A Sustainable biofuel in petrol or diesel

Division 1 Sale of sustainable biofuel

Subdivision 1 Application of div 1

35A Application of div 1

- (1) This division applies to the sale of petrol or a petrol-biobased petrol blend (*petrol fuel*), and the sale of diesel or a diesel-biobased diesel blend (*diesel fuel*), by a fuel seller—
- (a) to a person in Queensland; or
 - (b) for delivery in Queensland, whether or not the sale is made in Queensland.

-
- (2) However, this division does not apply to the sale of—
- (a) petrol fuel or diesel fuel by a fuel wholesaler to another fuel wholesaler; or
 - (b) diesel fuel by a fuel retailer.
- (3) Also, this division applies to the sale of petrol fuel by a fuel retailer only if the fuel retailer—
- (a) owns or operates 10 or more standard service stations; or
 - (b) sells more than the threshold amount of petrol fuel in a calendar quarter at any 1 of the standard service stations that the fuel retailer owns or operates.
- (4) For subsection (1)(b), a sale of petrol fuel or diesel fuel is for delivery in Queensland if the terms of the sale—
- (a) require a party to the sale to deliver, or arrange delivery of, the petrol fuel or diesel fuel into or within Queensland; or
 - (b) provide for delivery of the petrol fuel or diesel fuel into or within Queensland.
- (5) In this section—
- threshold amount*** means—
- (a) the amount prescribed by regulation; or
 - (b) if an amount is not prescribed—250,000L.

Subdivision 2 Sustainable biofuel requirements for fuel sellers

35B Sustainable biobased petrol requirement

- (1) This section applies to the sale of sustainable biobased petrol in—

[s 6]

- (a) a regular petrol-biobased petrol blend; or
 - (b) a premium petrol-biobased petrol blend.
- (2) A fuel seller must sell at least the minimum amount of sustainable biobased petrol in each calendar quarter.

Maximum penalty—

- (a) for a first offence—200 penalty units; or
 - (b) for a second or later offence—2000 penalty units.
- (3) In this section—

minimum amount means—

- (a) if the fuel seller is a fuel wholesaler—the volume of regular petrol and regular petrol-biobased petrol blend that the fuel seller sells in the calendar quarter, multiplied by the wholesale percentage; or
- (b) if this section applies to the fuel seller under section 35A(3)(b)—the volume of regular petrol and regular petrol-biobased petrol blend that the fuel seller sells in the calendar quarter at the standard service stations for which section 35A(3)(b) is satisfied, multiplied by the retail percentage; or
- (c) otherwise—the volume of regular petrol and regular petrol-biobased petrol blend that the fuel seller sells in the calendar quarter at the fuel seller's standard service stations, multiplied by the retail percentage.

retail percentage means—

- (a) for the first 18 months after the commencement—3%; and
- (b) after that period—
 - (i) if a percentage higher than 4% is prescribed by regulation for this

definition—the prescribed percentage;
or

- (ii) otherwise—4%.

wholesale percentage means the percentage prescribed by regulation for this definition.

35C Sustainable biobased diesel requirement

- (1) This section applies to the sale of sustainable biobased diesel in a diesel-biobased diesel blend.
- (2) A fuel seller must sell at least the minimum amount of sustainable biobased diesel in each calendar quarter.

Maximum penalty—

- (a) for a first offence—200 penalty units; or
 - (b) for a second or later offence—2000 penalty units.
- (3) In this section—

minimum amount means the volume of diesel and diesel-biobased diesel blend that the fuel seller sells in the calendar quarter, multiplied by—

- (a) if a percentage higher than 0.5% is prescribed by regulation for this definition—the prescribed percentage; or
- (b) otherwise—0.5%.

35D Defence for sustainable biofuel requirement

- (1) In a proceeding for an offence against section 35B or 35C, it is a defence for the person charged with the offence to prove that the person took all reasonable steps to prevent the offence.

[s 6]

- (2) When deciding whether the person took all reasonable steps to prevent the offence, the court may consider the following—
 - (a) efforts the person made to secure enough supply of a sustainable biofuel blend;
 - (b) efforts the person made to promote the sale of a sustainable biofuel blend;
 - (c) any upgrade of infrastructure the person arranged to enable enough sales of a sustainable biofuel blend;
 - (d) facilities the person made available for the sale of a sustainable biofuel blend.

Subdivision 3 Returns and record keeping

35E Quarterly returns

- (1) A fuel seller must give a return, in the approved form, to the chief executive within 1 month after the end of each calendar quarter, unless the fuel seller has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) The return must state the volume of the following that the fuel seller sold in the calendar quarter at each of the fuel seller's fuel facilities—
 - (a) petrol and petrol-biobased petrol blend;
 - (b) regular petrol;
 - (c) regular petrol-biobased petrol blend;
 - (d) premium petrol;
 - (e) premium petrol-biobased petrol blend;
 - (f) sustainable biobased petrol sold in petrol-biobased petrol blend;

- (g) low aromatic fuel;
- (h) for a fuel wholesaler—
 - (i) diesel and diesel-biobased diesel blend; and
 - (ii) diesel-biobased diesel blend; and
 - (iii) sustainable biobased diesel sold in diesel-biobased diesel blend.

35F Record keeping

- (1) This section applies to a sale of petrol, a petrol-biobased petrol blend, diesel or a diesel-biobased diesel blend.
- (2) A fuel seller must keep a record of each sale for at least 2 years after the end of the calendar quarter in which the sale happened, unless the fuel seller has a reasonable excuse.

Examples of a record—

an invoice or receipt

Maximum penalty—100 penalty units.

Subdivision 4 Exemption from sustainable biofuel requirement

35G Granting exemption

- (1) The Minister may, on application by a fuel seller in the approved form, exempt the fuel seller from complying with a sustainable biofuel requirement for a stated period if the Minister is satisfied—
 - (a) the fuel seller can not get enough sustainable biofuel or sustainable biofuel blend to comply with the requirement

[s 6]

- because of a shortage in the supply of the biofuel or blend; or
- (b) complying with the requirement would threaten the viability of the fuel seller's business; or
 - (c) there are other extraordinary circumstances justifying the grant of the exemption.
- (2) The Minister may do the following before granting the exemption—
- (a) consult with stakeholders;
 - (b) arrange for the fuel seller's business to be audited;
 - (c) ask the fuel seller to give further information relevant to the application.
- (3) If the fuel seller does not comply with subsection (2)(c) within 14 days after being asked for the further information, the application is taken to have been withdrawn.
- (4) The Minister may grant an exemption on stated conditions.
- (5) Without limiting subsection (4), a condition may require the fuel seller to sell a stated amount of sustainable biofuel, in a calendar quarter, that is less than the amount required under the sustainable biofuel requirement.

35H Complying with conditions of exemption

A person who is granted an exemption must comply with the conditions of the exemption.

Maximum penalty—200 penalty units.

35I Cancelling exemption

- (1) The Minister may, by written notice to a fuel seller, cancel an exemption if the Minister is satisfied—
 - (a) the reasons for the grant of the exemption no longer apply; or
 - (b) the fuel seller has contravened a condition of the exemption.
- (2) However, the Minister must do the following before giving the notice—
 - (a) give the fuel seller an opportunity to make written submissions about the proposed cancellation;
 - (b) consider any written submissions the fuel seller makes.
- (3) Also, the Minister may do the following before cancelling the exemption—
 - (a) consult with stakeholders;
 - (b) arrange for the fuel seller's business to be audited.
- (4) The Minister must ensure that the cancellation of an exemption takes effect from the end of a calendar quarter.

Subdivision 5 Suspension of sustainable biofuel requirement

35J Suspending sustainable biofuel requirement

- (1) This section applies if the Minister is satisfied—
 - (a) all fuel sellers, or a class of fuel sellers, can not comply with a sustainable biofuel requirement because there is—

[s 6]

- (i) an industry-wide shortage in the supply of sustainable biofuel or a sustainable biofuel blend; or
- (ii) not enough demand for sustainable biofuel or a sustainable biofuel blend; or
- (b) a supply of sustainable biofuel or a sustainable biofuel blend poses a risk to public health or safety; or
- (c) that requiring all fuel sellers, or a class of fuel sellers, to comply with a sustainable biofuel requirement is having, or may have, an adverse impact on Queensland's economy; or
- (d) there are other extraordinary circumstances that justify suspending the operation of section 35B or 35C.

Example of extraordinary circumstances for paragraph (d)—

all fuel sellers, or a class of fuel sellers, can not get a supply of a sustainable biofuel blend because of road closures resulting from a natural disaster

- (2) The Minister may, by declaration, suspend the operation of section 35B or 35C for all fuel sellers, or a stated class of fuel sellers, for a stated period of not more than 1 year.
- (3) The Minister may consult with stakeholders before making the declaration.
- (4) The Minister may, in the same declaration, also suspend the operation of all or stated provisions of this part, other than this subdivision.
- (5) The Minister may not make a declaration in the circumstances mentioned in subsection (1)(a) or (c) for fuel sellers if the making of the declaration would mean the sum of the periods of all declarations, in either of the circumstances, for the fuel sellers in the last 2 years is more than 1 year.

- | (6) A declaration under this section is subordinate legislation.

35K Cancelling suspension

- (1) The Minister may, by declaration, cancel a suspension if the Minister is satisfied the suspension is no longer necessary.
- (2) The Minister may consult with stakeholders before cancelling a suspension.
- (3) A declaration under this section is subordinate legislation.

Division 2 Register of fuel sellers

35L Establishing register

- (1) The chief executive must establish a register of fuel sellers.
- (2) The chief executive may keep the register in the form the chief executive considers appropriate, including, for example, in electronic form.
- (3) The chief executive must record the following information in the register—
 - (a) a fuel seller's registration information;
 - (b) changes to a fuel seller's registration information;
 - (c) other information that a fuel seller is required to give to the chief executive under this division.

35M Giving registration information

A fuel seller must give the fuel seller's registration information, in the approved form, to the chief

[s 6]

executive within 1 month after becoming a fuel seller, unless the fuel seller has a reasonable excuse.

Maximum penalty—100 penalty units.

35N Notifying changes

- (1) A fuel seller must notify the chief executive of any change to the fuel seller's registration information within 1 month after the change happens, unless the fuel seller has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person stops being a fuel seller, the person must notify the chief executive of that fact within 1 month after the person stops being a fuel seller, unless the fuel seller has a reasonable excuse.

Maximum penalty—100 penalty units.

35O Obtaining complete and clear information

- (1) This section applies if—
 - (a) a fuel seller gives registration information or other information to the chief executive under this division; and
 - (b) the chief executive considers the information is not complete or clear.
- (2) The chief executive may, by written notice, require the fuel seller to give stated information to the chief executive within a stated reasonable period of not less than 14 days.
- (3) The fuel seller must comply with the notice unless the fuel seller has a reasonable excuse.

Maximum penalty—100 penalty units.

Division 3 Other provisions

35P Reporting fuel sold

- (1) A fuel seller must give a report, in the approved form, to the chief executive before 31 July each year, unless the fuel seller has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) The report must state the volume of petrol, petrol-biobased petrol blend, diesel, and diesel-biobased diesel blend, that the fuel seller supplied from each of the fuel seller's fuel facilities—
- (a) in the last financial year; and
 - (b) in each calendar quarter of the last financial year.
- (3) This section does not apply to a fuel seller if the fuel seller gives the information mentioned in subsection (2) to the chief executive in or with returns given under section 35E.

35Q False or misleading information

- (1) A person must not give the chief executive information under this part the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to information in a document if the person, when giving the information—
- (a) tells the chief executive, to the best of the person's ability, how the document is false or misleading; and

[s 6]

- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the chief executive.
- (3) Section 47 does not apply to a document containing information to which subsection (1) applies.

35R Publishing information

The chief executive may publish, on the department's website, the following information about sustainable biofuel sold in a calendar quarter—

- (a) the amount of sustainable biofuel sold by all fuel sellers;
- (b) the amount of sustainable biobased petrol, stated as a percentage of the combined volume of regular petrol and regular petrol-biobased petrol blend, sold by—
 - (i) all fuel sellers; or
 - (ii) stated fuel sellers;
- (c) the amount of sustainable biobased diesel, stated as a percentage of the combined volume of diesel and diesel-biobased diesel blend, sold by—
 - (i) all fuel sellers; or
 - (ii) stated fuel sellers.

35S Compensation

- (1) Section 50 does not apply to a fuel seller complying with, or giving effect to—
 - (a) a provision of this part; or
 - (b) a direction, prohibition or requisition directed to the fuel seller for this part.

-
- (2) Subsection (1)(b) applies only if the person giving or making the direction, prohibition or requisition acted in good faith and without negligence.

7 Amendment of s 52 (Exemption from Act)

Section 52—

insert—

- (6) An exemption under subsection (1) must not be granted for a provision of part 5A.

8 Insertion of new s 56A

After section 56—

insert—

56A Approved forms

The chief executive may approve forms for use under this Act.

9 Insertion of new pt 8

After section 57—

insert—

**Part 8 Transitional provisions
for Liquid Fuel Supply
(Ethanol and Other
Biofuels Mandate)
Amendment Act 2015**

**58 Application of particular provisions to sale of
petrol or petrol-biobased petrol blend by fuel
wholesalers**

- (1) This section applies until the start of—

[s 9]

- (a) the day on which a percentage is prescribed for section 35B(3), definition *wholesale percentage*; or
 - (b) if the day mentioned in paragraph (a) is not the first day of a calendar quarter—the first day of the next calendar quarter.
- (2) Sections 35B, 35E and 35F do not apply to the sale of petrol or petrol-biobased petrol blend by a fuel wholesaler.

59 Giving registration information

- (1) This section applies to a person who is a fuel seller on the day (the *commencement day*) this section commences.
- (2) The fuel seller must give the fuel seller's registration information, in the approved form, to the chief executive within 1 month after the commencement day, unless the fuel seller has a reasonable excuse.

Maximum penalty—100 penalty units.

60 Giving initial report

- (1) A fuel seller must give a report, in the approved form, to the chief executive within 1 month after the day (the *commencement day*) this section commences, unless the fuel seller has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) The report must state the volume of petrol, petrol-biobased petrol blend, diesel, and diesel-biobased diesel blend, that the fuel seller supplied from each of the fuel seller's fuel facilities in the calendar quarter just before the commencement day.

- (3) Section 35Q applies to information in the report as if the information were given under part 5A.

61 Reporting fuel sold

- (1) This section applies if section 35P commences on a day (the *commencement day*) that is not 1 July.
- (2) Section 35P applies to a fuel seller as if—
- (a) the period that starts on the commencement day and ends on the next 30 June were a financial year; and
 - (b) if the commencement day is not the first day of a calendar quarter—the period that starts on the commencement day and ends at the end of the quarter were a calendar quarter.

10 Insertion of new sch 1

After part 8, as inserted by this Act—

insert—

Schedule 1 Dictionary

section 5