Queensland

Liquid Fuel Supply (Ethanol) Amendment Bill 2008

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Contents

2008

A Bill

for

An Act to amend the *Liquid Fuel Supply Act 1984*

The Parliament of Queensland enacts—

Clause 1 Short title

This Act may be cited as the *Liquid Fuel Supply (Ethanol) Amendment Act 2008*.

Clause 2 Act amended

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

Clause 3 Amendment of s 5 (Interpretation)

Section 5—

insert—

'***initial period***, for part 5A, see section 35AB.

motor spirit, for part 5A, means prescribed motor spirit.

motor spirit-ethanol blend, for part 5A, see section 35AB.

primary wholesaler, for part 5A, see section 35AB.

relevant period, for part 5A, see section 35AB.

return, for part 5A, see section 35AB.

sell, for part 5A, see section 35AB.'.

Clause 4 Replacement of pt 5A, hdg

Part 5A, heading—

omit, insert—

'Part 5A Ethanol in motor spirit'.

Clause 5 Replacement of s 35A (Requirement to purchase ethanol)

Section 35A—

omit, insert—

‘Division 1 Preliminary

‘35A Purpose of pt 5A

‘The purpose of this part is to require a minimum ethanol content in relation to the total volume of motor spirit sales in Queensland.

‘35AA Application of pt 5A

‘(1) This part applies to the sale of motor spirit by a primary wholesaler—

(a) to a person in Queensland; or

(b) for delivery in Queensland, whether or not the sale is made in Queensland.

‘(2) However, this part does not apply to a sale of motor spirit by a primary wholesaler to another primary wholesaler.

‘(3) For subsection (1)(b), a sale of motor spirit is a sale for delivery in Queensland if the terms of the sale or any contract for the sale—

(a) require a party to the sale to deliver, or arrange delivery of, the motor spirit into or within Queensland; or

(b) provide for delivery of the motor spirit into or within Queensland.

‘35AB Definitions for pt 5A

‘In this part—

initial period means—

(a) the period prescribed under a regulation; or

(b) if a period is not prescribed—a period of 3 years starting 3 years after the commencement of this section.

motor spirit-ethanol blend means motor spirit that contains ethanol.

Example—

fuel known as E10

primary wholesaler means a relevant person who operates, or supplies motor spirit, from any of the following facilities in connection with the wholesaling of motor spirit—

(a) an oil refinery;

(b) a shipping facility;

(c) a facility to which motor spirit is supplied by pipeline from an oil refinery or shipping facility.

relevant period means—

(a) each period prescribed under a regulation; or

(b) to the extent each period is not prescribed—each period of 3 months starting at the beginning of January, April, July and October in each year.

return means a return given under section 35AF(1).

sell, for motor spirit, includes the following—

(a) sell the motor spirit by barter or exchange;

(b) supply the motor spirit for profit.

‘Division 2 Required ethanol content for motor spirit sales

‘35AC Initial minimum percentage ethanol content

‘(1) This section applies to the sale of motor spirit by a primary wholesaler during the initial period.

‘(2) The primary wholesaler must ensure the volume of ethanol in motor spirit-ethanol blend sold by the wholesaler during each relevant period is at least a fixed percentage of the total volume of all motor spirit, including motor spirit-ethanol blend, sold by the wholesaler during the relevant period.

Maximum penalty—200 penalty units or 12 months imprisonment.

‘(3) In this section—

fixed percentage means—

(a) the percentage prescribed under a regulation; or

(b) if a percentage is not prescribed—5%.

‘35AD Subsequent increased minimum percentage ethanol content

‘(1) This section applies, from the prescribed day, to the sale of motor spirit by a primary wholesaler.

‘(2) The primary wholesaler must ensure the volume of ethanol in motor spirit-ethanol blend sold by the wholesaler during each relevant period is at least a fixed percentage of the total volume of all motor spirit, including motor spirit-ethanol blend, sold by the wholesaler during the relevant period.

Maximum penalty—200 penalty units or 12 months imprisonment.

‘(3) In this section—

fixed percentage means—

(a) the percentage prescribed under a regulation; or

(b) if a percentage is not prescribed—10%.

prescribed day means the day immediately after the initial period ends.

‘35AE Exemptions from ss 35AC and 35AD

‘The Minister may, under section 52, exempt a primary wholesaler from the operation of section 35AC(2) or 35AD(2) only if the Minister is satisfied the person can not obtain, at the price prescribed under a regulation, a sufficient quantity of ethanol to enable the person to comply with the section.

‘35AF Returns

‘(1) A primary wholesaler must, within 1 month after the end of each relevant period, give the Minister a return complying with subsection (2).

Maximum penalty—200 penalty units.

‘(2) The return must—

(a) be in the approved form; and

(b) contain the following information—

(i) the total volume of motor spirit sold, including motor spirit-ethanol blend, during the relevant period;

(ii) the total volume of ethanol, in the form of motor spirit-ethanol blend, sold, during the relevant period;

(iii) any other information prescribed under a regulation.

‘35AG Requirement to keep records

‘(1) A primary wholesaler must, in the form and way, and for the period, prescribed under a regulation, keep the records necessary to enable the wholesaler to give the Minister the returns required under section 35AF, unless the wholesaler has a reasonable excuse.

Maximum penalty—200 penalty units.

‘(2) Without limiting subsection (1), the records must include details of transactions and other matters in relation to sales of motor spirit that are prescribed under a regulation.

‘Division 3 Offences

‘35AH False or misleading returns

‘(1) A person must not give the Minister a return containing information that the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units or 12 months imprisonment.

‘(2) Section 47 does not apply to a return mentioned in subsection (1).

Editor’s note—

section 47 (Use of false documents etc.)

‘35AI Executive officers must ensure corporation complies with pt 5A

‘(1) The executive officers of a corporation must ensure the corporation complies with this part.

‘(2) If a corporation commits an offence against a provision of this part, each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

‘(3) Evidence that the corporation has been convicted of an offence against a provision of this part is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the provision.

‘(4) However, it is a defence for an executive officer to prove that—

(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or

(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

‘(5) In this section—

executive officer, of a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person’s position is given the name of executive officer.

‘Division 4 Miscellaneous provisions

‘35AJ Allegations of false or misleading matters

‘(1) This section applies to a proceeding for an offence against this part described as involving—

(a) false or misleading information; or

(b) a false or misleading document or statement.

‘(2) It is enough for the complaint starting the proceeding to state the document, information or statement was ‘false or misleading’ to the defendant’s knowledge, without specifying which.’.