

Parliament of the Commonwealth of Australia

**SENATE ECONOMICS LEGISLATION COMMITTEE**

**REPORT ON THE DIESEL FUEL REBATE SCHEME  
AMENDMENT BILL 2002**

June 2002

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# CHAPTER ONE

## INQUIRY INTO THE DIESEL FUEL REBATE SCHEME AMENDMENT BILL 2002

### Background

1.1 The Diesel Fuel Rebate Scheme Amendment Bill 2002 (the Bill) was introduced into the House of Representatives on 16 May 2002 by Mr Peter Slipper MP, Parliamentary Secretary to the Minister for Finance and Administration. The Bill was passed in the House of Representatives on 29 May 2002 and introduced in the Senate on 19 June 2002.

### Purpose of the Bill

1.2 The *Customs Act 1901* and the *Excise Act 1901* provide the legislative basis for the operation of the Diesel Fuel Rebate Scheme (DFRS). The purpose of the Bill is to amend both acts to provide for the scheme to be extended to retail and hospitality businesses in remote areas that generate electricity for their own use when there is no ready access to a commercial supply of electricity.<sup>1</sup> The extension means that small retail or hospitality businesses will be able to claim a rebate on diesel fuel in relation to their commercial operations.

### Reference of the Bill

1.3 In its report No. 4 of 2002, the Selection of Bills Committee recommended that the Bill be referred to the Senate Economics Legislation Committee. The intention in referring the Bill was to allow the Committee to examine the provisions of the Bill in terms of the possible impacts that the extension of the rebate would have on the uptake of renewable and alternative fuels.<sup>2</sup> On 19 June 2002, the Senate referred the Bill to this Committee for report by 24 June 2002. The Senate extended the reporting date to 26 June 2002.

### Submissions

1.4 The Committee contacted a number of government agencies, organisations and individuals interested in the Diesel Fuel Rebate Scheme alerting them to the inquiry and inviting them to make a submission. The Committee received the following five submissions:

- Submission no. 1—Elgas Ltd;
- Submission no. 2—Australian Liquefied Petroleum Gas Association Ltd;
- Submission no. 3—Australian Greenhouse Office;
- Submission no. 4—Kleenheat; and

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1 House of Representatives, Diesel Fuel Rebate Scheme Amendment Bill 2002, *Explanatory Memorandum*, 2002, para 1.1. See also Mr Peter Slipper MP, second reading speech, House of Representatives *Hansard*, p. 2318.

2 Selection of Bills Committee, Report No. 4 of 2002.

- Submission no. 5—Australian EcoGeneration Association.

### **Hearing and evidence**

1.5 The Committee held one public hearing on this inquiry in Parliament House, Canberra on Tuesday, 25 June. Witnesses who presented evidence before the Committee are listed in Appendix 1.

### **Acknowledgment**

1.6 The Committee is grateful to, and wishes to thank the organisations and individuals who assisted with its inquiry.



## CHAPTER TWO

### BACKGROUND TO THE DIESEL FUEL REBATE SCHEME

#### Taxing fuel in Australia

2.1 In Australia the two main forms of taxation on fuel are Commonwealth excise and customs duty. Excise is a tax on the domestic production of goods, while customs duty is levied on imported products.

2.2 Over the years, the structure of the excise tariff and the customs tariff on fuel products has reflected the policy objectives of successive governments. Excise on petrol was introduced in 1929 to finance road funding. Excise was first applied to diesel in 1957 but for on-road use only. The revenue raised was also intended to fund road construction. Since 1992, there has been no effective link between fuel excise and road expenditure.<sup>3</sup>

2.3 Over recent years, with changes in international and domestic policy on the environment, there has been a growing awareness of the need to promote the use of cleaner fuels. In Australia, the Commonwealth Government has put in place measures to encourage the production and use of petroleum product substitutes.

#### The Diesel Fuel Rebate Scheme

2.4 The Diesel Fuel Rebate Scheme was introduced in 1982. While requiring all off-road users of diesel to pay excise, the scheme allowed some categories of users to claim for a partial or full rebate.

2.5 With the introduction of the new tax system in 1998, the Fuel Rebate Scheme faced significant changes. The new tax system was intended to extend the benefits of the scheme to all off-road businesses using diesel fuel. After negotiations with the Australian Democrats, the Government extended the scheme to rail and marine transport only. Some activities, however, such as mining and residential, which had previously received only a partial rebate were given a full rebate of excise. The scheme was also extended to include rebates for like fuels.<sup>4</sup>

2.6 Thus, the Diesel Fuel Rebate Scheme provides a rebate of fuel excise or customs duty for some business sectors. According to the Fuel Tax Inquiry this rebate was seen by its

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3 Issues Paper, Fuel Taxation Inquiry, p.4 of 12, <http://fueltaxinquiry.treasury.gov.au/content/issues/issues-04.asp> (18 June 2002)

4 This information was based on information contained in the Issues Paper, Fuel Taxation Inquiry. In 1999, the Prime Minister, Mr John Howard, announced that the extension to the off-road concession for diesel and like fuels would be limited to providing full credits for marine use, bush nursing homes, hospitals, nursing homes, aged persons homes and private residences, but not for construction, power generation, manufacturing or forestry. Media Releases, Prime Minister of Australia, John Howard, *Changes to the goods and services tax (GST)*, 1999.

recipients as ‘simply the return of tax which should not have been paid in the first place.’ Others, however, perceived it as an industry assistance program which cannot be justified.<sup>5</sup>

2.7 In 1999, the Government announced the introduction of an Energy Grants (Credits) Scheme to replace the existing Diesel Fuel Rebate Scheme as well as the Diesel and Alternative Fuels Grants Scheme.<sup>6</sup> This scheme was to come into force from July 2002 and was intended to encourage the use of cleaner fuels while preserving the entitlements that now exist under the current schemes.<sup>7</sup>

2.8 With the passing of the *Diesel and Alternative Fuels Grants Scheme Act 1999*, in 2001 the expiry date of the DFRS was extended to 30 June 2003. During debate on the proposal to extend the sunset provision by one year, Mr Slipper told the House of Representatives that the Government’s commitment to carry forward the benefits of the existing off-road rebate scheme into the Energy Grants Scheme remained.<sup>8</sup> He explained that the postponement would allow sufficient time for the Government to incorporate the findings of the Fuel Taxation Inquiry into the development of the Energy Grants (Credits) Scheme.<sup>9</sup>

### **Proposal to extend the scheme**

2.9 On 2 November 2001, the Prime Minister announced the Government’s intention to further extend the eligibility criteria for the diesel fuel rebate scheme. He explained that the extension to the scheme was in recognition of the difficulties being experienced by the tourism industry in regional and remote Australia. The scheme was to include small retail/hospitality businesses that produce their own electricity from diesel. The measure was calculated to be worth \$80 million over four years and was designed to assist remote tourism businesses.<sup>10</sup> It was envisaged that businesses such as caravan parks, tourist resorts and road houses would benefit from the scheme.<sup>11</sup>

2.10 This inquiry is concerned only with this proposal to extend the rebate to certain businesses in remote Australia. At the moment, the off-road Diesel Fuel Rebate Scheme provides a rebate for customs or excise duty paid on diesel or ‘like’ fuels used in specific off-road activities. They must fall within the following categories:

- mining
- agriculture
- forestry
- fishing

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5 *Fuel Tax Inquiry Overview*, March 2002, p. 11.

6 The Hon Peter Costello, Treasurer of the Commonwealth of Australia, Press Release, no. 027, 14 May 2002. See also Press Release, Mr Peter Reith, Minister for Employment, Workplace Relations and Small Business, 14 July 1999.

7 Section 4 The Grants (Credits) Scheme, *Diesel and Alternative Fuels Grants Scheme Act 1999*.

8 House of Representatives *Hansard*, 20 September 2001, p. 31470.

9 House of Representatives *Hansard*, 20 September 2001, p. 31087.

10 Announcement by the Prime Minister, 2 November 2001.

11 Liberal Party of Australia, *The Howard Government: Putting Australia’s Interests First: Election 2001*.

- rail transport
- marine transport
- electricity generation for residential premises, and
- the operation of hospitals, nursing and aged care homes and other medical institutions.<sup>12</sup>

### **Evidence presented to the inquiry**

2.11 During the inquiry two central issues surrounding the proposals put forward in the Bill emerged. They are:

- the desirability of lowering the price of electricity to business in regional and remote Australia; and
- promoting the use of fuels that cause minimal damage to the environment.

2.12 Witnesses had no doubt that the Bill would effectively lower the price of diesel fuel to businesses operating in remote Australia. They, however, argued that in meeting that goal, the proposed legislation would work against the second objective of encouraging the use of alternative and cleaner fuels.

2.13 The following section looks in greater detail at the role taxation has in influencing consumer choice and the implications that the proposed legislation has for the suppliers of fuel products to regional and remote Australia.

#### *The role of taxation in influencing consumer choice*

2.14 In its submission to the Fuel Tax Inquiry, Environment Australia maintained that the taxation treatment of fuels ‘has the potential to influence consumer and producer/supplier decisions’. It submitted:

Appropriate fuel prices will provide powerful signals to consumers in terms of their demand for fuel efficient vehicles, or vehicles using alternative fuels. Fuel taxation arrangements should not encourage additional fuel use and should encourage the move to cleaner alternative fuels.

2.15 This argument also emerged as a dominant theme in the submissions to this inquiry. The Australian Greenhouse Office (AGO) was of the opinion that by lowering the price of diesel those eligible for the rebate may not be encouraged to consider using alternative and less environmentally damaging fuels. It argued:

Reducing the effective price of diesel by 38.143 cents per litre for power generation by small retail/hospitality businesses may result in reducing the incentive for a small segment of consumers to take up renewable energy and alternative fuel opportunities to lower greenhouse gas emissions.<sup>13</sup>

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12 Australian Taxation Office, *Diesel Fuel Rebate Scheme—Guide for claimants*, <http://www.ato.gov.au/content.asp?doc=/content/Professionals/12384.htm&page=1> 19 June 2002. A more detailed description is given at Appendix 2.

13 Submission no. 3.

2.16 The Australian EcoGeneration Association supported this view. It stated that the extension of the diesel fuel rebate would have a direct effect on the economic viability and hence the uptake of renewable energy in regional areas. It submitted that the measure ‘will shift the cost balance further towards greenhouse intensive diesel over clean renewable energy’.<sup>14</sup>

2.17 Along similar lines but referring particularly to LPG, the Australian Liquefied Petroleum Gas Association Ltd also claimed that by lowering the overall cost of diesel, the proposed legislation would change the cost differentials that now exist among the options available to on-site generators of electricity. It suggested that the move in price differential would favour the use of diesel and encourage the use of this fuel over cleaner fuels such as LPG.

2.18 It went further to state:

The AGO estimates that the extension of the diesel Fuel Rebate to small retail/hospitality businesses could reduce the potential target market for the Commonwealth Renewable Remote Power Generation Program by up to 21 million litres or about 4% of total diesel fuel consumed, although accurate data on the diesel fuel used by these businesses is not available.<sup>15</sup>

#### *Environmental concerns*

2.19 A number of organisations have for many years opposed any increase in diesel fuel rebate. They contend that the focus should be on positive environmental initiatives and they strongly support the elimination of the existing fuel rebate.<sup>16</sup>

2.20 The Australian EcoGeneration Association maintained that the burning of fossil fuels was one of the main causes of climate change and further that Australia was the biggest per capita greenhouse emitter in the world.<sup>17</sup>

2.21 In looking specifically at diesel use, Kleenheat Gas argued that diesel would ‘always produce greater pollutant emissions while power sulphur diesel fuels are designed to provide lower pollution and emission levels to normal diesel standards.’<sup>18</sup> It maintained that LPG would without exception produce fewer emissions than fuel such as diesel because of the nature of the chemical structure of both products.

2.22 The Australian Liquefied Petroleum Gas Association while referring to air quality issues also drew attention to the increased and direct risk to ecosystems that would result with a rise in the consumption of diesel. It submitted:

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14 Submission no. 5.

15 Australia Greenhouse Office, Submission no. 3.

16 See The Wilderness Society, Joint Environment Groups Media Release, *Environment groups unite to lobby Democrats over diesel fuel rebate*, <http://www.wilderness.org.au/member/tws/news/media/19990526-mr.html> (19 June 2002)

17 Submission no. 5.

18 submission no. 4.

The Bill deals with retail and hospitality businesses in remote geographical locations. Many of these are tourism related businesses operating in environmentally sensitive areas.

The islands of the Great Barrier Reef are pertinent examples. Many of the resorts on these islands use LPG to produce electricity. In the event of an accident or spill, the environmental damage caused would be limited as LPG dissipates into the air very quickly. If these resorts were to switch from LPG to diesel, however, the impact of an accident or spill would be much more serious for the environment.<sup>19</sup>

2.23 Elgas Limited suggested that future consideration given to replacing old diesel engines with gas engines will be less likely with the proposed extension of the rebate. According to Elgas the air quality, noise and ‘most of all ground and water pollution’ of the local environment would suffer. It predicts that based on its current customers’ usage, including installations under negotiation, the impact of the proposed legislation would be an increase in diesel consumption by 12 million litres by Elgas customers. It maintained that this situation would in turn generate an increase of 13,200 tonnes of Co2 as well as causing an increase in particulates, oxides of nitrogen and sulphur.

#### *Economic implications for the suppliers of alternative fuels*

2.24 The Australian Liquefied Petroleum Gas Association also commented on the economic effects of extending the rebate on their business. It noted:

The commercial, domestic and transport LPG markets are crucially linked by a **common production and distribution chain**. Each market contributes to the recovery of fixed costs of production and distribution. What happens in one market can therefore directly impact upon the other markets. If one market were to be lost or impaired, the fixed costs would have to be recovered from the consumers in other markets.

An unintended consequence of the bill may therefore be to introduce a driver for price increases in the domestic and transport energy markets.<sup>20</sup>

2.25 Elgas was also of the opinion that by changing the cost structure of using diesel other fuels would be affected. Their interest was in protecting investment that may be made redundant because of the economic pressure to ‘revert to diesel.’ It submitted that:

Current investment in diesel substitution is approximately \$3.5m with a further \$1m being considered by the Island Resorts. They are driven by cost savings but with a clear eye on environmental outcomes.<sup>21</sup>

2.26 Kleenheat Gas, which has worked for the past 5 years with remote business operators to establish power generation facilities that use LPG as a substitute for diesel, also noted that the existing investments made by the LPG industry and its customers would be affected by the Bill. Rather than the current proposed legislation, it recommended that remote locations be included in the Diesel and Alternative Fuels Grants Scheme (DAFGS). It maintained that

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19 Australian Liquefied Petroleum Gas Association Ltd, Submission no. 2.

20 Australian Liquefied Petroleum Gas Association Ltd, Submission no. 2.

21 Submission no. 1.

such an expansion would mean ‘that operators would be in a position to continue to utilise LP Gas to cover at least 30% of their power generation energy requirements’.<sup>22</sup>

2.27 Elgas agreed with this proposal and concluded:

Based on the economic evaluation where 30% substitution is used there is a case to encourage the use of alternative fuels in conjunction with diesel. The savings are still substantial to the end user but reduce the impact on treasury.

We believe this will also assist in keeping the option of going full gas for particular end users.

The increased infrastructure for remote power generation applications will have a flow on effect allowing more efficient LPG supply to other traditional users for heating, cooking and hot water.

Environmental perceptions and outcomes are now becoming an essential requirement for most hospitality and commercial businesses as part of their image to attract business e.g. Couran Cove Island Resort.<sup>23</sup>

## **Response to criticism of the Bill**

### *Providing incentives for the uptake of cleaner fuels in remote and regional Australia*

2.28 In answer to the criticism directed at the Bill, the Government has pointed to the numerous programs now in place to promote the use of cleaner fuels. Mr Slipper in reply to the debate on the Bill told the House that:

...the Howard government is strongly committed to increasing the use of renewable energy in Australia as a way of meeting our increasing energy needs without adding to our greenhouse gas emissions. To this end we have committed over \$300 million for renewable energy support focused on three areas.<sup>24</sup>

In looking particularly at work being done in regional and remote Australia, he stated:

A further initiative is increasing the uptake of renewable energy technologies in remote areas, with funding for rebates on equipment of around \$20 million, saving over 50 million litres of diesel fuel each year. For many remote households in Australia these rebates will make affordable 24-hour power for the first time, substantially improving their quality of life. An initiative of increasing the use of photovoltaic technology will enable around 6,000 householders and owners of community buildings such as schools to convert sunlight into electricity and run valuable education programs.

Another achievement is grant and equity programs worth over \$70 million to support commercialisation of new technologies and applications that generate and use renewable energy. Over 60 projects have been funded for a wide range of renewable technologies, including solar photovoltaic, solar, thermal, biomass, hot dry rock, wave, hydro and wind. These projects are delivering additional benefits

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22 Submission no. 4.

23 Submission no. 1.

24 House of Representatives *Hansard*, 29 May 2002, p. 2597.

such as job creation in regional areas and addressing environmental issues such as waste minimisation and salinity.<sup>25</sup>

*Addressing the need to assist business in regional and remote Australia*

2.29 Mr Slipper made clear that the extension of the Diesel Fuel Rebate Scheme originated from a recognition of some of the difficulties being suffered by small outback tourism operators. He cited the following statement from the National Party's policy document *Securing Australia's tourism future*:

Another measure which will help tourism operators is the extension of the Diesel Fuel Rebate Scheme. A re-elected Coalition Government will extend the eligibility for the Diesel Fuel Rebate Scheme to small retail/hospitality businesses producing their own electricity from diesel, provided there is no access to grid power.

Mr Slipper stated:

This measure compensates such businesses for the considerable costs of power generation in regions where there is no access to the power grid and where excise imposts can disadvantage isolated communities. This government has constantly indicated its commitment to rural and regional Australia, including those people resident in isolated communities. The government does this by providing a rebate of excise or customs duty on fuel used by retail and hospitality businesses—not just small retail and hospitality businesses—to generate power for use in the business after 1 July 2002.<sup>26</sup>

**Committee's view**

2.30 The Committee accepts as a broad principle that changes in a taxation regime that lowers the cost to consumers of a particular product is likely to influence consumer behaviour toward that product. Thus, by making available a rebate on diesel fuel, the costs to the consumer will be lower and hence make that product more competitive. The Explanatory Memorandum, however, makes clear that:

The estimated cost of this measure is \$20 million per year in a full financial year. The cost assumes no change in the volume of diesel used by eligible businesses as a result of this policy. This is because of the remoteness in location of many of these businesses and the difficulty of substituting away from other forms of energy supply. However, to the extent that substitution takes place, the cost estimates can vary.<sup>27</sup>

2.31 On this matter, the Committee understands that there are alternative fuel products such as LPG, that are less damaging to the environment. It agrees that the uptake of such alternative fuels should be encouraged. It draws attention to the numerous Commonwealth

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25 Mr Peter Slipper MP, House of Representatives *Hansard*, 29 May 2002, p. 2597.

26 Mr Peter Slipper, House of Representatives *Hansard*, 29 May 2002, p. 2597.

27 Diesel Fuel Rebate Scheme Amendment Bill 2002, *Explanatory Memorandum*, 2002, p. 4.

programs recently announced or being implemented that are designed to promote the use of renewable and cleaner fuels in regional and remote Australia.<sup>28</sup>

2.32 Further, the Committee takes note of the reason behind the proposed introduction of this measure. As noted earlier, the Prime Minister in proposing the extension of this scheme to include small retail/hospitality businesses left no doubt that the intention was to assist remote tourism businesses that were experiencing some difficulties particularly after the terrorist attacks in the United States of America on 11 September 2001. He stated:

The tourism industry has contributed a great deal to Australia both economically and socially in recent years, particularly in the job opportunities that the industry provides for young people.

With tourism currently facing a difficult time, the Coalition believes it is important to provide practical measures that can effectively assist the industry, particularly those businesses located in regional and rural communities.<sup>29</sup>

2.33 The Committee accepts that the Bill will be of benefit to current users of diesel fuel in remote areas of Australia. It accepts, however, that it is not the intention of the proposed legislation to encourage the uptake of diesel fuel. Rather, the proposed legislation is a response to an identified need to assist small businesses in remote Australia already using diesel fuel for commercial purposes.

### **Recommendation**

**The Committee reports to the Senate that it has considered the provisions of the Diesel Fuel Rebate Scheme Amendment Bill 2002 and recommends that the Bill proceed.**

SENATOR GEORGE BRANDIS  
Chairman

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28 For more information see Mr Peter Slipper's Speech, House of Representatives *Hansard*, 29 May 2002, p. 2597.

29 Press Release, The Prime Minister, Mr John Howard MP, *Australia's Tourism Industry*, 2 November 2001.



## **AUSTRALIAN DEMOCRATS DISSENTING REPORT ON THE DIESEL FUEL REBATE SCHEME AMENDMENT BILL 2002**

The Australian Democrats do not support the *Diesel Fuel Rebate Scheme Amendment Bill 2002* and are disappointed that the Government has decided to provide a rebate on excise for diesel used by retail and hospitality businesses in generating electricity in remote areas. The Government claims that tourist operators in particular need this rebate, however there has been no substantive evidence presented to support this claim.

The Democrats are particularly concerned with the effect of this bill on the uptake of renewable energy and alternative fuels. As the submissions to the inquiry from Elgas Ltd, Australian Liquefied Petroleum Gas Association Ltd, the Australian Greenhouse Office (AGO), Kleenheat and the Australian EcoGeneration Association point out, this measure will have an adverse impact on the effectiveness and reach of Commonwealth programs, including the Renewable Remote Power Generation Program (RRPGP), and other efforts to reduce the reliance on diesel in remote areas, to which the Government has previously committed itself. By reducing the price of diesel, the bill will affect the relative payback period for new hybrid renewable or combined diesel/gas systems since it will take longer to recoup the capital costs of this investment. In relation to the uptake of renewable energy under the RRPGP, the AGO estimates that:

the extension of the diesel Fuel Rebate to small retail/hospitality businesses could reduce the potential target market for the Commonwealth Renewable Remote Power Generation Program by up to 21 million litres or about 4% of total diesel fuel consumed, although accurate data on the diesel fuel used by these businesses is not available.

The Democrats also do not support the contention that extending the diesel fuel rebate to retail and hospitality businesses in remote areas will not increase the amount of diesel consumed. As was submitted by Elgas, the extension of the scheme to remote retail and hospitality businesses, would provide an economic incentive to those currently using combined diesel/gas generators to switch back to full diesel use, thus increasing the amount of diesel these businesses consume. Based on its 45% market share, Elgas contends that the bill would lead to an increase in diesel consumption of 27 million litres, which would generate an additional 29,000 tonnes of carbon dioxide.

SENATOR LYN ALLISON



# APPENDIX 1

## PUBLIC HEARING AND WITNESSES

Tuesday, 25 June 2002, Canberra

**Australian Greenhouse Officials**

Dr Diana Wright

Mr Joseph Wynder

**Elgas Limited**

Mr Warring Neilsen

**EcoGeneration Association**

Mr Ric Brazzale