

EXPOSURE DRAFT

2008-2009

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT (06/04/2009)

Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009

No. , 2009

(Treasury)

**A Bill about CPRS fuel credits, and for related
purposes**

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1 **A Bill about CPRS fuel credits, and for related**
2 **purposes**

3 The Parliament of Australia enacts:

4 **Chapter 1—Introduction**

5 **Part 1-1—Preliminary**

6 **Division 1—Preliminary**

7 **Table of Subdivisions**

8 1-A Preliminary

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Chapter 1 Introduction

Part 1-1 Preliminary

Division 1 Preliminary

Section 1-5

1 **Subdivision 1-A—Preliminary**

2 **Table of Sections**

3 1-5 Short title
4 1-10 Commencement

5 **1-5 Short title**

6 This Act may be cited as the *Carbon Pollution Reduction Scheme*
7 (*CPRS Fuel Credits*) Act 2009.

8 **1-10 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.

13

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1-5 and 1-10 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Sections 2-1 to 13-1	At the same time as section 3 of the <i>Carbon Pollution Reduction Scheme Act 2009</i> commences.	

14 Note: This table relates only to the provisions of this Act as originally
15 passed by both Houses of the Parliament and assented to. It will not be
16 expanded to deal with provisions inserted in this Act after assent.

17 (2) Column 3 of the table contains additional information that is not
18 part of this Act. Information in this column may be added to or
19 edited in any published version of this Act.

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Introduction **Chapter 1**
Using this Act **Part 1-2**
Overview and purpose **Division 2**

Section 2-1

1

2 **Part 1-2—Using this Act**

3 **Division 2—Overview and purpose**

4 **Table of Subdivisions**

5 2-A Overview and purpose

6 **Subdivision 2-A—Overview and purpose**

7 **Table of Sections**

8 2-1 Overview and purpose

9 **2-1 Overview and purpose**

10 This Act provides for CPRS fuel credits to offset the impact of the
11 carbon pollution reduction scheme.

12 Administration of CPRS fuel credits is dealt with under the *Fuel*
13 *Tax Act 2006*.

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Chapter 1 Introduction

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Division 1 Preliminary

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1

2 **Division 3—Explanation of the use of defined terms**

3 **Table of Subdivisions**

4 3-A Explanation of the use of defined terms

5 **Subdivision 3-A—Explanation of the use of defined terms**

6 **Table of Sections**

7 3-1 When defined terms are identified

8 3-5 When terms are *not* identified

9 3-10 Identifying the defined term in a definition

10 **3-1 When defined terms are identified**

11 (1) Many of the terms used in this Act are defined.

12 (2) Most defined terms in this Act are identified by an asterisk
13 appearing at the start of the term: as in “*enterprise”. The footnote
14 that goes with the asterisk contains a signpost to the Dictionary
15 definitions at section 13-1.

16 **3-5 When terms are *not* identified**

17 (1) Once a defined term has been identified by an asterisk, later
18 occurrences of the term in the same subsection are *not* usually
19 asterisked.

20 (2) Terms are *not* asterisked in the non-operative material contained in
21 this Act.

22 Note: The non-operative material is described in Division 4.

23 (3) The following basic terms used throughout the Act are *not*
24 identified with an asterisk.

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Introduction **Chapter 1**
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Section 2-1

1

Common definitions that are not asterisked	
Item	This term:
1	Australia
2	Commissioner
3	CPRS fuel credit
4	entity
5	fuel
6	you

2

3-10 Identifying the defined term in a definition

3

Within a definition, the defined term is identified by *bold italics*.

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Chapter 1 Introduction

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Section 1-5

1

2 **Division 4—Status of Guides and other non-operative**
3 **material**

4 **Table of Subdivisions**

5 4-A Status of Guides and other non-operative material

6 **Subdivision 4-A—Status of Guides and other non-operative**
7 **material**

8 **Table of Sections**

9 4-1 Non-operative material
10 4-5 Guides
11 4-10 Other material

12 **4-1 Non-operative material**

13 In addition to the operative provisions themselves, this Act
14 contains other material to help you identify accurately and quickly
15 the provisions that are relevant to you and to help you understand
16 them.

17 This other material falls into 2 main categories.

18 **4-5 Guides**

19 The first is the “Guides”. A *Guide consists of sections under a
20 heading indicating that what follows is a Guide to a particular
21 Subdivision, Division etc.

22 *Guides form part of this Act but are kept separate from the
23 operative provisions. In interpreting an operative provision, a
24 Guide may only be considered for limited purposes. These are set
25 out in section 12-10.

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Section 2-1

1 **4-10 Other material**

2 The other category consists of material such as notes and
3 examples. These also form part of the Act. Generally, they are
4 distinguished by type size from the operative provisions, but are
5 not kept separate from them.

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Section 1-5

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2

Chapter 2—CPRS fuel credits

3

Part 2-1—Basic rules

4

Division 5—Object of this Chapter

5

Table of Subdivisions

6

5-A Object of this Chapter

7

Subdivision 5-A—Object of this Chapter

8

Table of Sections

9

5-1 Object of this Chapter

10

5-1 Object of this Chapter

11

The object of this Chapter is to provide CPRS fuel credits to offset the impact of the carbon pollution reduction scheme.

12

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1

2 **Division 6—CPRS fuel credits**

3 **Table of Subdivisions**

4		Guide to Division 6
5	6-A	Entitlement rules for CPRS fuel credits
6	6-B	Disentitlement rules for CPRS fuel credits

7 **Guide to Division 6**

8 **6-1 What this Division is about**

9

CPRS fuel credits are provided in the following situations:

10

(a) you acquire, manufacture or import fuel between 1 July 2010 and 30 June 2013 for use in fishing operations or agriculture;

11

12

13

(b) you acquire, manufacture, or import fuel between 1 July 2010 and 30 June 2013 for use in incidental fishing activities or incidental agricultural activities;

14

15

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17

(c) you acquire, manufacture or import fuel between 1 July 2010 and 30 June 2011 for use in heavy on-road vehicles;

18

19

20

(d) you acquire, manufacture or import fuel between 1 July 2010 and 30 June 2011 for use in certain vehicles acquired before 1 July 2006;

21

22

23

(e) you supply, or apply to your own use, automotive liquid petroleum gas between 1 July 2010 and 30 June 2013, and you are a liable entity for the purposes of the carbon pollution reduction scheme;

24

25

26

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Chapter 1 Introduction

Part 1-1 Preliminary

Division 1 Preliminary

Section 1-5

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- (f) you supply, or apply to your own use, automotive compressed natural gas between 1 July 2010 and 30 June 2011, and you are a liable entity for the purposes of the carbon pollution reduction scheme;
- (g) you supply, or apply to your own use, automotive liquefied natural gas between 1 July 2010 and 30 June 2011, and you are a liable entity for the purposes of the carbon pollution reduction scheme.

9

Subdivision 6-A—Entitlement rules for CPRS fuel credits

10

Table of Sections

11	6-5	CPRS fuel credit for fuel to be used for fishing operations or agriculture
12	6-10	CPRS fuel credit for fuel to be used for incidental fishing activities or incidental agricultural activities
13		
14	6-15	CPRS fuel credit for fuel to be used in heavy on-road vehicles
15	6-20	CPRS fuel credit for fuel to be used in certain vehicles acquired before 1 July 2006
16		
17	6-25	CPRS fuel credit for automotive liquid petroleum gas
18	6-30	CPRS fuel credit for automotive compressed natural gas
19	6-35	CPRS fuel credit for automotive liquefied natural gas

20

6-5 CPRS fuel credit for fuel to be used for fishing operations or agriculture

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- (1) You are entitled to a CPRS fuel credit for *eligible taxable fuel that you acquire or manufacture in, or import into, Australia during the period:
- (a) beginning at the start of 1 July 2010; and
 - (b) ending at the end of 30 June 2013;
- to the extent that you do so:
- (c) for use in *carrying on your *enterprise in:
 - (i) *fishing operations; or
 - (ii) *agriculture; and
 - (d) for use other than in a vehicle travelling on a public road.
- Note: See also Subdivision 6-B (disentitlement rules).

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Section 2-1

Registration for GST

- 1
- 2 (2) However, you are only entitled to the CPRS fuel credit if, at the
- 3 time you acquire, manufacture or import the fuel, you are
- 4 *registered for GST, or *required to be registered for GST.
- 5 (3) Subsection (2) does not apply if, at the time you acquire,
- 6 manufacture or import the fuel:
- 7 (a) you are a non-profit body; and
- 8 (b) you acquire, manufacture or import the fuel for use in a
- 9 vehicle (or vessel) that:
- 10 (i) provides emergency services; and
- 11 (ii) is clearly identifiable as such.

6-10 CPRS fuel credit for fuel to be used for incidental fishing activities or incidental agricultural activities

- 12
- 13
- 14 (1) You are entitled to a CPRS fuel credit for *eligible taxable fuel that
- 15 you acquire or manufacture in, or import into, Australia during the
- 16 period:
- 17 (a) beginning at the start of 1 July 2010; and
- 18 (b) ending at the end of 30 June 2013;
- 19 to the extent that you do so:
- 20 (c) for use in *carrying on your *enterprise; and
- 21 (d) for use in:
- 22 (i) *incidental fishing activities; or
- 23 (ii) *incidental agricultural activities; and
- 24 (e) for use other than in a vehicle travelling on a public road.

25 Note: See also Subdivision 6-B (disentitlement rules).

Registration for GST

- 26
- 27 (2) However, you are only entitled to the CPRS fuel credit if, at the
- 28 time you acquire, manufacture or import the fuel, you are
- 29 *registered for GST, or *required to be registered for GST.
- 30 (3) Subsection (2) does not apply if, at the time you acquire,
- 31 manufacture or import the fuel:
- 32 (a) you are a non-profit body; and

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Section 1-5

- 1 (b) you acquire, manufacture or import the fuel for use in a
2 vehicle (or vessel) that:
3 (i) provides emergency services; and
4 (ii) is clearly identifiable as such.

5 **6-15 CPRS fuel credit for fuel to be used in heavy on-road vehicles**

- 6 (1) You are entitled to a CPRS fuel credit for *eligible taxable fuel that
7 you acquire or manufacture in, or import into, Australia during the
8 period:
9 (a) beginning at the start of 1 July 2010; and
10 (b) ending at the end of 30 June 2011;
11 to the extent that you do so:
12 (c) for use in *carrying on your *enterprise; and
13 (d) for use in a vehicle with a gross vehicle mass exceeding 4.5
14 tonnes travelling on a public road.

15 Note: See also Subdivision 6-B (disentitlement rules).

16 *Registration for GST*

- 17 (2) However, you are only entitled to the CPRS fuel credit if, at the
18 time you acquire, manufacture or import the fuel, you are
19 *registered for GST, or *required to be registered for GST.
- 20 (3) Subsection (2) does not apply if, at the time you acquire,
21 manufacture or import the fuel:
22 (a) you are a non-profit body; and
23 (b) you acquire, manufacture or import the fuel for use in a
24 vehicle (or vessel) that:
25 (i) provides emergency services; and
26 (ii) is clearly identifiable as such.

27 **6-20 CPRS fuel credit for fuel to be used in certain vehicles acquired** 28 **before 1 July 2006**

- 29 (1) You are entitled to a CPRS fuel credit for *eligible taxable fuel that
30 you acquire or manufacture in, or import into, Australia during the
31 period:

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Section 2-1

- 1 (a) beginning at the start of 1 July 2010; and
2 (b) ending at the end of 30 June 2011;
3 if, as a result of the operation of item 12 of Schedule 3 to the *Fuel*
4 *Tax (Consequential and Transitional Provisions) Act 2006*, you are
5 entitled to a fuel tax credit under section 41-5 of the *Fuel Tax Act*
6 *2006* for the fuel.

7 Note: See also Subdivision 6-B (disentitlement rules).

8 *Registration for GST*

- 9 (2) However, you are only entitled to the CPRS fuel credit if, at the
10 time you acquire, manufacture or import the fuel, you are
11 *registered for GST, or *required to be registered for GST.
- 12 (3) Subsection (2) does not apply if, at the time you acquire,
13 manufacture or import the fuel:
- 14 (a) you are a non-profit body; and
15 (b) you acquire, manufacture or import the fuel for use in a
16 vehicle (or vessel) that:
- 17 (i) provides emergency services; and
18 (ii) is clearly identifiable as such.

19 **6-25 CPRS fuel credit for automotive liquid petroleum gas**

- 20 (1) You are entitled to a CPRS fuel credit for *liquid petroleum gas
21 you *supply, or apply to your own use, during the period:
- 22 (a) beginning at the start of 1 July 2010; and
23 (b) ending at the end of 30 June 2013;
24 if:
- 25 (c) the liquid petroleum gas is suitable for use in a vehicle
26 travelling on a road; and
27 (d) because of the supply, or the application to own use, you are
28 a *liable entity under section 33, 34, 35 or 36 of the *Carbon*
29 *Pollution Reduction Scheme Act 2009* for an *eligible
30 financial year; and
31 (e) in the case of supply—you supply the liquid petroleum gas in
32 your capacity as a *liquid petroleum gas marketer; and

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- 1 (f) in the case of application to own use—at the time you apply
2 the liquid petroleum gas to your own use, you are a *liquid
3 petroleum gas marketer.

4 Note: See also Subdivision 6-B (disentitlement rules).

5 *Registration for GST*

- 6 (2) However, you are only entitled to the CPRS fuel credit if, at the
7 time you *supply, or apply to your own use, the liquid petroleum
8 gas, you are *registered for GST, or *required to be registered for
9 GST.

10 **6-30 CPRS fuel credit for automotive compressed natural gas**

- 11 (1) You are entitled to a CPRS fuel credit for *compressed natural gas
12 you *supply, or apply to your own use, during the period:
13 (a) beginning at the start of 1 July 2010; and
14 (b) ending at the end of 30 June 2011;
15 if:
16 (c) the compressed natural gas is suitable for use in a vehicle
17 travelling on a road; and
18 (d) because of the supply, or the application to own use, you are
19 a *liable entity under section 33, 34, 35 or 36 of the *Carbon*
20 *Pollution Reduction Scheme Act 2009* for an *eligible
21 financial year.

22 Note: See also Subdivision 6-B (disentitlement rules).

23 *Registration for GST*

- 24 (2) However, you are only entitled to the CPRS fuel credit if, at the
25 time you *supply, or apply to your own use, the compressed natural
26 gas, you are *registered for GST, or *required to be registered for
27 GST.

28 **6-35 CPRS fuel credit for automotive liquefied natural gas**

- 29 (1) You are entitled to a CPRS fuel credit for liquefied natural gas you
30 *supply, or apply to your own use, during the period:
31 (a) beginning at the start of 1 July 2010; and

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- 1 (b) ending at the end of 30 June 2011;
2 if:
3 (c) the liquefied natural gas is suitable for use in a vehicle
4 travelling on a road; and
5 (d) because of the supply, or the application to own use, you are
6 a *liable entity under section 33, 34, 35 or 36 of the *Carbon*
7 *Pollution Reduction Scheme Act 2009* for an *eligible
8 financial year.

9 Note: See also Subdivision 6-B (disentitlement rules).

10 *Registration for GST*

- 11 (2) However, you are only entitled to the CPRS fuel credit if, at the
12 time you *supply, or apply to your own use, the liquefied natural
13 gas, you are *registered for GST, or *required to be registered for
14 GST.

15 **Subdivision 6-B—Disentitlement rules for CPRS fuel credits**

16 **Table of Sections**

17	6-40	No CPRS fuel credit if another entity was previously entitled to a credit
18	6-45	No CPRS fuel credit for fuel to be used in motor vehicles that do not meet 19 environmental criteria
20	6-50	No CPRS fuel credit for fuel to be used in aircraft

21 **6-40 No CPRS fuel credit if another entity was previously entitled to** 22 **a credit**

- 23 (1) You are not entitled to a CPRS fuel credit for fuel if it is reasonable
24 to conclude that another entity has previously been entitled to a
25 CPRS fuel credit, or a *decreasing CPRS fuel credit adjustment, for
26 the fuel.
- 27 (2) However, subsection (1) does not apply if it is also reasonable to
28 conclude that another entity had, in respect of the credit, an
29 *increasing CPRS fuel credit adjustment of the *amount of the
30 credit.

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Section 1-5

1 **6-45 No CPRS fuel credit for fuel to be used in motor vehicles that**
2 **do not meet environmental criteria**

3 (1) You are not entitled to a CPRS fuel credit under section 6-5, 6-10,
4 6-15 or 6-20 for fuel to the extent that you acquire, manufacture, or
5 import the fuel for use in a *motor vehicle, unless the vehicle meets
6 one of the following criteria:

- 7 (a) it is manufactured on or after 1 January 1996;
8 (b) it is registered in an audited maintenance program that is
9 accredited by the *Transport Secretary;
10 (c) it meets Rule 147A of the Australian Vehicle Standards
11 Rules 1999;
12 (d) it complies with a maintenance schedule that is endorsed by
13 the Transport Secretary.

14 (2) Subsection (1) does not apply to a *motor vehicle:

- 15 (a) that is used:
16 (i) in carrying on a *primary production business; and
17 (ii) primarily on an agricultural property; or
18 (b) that is not powered by a diesel engine; or
19 (c) that is not used on a public road.

20 **6-50 No CPRS fuel credit for fuel to be used in aircraft**

21 You are not entitled to a CPRS fuel credit under section 6-5, 6-10,
22 6-15 or 6-20 for fuel that you acquire, manufacture or import for
23 use as fuel in aircraft if the fuel was entered for home consumption
24 for that use (within the meaning of the *Excise Act 1901* or the
25 *Customs Act 1901*, as the case requires).

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2 **Division 7—Working out your CPRS fuel credit**

3 **Table of Subdivisions**

4 Guide to Division 7
5 7-A Working out your CPRS fuel credit

6 **Guide to Division 7**

7 **7-1 What this Division is about**

8 This Division sets out rules for calculating the amount of your
9 CPRS fuel credit.

10 **Subdivision 7-A—Working out your CPRS fuel credit**

11 **Table of Sections**

12 7-5 Working out your CPRS fuel credit

13 **7-5 Working out your CPRS fuel credit**

- 14 (1) The *amount of your CPRS fuel credit for fuel that you:
15 (a) acquire; or
16 (b) manufacture; or
17 (c) import; or
18 (d) *supply; or
19 (e) apply to your own use;

20 at a particular time is the amount worked out to 2 decimal places
21 (rounding up if the third decimal place is 5 or more) using the
22 formula:

23
$$\text{Adjusted number of litres of the fuel} \times \left(\$0.38143 - \frac{\text{Relevant rate of duty}}{\text{of duty}} \right) \times \frac{\text{Adjustment factor specified in subsection (2)}}{\text{specified in subsection (2)}}$$

24 where:

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Section 1-5

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adjusted number of litres of the fuel means:

(a) if the fuel:

(i) is classified to subitem 10.7, 10.11, 10.12 or 10.30 of the Schedule to the *Excise Tariff Act 1921*; or

(ii) would be classified to those subitems if the fuel was manufactured in Australia;

the number of litres in so much of the fuel as does not consist of either of the following:

(iii) ethanol;

(iv) *biodiesel; or

(b) otherwise—the number of litres of the fuel.

For the purposes of paragraph (a), disregard any water that has been added to manufacture the fuel.

Note: Paragraph (a) deals with blended fuel.

relevant rate of duty means the rate of duty specified at that time in subitem 10.10 of the Schedule to the *Excise Tariff Act 1921*.

Note 1: See also section 6AA of the *Excise Tariff Act 1921*.

Note 2: Division 10 sets out which tax period a credit is attributable to.

Adjustment factor

(2) For the purposes of subsection (1), the ***adjustment factor*** is the number worked out using the following table:

Adjustment factor		
Item	If ...	the adjustment factor is ...
1	you are entitled to the CPRS fuel credit under section 6-5 (fishing operations or agriculture)	1
2	(a) you are entitled to the CPRS fuel credit under section 6-10 (incidental fishing activities or incidental agricultural activities); and (b) you acquire, manufacture or import the fuel during the period: (i) beginning at the start of 1 July 2010; and	0.5

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Adjustment factor		
Item	If ...	the adjustment factor is ...
	(ii) ending at the end of 30 June 2012	
3	(a) you are entitled to the CPRS fuel credit under section 6-10 (incidental fishing activities or incidental agricultural activities); and (b) you acquire, manufacture or import the fuel during the period: (i) beginning at the start of 1 July 2012; and (ii) ending at the end of 30 June 2013	1
4	you are entitled to the CPRS fuel credit under section 6-15 (heavy on-road vehicles)	1
5	you are entitled to the CPRS fuel credit under section 6-20 (certain vehicles acquired before 1 July 2006)	1
6	you are entitled to the CPRS fuel credit under section 6-25 (automotive liquid petroleum gas)	0.67
7	you are entitled to the CPRS fuel credit under section 6-30 (automotive compressed natural gas)	0.78
8	you are entitled to the CPRS fuel credit under section 6-35 (automotive liquefied natural gas)	0.5

- 1 *Amount of CPRS fuel credit for blends of petrol and diesel*
- 2 (3) However, the *amount of your CPRS fuel credit for fuel that:
- 3 (a) is a blend of more than one kind of fuel; and
- 4 (b) meets a fuel standard, under the *Fuel Quality Standards Act*
- 5 *2000*, for petrol or diesel;
- 6 is worked out under subsection (1) as if the fuel were entirely that
- 7 kind of petrol or diesel (as the case requires).

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2 **Division 8—Increasing and decreasing CPRS fuel credit**
3 **adjustments**

4 **Table of Subdivisions**

5 Guide to Division 8

6 8-A Increasing and decreasing CPRS fuel credit adjustments

7 **Guide to Division 8**

8 **8-1 What this Division is about**

9

Your entitlement under section 6-5, 6-10, 6-15 or 6-20 to a CPRS fuel credit for fuel is worked out on the basis of what the fuel is intended for when you acquire, manufacture or import the fuel.

10

11

12

If you use or supply the fuel differently, or you do not use or supply the fuel at all, you have an increasing or decreasing CPRS fuel credit adjustment.

13

14

15

CPRS fuel credit adjustments are included in working out your net fuel amount under the *Fuel Tax Act 2006*. (Your net fuel amount determines how much you owe the Commissioner or the Commissioner owes you.)

16

17

18

19 **Subdivision 8-A—Increasing and decreasing CPRS fuel credit**
20 **adjustments**

21 **Table of Sections**

22

8-5 Increasing and decreasing CPRS fuel credit adjustments for change of circumstances

23

24

8-10 Increasing CPRS fuel credit adjustment for failure to use or make a taxable supply of fuel

25

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1 **8-5 Increasing and decreasing CPRS fuel credit adjustments for**
2 **change of circumstances**

- 3 (1) You have a *CPRS fuel credit adjustment if you use fuel, or make a
4 *taxable supply of fuel, in circumstances where, if you had
5 originally acquired, manufactured or imported the fuel to use or
6 make a taxable supply in those circumstances, the *amount of the
7 CPRS fuel credit to which you would have been entitled under
8 section 6-5, 6-10, 6-15 or 6-20 would have been different from the
9 *amount to which you are or were entitled.
- 10 (2) The *amount of the adjustment is the difference between the 2
11 amounts.

12 Note: Division 10 sets out which tax period or fuel tax return period the
13 CPRS fuel credit adjustment is attributable to.

14 *Decreasing CPRS fuel credit adjustments*

- 15 (3) The *CPRS fuel credit adjustment is a ***decreasing CPRS fuel***
16 ***credit adjustment*** if the *amount to which you would have been
17 entitled is greater than the amount to which you are or were
18 entitled.

19 *Increasing CPRS fuel credit adjustments*

- 20 (4) The *CPRS fuel credit adjustment is an ***increasing CPRS fuel***
21 ***credit adjustment*** if the *amount to which you are or were entitled
22 is greater than the amount to which you would have been entitled.

23 **8-10 Increasing CPRS fuel credit adjustment for failure to use or**
24 **make a taxable supply of fuel**

25 You have an ***increasing CPRS fuel credit adjustment*** if:

- 26 (a) you are or were entitled under section 6-5, 6-10, 6-15 or 6-20
27 to a CPRS fuel credit for fuel; and
28 (b) you have no reasonable prospect of using, or making a
29 *taxable supply of, the fuel.

30 The *amount of the adjustment is the amount of the credit that you
31 are or were entitled to.

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- 1 Example: You acquire eligible taxable fuel to use in a harvester in carrying on
2 your agriculture enterprise, so you are paid a CPRS fuel credit for the
3 fuel. Later on, the fuel is stolen. You have an increasing CPRS fuel
4 credit adjustment of the amount of the credit.
- 5 Note: Division 10 sets out which tax period or fuel tax return period the
6 CPRS fuel credit adjustment is attributable to.

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2 **Part 2-2—Special rules**

3 **Division 9—Instalment taxpayers**

4 **Table of Subdivisions**

5 Guide to Division 9

6 9-A Instalment taxpayers

7 **Guide to Division 9**

8 **9-1 What this Division is about**

9

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If you are a GST instalment taxpayer, you work out and claim your CPRS fuel credits for GST instalment quarters, instead of the annual tax period you use for the GST. However, you can choose not to give a return for the first 3 GST instalment quarters in a financial year (but if you have an increasing CPRS fuel credit adjustment, you must give a return for the last quarter in the year).

15 **Subdivision 9-A—Instalment taxpayers**

16 **Table of Sections**

17 9-5 Instalment taxpayers

18 **9-5 Instalment taxpayers**

19 (1) If you are a *GST instalment payer, you must treat each *GST
20 instalment quarter as if it were a *tax period.

21

GST instalment quarters to be treated as tax periods

22

23

24

25

(2) For the purposes of working out under subsection 10-5(1) which *GST instalment quarter a CPRS fuel credit is attributable to, you must treat each GST instalment quarter as if, in the *GST Act, the quarter were a *tax period.

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1 *Choice to give a return for first 3 quarters*

- 2 (3) You may choose whether to give the Commissioner a return for
3 any of the first 3 *GST instalment quarters in a *financial year. If
4 you do so, you must give the Commissioner your return on or
5 before the day on which you are, or would be, required to pay your
6 *GST instalment to the Commissioner for the quarter (disregarding
7 section 162-80 of the *GST Act).

8 Note: Section 162-80 of the GST Act allows certain entities to pay only 2
9 GST instalments for a financial year.

- 10 (4) If you choose not to give a return for any of those quarters, then
11 any CPRS fuel credit or *CPRS fuel credit adjustment that is
12 attributable to that quarter:

- 13 (a) ceases to be attributable to that quarter; and
14 (b) becomes attributable to the first quarter for which you give
15 the Commissioner a return.

16 Note: See subsection 10-5(5) if your return for a quarter does not include a
17 CPRS fuel credit that is attributable, under this subsection, to the
18 quarter.

19 *Requirement to give a return for final quarter*

- 20 (5) If you have an *increasing CPRS fuel credit adjustment that is (or,
21 under subsection (4), would be) attributable to the last *GST
22 instalment quarter in the *financial year, you must give the
23 Commissioner a return for that quarter on or before the day on
24 which you are, or would be, required to pay your *GST instalment
25 to the Commissioner for the quarter (disregarding section 162-80
26 of the *GST Act).

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2 **Chapter 3—Common rules**

3 **Part 3-1—Attribution rules**

4 **Division 10—Attribution rules**

5 **Table of Subdivisions**

6 Guide to Division 10
7 10-A Attribution rules

8 **Guide to Division 10**

9 **10-1 What this Division is about**

10 CPRS fuel credits and CPRS fuel credit adjustments are attributed
11 to tax periods (or fuel tax return periods).

12 Generally, if you are a business taxpayer, your CPRS fuel credit
13 for fuel is attributed to the same period as your input tax credit for
14 the fuel (to reduce compliance costs). If you are a non-business
15 taxpayer, your CPRS fuel credit for fuel is attributed to the fuel tax
16 return period in which you:

17 (a) acquire, manufacture or import the fuel; or
18 (b) supply, or apply to your own use, the fuel.

19 CPRS fuel credit adjustments are attributed to the tax period (or
20 fuel tax return period) in which you become aware of the
21 adjustment.

22 **Subdivision 10-A—Attribution rules**

23 **Table of Sections**

24 10-5 Attribution rules for CPRS fuel credits

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1 10-10 Attribution rules for CPRS fuel credit adjustments

2 **10-5 Attribution rules for CPRS fuel credits**

3 *Attribution rules for fuel you acquire or import*

- 4 (1) If you are *registered for GST, or *required to be registered for
5 GST, your CPRS fuel credit under section 6-5, 6-10, 6-15 or 6-20
6 for fuel that you acquire or import is attributable to:
7 (a) the same *tax period that your *input tax credit for the fuel is
8 attributable to under the *GST Act; or
9 (b) the same tax period that an input tax credit would have been
10 attributable to under that Act if the fuel had been a
11 *creditable acquisition or a *creditable importation.
- 12 (2) If you are neither *registered for GST, nor *required to be
13 registered for GST, your CPRS fuel credit under section 6-5, 6-10,
14 6-15 or 6-20 for fuel that you acquire or import is attributable to
15 the *fuel tax return period in which you acquire or import the fuel.

16 *Attribution rule for fuel you manufacture*

- 17 (3) Your CPRS fuel credit under section 6-5, 6-10, 6-15 or 6-20 for
18 fuel that you manufacture is attributable to the *tax period or *fuel
19 tax return period in which the fuel was entered for home
20 consumption (within the meaning of the *Excise Act 1901*).

21 *Attribution rule for fuel that you supply or that you apply to your
22 own use*

- 23 (4) Your CPRS fuel credit under section 6-25, 6-30 or 6-35 for fuel
24 that you *supply, or apply to your own use, is attributable to the
25 *tax period or *fuel tax return period in which you supply, or apply
26 to your own use, the fuel.

27 *Later attribution rule for CPRS fuel credits*

- 28 (5) If your return for a *tax period or *fuel tax return period states a
29 *net fuel amount that does not take into account a CPRS fuel credit
30 that is attributable to the period mentioned in subsection (1), (2),
31 (3) or (4) then the credit:

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- 1 (a) ceases to be attributable to that period; and
2 (b) becomes attributable to the first period for which you give
3 the Commissioner a return that does take it into account.

4 Note: For another attribution rule for CPRS fuel credits, see subsection
5 9-5(4) (GST instalment taxpayers).

6 **10-10 Attribution rules for CPRS fuel credit adjustments**

7 A *CPRS fuel credit adjustment is attributable to the *tax period or
8 *fuel tax return period in which you become aware of the
9 adjustment.

10 Note: For attribution rules for other CPRS fuel credit adjustments, see
11 subsection 9-5(4) (GST instalment taxpayers).

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Chapter 4—Miscellaneous

3

Part 4-1—Miscellaneous

4

Division 11—Miscellaneous

5

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6

Guide to Division 11

7

11-A Miscellaneous

8

Guide to Division 11

9

11-1 What this Division is about

10

This Division provides for the following matters:

11

(a) the Commissioner to have the general administration of this Act;

12

13

(b) the application of this Act to the Commonwealth;

14

(c) regulations to be made for the purposes of this Act.

15

Subdivision 11-A—Miscellaneous

16

Table of Sections

17

11-5 Commissioner has general administration of this Act

18

11-10 Application of this Act to the Commonwealth

19

11-15 Regulations

20

11-5 Commissioner has general administration of this Act

21

The Commissioner has the general administration of this Act.

22

Note: An effect of this provision is that the *Taxation Administration Act 1953* applies to this Act as a taxation law.

23

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11-10 Application of this Act to the Commonwealth

- 1
- 2 (1) It is the Parliament's intention that the Commonwealth and
3 *untaxable Commonwealth entities should:
4 (a) be notionally entitled to CPRS fuel credits; and
5 (b) have notional *CPRS fuel credit adjustments.

6 Note: The fuel tax law binds the Crown in right of the States, the Australian
7 Capital Territory and the Northern Territory (see section 1-15 of the
8 *Fuel Tax Act 2006*).

- 9 (2) The *Finance Minister may give such written directions as are
10 necessary or convenient for carrying out or giving effect to
11 subsection (1) and, in particular, may give directions in relation to
12 the transfer of money within an account, or between accounts,
13 operated by the Commonwealth or an *untaxable Commonwealth
14 entity.
- 15 (3) Directions under subsection (2) have effect, and must be complied
16 with, despite any other Commonwealth law.
- 17 (4) A direction given under subsection (2) is not a legislative
18 instrument.

11-15 Regulations

- 19 The Governor-General may make regulations prescribing matters:
20 (a) required or permitted by this Act to be prescribed; or
21 (b) necessary or convenient to be prescribed for carrying out or
22 giving effect to this Act.
23

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2

Part 5-1—Rules for interpreting this Act

3

Division 12—Rules for interpreting this Act

4

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6 12-A Rules for interpreting this Act

6

Subdivision 12-A—Rules for interpreting this Act

7

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9 12-1 What forms part of this Act

9

10 12-5 What does not form part of this Act

10

11 12-10 Guides, and their role in interpreting this Act

11

12-1 What forms part of this Act

12

13 (1) The following form part of this Act:

13

14 (a) the headings to the Chapters, Parts, Divisions and

14

15 Subdivisions of this Act;

15

16 (b) *Guides;

16

17 (c) the headings to the sections and subsections of this Act;

17

18 (d) the headings for groups of sections of this Act (group

18

19 headings);

19

20 (e) the notes and examples (however described) that follow

20

21 provisions of this Act.

21

22 (2) The asterisks used to identify defined terms form part of this Act.

22

23 However, if a term is not identified by an asterisk, disregard that

23

24 fact in deciding whether or not to apply to that term a definition or

24

25 other interpretation provision.

25

12-5 What does not form part of this Act

26

27 The following do not form part of this Act:

27

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- 1 (a) footnotes and endnotes;
- 2 (b) Tables of Subdivisions;
- 3 (c) Tables of sections.

4 **12-10 Guides, and their role in interpreting this Act**

- 5 (1) A **Guide** consists of:
 - 6 (a) sections under a heading indicating that what follows is a
 - 7 Guide to a particular Subdivision, Division etc.; or
 - 8 (b) a Subdivision, Division or Part that is identified as a Guide
 - 9 by a provision in the Subdivision, Division or Part.
- 10 (2) *Guides form part of this Act, but they are kept separate from the
- 11 operative provisions. In interpreting an operative provision, a
- 12 Guide may only be considered:
 - 13 (a) in determining the purpose or object underlying the
 - 14 provision; or
 - 15 (b) to confirm that the provision's meaning is the ordinary
 - 16 meaning conveyed by its text, taking into account its context
 - 17 in the Act and the purpose or object underlying the provision;
 - 18 or
 - 19 (c) in determining the provision's meaning if the provision is
 - 20 ambiguous or obscure; or
 - 21 (d) in determining the provision's meaning if the ordinary
 - 22 meaning conveyed by its text, taking into account its context
 - 23 in the Act and the purpose or object underlying the provision,
 - 24 leads to a result that is manifestly absurd or is unreasonable.

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2 **Part 5-2—Dictionary**

3 **Division 13—Dictionary**

4 **Table of Subdivisions**

5 13-A Dictionary

6 **Subdivision 13-A—Dictionary**

7 **Table of Sections**

8 13-1 Dictionary

9 **13-1 Dictionary**

10 In this Act:

11 ***agriculture*** has the same meaning as in the *Energy Grants*
12 *(Credits) Scheme Act 2003*, but does not include an activity
13 relating to *carbon sequestration. For the purposes of this
14 definition, disregard the repeal of that Act on 1 July 2012.

15 ***amount*** includes a nil amount.

16 ***Australia*** has the meaning given by section 195-1 of the *GST Act.

17 ***biodiesel*** has the same meaning as in the *Excise Tariff Act 1921*.

18 ***carbon pollution reduction scheme*** has the same meaning as in the
19 *Carbon Pollution Reduction Scheme Act 2009*.

20 ***carbon sequestration*** has the meaning given by section 995-1 of
21 the *Income Tax Assessment Act 1997*.

22 ***carrying on*** an *enterprise has the meaning given by section 195-1
23 of the *GST Act.

24 ***Commissioner*** means the Commissioner of Taxation.

25 Note: The office of Commissioner of Taxation is created by section 4 of the
26 *Taxation Administration Act 1953*.

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- 1 **compressed natural gas** has the same meaning as in the *National*
2 *Greenhouse and Energy Reporting Regulations 2008*.
- 3 **CPRS fuel credit** means an entitlement arising under section 6-5,
4 6-10, 6-15, 6-20, 6-25, 6-30 or 6-35.
- 5 **creditable acquisition** has the meaning given by section 195-1 of
6 the *GST Act.
- 7 **creditable importation** has the meaning given by section 195-1 of
8 the *GST Act.
- 9 **decreasing CPRS fuel credit adjustment** has the meaning given by
10 section 8-5.
- 11 **eligible financial year** has the same meaning as in the *Carbon*
12 *Pollution Reduction Scheme Act 2009*.
- 13 **eligible taxable fuel** means:
14 (a) excisable goods (within the meaning of the *Excise Act 1901*)
15 classified to subitem 10.1, 10.2, 10.3, 10.5, 10.7, 10.10,
16 10.11, 10.12, 10.15, 10.16, 10.18, 10.25, 10.26, 10.27, 10.28
17 or 10.30 of the Schedule of the *Excise Tariff Act 1921*; or
18 (b) imported goods (within the meaning of the *Excise Act 1901*)
19 that would be classified to those subitems if they were
20 manufactured in Australia.
- 21 **enterprise** has the meaning given by section 9-20 of the *GST Act.
- 22 **entity** has the meaning given by section 184-1 of the *GST Act.
- 23 **Finance Minister** has the meaning given by section 195-1 of the
24 *GST Act.
- 25 **financial year** has the meaning given by section 195-1 of the *GST
26 Act.
- 27 **fishing operations** has the same meaning as in the *Energy Grants*
28 *(Credits) Scheme Act 2003*. For the purposes of this definition,
29 disregard the repeal of that Act on 1 July 2012.
- 30 **fuel** means:
31 (a) *eligible taxable fuel; or

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Section 1-5

- 1 (b) *liquid petroleum gas; or
2 (c) *compressed natural gas; or
3 (d) liquefied natural gas.

4 ***fuel tax law*** has the meaning given by section 110-5 of the *Fuel*
5 *Tax Act 2006*.

6 ***fuel tax return period*** has the meaning given by section 61-20 of
7 the *Fuel Tax Act 2006*.

8 ***GST Act*** means the *A New Tax System (Goods and Services Tax)*
9 *Act 1999*.

10 ***GST instalment*** has the meaning given by subsection 162-70(1) of
11 the *GST Act.

12 ***GST instalment payer*** has the meaning given by section 162-50 of
13 the *GST Act.

14 ***GST instalment quarter*** has the meaning given by subsections
15 162-70(2) and (3) of the *GST Act.

16 ***Guide*** has the meaning given by section 12-10.

17 ***incidental agricultural activities*** has the meaning given by the
18 regulations.

19 ***incidental fishing activities*** has the meaning given by the
20 regulations.

21 ***increasing CPRS fuel credit adjustment*** has the meaning given by
22 sections 8-5 and 8-10.

23 ***input tax credit*** has the meaning given by section 195-1 of the
24 *GST Act.

25 ***liable entity*** has the same meaning as in the *Carbon Pollution*
26 *Reduction Scheme Act 2009*.

27 ***liquid petroleum gas*** has the same meaning as in the *National*
28 *Greenhouse and Energy Reporting Regulations 2008*.

29 *[Note: this anticipates an amendment of the NGER Regulations]*

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1 **liquid petroleum gas marketer** has the same meaning as in the
2 *Carbon Pollution Reduction Scheme Act 2009*.

3 **motor vehicle** has the meaning given by section 995-1 of the
4 *Income Tax Assessment Act 1997*.

5 **net fuel amount** has the meaning given by section 60-5 of the *Fuel*
6 *Tax Act 2006*.

7 **primary production business** has the meaning given by subsection
8 995-1(1) of the *Income Tax Assessment Act 1997*.

9 **registered for GST** has the meaning given to **registered** by
10 section 195-1 of the *GST Act.

11 **required to be registered for GST** has the meaning given to
12 **required to be registered** by section 195-1 of the *GST Act.

13 **supply** has the same meaning as in the *Carbon Pollution Reduction*
14 *Scheme Act 2009*.

15 **taxable supply** has the meaning given by section 195-1 of the
16 *GST Act.

17 **tax period** has the meaning given by section 195-1 of the *GST
18 Act.

19 **Transport Department** means the Department administered by the
20 *Transport Minister.

21 **Transport Minister** means the Minister who administers the *Motor*
22 *Vehicle Standards Act 1989*.

23 **Transport Secretary** means the Secretary of the *Transport
24 Department.

25 **untaxable Commonwealth entity** has the meaning given by
26 section 177-1 of the *GST Act.

27 **you**: if a provision of this Act uses the expression you, it applies to
28 entities generally, unless its application is expressly limited.

29 Note: The expression you is not used in provisions that apply only to entities
30 that are not individuals.