

Western Australia

Fuel Suppliers Licensing Regulations 1998

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Fuel Suppliers Licensing Regulations 1998

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Fuel Suppliers Licensing Regulations 1998

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Fuel Suppliers Licensing Regulations 1998*¹.

[Regulation 1 amended in Gazette 21 Jul 1998 p. 3862.]

2. Commencement

These regulations come into operation on the day on which the *Fuel Suppliers Licensing and Diesel Subsidies Act 1997* comes into operation¹.

3. Interpretation

In these regulations, a reference to an Act of the Commonwealth is a reference to the Act as at the commencement of these regulations.

4. Diesel (s. 3)

For the purpose of the definition of “diesel” in section 3 of the Act, Schedule 1 has effect.

4A. General diesel and ORD subsidy rates (s. 3)

- (1) In this regulation —

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“**ETR**” means the rate of duty (in dollars per litre) imposed by item 11(C)(2)(a) of the Schedule to the *Excise Tariff Act 1921* of the Commonwealth.

- (2) For the purpose of the definition of “general diesel subsidy rate” in section 3 of the Act the general diesel subsidy rate (GDSR) prescribed is that calculated in accordance with this formula and subregulation (4):

$$\text{GDSR} = (\text{ETR} \times 1.51879) \text{ cents per litre.}$$

- (3) For the purpose of the definition of “ORD subsidy rate” in section 3 of the Act the ORD subsidy rate (ORDSR) prescribed is that calculated in accordance with this formula and subregulation (4):

$$\text{ORDSR} = (\text{ETR} \times 17.40776) \text{ cents per litre.}$$

- (4) The result obtained from a calculation made using the formula in subregulation (2) or (3) is to be expressed to 3 decimal places and the number in the third decimal place is to be rounded up to the next number if the number in the fourth decimal place is 5 or more.

[Regulation 4A inserted in Gazette 13 Aug 1999 p. 3830.]

5. Prescribed fuel (s. 3)

For the purpose of the definition of “prescribed fuel” in section 3 of the Act, Schedule 2 has effect.

Part 2 — Fuel suppliers

6. Fee for fuel supplier's licence (s. 7(2))

For the purpose of section 7(2) of the Act, the prescribed fee for the issue of a fuel supplier's licence is \$1 000.

7. Period for which a fuel supplier's licence is valid (s. 8(2))

For the purpose of section 8(2) of the Act, the prescribed period is one year commencing on the day on which the fuel supplier's licence is issued.

8. General records (s. 9(a))

For the purpose of section 9(a) of the Act, a record must be kept of the following information in respect of each supply of prescribed fuel:

- (a) the number of the holder's invoice for the supply;
- (b) the name and address of the person to whom the fuel was supplied;
- (c) the address to which the fuel was delivered;
- (d) the date of the supply;
- (e) the item referred to in clause 1 or 2 of Schedule 2 under which customs duty or excise duty (as the case may be) was paid in respect of the fuel supplied;
- (f) the quantity supplied (in litres);
- (g) the price per litre at which it was supplied.

9. Calculating the compensation for distributors (s. 11(3))

For the purpose of section 11(3) of the Act, the value of the compensation to be made by a licensed supplier to an authorised distributor must equal the quantity of diesel supplied at the ORD subsidized price (in litres) multiplied by the ORD subsidy rate at the time of that supply.

10. Diesel records (s. 12(2))

- (1) For the purpose of section 12(2)(a) of the Act, a record must be kept of the following information in respect of each supply of diesel at the general subsidized price:
 - (a) the number of the holder's invoice for the supply;
 - (b) the name and address of the person to whom the diesel was supplied;
 - (c) the address to which the diesel was delivered;
 - (d) the date of the supply;
 - (e) the quantity supplied (in litres);
 - (f) the price per litre at which it was supplied.
- (2) For the purpose of section 12(2)(b) of the Act, a record must be kept of the following information in respect of each supply of diesel to a certified user at the ORD subsidized price:
 - (a) the number of the holder's invoice for the supply;
 - (b) the name and address of the person to whom the diesel was supplied;
 - (c) the number of the ORD user's certificate of the person to whom the diesel was supplied;
 - (d) the address to which the diesel was delivered;
 - (e) if the person to whom the diesel was delivered is not the person to whom the diesel was supplied — the name of the person to whom it was delivered;
 - (f) the date of the supply;
 - (g) the quantity supplied (in litres);
 - (h) the price per litre at which it was supplied.
- (3) For the purpose of section 12(2)(c) of the Act, the following records must be kept in respect of compensation made to an authorised distributor in respect of diesel supplied at the ORD subsidized price to a certified user:
 - (a) the records referred to in section 20(3) of the Act, including a record of the information referred to in

regulation 13, that were provided to the holder under section 20(2) of the Act by the authorised distributor when requesting compensation from the holder;

- (b) as to the authorised distributor to whom the compensation was made:
 - (i) the distributor's name and address;
 - (ii) the distributor's ORD distributor's authority number;
 - (iii) the quantity of diesel in respect of which the compensation was made;
 - (iv) the value of the compensation;
 - (v) the date on which the compensation was made.
- (4) For the purpose of section 12(2)(d) and (e) of the Act, a record must be kept of the following information in respect of any use by the holder of diesel:
 - (a) the date on which it was used;
 - (b) the quantity used (in litres);
 - (c) if the holder is not a certified user, the purpose for which the diesel was used;
 - (d) if the holder is a certified user, the information required to be kept under regulation 15(b).

Part 3 — Distributors of off-road diesel

11. General records (s. 17(a))

For the purpose of section 17(a) of the Act —

- (a) a record must be kept of the name and address of every licensed supplier, and of every other authorised distributor, to whom the holder makes a request under section 20(2) of the Act; and
- (b) if the holder makes a request under section 20(2) of the Act, the holder must keep a copy of the records referred to in section 20(3) of the Act that were provided by the holder under section 20(2) of the Act, including a record of the information referred to in regulation 13.

12. Calculating the compensation for distributors (s. 19(3))

For the purpose of section 19(3) of the Act, the value of the compensation to be made by an authorised distributor to another authorised distributor must equal the quantity of diesel supplied at the ORD subsidized price (in litres) multiplied by the ORD subsidy rate at the time of that supply.

13. Information to be supplied when requesting compensation (s. 20(3))

For the purpose of section 20(3)(e) of the Act, the prescribed information is the invoice number of the authorised distributor who supplied the diesel at the ORD subsidized price to the certified user for that supply.

14. Diesel records (s. 21(2))

- (1) For the purpose of section 21(2)(a) of the Act, a record must be kept of the following information in respect of each supply of diesel to a certified user at the ORD subsidized price:
 - (a) the number of the holder's invoice for the supply;

- (b) the name and address of the person to whom the diesel was supplied;
 - (c) the number of the ORD user's certificate of the person to whom the diesel was supplied;
 - (d) the address to which the diesel was delivered and the name of the person to whom it was delivered at that place;
 - (e) the date of the supply;
 - (f) the quantity supplied (in litres);
 - (g) the price per litre at which it was supplied.
- (2) For the purpose of section 21(2)(b) of the Act, the following records must be kept in respect of compensation made to another authorised distributor in respect of diesel supplied at the ORD subsidized price to a certified user:
- (a) the records referred to in section 20(3) of the Act, including a record of the information referred to in regulation 13, that were provided to the holder under section 20(2) of the Act by the other authorised distributor when requesting compensation;
 - (b) as to the authorised distributor to whom the compensation was made:
 - (i) the distributor's name and address;
 - (ii) the distributor's ORD distributor's authority number;
 - (iii) the quantity of diesel in respect of which the compensation was made;
 - (iv) the value of the compensation;
 - (v) the date on which compensation was made.

[Part 4 repealed in Gazette 21 Jul 1998 p. 3862.]

Part 5 — Diesel subsidies

16. Prescribed period and time (s. 44(2))

- (1) For the purpose of section 44(2) of the Act the prescribed period is a calendar month beginning on the 1st day of the month and the first prescribed period is the month beginning on 1 February 1998.
- (2) For the purpose of section 44(2) of the Act, the prescribed time in respect of a prescribed period is any time within the shorter of —
 - (a) the period of 2 years after the end of the prescribed period; or
 - (b) the period beginning on the day after the end of the prescribed period and ending on 31 December 2000.

[Regulation 16 amended in Gazette 12 May 2000 p. 2289-90.]

17. Calculation of subsidy (s. 46)

- (1) This regulation applies unless regulation 18 applies.
- (2) The amount of a general diesel subsidy payable to an applicant who is a licensed supplier is —
 - (a) the quantity (in litres) of diesel supplied by the applicant to other persons at the general subsidized price; plus
 - (b) the quantity (in litres) of diesel used by the applicant for propelling a road vehicle on a public road,multiplied by the general diesel subsidy rate applicable at the time the diesel was supplied.
- (3) The amount of an ORD subsidy payable to an applicant who is a licensed supplier is —
 - (a) an amount that equals the value of the compensation that the applicant has made to authorised distributors for supplying diesel at the ORD subsidized price; plus

- (b) an amount that equals the quantity (in litres) of diesel supplied by the applicant to certified users at the ORD subsidized price multiplied by the ORD subsidy rate applicable at the time the diesel was supplied; plus
- (c) if the applicant is also a certified user — an amount that equals the quantity (in litres) of diesel used by the applicant for purposes other than for propelling a road vehicle on a public road multiplied by the sum of the general subsidy rate and the ORD subsidy rate that applied at the time the diesel was used.

18. Calculation where supply is from interstate (s. 46)

- (1) If a licensed supplier applies for a diesel subsidy for diesel supplied from a place in Australia outside WA to a person who took delivery of it in WA, the diesel subsidy payable is to be calculated under subregulation (2) or (3) as the case requires.
- (2) In the case of a quantity of diesel (in litres) (L) for which application is made for a general diesel subsidy —
 - (a) if under the law of another State or a Territory a subsidy is payable on the diesel at a rate that equals or exceeds the general diesel subsidy rate, no general diesel subsidy is payable under Part 6 of the Act;
 - (b) if under the law of another State or a Territory a subsidy is payable on the diesel at a rate (ISR) that is less than the general diesel subsidy rate (WAR), the general diesel subsidy (GDS) is to be calculated as follows:
$$\text{GDS} = L \times (\text{WAR} - \text{ISR})$$
- (3) In the case of a quantity of diesel (in litres) (L) for which application is made for an ORD subsidy —
 - (a) if under the law of another State or a Territory a subsidy is payable on the diesel at a rate that equals or exceeds the ORD diesel subsidy rate, no ORD subsidy is payable under Part 6 of the Act;

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- (b) if under the law of another State or a Territory a subsidy is payable on the diesel at a rate (ISR) that is less than the ORD subsidy rate (WAR), the ORD subsidy (ORDS) is to be calculated as follows:

$$\text{GDS} = L \times (\text{WAR} - \text{ISR})$$

Part 6 — Miscellaneous

19. Expenses of people attending examinations (s. 54(6))

If a person, other than a holder of a permit or an employee of a holder of a permit, is required under section 54 of the Act to attend for examination the Commissioner is to pay the person —

- (a) if the person lives more than 7 kilometres from the place of the examination, the travelling expenses that the Commissioner thinks reasonable; but not exceeding the actual travelling expenses incurred by the person; and
- (b) if the person loses income because of having to attend, an amount for the working time lost by the person calculated on the basis of the minimum weekly rates of pay determined from time to time under section 15 of the *Minimum Conditions of Employment Act 1993*.

20. Transitional period: prescribed date (Sch. 1 cl. 1)

For the purpose of the definition of “transitional period” in clause 1 of Schedule 1 to the Act, 30 June 1998 is prescribed.

[Regulation 20 inserted in Gazette 23 Jun 1998 p. 3339.]

Schedule 1

Schedule 1

DIESEL

[r. 4]

1. Customs Tariff Act 1995 (Cwlth) items

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

2707.10.19	2707.30.19	2709.00.29
2707.10.91	2707.30.91	2709.00.99
2707.10.99	2707.30.99	2710.00.15
2707.20.19	2707.50.29	2710.00.29
2707.20.91	2707.50.91	2710.00.39
2707.20.99	2707.50.99	2710.00.69
		2710.00.89

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

2. Excise Tariff Act 1921 (Cwlth) items

- (1) The petroleum or shale products described in the following items of the Schedule to the *Excise Tariff Act 1921* of the Commonwealth are prescribed to be diesel:

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

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

Schedule 2
PRESCRIBED FUEL

[r. 5]

1. Customs Tariff Act 1995 (Cwlth) items

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

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

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

2. Excise Tariff Act 1921 (Cwlth) items

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

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

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

Notes

¹ This is a compilation of the *Fuel Suppliers Licensing Regulations 1998* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Fuel Suppliers Licensing and Diesel Subsidies Regulations 1998</i> ²	30 Jan 1998 p. 547-58	31 Jan 1998 (see r. 2 and <i>Gazette</i> 30 Jan 1998 p. 577)
<i>Fuel Suppliers Licensing and Diesel Subsidies Amendment Regulations 1998</i>	23 Jun 1998 p. 3339	23 Jun 1998
<i>Fuel Suppliers Licensing and Diesel Subsidies Amendment Regulations (No. 2) 1998</i>	21 Jul 1998 p. 3862	21 Jul 1998 (see r. 2 and <i>Gazette</i> 21 Jul 1998 p. 3826)
<i>Fuel Suppliers Licensing Amendment Regulations 1998</i>	18 Aug 1998 p. 4467-8	18 Aug 1998
<i>Fuel Suppliers Licensing Amendment Regulations 1999</i>	16 Feb 1999 p. 516-17	16 Feb 1999
<i>Fuel Suppliers Licensing Amendment Regulations (No. 2) 1999</i>	13 Aug 1999 p. 3830-1	13 Aug 1999
<i>Fuel Suppliers Licensing Amendment Regulations 2000</i>	12 May 2000 p. 2289-90	1 Jul 2000 (see r. 2)
Reprint of the <i>Fuel Suppliers Licensing Regulations 1998</i> as at 10 Aug 2001 (includes amendments listed above)		

² Now known as the *Fuel Suppliers Licensing Regulations 1998*. Citation changed (see note under r. 1).