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FUEL SUPPLIERS LICENSING AND
DIESEL SUBSIDIES ACT 1997

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AND DIESEL SUBSIDIES
REGULATIONS 1998**

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Made by the Governor in Executive Council.

PART 1 — PRELIMINARY**Citation**

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

Commencement

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

Interpretation

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

Diesel (s. 3)

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

Prescribed fuel (s. 3)

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

PART 2 — FUEL SUPPLIERS**Fee for fuel supplier’s licence (s. 7 (2))**

6. 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.

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

7. 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.

General records (s 9. (a))

8. 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.

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

9. For the purpose of section 11 (3) of the Act, the value of the compensation to be made by a licensed supplier to an authorized 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.

Diesel records (s. 12 (2))

10. (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;

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- (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 authorized 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 authorized distributor when requesting compensation from the holder;
- (b) as to the authorized 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.

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(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

General records (s. 17 (a))

11. 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 authorized 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.

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

12. For the purpose of section 19 (3) of the Act, the value of the compensation to be made by an authorized distributor to another authorized 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.

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

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

Diesel records (s. 21 (2))

14. (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;

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- (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 authorized 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 authorized distributor when requesting compensation;
- (b) as to the authorized 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 — USERS OF OFF-ROAD DIESEL

General records (s. 29 (a))

15. For the purpose of section 29 (a) of the Act, a record is to be kept of the following information:

- (a) as to diesel supplied to the holder at the ORD subsidized price:
 - (i) the name and address of the licensed supplier, or the authorized distributor, who supplied the diesel;

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- (ii) the licensed supplier's, or the authorized distributor's, invoice number for the supply;
 - (iii) the address to which the diesel was delivered;
 - (iv) the date of the supply;
 - (v) the quantity supplied (in litres);
 - (vi) the price per litre at which it was supplied;
- (b) as to the use of such diesel:
- (i) except where the diesel was used in a vessel, the address of the place where it was used;
 - (ii) a description of the equipment, machinery, road vehicle, vessel, or other thing in which it was used;
 - (iii) if it was used in a road vehicle, a log book identifying the vehicle and its registration number and showing the dates and distances of journeys travelled by the vehicle while using such diesel and the quantity used (in litres) on each such journey;
 - (iv) if it was used in a thing other than a road vehicle, a log book identifying the thing and showing the dates when and the number of operating hours during which the thing used such diesel and the quantity used (in litres) on each such date;
 - (v) if it was not used in any thing, a description of the purpose for which it was used and when it was used.

PART 5 — DIESEL SUBSIDIES

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

16. (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 2 years after the end of the prescribed period.

Calculation of subsidy (s. 46)

17. (1) This regulation applies unless regulation 18 applies.

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(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 authorized 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.

Calculation where supply is from interstate (s. 46)

18. (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:

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

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(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;
- (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:

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

PART 6 — MISCELLANEOUS

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

19. 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*.

SCHEDULE 1 — DIESEL

[r. 4]

Customs Tariff Act 1995 (Cwlth) items

1. (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	2707.10.99	2707.20.19
2707.10.91		2707.20.91

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2707.20.99	2707.30.19 2707.30.91 2707.30.99	2709.00.29 2709.00.99
	2707.50.29 2707.50.91 2707.50.99	2710.00.15 2710.00.29 2710.00.39 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.

Excise Tariff Act 1921 (Cwlth) items

2. (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(B)(2)(a)	11(D)(3) 11(E)(1)	11(I)(1)(b)(ii) 11(I)(2)(a) 11(I)(3)(a)
11(C)(1)(a) 11(C)(2)(a)	11(F)(1) 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]

Customs Tariff Act 1995 (Cwlth) items

1. (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 2707.10.91 2707.10.99	2707.30.19 2707.30.91 2707.30.99	2710.00.15 2710.00.29 2710.00.39 2710.00.57
2707.20.19 2707.20.91 2707.20.99	2707.50.29 2707.50.91 2707.50.99	2710.00.59 2710.00.69 2710.00.89
	2709.00.29 2709.00.99	

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(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.

Excise Tariff Act 1921 (Cwlth) items

2. (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(I)(2)(a)
	11(G)(2)	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(H)(2)(c)	11(J)(2)(b)
11(E)(1)		

(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.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.



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