

EXPOSURE DRAFT



EXPOSURE DRAFT

Excise Regulation 2015

Select Legislative Instrument No. , 2015

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 2015

Peter Cosgrove
Governor-General

By His Excellency's Command

Josh Frydenberg [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Treasurer

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Preliminary **Part 1**
Preliminary **Division 1**

Section 1

Part 1—Preliminary

Division 1—Preliminary

1 Name

This is the *Excise Regulation 2015*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under the *Excise Act 1901*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Part 1 Preliminary

Division 2 Simplified outline of this instrument

Section 5

Division 2—Simplified outline of this instrument

5 Simplified outline of this instrument

[To be drafted.]

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Division 3—Definitions

6 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) approved form;
- (b) CEO;
- (c) gaseous fuel.

In this instrument:

Act means the *Excise Act 1901*.

airport shop goods has the same meaning as in subsection 61E(1) of the Act.

alcoholic beverage has the same meaning as in section 77A of the Act.

brewery has the same meaning as in section 77A of the Act.

credited adjustment amount: see subclause 1(4) of Schedule 1.

departure area means a part of an airport or wharf that is set aside for the reception of relevant travellers who:

- (a) have complied with the laws of the Commonwealth relating to the departure of persons for places outside Australia; and
- (b) are yet to embark on an aircraft or ship for the relevant flight or relevant voyage concerned.

eligible brewery means a brewery that:

- (a) is operated by an entity that is legally and economically independent of any other entity that operates a brewery; and
- (b) sells beer (whether wholesale or retail), on which excise has been paid, directly from the manufacturing premises of the brewery.

international flight:

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Part 1 Preliminary

Division 3 Definitions

Section 6

- (a) in the case of a person leaving Australia—has the same meaning as in subsection 61D(1) of the Act; and
- (b) in the case of a person entering Australia—has the same meaning as in subsection 61E(1) of the Act.

inwards duty free shop has the same meaning as in subsection 61E(1) of the Act.

off-airport duty free shop means an outwards duty free shop other than an on-airport duty free shop.

on-airport duty free shop means an outwards duty free shop located in a departure area of an airport.

outwards duty free shop has the same meaning as in subsection 61D(1) of the Act.

petrol means goods described in item 10 or 15 of the Schedule to the *Excise Tariff Act 1921*, other than goods that have been used.

proprietor:

- (a) when used in relation to an outwards duty free shop—has the same meaning as in subsection 61D(1) of the Act; and
- (b) when used in relation to an inwards duty free shop—has the same meaning as in subsection 61E(1) of the Act.

relevant flight, in relation to a person who is a relevant traveller, means the international flight in relation to which the person is a relevant traveller.

relevant fuel: see subclause 1(2) of Schedule 1.

relevant traveller:

- (a) in the case of a person leaving Australia—has the same meaning as in subsection 61D(1) of the Act; and
- (b) in the case of a person entering Australia—has the same meaning as in subsection 61E(1) of the Act.

relevant voyage, in relation to a person who is a relevant traveller, means the international voyage (within the meaning of

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Preliminary **Part 1**
Definitions **Division 3**

Section 6

subsection 61D(1) of the Act) in relation to which the person is a relevant traveller.

warehouse licence has the same meaning as in subsection 61D(1) of the Act.

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Part 2 Remissions, rebates and refunds of excise duty

Division 1 Simplified outline of this Part

Section 7

Part 2—Remissions, rebates and refunds of excise duty

Division 1—Simplified outline of this Part

7 Simplified outline of this Part

[To be drafted.]

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Remissions, rebates and refunds of excise duty **Part 2**
Circumstances for remission, rebate or refund **Division 2**

Section 8

Division 2—Circumstances for remission, rebate or refund

8 Circumstances for remission, rebate or refund of excise duty

For paragraph 78(1)(b) of the Act, Schedule 1 prescribes circumstances in which a remission, rebate or refund of excise duty may be made by the CEO.

Note: An application is required in some circumstances (see Schedule 1).

9 Remission of excise duty—rounding down duty paid in cash

For section 78 of the Act, if an amount of excise duty:

- (a) is to be paid in cash; and
- (b) is not a multiple of 5 cents;

remission of the number of cents in excess of the next lower multiple of 5 cents may be allowed.

EXPOSURE DRAFT

Part 2 Remissions, rebates and refunds of excise duty

Division 3 Application for remission, rebate or refund

Section 10

Division 3—Application for remission, rebate or refund

10 Application for remission, rebate or refund of excise duty

- (1) For clause 1 of Schedule 1, an application for a remission, rebate or refund of excise duty must:
 - (a) be in the approved form; and
 - (b) state, as far as practicable, the nature and particulars of the claim; and
 - (c) be given to the CEO.
- (2) For the purpose of enabling the CEO to verify that a circumstance applies in relation to goods to which an application relates:
 - (a) the CEO may require the applicant to provide records or to give further information, or both; and
 - (b) the applicant must comply with the requirement.

11 Period for making an application for refund or rebate of excise duty

An application under section 10 for a refund or rebate of excise duty in a circumstance mentioned in an item in the following table must be given to the CEO within the period mentioned in the item.

| Period for making an application for a refund or rebate of excise duty | | |
|---|---|--|
| Item | Circumstance | Period for giving application |
| 1 | A circumstance mentioned in item 1, 2, 4 or 5 of the table in subclause 1(1) of Schedule 1. | Within 12 months after the day when the excise duty is paid. |
| 2 | A circumstance mentioned in item 6 of the table in subclause 1(1) of Schedule 1. | Within 12 months after the day when the relevant by-law is made. |
| 3 | A circumstance mentioned in item 9 or 10 of the table in subclause 1(1) of Schedule 1. | Within 12 months after the end of the financial year in which the excise duty is paid. |

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Remissions, rebates and refunds of excise duty **Part 2**
Application for remission, rebate or refund **Division 3**

Section 11

Period for making an application for a refund or rebate of excise duty

| Item | Circumstance | Period for giving application |
|-------------|---|---|
| 4 | A circumstance mentioned in item 11 of the table in subclause 1(1) of Schedule 1. | Within 12 months after the day when the final VOLWARE price for the month, from which the credited adjustment amount mentioned in the item is derived, is determined under subsection 7(3) of the <i>Petroleum Excise (Prices) Act 1987</i> . |
| 5 | A circumstance mentioned in item 12 of the table in subclause 1(1) of Schedule 1. | Within 12 months after the day when the relevant determination of the final VOLWARE price is amended as mentioned in the item. |
| 6 | A circumstance mentioned in item 22 of the table in subclause 1(1) of Schedule 1. | Within 12 months after the day when the excise duty is paid. |

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Part 2 Remissions, rebates and refunds of excise duty

Division 4 Amount of remission, rebate or refund

Section 12

Division 4—Amount of remission, rebate or refund

12 Amount of remission, rebate or refund of excise duty

- (1) This section is made for subsection 78(2) of the Act.
- (2) The amount of a remission, rebate or refund of excise duty that may be allowed in a circumstance mentioned in an item of the following table is the amount mentioned in the item.

| Amount of remission, rebate or refund in a circumstance | | |
|---|---|---|
| Item | Circumstance | Amount |
| 1 | A circumstance mentioned in item 8 of the table in subclause 1(1) of Schedule 1. | The amount that is the difference between the amount of duty paid and the correct amount of duty. |
| 2 | A circumstance mentioned in item 9 of the table in subclause 1(1) of Schedule 1. | The amount that is the whole of the duty paid. |
| 3 | A circumstance mentioned in item 10 of the table in subclause 1(1) of Schedule 1. | The amount that is the difference between: (a) the amount of duty paid; and (b) the amount of the duty ascertained at the end of the relevant financial year under whichever of section 6B, 6C, 6CA or 6D of the <i>Excise Tariff Act 1921</i> applies. |
| 4 | A circumstance mentioned in item 11 of the table in subclause 1(1) of Schedule 1. | The amount that is equal to the negative amount mentioned in the item. |
| 5 | A circumstance mentioned in item 21 of the table in subclause 1(1) of Schedule 1. | The amount that is 60% of the amount of duty paid. |
| 6 | A circumstance mentioned in item 22 of the table in subclause 1(1) of Schedule 1. | The amount that is the difference between: (a) the amount of duty paid; and |

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Remissions, rebates and refunds of excise duty **Part 2**

Amount of remission, rebate or refund **Division 4**

Section 12

Amount of remission, rebate or refund in a circumstance

| Item | Circumstance | Amount |
|-------------|---------------------|---|
| | | (b) the amount that is payable due to the amendments mentioned in the item. |

Rebate or refund set off against liability for excise duty

- (3) The amount of a rebate or refund of excise duty that is payable to a person:
- (a) may be set off against the whole, or part, of that person's liability for excise duty; and
 - (b) if the amount is set off as described in paragraph (a)—is taken to have been paid to the person.

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Part 3 Drawback of excise duty

Division 1 Simplified outline of this Part

Section 13

Part 3—Drawback of excise duty

Division 1—Simplified outline of this Part

13 Simplified outline of this Part

[To be drafted.]

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Division 2—Drawback of excise duty

14 Drawback of excise duty on goods

- (1) For section 79 of the Act, drawback of excise duty may be paid, in accordance with this Part, on the exportation of excisable goods for which excise duty has been paid.
- (2) The CEO may approve payment of drawback for the goods.
- (3) If the CEO decides not to approve payment of drawback for the goods, the CEO must, no later than 30 days after the date of the decision, give the person claiming the drawback a notice that:
 - (a) sets out the decision; and
 - (b) includes a statement to the effect that the person may object, in the manner set out in Part IVC of the *Taxation Administration Act 1953*, to the decision.
- (4) Failure to comply with subsection (3) does not affect the validity of the decision.

15 When drawback of excise duty is not payable

- (1) Drawback of excise duty is not payable on the following:
 - (a) stabilized crude petroleum oil;
 - (b) condensate;
 - (c) liquid petroleum obtained from naturally occurring petroleum gas.
- (2) Drawback of excise duty is not payable on the exportation of goods if:
 - (a) the excise duty paid on the goods has been refunded; or
 - (b) after exportation, the goods are re-landed in Australia; or
 - (c) the goods are relevant fuel.

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Part 3 Drawback of excise duty

Division 3 Conditions relating to drawback

Section 16

Division 3—Conditions relating to drawback

16 Conditions relating to drawback of excise duty—general

- (1) Drawback of excise duty is not payable on the exportation of goods unless the conditions set out in the following table are met.

| Conditions relating to drawback of excise duty | |
|---|--|
| Item | Condition |
| 1 | Before exportation: <ul style="list-style-type: none">(a) the owner of the goods gives to the CEO a notice, in the approved form, of the owner's intention to claim drawback on the exportation; and(b) the goods are available at all reasonable times for examination by an officer. |
| 2 | Records are available at all reasonable times for examination by an officer, that show: <ul style="list-style-type: none">(a) that excise duty has been paid on the goods; and(b) relevant details of the receipt, use and disposal of the goods by the owner. |
| 3 | A claim for drawback of excise duty paid on the goods: <ul style="list-style-type: none">(a) is in the approved form; and(b) is given by the owner of the goods to the CEO after the exportation but no later than 12 months after the day on which the goods are exported. |
| 4 | The claim for drawback sets out: <ul style="list-style-type: none">(a) the amount of the claim; and(b) a statement that, to the best of the knowledge, information and belief of the owner of the goods, the goods have not been, and are not intended to be, re-landed in Australia; and(c) such other information as the approved form requires. |
| 5 | The amount of the drawback: <ul style="list-style-type: none">(a) is at least \$50; or(b) meets the following requirements:<ul style="list-style-type: none">(i) the amount is claimed at the same time, and in the same approved form, as another claim or claims made by the owner of the goods |

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Drawback of excise duty **Part 3**
Conditions relating to drawback **Division 3**

Section 17

Conditions relating to drawback of excise duty

| Item | Condition |
|-------------|------------------|
|-------------|------------------|

| | |
|--|---|
| | for drawback on the exportation of other goods; (ii) together the claims result in an aggregate amount of drawback of at least \$50. |
|--|---|

- (2) The CEO may:
 - (a) in writing, exempt the owner of the goods from the application of item 1 of the table in subsection (1); or
 - (b) approve payment of drawback in relation to the goods mentioned in item 1 of the table in subsection (1) even though a notice of intention was not given to the CEO as required by that item.
- (3) For item 4 of the table in subsection (1), the amount of the claim must not exceed the amount of excise duty paid on the goods.

17 Additional conditions relating to drawback of excise duty— examining, packing, securing and marking goods

- (1) If the owner of goods has given to the CEO a notice of intention to claim drawback on the exportation of goods under item 1 of the table in subsection 16(1), the CEO may, by notice in writing to the owner of the goods, require the owner to deal with the goods as directed by the CEO.
- (2) If the CEO has given notice under subsection (1) to the owner of goods, drawback of excise duty is not payable on the exportation of the goods unless the owner has complied with the directions of the CEO.

18 Assistance to be given to officers

A person who intends to claim drawback on the exportation of goods must, by all reasonable means, facilitate:

- (a) the examination or re-examination of the goods by an officer;
and

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Part 3 Drawback of excise duty

Division 3 Conditions relating to drawback

Section 18

- (b) the taking of a correct account of the goods by an officer; and
- (c) the supervision, by an officer, of the packing of the goods.

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Tobacco, fuel, and delivery of certain goods without entry **Part 4**
Simplified outline of this Part **Division 1**

Section 19

Part 4—Tobacco, fuel, and delivery of certain goods without entry

Division 1—Simplified outline of this Part

19 Simplified outline of this Part

[To be drafted.]

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Part 4 Tobacco, fuel, and delivery of certain goods without entry

Division 2 Matters relating to tobacco

Section 20

Division 2—Matters relating to tobacco

20 Delivery of Australian tobacco leaf

For section 164 of the Act, Australian tobacco leaf may be delivered:

- (a) for a purpose approved by the CEO; or
- (b) if:
 - (i) it is to be destroyed; and
 - (ii) the CEO has approved the delivery.

Note: Examples of purposes that might be approved by the CEO are medical purposes, scientific purposes, horticultural purposes and agricultural purposes.

21 Amount of duty to determine the amount of a penalty

- (1) This section sets out how to work out the amount of duty that is to be used to determine the amount of a penalty relating to a quantity of tobacco leaf.

Note: This section is made for paragraph (b) of the penalty in each of subsections 28(1), 30(1), 31(1), 33(1), 35(1), 39K(2) and (3), 39M(2), 44(4) and (8), 117C(1), 117D(1), 117F(1) and 117H(1) of the Act.

- (2) If the tobacco leaf was seized in a bale, the amount of duty is worked out using the formula:

$$\left(\text{Weight} - 2 \right) \times \text{Rate}$$

where:

rate means the rate of excise duty that applies, on the penalty day, to a kilogram of tobacco leaf that is manufactured into excisable goods and entered for home consumption.

weight - 2 means the gross weight of the bale and the tobacco leaf, in kilograms, minus 2 kilograms.

- (3) If:

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Tobacco, fuel, and delivery of certain goods without entry **Part 4**
Matters relating to tobacco **Division 2**

Section 21

- (a) the tobacco leaf was not seized; and
- (b) there is sufficient evidence to show that the quantity of tobacco leaf was in a bale;

the amount of duty is worked out using the formula:

$\text{Weight} \times \text{Rate}$

where:

rate means the rate of excise duty that applies, on the penalty day, to a kilogram of tobacco leaf that is manufactured into excisable goods and entered for home consumption.

weight means 100 kilograms.

- (4) If the tobacco leaf was seized in unbaled form, the amount of duty is worked out using the formula:

$\text{Weight} \times \text{Rate}$

where:

rate means the rate of excise duty that applies, on the penalty day, to a kilogram of tobacco leaf that is manufactured into excisable goods and entered for home consumption.

weight means the weight of the tobacco leaf, in kilograms.

- (5) If:
 - (a) the tobacco leaf was not seized; and
 - (b) there is sufficient evidence to show that the quantity of tobacco leaf was in unbaled form;

the amount of duty is worked out using the formula:

$\text{Weight} \times \text{Rate}$

where:

rate means the rate of excise duty that applies, on the penalty day, to a kilogram of tobacco leaf that is manufactured into excisable goods and entered for home consumption.

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Part 4 Tobacco, fuel, and delivery of certain goods without entry

Division 2 Matters relating to tobacco

Section 21

weight means the weight of the tobacco leaf, in kilograms, as shown by the evidence.

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Tobacco, fuel, and delivery of certain goods without entry **Part 4**
Matters relating to fuel **Division 3**

Section 22

Division 3—Matters relating to fuel

22 Sales or supplies of LPG to which LPG remission applies— contents of notice

For subsection 77L(3) of the Act, a notice given under subsection 77L(2) of the Act must include the words “Not to be used, or supplied, for transport use. Penalties apply.”.

23 Sales or supplies of LPG to which LPG remission applies— circumstances when notice is not required

For subsection 77L(4) of the Act, a notice is not required to be given in any of the following circumstances:

- (a) the LPG is being supplied in, or into, a container that can contain no more than 210 kilograms of LPG;
- (b) the LPG:
 - (i) is being supplied to residential premises (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*); and
 - (ii) is not being supplied, in part or in full, for the purpose of carrying on an enterprise (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*).

24 Conversion of measurements of LPG and compressed natural gas

Converting measurements of LPG

- (1) For the purposes of the Excise Acts and for determining a person’s liability to pay duty, if a quantity of LPG:
 - (a) is entered for home consumption as a quantity measured in kilograms; and
 - (b) is not measured using volumetric measurement equipment to calculate the amount of duty;the quantity of LPG may be converted to litres at the rate of 1 kilogram of LPG to 1.885 litres of LPG.

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Part 4 Tobacco, fuel, and delivery of certain goods without entry

Division 3 Matters relating to fuel

Section 24

- (2) If:
- (a) a person's first dealing with a quantity of LPG in a financial year, for the purpose of determining the person's liability to pay duty on LPG in the financial year, uses kilograms or litres; and
 - (b) the person proposes to deal with another quantity of LPG in that financial year, for the same purpose in that financial year, using the other unit of measurement;
- the CEO is not required to accept the other unit of measurement, but may give the person permission to use the other unit.

Converting measurements of compressed natural gas

- (3) For the purposes of the Excise Acts, a quantity of compressed natural gas that is measured in megajoules may be converted to kilograms at the rate of 1 megajoule of compressed natural gas to 0.01893 kilograms of compressed natural gas.

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Tobacco, fuel, and delivery of certain goods without entry **Part 4**

Delivery of certain goods without entry **Division 4**

Section 25

Division 4—Delivery of certain goods without entry

25 Permission to deliver certain goods for home consumption without entry

- (1) For subparagraph 61C(1)(b)(ii) of the Act, the following goods are prescribed:
 - (a) stabilised crude petroleum oil to which item 20 of the Schedule to the *Excise Tariff Act 1921* applies;
 - (b) condensate to which item 21 of the Schedule to the *Excise Tariff Act 1921* applies.
- (2) For paragraph 61C(3)(d) of the Act, the following conditions are prescribed for those goods:
 - (a) that the person gives the CEO a return, in the approved form, on the day of each calendar month specified by the CEO in the person's permission;
 - (b) that the return includes particulars about the goods that have, during the previous month, been delivered into home consumption under the permission.

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Part 5 Duty free shops

Division 1 Simplified outline of this Part

Section 26

Part 5—Duty free shops

Division 1—Simplified outline of this Part

26 Simplified outline of this Part

[To be drafted.]

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Division 2—Permission for outwards duty free shops

27 Circumstances in which permission may be given—application

- (1) For subsection 61D(2) of the Act, the CEO may give permission in relation to an outwards duty free shop if an application for permission is made in accordance with this section.
- (2) The application must be in the approved form.

28 Matters to be taken into account—off-airport duty free shop

For subsection 61D(2) of the Act, when deciding whether to give permission in relation to an off-airport duty free shop, the CEO must take into account whether the proprietor of the shop to which the permission would relate is likely to be able to comply with the conditions set out in sections 37 and 38.

29 Period of effect of permission

For subsection 61D(2) of the Act, if permission is given, the permission has effect:

- (a) starting on the day when the permission is given; and
- (b) for the period specified in the permission.

30 Revocation of permission

- (1) This section is made for subsection 61D(13) of the Act.
- (2) The grounds on which a permission in relation to an outwards duty free shop may be revoked are:
 - (a) that a condition:
 - (i) to which the permission is subject; and
 - (ii) that must be complied with by the proprietor of the shop, or an employee or agent of the proprietor; has not been complied with; or
 - (b) that revocation of the permission is necessary:

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Division 2 Permission for outwards duty free shops

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- (i) for the protection of the revenue; or
- (ii) for ensuring compliance with the Excise Acts.

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Division 3—Conditions for outwards duty free shops

31 Preliminary

For subsection 61D(2) of the Act, this Division sets out conditions to which a permission, in relation to goods sold in an outwards duty free shop, is subject.

32 Arrangements and proof of travel and export

- (1) The proprietor of the shop must not sell the goods to a person who is in the shop unless:
 - (a) the person is a relevant traveller; and
 - (b) the person has shown to the proprietor a ticket, or other document approved by the CEO under paragraph 61D(7)(b) of the Act, that shows that the person is entitled to make the traveller's relevant flight or relevant voyage.
- (2) The proprietor of the shop must not enter into an agreement to sell the goods to a person who is not in the shop unless:
 - (a) the person is a relevant traveller; and
 - (b) the person has given the proprietor, orally or in writing, the particulars of the intended exportation of the goods by the person required under paragraph 36(1)(b) or 45(1)(b); and
 - (c) the agreement is subject to the condition that the sale takes place in the shop.
- (3) The proprietor of the shop must not deliver the goods to the relevant traveller to whom the goods are sold under an agreement mentioned in subsection (2) unless the traveller has shown to the proprietor the ticket, or other document approved by the CEO under paragraph 61D(7)(b) of the Act, that confirms the particulars, mentioned in paragraph (2)(b), that were given to the proprietor.
- (4) The proprietor of the shop, or an employee or agent of the proprietor, must not enter into an arrangement with a relevant

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traveller under which the goods delivered to the relevant traveller are:

- (a) to be transferred to the proprietor, or an employee or agent of the proprietor, upon the return of the relevant traveller to Australia; or
- (b) to remain with the proprietor or an employee or agent of the proprietor.

33 Recognition of obligations

A relevant traveller to whom the goods are sold in the shop must, at or before the time of delivery of the goods, sign a recognition, in the approved form, of the traveller's obligations concerning the export of the goods.

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Duty free shops **Part 5**
Conditions for off-airport duty free shops **Division 4**

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Division 4—Conditions for off-airport duty free shops

Subdivision A—Preliminary

34 Preliminary

For subsection 61D(2) of the Act, this Division sets out conditions to which a permission, in relation to goods sold in an off-airport duty free shop, is subject.

Subdivision B—Conditions for proprietor of shop

35 Delivery of goods

- (1) The proprietor of the shop must ensure that the goods are not delivered from the shop to a relevant traveller earlier than the 60th day before the day on which, according to the ticket or other document shown to the proprietor under paragraph 32(1)(b) or subsection 32(3), the traveller's relevant flight or relevant voyage is to depart.
- (2) The proprietor of the shop must ensure that the goods are not delivered from the shop to a relevant traveller unless they are enclosed in a package:
 - (a) that is sealed in such a manner that the goods cannot be removed from it without the seal being broken; and
 - (b) if the package is of a size that it may (in accordance with the conditions applying to the relevant traveller on the relevant flight or relevant voyage) be carried in the cabin of the aircraft or ship—that is transparent enough for the goods to be easily identified without the seal of the package being broken.

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Part 5 Duty free shops

Division 4 Conditions for off-airport duty free shops

Section 36

36 Invoice for goods to be delivered

- (1) At the time of the sale of the goods that are to be delivered from the shop to a relevant traveller, the proprietor of the shop must prepare an invoice, in triplicate, specifying the following:
 - (a) the name and usual residential address of the relevant traveller;
 - (b) the following particulars about the relevant flight or relevant voyage for the intended exportation of the goods by the relevant traveller:
 - (i) the date of departure;
 - (ii) the airport or wharf of departure;
 - (iii) for a relevant flight—the flight number or other designation of the flight;
 - (iv) for a relevant voyage—the name of the ship and the number or other designation of the voyage;
 - (v) the number or other identification of the traveller's ticket or other document approved by the CEO for paragraph 61D(7)(b) of the Act;
 - (c) a precise description of the goods, including:
 - (i) the quantity, in figures, of each item of the goods; and
 - (ii) the total number, in words, of the items mentioned in the invoice; and
 - (iii) the sale amount, in figures, of each item or quantity of items; and
 - (iv) the total sale amount of those items and quantities of items.
- (2) The invoice must be one of a series of sequentially numbered invoices.
- (3) The description mentioned in paragraph (1)(c) must be prepared in such a way as to make it impracticable to add other items to the description.
- (4) After preparing the invoice, the proprietor must:

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- (a) place one copy with the goods inside the package mentioned in subsection 35(2); and
 - (b) place one copy in a waterproof envelope and attach that envelope securely to the outside of the package; and
 - (c) retain one copy in the proprietor's own records.
- (5) For a package mentioned in paragraph 35(2)(b), the copy of the invoice mentioned in paragraph (4)(a) must be positioned so that it may be read without the seal of the package being broken.

37 Giving information to the CEO

- (1) The condition in this section applies if the CEO requires the proprietor of the shop to comply with the condition in a particular case.
- (2) The proprietor must give to the CEO the following information about a sale of the goods from the shop to a relevant traveller:
 - (a) the name of the shop;
 - (b) the name of the relevant traveller;
 - (c) the date and time of departure of the traveller's relevant flight or relevant voyage;
 - (d) for a relevant flight—the number or other designation of the flight;
 - (e) for a relevant voyage—the name of the ship and the number or other designation of the voyage;
 - (f) a full description of any item of the goods included in the sale having a sale amount of at least \$500;
 - (g) the total number of items of the goods included in the sale;
 - (h) the total number of packages mentioned in subsection 35(2) in which the goods included in the sale are packed;
 - (i) the total number of the packages that are packages mentioned in paragraph 35(2)(b);
 - (j) the total number of the packages that are not packages mentioned in paragraph 35(2)(b);
 - (k) the invoice numbers for all invoices relating to the sale.

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Part 5 Duty free shops

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Section 38

- (3) The proprietor must give the information to the CEO:
 - (a) before the date of departure mentioned in paragraph (2)(c); and
 - (b) in a manner approved by the CEO.

38 Packages to be examined

- (1) This section applies in relation to a package mentioned in subsection 35(2) that is prepared by the proprietor of the shop for a relevant traveller.
- (2) If the package:
 - (a) is surrendered by the relevant traveller for carriage otherwise than in the cabin of the aircraft or ship; or
 - (b) is taken by the relevant traveller into a departure area;the proprietor must, at the point of surrender or within the departure area, cause the package to be examined to check whether it remains sealed and whether it has been tampered with.
- (3) If the package remains sealed and has not been tampered with, the proprietor must cause the copy of the invoice mentioned in paragraph 36(4)(b) to be removed from the package.
- (4) Subsection (5) applies if:
 - (a) the package is no longer sealed or has been otherwise tampered with; or
 - (b) the copy of the invoice enclosed in the package does not correspond with the copy of the invoice that was attached to the package; or
 - (c) the copy of the invoice that was required to be enclosed in the package is not enclosed; or
 - (d) the copy of the invoice that was required to be attached to the package is not attached; or
 - (e) the goods enclosed in the package are not as specified in the copy of the invoice enclosed in, or attached to, the package.
- (5) The proprietor must give to the CEO a notice specifying:

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- (a) the name of the relevant traveller; and
- (b) the following particulars about the relevant flight or relevant voyage for the intended exportation of the goods by the relevant traveller:
 - (i) the date and time of the departure of the flight or voyage;
 - (ii) for a relevant flight—the number or other designation of the flight;
 - (iii) for a relevant voyage—the name of the ship and the number or other designation of the voyage; and
- (c) the nature of the discrepancy identified under subsection (4).

39 Giving a return and paying excise duty

- (1) The proprietor of the shop must comply with this section within 21 working days of the shop after the end of a month.
- (2) The proprietor must lodge with the CEO a return setting out the following:
 - (a) the name of the shop;
 - (b) the invoice number of each invoice:
 - (i) prepared in accordance with section 36 for the goods delivered from the shop for export; and
 - (ii) that specifies under that section a date of departure that is in the month; and
 - (iii) a copy of which was not removed, in accordance with subsection 38(3), during the month from a package containing the goods;
 - (c) the invoice number of each invoice:
 - (i) that meets the requirements of subparagraphs (b)(i) and (ii); and
 - (ii) a copy of which was removed, in accordance with subsection 38(3), during the month; and
 - (iii) for which an electronic record has not been provided in accordance with section 46;
 - (d) for each invoice mentioned in paragraph (b) or (c):

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Division 4 Conditions for off-airport duty free shops

Section 40

- (i) the particulars required to be set out in the invoice; and
 - (ii) the amount of excise duty payable for the goods to which the invoice relates.
- (3) The proprietor must pay to the CEO an amount equal to the sum of the amounts of excise duty specified in the return.

Subdivision C—Conditions for relevant traveller

40 Application of Subdivision

This Subdivision applies to a relevant traveller to whom the goods were sold.

41 Package not to be interfered with

- (1) The relevant traveller must not:
- (a) remove, alter or otherwise interfere with; or
 - (b) allow to be removed, altered or interfered with (except as required or authorised by or under the Act);
- an invoice attached to the outside of a package which contains the goods.
- (2) The relevant traveller must not, before the exportation of the goods:
- (a) break the seals on, or otherwise tamper with the integrity of, a package which contains the goods; or
 - (b) allow (except as required or authorised by or under the Act):
 - (i) the seals to be broken on a package containing the goods; or
 - (ii) the integrity of a package containing the goods to be otherwise tampered with.

42 Package to be examined

- (1) This section applies if the relevant traveller:

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- (a) surrenders a package containing the goods for carriage otherwise than in the cabin of an aircraft or ship; or
 - (b) takes a package containing the goods into a departure area.
- (2) The relevant traveller must:
- (a) present the package, sealed and with the copy of the invoice attached, to the proprietor, or an employee or agent of the proprietor; and
 - (b) permit the proprietor, or the employee or agent of the proprietor, to examine the package and to remove the copy of the invoice.

43 If goods are not exported as intended

- (1) If the relevant traveller does not export the goods on the relevant flight or the relevant voyage specified in the invoice for the goods, the relevant traveller must notify the proprietor by noon on the next working day of the shop after the date of departure (the *original departure date*) specified in the invoice.
- (2) If the relevant traveller intends to export the goods on a subsequent flight that will depart no more than 48 hours after the departure time on the original departure date, the relevant traveller must do the following together:
 - (a) notify the proprietor of that intention;
 - (b) provide the proprietor with the following:
 - (i) the flight number or other designation of the flight;
 - (ii) particulars of the intended date and time of departure of that flight.
- (3) If the relevant traveller intends to export the goods on a subsequent voyage that will depart no more than 48 hours after the departure time on the original departure date, the relevant traveller must do the following together:
 - (a) notify the proprietor of that intention;
 - (b) provide the proprietor with the following:

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Part 5 Duty free shops

Division 4 Conditions for off-airport duty free shops

Section 43

- (i) the name of the ship and voyage number or other designation of the voyage;
 - (ii) particulars of the intended date and time of departure of that voyage.
- (4) If the relevant traveller does not intend to export the goods as mentioned in subsection (2) or (3), the relevant traveller must:
- (a) notify the proprietor accordingly; and
 - (b) return the goods to the shop no later than the close of business of the shop on the second working day of the shop after the departure time on the original departure date.
- (5) Subsection (6) applies if:
- (a) the relevant traveller notifies the proprietor under subsection (2) or (3) of the intention to export the goods on a subsequent flight or voyage; and
 - (b) the relevant traveller does not so export the goods.
- (6) The relevant traveller must:
- (a) no later than noon on the next working day of the shop after the date of departure specified in the notice of intention under paragraph (2)(a) or (3)(a), notify the proprietor that the goods have not been so exported; and
 - (b) no later than the close of business of the shop on the second working day after that specified date of departure, return the goods to the shop.

Division 5—Conditions for on-airport duty free shops

44 Preliminary

For subsection 61D(2) of the Act, this Division sets out conditions to which a permission, in relation to goods sold in an on-airport duty free shop, is subject.

45 Invoice for goods

- (1) At the time of the sale of the goods at the shop to a relevant traveller, the proprietor of the shop must prepare an invoice, in duplicate, specifying the following:
 - (a) if the relevant traveller is the pilot, or a member of the crew, of an aircraft—the name and usual residential address of the relevant traveller;
 - (b) the following particulars about the relevant flight for the intended exportation of the goods by the relevant traveller:
 - (i) the date of departure;
 - (ii) if the relevant traveller is the pilot, or a member of the crew, of an aircraft—the airport of departure;
 - (iii) the flight number or other designation of the flight;
 - (c) a precise description of the goods, including:
 - (i) the quantity of each item of the goods; and
 - (ii) the sale amount of each item or quantity of items; and
 - (iii) the total sale amount of those items and quantities of items.
- (2) The invoice must be one of a series of sequentially numbered invoices.
- (3) The description mentioned in paragraph (1)(c) must be prepared in such a way as to make it impracticable to add other items to the description.
- (4) After preparing an invoice, the proprietor of the shop must:

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Part 5 Duty free shops

Division 5 Conditions for on-airport duty free shops

Section 45

- (a) place one copy with the goods that are to be delivered to the relevant traveller; and
- (b) retain one copy in the proprietor's own records.

EXPOSURE DRAFT

Duty free shops **Part 5**
Other matters relating to outwards duty free shops **Division 6**

Section 46

Division 6—Other matters relating to outwards duty free shops

46 Proof of export of goods—off-airport duty free shops

- (1) This section is made for paragraph 61D(10)(b) of the Act and applies in relation to an off-airport duty free shop.
- (2) The way for providing proof is by providing an electronic record of the invoice number of each invoice for which a copy was removed, in accordance with subsection 38(3), from the package in which the goods are enclosed.
- (3) The time for providing proof is 10 working days of the shop after the date of departure of the relevant traveller mentioned in that paragraph.

47 Sealed bag arrangements for LAG products—off-airport duty free shops

- (1) This section applies if:
 - (a) a person purchases a liquid, aerosol, gel, cream or paste (a **LAG product**) at an off-airport duty free shop; and
 - (b) the delivery and export of the LAG product is the subject of a permission under subsection 61D(2) of the Act; and
 - (c) the permission is subject to a condition set out in section 38, 39, 41 or 42 of this instrument; and
 - (d) the person deals with the LAG product in accordance with an arrangement (known as a “sealed bag arrangement”) that:
 - (i) is administered by the Australian Taxation Office and Customs; and
 - (ii) is consistent with the requirements of Subdivision 4.1.1A of the *Aviation Transport Security Regulations 2005*.

EXPOSURE DRAFT

Part 5 Duty free shops

Division 6 Other matters relating to outwards duty free shops

Section 47

- (2) The delivery and export of the LAG product is taken to comply with the conditions in subsections 32(1) to (3) and Subdivisions B and C of Division 4.

EXPOSURE DRAFT

Division 7—Inwards duty free shops

Subdivision A—Permission for inwards duty free shops

48 Circumstances in which permission may be given—application

- (1) For subsection 61E(2) of the Act, the CEO may give permission in relation to an inwards duty free shop if an application for permission is made in accordance with this section.
- (2) The applicant must:
 - (a) be the holder of a warehouse licence authorising the sale of airport shop goods at the inwards duty free shop; and
 - (b) have been granted a lease or licence and an authority to operate an inwards duty free shop on land within the airport.
- (3) The application must be in the approved form.

49 Period of effect of permission

For subsection 61E(2) of the Act, if permission is given, the permission has effect:

- (a) starting on the day when the permission is given; and
- (b) for the period specified in the permission.

50 Revocation of permission

- (1) This section is made for subsection 61E(11) of the Act.
- (2) The grounds on which a permission in relation to an inwards duty free shop may be revoked are:
 - (a) that a condition:
 - (i) to which the permission is subject; and
 - (ii) that must be complied with by the proprietor of the shop, or an employee or agent of the proprietor; has not been complied with; or

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Part 5 Duty free shops

Division 7 Inwards duty free shops

Section 51

- (b) that revocation of the permission is necessary:
 - (i) for the protection of the revenue; or
 - (ii) for ensuring compliance with the Excise Acts; or
- (c) that a lease, licence or authority to operate in relation to the shop has expired or been cancelled.

Subdivision B—Conditions for inwards duty free shops

51 Preliminary

For subsection 61E(2) of the Act, this Subdivision sets out conditions to which a permission, in relation to goods sold in an inwards duty free shop, is subject.

52 Arrangements and proof of travel

- (1) The proprietor of the shop must not sell the goods to a person who is in the shop unless:
 - (a) the person is a relevant traveller; and
 - (b) the person has shown to the proprietor a ticket, or other document, that shows that the person has arrived in Australia on an international flight.
- (2) The proprietor of the shop must not enter into an agreement to sell the goods to a person who is not in the shop unless:
 - (a) the person is, or intends to be, a relevant traveller; and
 - (b) the person has given the proprietor, orally or in writing:
 - (i) the date of the person's arrival or intended arrival in Australia; and
 - (ii) the flight number or other designation of the international flight on which the person arrived or intends to arrive; and
 - (c) the proprietor has informed the person of:
 - (i) the amounts of alcoholic beverages and tobacco products that may be entered for home consumption by a relevant traveller free of excise duty; and

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Duty free shops **Part 5**
Inwards duty free shops **Division 7**

Section 53

- (ii) the conditions with which, for the purposes of the Customs Acts (within the meaning of the *Customs Act 1901*), a relevant traveller must comply in relation to the purchase of goods at the shop; and
 - (d) the agreement is subject to the condition that the sale takes place in the shop.
- (3) The proprietor of the shop must not deliver the goods to the relevant traveller to whom the goods are sold under an agreement mentioned in subsection (2) unless the traveller has shown to the proprietor the ticket, or other document, that confirms the information given to the proprietor under subparagraph (2)(b)(ii).
- (4) The proprietor of the shop, or an employee or agent of the proprietor, must not enter into an arrangement with a relevant traveller under which the goods delivered to that relevant traveller under the permission are:
 - (a) to be transferred to the proprietor, or an employee or agent of the proprietor, after the relevant traveller has cleared customs; or
 - (b) to remain with the proprietor or an employee or agent of the proprietor.

53 Signs to be displayed

- (1) The proprietor of the shop must display in the shop signs, in the approved form, that clearly state:
 - (a) the conditions with which, for the purposes of the Excise Acts, a relevant traveller must comply in relation to the purchase of the goods at the shop; and
 - (b) if alcoholic beverages or tobacco products are for sale in the shop—the amounts of alcoholic beverages and tobacco products that may be entered for home consumption by a relevant traveller free of excise duty.
- (2) The signs must be reasonably prominent and in enough numbers to give reasonable notice to relevant travellers of the matters mentioned in subsection (1).

EXPOSURE DRAFT

Part 6 Stores, securities and samples

Division 1 Simplified outline of this Part

Section 54

Part 6—Stores, securities and samples

Division 1—Simplified outline of this Part

54 Simplified outline of this Part

[To be drafted.]

EXPOSURE DRAFT

Division 2—Stores, securities and samples

55 Ship's stores liable to excise duty

- (1) For subsection 160A(1) of the Act, this section sets out ship's stores that are liable to excise duty.
- (2) The ship's stores liable to excise duty are those consisting of:
 - (a) alcoholic beverages (other than beer) sold to a passenger or member of the crew of a ship, other than by the glass or nip; or
 - (b) cigars sold to a passenger or to a member of the crew of a ship, other than by the individual packet, tin or box containing 25 or less cigars; or
 - (c) cigarettes sold to a passenger or to a member of the crew of a ship, other than by the individual packet or tin containing 50 or less cigarettes; or
 - (d) tobacco products (other than those mentioned in paragraphs (b) and (c)) sold to a passenger or to a member of the crew of a ship in a quantity that exceeds 120 grams in weight; or
 - (e) alcoholic beverages (including beer), cigarettes, cigars or other tobacco products sold to a person other than a passenger or a member of the crew of a ship.

56 Judgment in legal proceedings about a security

- (1) This section applies if:
 - (a) a person has given the CEO a security under the Act; and
 - (b) the CEO obtains a judgment against the person in legal proceedings about the security.
- (2) The CEO may retain as much of the security as is needed to satisfy the judgment and costs.
- (3) Any security retained becomes the property of the Commonwealth.

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Part 6 Stores, securities and samples

Division 2 Stores, securities and samples

Section 57

- (4) If the security does not satisfy the judgment and costs, the CEO may enforce the judgment to obtain payment of the balance remaining due under the judgment.
- (5) If the CEO is entitled to retain a security that is not cash, the CEO may dispose of the security:
 - (a) by auction or private sale; or
 - (b) in another manner that is, in the CEO's opinion, most favourable to the person.
- (6) If the CEO disposes of a security under subsection (5):
 - (a) the net proceeds of the disposal may be retained as described in subsection (2); and
 - (b) a certificate:
 - (i) signed by the CEO; and
 - (ii) setting out the security disposed of and the net proceeds of the disposal;is taken to be proof of the disposal and the amount of the net proceeds.
- (7) If a security:
 - (a) expires; or
 - (b) is cancelled, discharged, released or satisfied;the person is entitled to as much (if any) of the security as has not been retained by the CEO under this section.

57 Method of taking samples

- (1) For section 106 of the Act, the manner in which a sample is to be taken by an officer is as follows:
 - (a) the officer must, in the presence of the person (or an agent or employee of the person) from whom the sample is taken:
 - (i) divide the sample into 3 equal parts; and
 - (ii) label or mark, and securely seal, each part;
 - (b) the officer must:
 - (i) give one part to the person (or the person's agent or employee); and

EXPOSURE DRAFT

Stores, securities and samples **Part 6**
Stores, securities and samples **Division 2**

Section 57

- (ii) deliver another part (the *analyst's part*) to an analyst approved by the CEO; and
 - (iii) retain the third part for any further examination.
- (2) For subparagraph (1)(b)(ii), the analyst's part may be delivered to the analyst:
- (a) in person; or
 - (b) by registered post; or
 - (c) in another manner approved by the CEO.

EXPOSURE DRAFT

Part 7 Transitional matters

Section 58

Part 7—Transitional matters

58 Things done under the *Excise Regulations 1925*

- (1) If:
 - (a) a thing was done for a particular purpose under the *Excise Regulations 1925* as in force immediately before those Regulations were repealed; and
 - (b) the thing could be done for that purpose under this instrument;the thing has effect for the purposes of this instrument as if it had been done under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a notice, application or other instrument being given or made.

EXPOSURE DRAFT

Circumstances for remissions, rebates and refunds **Schedule 1**

Clause 1

Schedule 1—Circumstances for remissions, rebates and refunds

Note: See section 8.

1 Circumstances in which remission, rebate or refund may be allowed on application

- (1) For section 8, the following table sets out the circumstances in which:
- (a) a remission, rebate or refund of excise duty may be allowed if an application for the remission, rebate or refund is made in accordance with section 10; or
 - (b) remission of excise duty may be allowed without an application being made if the goods mentioned in the circumstance:
 - (i) have been totally lost or destroyed; or
 - (ii) have otherwise ceased to exist.

Circumstances for remission, rebate or refund on application

| Item | Circumstance |
|------|--------------|
|------|--------------|

- | | |
|---|---|
| 1 | Excise duty has been paid or is payable on goods that have, while subject to the CEO's control: <ul style="list-style-type: none">(a) deteriorated; or(b) been damaged, pillaged, lost or destroyed; or(c) become unfit for human consumption. |
| 2 | Excise duty has been paid or is payable on goods that are: <ul style="list-style-type: none">(a) subject to the CEO's control; and(b) not worth the amount of excise duty paid or payable on the goods. |
| 3 | Both of the following apply: <ul style="list-style-type: none">(a) excise duty has been paid on gaseous fuel because of manifest error of fact or patent misconception of the law;(b) the person claiming a refund of the excise duty reasonably believes that |
-

EXPOSURE DRAFT

Schedule 1 Circumstances for remissions, rebates and refunds

Clause 1

Circumstances for remission, rebate or refund on application

| Item | Circumstance |
|------|--------------|
|------|--------------|

- | | |
|---|--|
| | the entity to which the goods were sold or supplied considered, at the time of the sale or supply, that excise duty was not payable on the goods. |
| 4 | Excise duty has been paid on: <ul style="list-style-type: none">(a) goods, other than gaseous fuel, because of manifest error of fact or patent misconception of the law; or(b) gaseous fuel in the following circumstances:<ul style="list-style-type: none">(i) the duty was paid because of manifest error of fact or patent misconception of the law;(ii) the person claiming a refund of the excise duty reasonably believes that the entity to which the goods were sold or supplied considered, at the time of the sale or supply, that excise duty was payable on the goods. |
| 5 | Excise duty has been paid on goods that: <ul style="list-style-type: none">(a) become goods that are not liable to excise duty under section 160A of the Act; and(b) are not relevant fuel (see subclause (2)). |
| 6 | Both of the following apply: <ul style="list-style-type: none">(a) excise duty has been paid on goods;(b) a by-law is made under Part XV of the Act to the effect that excise duty:<ul style="list-style-type: none">(i) is not payable on those goods; or(ii) is payable on those goods at a rate which is less than the rate that applied when the goods were entered for home consumption. |
| 7 | Excise duty has been paid on goods that are: <ul style="list-style-type: none">(a) returned to the manufacturer of the goods, or a person authorised by the manufacturer to receive goods on behalf of the manufacturer; and(b) destroyed or mixed with other products so that their identity is lost. |
| 8 | Both of the following apply: <ul style="list-style-type: none">(a) excise duty has been paid on a quantity of stabilised crude petroleum oil or condensate in circumstances other than those set out in item 11;(b) the duty paid is more than the correct amount because of an error in measurement or calculation of the quantity. |
| 9 | All of the following apply: <ul style="list-style-type: none">(a) the goods are stabilised crude petroleum oil or condensate produced by a person in a financial year; |
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- (b) excise duty has been paid on the oil or condensate entered for home consumption in a month in the financial year;
- (c) section 6B, 6C, 6CA or 6D of the *Excise Tariff Act 1921* applies to the goods;
- (d) the CEO is satisfied that the total quantity of the oil or condensate that is likely to be entered by the person for home consumption for the financial year will be less than a dutiable quantity worked out under subclause (3).

10 All of the following apply:

- (a) the goods are stabilised crude petroleum oil or condensate produced by a person in a financial year;
- (b) section 6B, 6C, 6CA or 6D of the *Excise Tariff Act 1921* applies to the goods;
- (c) the amount of excise duty on the oil or condensate for each month of the financial year is ascertained under that section and paid;
- (d) the total excise duty paid is more than the total excise duty payable on the total quantity of oil or condensate entered by the person for home consumption during the financial year.

11 All of the following apply:

- (a) the goods are stabilised crude petroleum oil or condensate produced by a person in a financial year;
- (b) excise duty has been paid on the oil or condensate;
- (c) a credited adjustment amount subsequently applies to the excise duty under section 6B, 6C, 6CA or 6D of the *Excise Tariff Act 1921*;
- (d) account is taken of the credited adjustment amount in a calculation under subsection 6B(3), 6C(3), 6CA(3) or 6D(3) of that Act;
- (e) the amount ascertained under that subsection to be the amount of duty for the oil (as old oil, new oil or intermediate oil) or condensate is a negative amount (that is, an amount less than zero).

Note: See subclause (4) for the meaning of some expressions used in this item.

12 Both of the following apply:

- (a) the goods are excisable crude petroleum oil or excisable condensate;
 - (b) a determination, under subsection 7(3) of the *Petroleum Excise (Prices) Act 1987*, of the final VOLWARE price for a month in relation to the oil or condensate is amended under subsection 7(9) of that Act.
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| 13 | Excise duty has been paid on goods that are sold to a person for: <ul style="list-style-type: none">(a) the official use of a diplomatic mission of a foreign country; or(b) the personal use of a person mentioned in paragraph 9(1)(b) or (c) of the <i>Diplomatic Privileges and Immunities Act 1967</i>; or(c) the official use of a consular post described in paragraph 7(1)(a) of the <i>Consular Privileges and Immunities Act 1972</i>; or(d) the personal use of a person mentioned in paragraph 7(1)(b) or (c) of the <i>Consular Privileges and Immunities Act 1972</i>. |
| 14 | Excise duty has been paid on goods: <ul style="list-style-type: none">(a) that are purchased by a person for the use by, and official use of, a government of a foreign country under an agreement between that government and the Australian Government; and(b) that are not for the purpose of trade; and(c) for which no refund or rebate can be claimed under item 15. |
| 15 | Both of the following apply: <ul style="list-style-type: none">(a) excise duty has been paid on goods that:<ul style="list-style-type: none">(i) are sold to a person for the use by, and official use of, a government of a foreign country under an agreement between that government and the Australian Government; and(ii) are not for the purpose of trade;(b) either:<ul style="list-style-type: none">(i) the price for which the goods were sold to that person did not include an amount in respect of excise duty; or(ii) if the price at which the goods were sold to that person included an amount in respect of excise duty—an amount equal to the amount of excise duty has been refunded or credited to that person. |
| 16 | Both of the following apply: <ul style="list-style-type: none">(a) excise duty has been paid on goods that:<ul style="list-style-type: none">(i) are sold to, or for use by, a person covered by a Status of Forces Agreement between the Australian Government and the government of a foreign country; and(ii) are for the official use of a person covered by the agreement; and(iii) are not resold in Australia to a person not covered by the agreement; |
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- (b) either:
- (i) the price for which the goods were sold to that person did not include an amount for excise duty; or
 - (ii) if the price for which the goods were sold to that person included an amount for excise duty—an amount equal to the amount of excise duty has been refunded or credited to that person.
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- 17 Excise duty has been paid on goods:
- (a) that are:
- (i) purchased by a person covered by a Status of Forces Agreement between the Australian Government and the government of a foreign country; and
 - (ii) for the use by, and official use of, a person covered by the agreement; and
 - (iii) not resold in Australia to a person not covered by the agreement; and
- (b) for which no refund is able to be claimed under item 16.
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- 18 Excise duty has been paid or is payable on a recycled product:
- (a) that is hydraulic oil, brake fluid, transmission oil, transformer oil or heat transfer oil classified to subitem 15.2 of the Schedule to the *Excise Tariff Act 1921*; and
 - (b) for which no benefit is payable under the *Product Stewardship (Oil) Regulations 2000*; and
 - (c) that is for the same use it had before being recycled; and
 - (d) for an application for remission of excise duty—that is delivered in accordance with a permission given under section 61C of the Act.
-
- 19 Excise duty has been paid on goods:
- (a) for the official use of an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies; and
 - (b) acquired in an acquisition of goods that are exempt from duties of excise.
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- 20 Excise duty has been paid on goods for the personal use of a person who is:
- (a) the holder of a high office in an international organisation to which the *International Organisations (Privileges and Immunities) Act 1963* applies; and
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| | (b) exempt from duties of excise in accordance with regulations made under that Act. |
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| 21 | Excise duty has been paid on beer that is manufactured in an eligible brewery during a financial year, and the amount of refund paid during the financial year to the entity that operates the brewery does not exceed: |
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| | (a) if the brewery is an eligible brewery at the start of the financial year—\$30 000; or |
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| | (b) if the brewery first becomes an eligible brewery after the start of the financial year—an amount worked out under subclause (5). |
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| 22 | Both of the following apply: |
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| | (a) excise duty has been paid on goods; |
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| | (b) the effect of the amendments made by the <i>Excise Tariff Amendment (Carbon Tax Repeal) Act 2014</i> is that excise duty is payable on the goods at a rate that is less than the rate which applied when the goods were entered for home consumption. |
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(2) For item 5 of the table in subclause (1):

relevant fuel means fuel for which:

(a) an entity:

(i) has an entitlement to a fuel tax credit or decreasing fuel tax adjustment in relation to that fuel; and

(ii) does not have an increasing fuel tax adjustment in relation to the fuel; or

(b) an entity:

(i) had an entitlement mentioned in subparagraph (a)(i); and

(ii) did not have an adjustment mentioned in subparagraph (a)(ii).

(3) For item 9 of the table in subclause (1), a dutiable quantity is worked out as follows:

(a) for oil to which section 6B of the *Excise Tariff Act 1921* applies—the quantity is worked out using the formula:

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Number of days \times 4B

- (b) for oil to which section 6C of the *Excise Tariff Act 1921* applies and condensate to which section 6CA of that Act applies—the quantity is worked out using the formula:

Number of days \times 10B

- (c) for oil to which section 6D of the *Excise Tariff Act 1921* applies—the quantity is worked out using the formula:

Number of days \times 6B

where:

B has the same meaning as in whichever of section 6B, 6C, 6CA or 6D of the *Excise Tariff Act 1921* applies to the oil or condensate.

Number of days means the number of days in the relevant financial year.

- (4) For item 11 of the table in subclause (1):

credited adjustment amount has the same meaning as in whichever of section 6B, 6C, 6CA or 6D of the *Excise Tariff Act 1921* applies.

intermediate oil has the same meaning as in subsection 3(1) of the *Excise Tariff Act 1921*.

new oil has the same meaning as in subsection 3(1) of the *Excise Tariff Act 1921*.

old oil has the same meaning as in section 6B of the *Excise Tariff Act 1921*.

- (5) For item 21 of the table in subclause (1), an amount for a brewery is worked out using the formula:

$$\frac{\$30\,000 \times \text{Brewing days}}{365}$$

where:

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Clause 2

brewing days means the number of days in the period:

- (a) starting on the day the relevant brewery first became an eligible brewery; and
- (b) ending at the end of the relevant financial year.

2 Circumstances in which remission, rebate or refund may be allowed without an application

For section 8, the following table sets out circumstances in which a remission, rebate or refund of excise duty may be allowed without an application being made.

Circumstances for remission, rebate or refund without an application

| Item | Circumstances |
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| 1 | Excise duty is payable on tobacco that is to be used for a purpose (other than for human consumption) approved by the CEO. Note: Examples of purposes that might be approved by the CEO are medical purposes, scientific purposes, horticultural purposes and agricultural purposes. |
| 2 | Excise duty is payable on goods for the official use of: (a) the Governor-General; or (b) any member of the Governor-General's family; or (c) a State Governor; or (d) any member of a State Governor's family. |
| 3 | Excise duty is payable on goods that are: (a) not for the purpose of trade; and (b) either of the following: (i) the property of the Australian American Foundation; (ii) petroleum products that are the property of the ANZAC Agency for the Pacific Region of the Commonwealth War Graves Commission; and (c) either of the following: (i) for the official use of an international organisation established by agreement between Australia and one or more other countries; (ii) for the official or personal use of an official of an international organisation mentioned in subparagraph (i). |
| 4 | Excise duty is payable on goods that are: |

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Circumstances for remissions, rebates and refunds **Schedule 1**

Clause 2

Circumstances for remission, rebate or refund without an application

| Item | Circumstances |
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| | (a) for the use by, and official use of, the government of a foreign country under an agreement between that government and the Australian Government; and |
| | (b) not for the purpose of trade. |
| 5 | Excise duty is payable on goods that are: (a) for use by, or sale to, persons covered by a Status of Forces agreement between the Australian Government and the government of a foreign country; and (b) for the official use of a person covered by the agreement; and (c) not resold in Australia to a person not covered by the agreement. |
| 6 | Both of the following apply: (a) excise duty is payable on any of the following goods: (i) ale, porter and other beer; (ii) brandy; (iii) whisky; (iv) rum; (v) gin; (vi) liqueurs; (vii) tobacco; (viii) cigars; (ix) cigarettes; (b) the goods are to be used by the personnel of a sea-going vessel of the Australian Defence Force for consumption on the vessel when the vessel is in full commission. |
| 7 | Excise duty is payable on goods that: (a) are purchased by a relevant traveller at an inwards duty free shop; and (b) would be goods described in paragraph (b) of item 15 of the table in Schedule 4 to the <i>Customs Tariff Act 1995</i> , and would be goods to which that item applies, if: (i) the goods were imported into Australia; and (ii) the clearance through Customs of the personal baggage (including the excisable goods) of the relevant traveller were approval of their delivery for home consumption for the purposes of the <i>Customs Act 1901</i> . |
| 8 | Excise duty is payable on goods that: |
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Schedule 1 Circumstances for remissions, rebates and refunds

Clause 2

Circumstances for remission, rebate or refund without an application

| Item | Circumstances |
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| | <ul style="list-style-type: none">(a) are delivered for home consumption in accordance with a permission given under section 61C of the Act; and(b) are for sale for:<ul style="list-style-type: none">(i) the official use of a diplomatic mission of a foreign country; or(ii) the personal use of a person mentioned in paragraph 9(1)(b) or (c) of the <i>Diplomatic Privileges and Immunities Act 1967</i>; or(iii) the official use of a consular post described in paragraph 7(1)(a) of the <i>Consular Privileges and Immunities Act 1972</i>; or(iv) the personal use of a person mentioned in paragraph 7(1)(b) or (c) of the <i>Consular Privileges and Immunities Act 1972</i>. |
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| 9 | Excise duty is payable on liquefied natural gas, or LPG, that is: <ul style="list-style-type: none">(a) used or delivered by a licensed person or holder of a permission under section 61C of the Act for a use other than in an internal combustion engine of a motor vehicle or vessel; and(b) not used for both the purposes of transport and for other purposes. |
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Schedule 2—Repeals

Excise Regulations 1925

1 The whole of the regulations

Repeal the regulations.