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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TREASURY LAWS AMENDMENT BILL 2023: STREAMLINING EXCISE AND
CUSTOMS ADMINISTRATION

EXPOSURE DRAFT EXPLANATORY MATERIALS

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Glossary

This Explanatory Memorandum uses the following abbreviations and acronyms.

Abbreviation	Definition
Customs Act	<i>Customs Act 1901</i>
Customs Regulation	<i>Customs Regulation 2015</i>
Excise Act	<i>Excise Act 1901</i>
Excise Tariff Act	<i>Excise Tariff Act 1921</i>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
The Taskforce	Prime Minister and Cabinet's Deregulation Taskforce

Chapter 1: *Aligning excise and customs reporting with other indirect taxes*

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Outline of chapter

- 1.1 Schedule X to the Bill amends the Excise Act and Customs Act so that a taxpayer liable for excise on fuel and alcohol with an aggregated turnover of less than \$50 million can apply for permission to deliver alcohol and fuel for home consumption without entry in respect of a quarter and give excise returns and customs returns for excise-equivalent goods ('customs returns') on a quarterly basis.
- 1.2 These amendments will enable businesses to align their excise and customs returns with the return period for other taxes on their business activity statements, which is used to report on certain taxes and make payments. This will reduce the overall administrative and regulatory burden on businesses.

Context of amendments

- 1.3 Currently, a person can apply for permission to deliver certain goods for home consumption without entry in respect of a recurring 7-day period or a calendar month. If permission is granted, the person must lodge excise and customs returns in respect of a seven-day period or a calendar month. The Customs Act deals with imported goods entered for home consumption and the Excise Act deals with goods manufactured or produced in Australia entered for home consumption.
- 1.4 In 2021, the Taskforce conducted a review into Australia's excise and excise-equivalent customs regulatory framework for fuel and alcohol. The Taskforce found that the high reporting frequency for excise and customs returns diverted resources away from the business's core functions and created significant stress for employees. This measure will alleviate this administrative burden for small businesses which have limited resources to manage these burdens.

- 1.5 These amendments will, in effect, allow small businesses with less than \$50 million of aggregated turnover to apply to deliver goods for home consumption without entry in respect of a quarter and reduce their excise and customs reporting frequency to a quarterly period if permission is granted. It will mean a reduction in compliance costs for small businesses and contribute to an overall cashflow benefit.

Comparison of key features of new law and current law

Table 1.1 Comparison of new law and current law

New law	Current law
An eligible business entity, as defined in the Excise Act and Customs Act, will be able to apply to the Collector for a seven-day, monthly or quarterly permission to deliver goods into home consumption without entry.	An eligible business entity, as defined in the Excise Act and Customs Act, can apply to the Collector for a seven-day or monthly permission to deliver goods into home consumption without entry.

Detailed explanation of new law

Seeking permission to deliver certain goods for home consumption without entry in respect of a quarter

- 1.6 Excise is a tax on petroleum, fuel, tobacco and alcohol (excluding wine) products that are manufactured or produced in Australia. When these goods are imported into Australia, an equivalent tax to excise is imposed on these goods as part of the import duty.
- 1.7 Under the Excise Act, excise on goods produced or manufactured in Australia must be paid to the Commissioner of Taxation or an authorised officer, collectively defined as the Collector under the Excise Act, to permit goods to be entered for home consumption. Under the Customs Act, the process for imported goods mirrors this and the Collector can be the Australian Border Force Commissioner or an authorised officer. This is generally when the goods are authorised to be entered into the Australian market.
- 1.8 However, section 61C of the Excise Act and section 69 of the Customs Act allow a person to apply for permission to deliver goods for home consumption

without entry for a specified period. Where permission is granted by the Collector, goods are deemed to be entered for home consumption on the day on which they are delivered into home consumption. The person is only required to give the Collector a return and pay excise or import duty on the goods at the end of the specified period.

1.9 Currently, subsections 61C(1) of the Excise Act and 69(1) of the Customs Act allow a person to apply for permission to deliver goods for home consumption without entry in respect of a recurring 7 day period or, for certain persons, a calendar month.

1.10 The amendments will enable a person to apply for permission in respect of a quarter as an alternative to the 7-day period or a calendar month. A person can only apply for permission in respect of a quarter if:

- the person is an ‘eligible business entity’; and
- the goods are, broadly, alcohol and fuel goods.

[Schedule x, Part 2, item 13, paragraph 61C(1)(c) of the Excise Act; item 6, paragraph 69(1)(e) of the Customs Act]

1.11 The amendments define the term ‘quarter’ for ease of reference, as this term will be used in section 61C of the Excise Act and section 69 of the Customs Act. The term is defined to mean a 3-month period ending on 31 March, 30 June, 30 September or 31 December.

1.12 These periods align with the return periods for other taxes on a business activity statement, such as the periods for giving GST returns under the *A New Tax System (Goods and Services Tax) Act 1999*. This amendment will allow businesses to align their excise and customs returns with other tax returns on the business activity statement, such as GST returns, and improve their overall administrative efficiencies.

[Schedule x, Part 2, item 12, subsection 4(1) of the Excise Act; item 5, subsection 4(1) of the Customs Act]

1.13 ‘Eligible business entity’ is a defined term under subsections 4(1) of the Excise Act and 4(1) of the Customs Act; it is currently defined by reference to Subdivision 328C of Division 328 of the ITAA 1997. The amendments do not affect the current meaning of the term. The amendments intend to ensure that a person with an aggregated turnover of less than \$50 million can apply for permission in respect of a quarter.

1.14 A taxpayer with an aggregated turnover of \$50 million or more will not be able to apply for permission to deliver goods for home consumption without entry in respect of a quarter. The existing rules for these businesses will remain unchanged. The amendments only apply to a business with less than \$50

million turnover because these entities have fewer resources to manage administrative burdens.

Scope of goods covered

- 1.15 Consistent with the scope of the Taskforce's mandate, the amendments only apply to excisable goods which are fuel and alcohol and therefore permission cannot be sought in respect of a quarter if the goods are, broadly, tobacco goods. The goods within scope of the amendment are identified by reference to the item numbers of the Schedule of the Excise Tariff Act.
- 1.16 The amendments only apply to fuel and alcohol products that are liable to excise or excise equivalent duties. Section 69 of the Customs Act applies to imported 'like customable goods' and 'excise-equivalent goods'. Both terms are currently defined under subsection 4(1) of the Customs Act by reference to the Customs Regulation. The amendments do not affect the current meanings of those terms.
- 1.17 This means that an importer of both beer and wine, would only able to enter quarterly returns in the customs context with respect to the beer, which is an 'excise equivalent good'. As the wine is a 'like customable good' but not also an 'excise equivalent good', the importer could continue to apply for the existing options of a recurring 7-day period or a calendar month in respect of the wine.
- 1.18 Goods are identified as 'excise equivalent goods' and 'like customable goods' by reference to the tariff subheading those goods fall under. The table under clause 1 of Schedule 1 to the Customs Regulation prescribes goods under certain tariff subheadings as being 'excise-equivalent goods'. All goods classified under those tariff subheadings are within the scope of this measure. The table under clause 2 of Schedule 1 to the Customs Regulation prescribes certain tariff subheadings as being 'like customable goods', some of which are also prescribed as 'excise-equivalent goods'. All goods classified under tariff subheadings that are prescribed as both 'excise-equivalent goods' and 'like customable goods' are also within scope of this measure. Goods classified under tariff subheadings that are prescribed as 'like customable goods' that are not also prescribed as 'excise-equivalent goods' are outside the scope of this measure.

Notice to specify the quarter from which the permission is given

- 1.19 Under subsections 61C(1C) of the Excise Act and 69(5) of the Customs Act, the Collector has the discretion to decide whether to give permission to the applicant to deliver goods for home consumption without entry. If permission

is given, the Collector must give a notice in writing to the person specifying the period for which the permission is given and when permission begins to apply.

- 1.20 Consistent with the current arrangements for permissions in respect of a 7-day period or a calendar month, if permission is given in respect of a quarter, the Collector must give notice specifying that the permission is to apply in respect of a quarter and the quarter from which the permission is given.

[Schedule x, Part 2, item 14, subsection 61C(1F) of the Excise Act; item 7, subsection 69(7A) of the Customs Act]

Conditions on permission to give excise and customs returns on a quarterly basis

- 1.21 If the Collector gives permission for a person to deliver certain goods for home consumption without entry, the permission is subject to the conditions set out in subsections 61C(3) of the Excise Act and 69(8) of the Customs Act. Currently, a permission in respect of a 7-day period or a calendar month is subject to the condition that the person is to give the Collector a return, in an approved form, before a specified period. The person must also provide particular information about the goods delivered into home consumption under the permission.

- 1.22 In addition, under paragraph 61C(3A)(b) of the Excise Act and subsection 69(9) of the Customs Act, the Collector may determine different conditions: for a person with a permission in respect of a calendar month, if the person advises the Collector in writing that they are no longer an eligible business entity under subsections 61C(8) of the Excise Act or 69(13) of the Customs Act; or if the person advises the Collector in writing that they wish to change the period in respect of which their permission applies. Paragraph 61C(3A)(a) of the Excise Act further allows the Collector to determine different conditions if the person does not have any duty liability. The conditions determined by the Collector apply despite the conditions imposed by subsection 61C(3) of the Excise Act and 69(8) of the Customs Act.

[Schedule x, Part 2, items 16 and 17, subsection 61C(3A) and paragraph 61C(8)(b) of the Excise Act; items 9, 10 and 11, subsection 69(8)(note), subsection 69(9) and paragraph 69(13)(b) of the Customs Act]

- 1.23 The amendments intend to ensure that a permission in respect of a quarter is subject to the same requirements as a permission in respect of a 7-day period or a calendar month.

- 1.24 If the person's permission applies in respect of a quarter, they must give a return, in an approved form, on or before the 28th day after the end of the relevant quarter. However, for the quarter ending on 31 December, the return must be given on or before the 28th day of the February after the end of that quarter. Consistent with current arrangements for 7 day and calendar month permissions, the person is to provide information about the goods that have been delivered into home consumption during the quarter to which the permission applies.

[Schedule x, Part 2, item 15, paragraph 61C(3)(da) of the Excise Act; item 8, paragraph 69(8)(da) of the Customs Act]

Consequential amendments

- 1.25 The amendments update the notes in Subdivision 328C of the ITAA to reflect that a person who is a small business entity may apply for permission to deliver goods for home consumption without entering them for that purpose in respect of a quarter under the Excise Act and Customs Act.

[Schedule x, items 18, 19, and 20, subsection 328-110(1) (notes 1, 2 and 3) and subsection 328-110(4) (paragraphs (e) and (f) of the note) of the Income Tax Assessment Act 1997]

Commencement, application, and transitional provisions

- 1.26 The amendments made by Schedule X will commence on 1 July 2023.
