Australian Customs Notice 1998 13

**FUEL SUBSTITUTION MINIMISATION LEGISLATION EXEMPTION OF CERTAIN CUSTOMABLE AND EXCISABLE PETROLEUM PRODUCTS FROM MARKING - FURTHER INFORMATION**

The fuel substitution legislation to take effect on and from 31 January 1998 requires the addition of a chemical marker to certain petroleum products that are cleared for home consumption at a concessional or free rate of duty. On the advice of the oil industry, the marker selected is Mortrace MP and it is to be added at a prescribed dosage of 20 parts per million weight per volume.

As foreshadowed by [Australian Customs Notice No. 98/01](https://borderauthor.border.gov.au/Busi/Cust/Aust/Australian-Customs-Notice-1998-01), it is recognised that the marker could have an adverse effect in certain cases on the performance of the marked product or other undesirable outcomes in certain specialised solvent applications. Customs recognises that in such cases, unmarked bulk solvents are required.

Accordingly, Customs has put in place legislative and administrative arrangements to take effect from 31 January 1998 for the remission or refund of customs and excise duty in respect of unmarked petroleum products as solvents to address the industry concerns where it is feared that the marker could affect the performance of the solvent.

# Availability of the benefit of the remission by users of products as solvents - Excise Regulation 50 (1) (zg) and Customs Regulation 126 (1) (ma)

Australian Customs Notice No. 98/01 advised users of petroleum products as solvents who require unmarked product on which remission has been given (ie supplied at a rate free of duty) to apply to Customs.

Where a valid application including the details set out in Australian Customs Notice No. 98/01 has been made prior to or following the issue of Australian Customs Notice No. 98/01, there is no need to make any further application.

Where the Australian Customs Service is satisfied that the application is made in terms which protect the revenue (ie does not present an unacceptable risk to the revenue) and that the application demonstrates a prima facie case for the unmarked solvent to be required for technical reasons, a Remission Certificate with effect 31 January 1998 will be issued to the applicant.

Initially, Remission Certificates will be issued for a period of 12 months validity. The Australian Customs Service will invite applicants to reapply for renewal at expiry.

While at this stage, the Australian Customs Service will accept apparently reasonable claims that unmarked solvent is required for technical reasons, supporting evidence may be required at the time of renewal.

# Applications for Refund of Duty - Excise Regulation 50 (1) (zh) and Customs Regulation 126 (1) (mb)

In cases where a user does not gain access to the benefit of the remission, the new legislative arrangements also allow for a refund of duty where the products have been used only as a solvent.

# Suppliers of Bulk Unmarked Product - Requirements in Relation to Remission Circumstances

The remission of duty will only be applicable where the petroleum products are delivered into home consumption pursuant to a permission under section 61C of the Excise Act 1901 or section 69 of the Customs Act 1901.

Existing permissions will be revised with effect from 31 January 1998 to accommodate the new arrangements. A new condition will be inserted into permissions to require permission holders to not deliver petroleum products in circumstances where Excise Regulation 50 (1) (zg) or Customs Regulation 126 (1) (ma) applies or where the Permission Holder intends to apply for a remission under these regulations, unless the petroleum product is delivered to a person or company who provides to the Permission Holder, at or before delivery of the product, a copy of the Remission Certificate issued to that person or company by the Australian Customs Service. The

permission holder shall keep records of deliveries of such products in accordance with the relevant provisions of the Fuel (Penalty Surcharges) Administration Act 1997. In addition, the permission holder shall retain for 5 years copies of Remission Certificates provided by purchasers.

Certain products specified in the permission may be delivered in circumstances where Excise Regulation 50 (1) (zg) or Customs Regulation 126 (1) (ma) applies without the requirement for a Remission Certificate to be provided by that person or company to the permission holder at or before the time of delivery of those products. These products are limited to certain specialised solvents, which Customs accepts are efficacious as solvents but which will never be used in substitution because of price or other factors.

# Further Information

Inquiries concerning this notice may be directed to Mr Peter Boyle, Acting Manager, Minerals and Petroleum National Business Centre, Australian Customs Service, 414 Latrobe Street, Melbourne, VIC 3000 (Tel 03/9244 8411 or facsimile 03/9244 8412).

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