

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 240

Issued by authority of the Assistant Treasurer

Excise Act 1901

Excise Amendment Regulations 2008 (No. 1)

The *Excise Act 1901* (the Act) sets out the administrative framework for the imposition of excise duty on alcohol, tobacco, petroleum products manufactured in Australia and crude oil and condensate (a light crude oil extracted from natural gas) produced in Australia.

Section 164 of the Act provides that the Governor-General may make regulations not inconsistent with the Act prescribing all matters which by the Act are required or permitted to be prescribed, or as may be necessary or convenient to be prescribed, for giving effect to the Act or for the conduct of any business relating to the Excise. The *Excise Regulations 1925* (the Principal Regulations) are made under the Act.

The Principal Regulations deal with administrative issues relating to the imposition of excise, such as remissions, rebates and refunds of excise duty.

Condensate has, until recently, been exempt from the Crude Oil Excise. However, the *Excise Tariff Act 1921* was recently amended by the *Excise Tariff Amendment (Condensate) Act 2008* to apply the Crude Oil Excise regime to condensate produced in the North West Shelf project area and onshore Australia. The *Excise Legislation Amendment (Condensate) Act 2008* makes consequential amendments to the Act, the *Petroleum Excise Prices Act 1987* and the *Petroleum Revenue Act 1985* to facilitate this measure.

This measure applies excise to condensate produced after midnight (by legal time in the Australian Capital Territory) on 13 May 2008.

Consequential amendments to the Principal Regulations and to the *Petroleum Excise (Prices) Regulations 1988* (which are the subject of a separate Minute) are needed to prescribe the production areas producing condensate that are subject to the Crude Oil Excise, and to ensure that condensate is treated the same way as stabilised crude petroleum oil for the purposes of the Act and the *Petroleum Excise Prices Act 1987*.

The Regulations amend the Principal Regulations to ensure they apply to payments of excise on condensate. In particular, the Regulations insert the word 'condensate' into the Principal Regulations where there is a reference to stabilised crude petroleum oil, or would insert a reference to the relevant section of the *Excise Tariff Act 1921* which imposes excise on condensate, or inserts a formula to work out the dutiable quantity for the purposes of paragraph 50(1)(sa) in respect of condensate.

This ensures that remissions, rebates and refunds of excise duty relating to condensate operate in the same way as those applying to stabilised crude petroleum oil.

The Regulations also make a number of other minor changes, including amending the Principal Regulations to replace references to 'relevant' oil with references to 'old' oil. This would be consistent with the terminology currently used in the *Excise Tariff Act 1921*.

The Regulations also omit paragraph 50(1)(n) and subregulation 52B(1) as these provisions are now redundant. The proposed Regulations would also amend paragraph 50(4AA)(a) to correct a drafting error.

The Act specifies no conditions that need to be satisfied before the power to make the proposed Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commenced at midnight (by legal time in the Australian Capital Territory) on 13 May 2008, to coincide with the commencement of the application of the Act to production of condensate. Section 164A of the Act specifically allows regulations made for the purposes of the Act in relation to condensate to take effect from a date before the regulations are registered under the *Legislative Instruments Act 2003*.

These Regulations are technical amendments to the Principal Regulations implementing the Government's decision to include production of condensate in the Crude Oil Excise. Given that there are no differences in the treatment of condensate relative to stabilised crude petroleum oil in respect of the amendments to the Principle Regulations, there has been no need to consult the upstream petroleum industry.