

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 58

Issued by authority of the Minister for Revenue and Assistant Treasurer

Excise Act 1901

Excise Amendment Regulations 2006 (No. 1)

Section 164 of the *Excise Act 1901* (the Act) provides that the Governor-General may make regulations 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.

Subsection 78(1) of the Act allows remissions, rebates and refunds in respect of excisable goods generally or in respect of the goods included in a class of excisable goods in such circumstances, and subject to such conditions and restrictions (if any), as are prescribed.

Subsection 78(2) of the Act states that regulations may prescribe the amount, or the means of determining the amount, of any remission, rebate or refund of excise duty that may be allowed for the purposes of subsection 78(1).

Part III of the *Excise Regulations 1925* (the Principal Regulations) prescribes the circumstances and amounts, or means of determining the amounts, where remissions, rebates and refunds of excise duty are available for the purposes of section 78 of the Act.

The purpose of the amending Regulations was to omit certain prescribed remission, rebate and refund circumstances relating to beer, spirit and fuel products, and where applicable corresponding prescriptions to determine the amount of the relevant remission, rebate or refund, which are currently found within Part III of the Principal Regulations. The prescribed circumstances were no longer required because they applied to transactions entered into before a specified date which had passed.

Details of the amending Regulations are set out in the Attachment.

The amending Regulations formed part of a review of the Schedule to the *Excise Tariff Act 1921*, which specifies the excise duty applicable to goods, and related legislation to simplify and clarify legislative provisions in order to reduce compliance costs for excise manufacturers, importers of excise equivalent goods and administering authorities.

The Act specifies no conditions that needed to be satisfied before the power to make the amending Regulations was exercised.

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

Consultation was not undertaken in relation to this instrument because it is of a minor or machinery in nature and did not substantially alter existing arrangements.

The amending Regulations commenced on the day after registration.

ATTACHMENT

Details of the *Excise Amendment Regulations 2006 (No. 1)*

Regulation 1 — Name of Regulations

Regulation 1 provides that the Regulations are the *Excise Amendment Regulations 2006 (No. 1)*.

Regulation 2 — Commencement

Regulation 2 provides that the Regulations commenced on the day after they were registered.

Regulation 3

Regulation 3 provides that Schedule 1 amended the *Excise Regulations 1925*.

Schedule 1 — Amendments that commenced on the day after registration

Item 1

Item 1 omitted former subregulation 52AAA(1), which provided calculations for the amount of a refund specified in paragraph 50(1)(k). The calculations only applied to beer returned to the brewery at which it was made or destroyed by permission of a Collector during the period of 90 days commencing on 24 August 1988.

Former subregulation 52AAA(2) was renumbered as regulation 52AAA.

Item 2

Item 2 omitted certain prescribed remission, rebate and refund circumstances which were no longer required, and where applicable, corresponding prescriptions to determine the amount of the relevant remission, rebate or refund. These prescribed circumstances applied to transactions entered into before a specified date which had passed.

Due to the operation of section 15 of the *Legislative Instruments Act 2003*, in the event that a prescribed circumstance was met prior to its repeal, a right acquired to a remission, rebate or refund remains.

The following provisions for refunds, rebates and remissions were omitted:

- paragraph 50(1)(g): provided a refund of excise duty where excise-paid spirit was added to wine, or grape must used in the manufacture of wine, where the wine was in stock, custody or possession of a producer of the wine on 19 August 1970;
- paragraph 50(1)(o): provided a refund of excise duty where excise-paid spirit for fortifying wine was entered for home consumption after 8 o'clock in the evening by standard time in the Australian Capital Territory on 23 August 1983 and before 8 o'clock in the evening by standard time in the Australian Capital Territory on 22 June 1984;
- paragraph 50(1)(q): provided a refund of excise duty which was paid on fuel oil from 24 August 1983 to 10 May 1985;
- paragraph 50(1)(r): provided a refund of excise duty which was paid on aviation kerosene before 30 June 1988 (by a declared person for the purposes of the *Prices Surveillance Act 1983*) and that aviation kerosene was used in an aircraft after 30 June 1988;

- paragraph 50(1)(zd): provided a remission of excise duty where diesel fuel manufactured by the process of refining waste oils after 31 December 1995 was entered for home consumption before 1 January 2006;
- paragraph 50(1)(ze): provided a remission of excise duty where certain recycled petroleum products were delivered for home consumption before 1 January 2006 in accordance with a permission under section 61C of the *Excise Act 1901* for blending with diesel fuel where the blend was for use in certain engines to generate electricity for supply to the general public;
- paragraph 50(1)(zf): provided a refund of excise duty where certain recycled petroleum products were entered for home consumption before 1 January 2006 and were blended with diesel fuel where the blend was used in certain engines to generate electricity for supply to the general public;
- paragraph 50(1)(zi): provided a remission of excise duty where certain fuel products were delivered for home consumption before 1 January 2006 in accordance with a permission under section 61C of the *Excise Act 1901* for use in gas turbine engines to generate electricity;
- paragraph 50(1)(zj): provided a refund of excise duty where certain fuel products were entered for home consumption before 1 January 2006 and were used as a fuel in gas turbine engines to generate electricity;
- paragraph 50(1)(zl): provided a remission of excise duty where certain recycled petroleum products were delivered for home consumption before 1 January 2006 in accordance with a permission under section 61C of the *Excise Act 1901* for blending with fuel oil where the blend was for use as fuel otherwise than in an internal combustion engine;
- paragraph 50(1)(zn): provided a refund of excise duty where certain recycled petroleum products were entered for home consumption before 1 January 2006 and were blended with fuel oil where the blend was for use as fuel otherwise than in an internal combustion engine;
- paragraph 50(1)(zp): provided a refund of excise duty which was paid on aircraft fuel before 31 January 1998 or between 31 January 1998 and 24 May 1998 (inclusive) where the fuel was subsequently sold subject to certain conditions related to the selling price;
- paragraph 50(1)(zq): provided a refund of excise duty which was paid on aircraft fuel between 25 May 1998 and 30 June 1998 (inclusive) where the fuel was subsequently sold subject to certain conditions related to the selling price;
- subregulation 50(4): provided a definition of ‘fuel oil’ for the purposes of paragraph 50(1)(q);
- subregulation 50(5): provided details on tests referred to in subregulation 50(4);
- regulation 52C: provided calculations for the amount of the refund specified in paragraph 50(1)(q);
- regulation 52D: provided calculations for the amount of the refund specified in paragraph 50(1)(r);

- regulation 52GA: provided calculations for the amount of the remission, rebate or refund specified in paragraphs 50(1)(zi) and 50(1)(zj);
- regulation 52H: provided calculations for the amounts of refunds specified in paragraphs 50(1)(zp) and 50(1)(zq);
- regulation 52J: provided calculations for the amount of the remission specified in paragraph 50(1)(zd); and
- subregulation 53(3): provided details of the timing of an application for the refund specified in paragraph 50(1)(o).