

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 175

Issued by authority of the Minister for Revenue and Assistant Treasurer

Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Act 2006

Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Regulations 2006

Clause 47 of Schedule 1 to the *Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Act 2006* (the Act) provides that the Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to amendments made by the Act.

The purpose of the Regulations was to allow:

- calculations of excise duty applicable to stabilised crude petroleum oil under sections 6B, 6C and 6D of the *Excise Tariff Act 1921* (the Excise Tariff Act) to continue to be made on and after 1 July 2006, despite amendments to these sections; and
- approvals and standards related to subitems 2(J), 2(M), 2(N), 2(P) and 2(Q) of the Schedule to the Excise Tariff Act, which allowed spirit to be entered at a free rate of duty, to continue for a transitional period of up to six months to provide the Commissioner of Taxation with sufficient time to issue approvals and determinations under new provisions of the Excise Act relating to spirit.

Details of the Regulations are set out in the Attachment.

The Regulations formed part of a response to a review of the Schedule to the Excise Tariff Act, 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 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 Regulations commenced on 1 July 2006.

ATTACHMENT

Details of the Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Regulations 2006

Regulation 1 — Name of Regulations

Regulation 1 provides that the Regulations are the *Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Regulations 2006*.

Regulation 2 — Commencement

Regulation 2 provides that the Regulations commence on 1 July 2006.

Regulation 3 — Definitions

Regulation 3 provides definitions for the following terms:

- ‘Act’ as the *Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Act 2006*;
- ‘new Excise Act’ as the *Excise Act 1901* as in force on and after 1 July 2006;
- ‘new Excise Tariff Table’ as the table in the Schedule to the Excise Tariff Act as in force on 1 July 2006; and
- ‘old Excise Tariff Table’ as the table in the Schedule to the Excise Tariff Act as in force before 1 July 2006.

Regulation 4 — Transitional arrangements for calculations under the Excise Tariff Act

The Act replaced the old Excise Tariff Table with the new Excise Tariff Table. The Act also amended sections 6B, 6C and 6D of the Excise Tariff Act from 1 July 2006 so that references to subparagraphs of the old Excise Tariff Table were changed to references to the equivalent subitems of the new Excise Tariff Table.

Sections 6B, 6C and 6D of the Excise Tariff Act provide calculations for the excise duty applicable to stabilised crude petroleum oil. Under these sections, it may be necessary to calculate previous years’ duties which may include duty paid under subparagraphs of the old Excise Tariff Table.

Regulation 4 provides that where calculations are required to be made under sections 6B, 6C and 6D, which require an amount of duty paid before 1 July 2006 to be taken into account, those sections are taken as continuing to apply, on and after 1 July 2006 for this purpose, as if the amendments to these sections had not been made. This ensures the continued effective operation of these sections.

Regulation 5 — Treatment of approvals under the Excise Regulations 1925 (the Excise Regulations)

Subitems 2(J), 2(M), 2(P) and 2(Q) of the old Excise Tariff Table allowed spirits to be entered at a free rate of excise duty, subject to regulations. Approvals by the Collector (the Commissioner of Taxation or an authorised officer), under regulations 86, 143, 152 and 117 of the Excise Regulations respectively, were required for spirit to be entered under these subitems.

From 1 July 2006, subitem 3.5 of the new Excise Tariff Table allows spirit to be entered at a free rate of duty where it is for fortifying Australian grape wine or Australian grape must and is covered by an approval under section 77FD of the *Excise Act 1901* (the Excise Act).

From 1 July 2006, subitem 3.6 of the new Excise Tariff Table allows spirit to be entered at a free rate of duty where it is for an industrial, manufacturing, scientific, medical, veterinary or educational purpose and is covered by an approval under section 77FF of the Excise Act.

Regulation 5 provides that:

- approvals granted under regulation 86 of the *Excise Regulations 1925* in force immediately before 1 July 2006 are taken, on or after 1 July 2006, to be an approval given under section 77FD of the Excise Act until 31 December 2006 or until revoked, whichever is earlier; and
- approvals granted under regulations 143, 152 and 117 of the *Excise Regulations 1925* in force immediately before 1 July 2006 are taken, on or after 1 July 2006, to be an approval given under section 77FF of the Excise Act until 31 December 2006 or until revoked, whichever is earlier.

This regulation allows sufficient time for the Commissioner of Taxation to issue approvals under the new provisions of the Excise Act whilst allowing existing approvals to operate in the interim period.

Regulation 6 — Treatment of entry of spirits - *Spirits Regulations 1926* (the Spirits Regulations)

Subitem 2(N) of the old Excise Tariff Table allowed methylated spirits to be entered at a free rate of excise duty, subject to regulations.

Regulation 17 of the Spirits Regulations prescribed standards for methylated spirits. Provided that methylated spirits met these prescribed standards, they could be entered under subitem 2(N) of the old Excise Tariff Table.

Regulation 6 provides that spirit, methylated to a standard that was prescribed in regulation 17 of the Spirits Regulations as in force before 1 July 2006 and which could have been entered under subitem 2(N) of the old Excise Tariff Table as in force before 1 July 2006, can be entered under item 3.8 of the Excise Tariff Table on or after 1 July 2006. This ceases to have effect at the earlier of the determination of a formula under section 77FG of the new Excise Act in relation to spirit entered under item 3.8 of the new Excise Tariff Table and the end of 31 December 2006.

This regulation allows sufficient time for the Commissioner of Taxation to, by legislative instrument, determine a formula for the denaturing of spirits under section 77FG of the new Excise Act whilst allowing existing arrangements to continue for the interim period.

Regulation 7 — Treatment of approval to take delivery of spirits – *Spirits Regulations 1926*

Subitem 2(N) of the old Excise Tariff Table allowed methylated spirits to be entered at a free rate of excise duty, subject to regulations.

Regulation 19 of the Spirits Regulations allowed spirit to be methylated for a special purpose according to a standard prescribed. An approval could be issued to take delivery of spirit under subitem 2(N) of the old Excise Tariff.

Regulation 7 provides that an approval to take delivery of spirit under subitem 2(N) of the old Excise Tariff Table, related to spirit that was methylated for a special purpose and to a standard prescribed in those regulations and which was entered under subitem 2(N), that was in force immediately before 1 July 2006, is taken to be an approval under section 77FF of the new Excise Act in relation to spirit entered under item 3.7 of the new Excise Tariff Table. The standards that were prescribed in regulation 19 are permitted to continue for the purpose of allowing the existing approvals to continue. The existing approvals cease to have effect on 31 December 2006 or when revoked, whichever is earlier.

This regulation allows sufficient time for the Commissioner of Taxation to issue approvals under the new provisions of the Excise Act whilst allowing existing approvals to operate in the interim period.