



Explanatory Statement

Excise Act 1901

Excise By-Law (Revocation) 2006 (No. 1)

General Outline

1. This Explanatory Statement is provided in accordance with section 26 of the *Legislative Instruments Act 2003*.
2. *Excise By-Law (Revocation) 2006 (No. 1)* is consequential to amendments to the Excise legislation effected by *Excise Laws Amendment (Fuel Tax Reform and Other Measures) Act 2006*, *Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Act 2006* and Excise Amendment Regulations 2006 (No. 3).
3. The amendments are the result of the Review of the Schedule to the *Excise Tariff Act 1921* (the Review) initiated by Treasury on 2 June 2005 with the release of an industry discussion paper and a targeted consultation process. The principal objects of the Review were to streamline the Schedule to the *Excise Tariff Act 1921* (the Excise tariff) and make it more user-friendly, make excise law clearer and less complex, and improve the integrity of the excise system.
4. Up to 30 June 2006, certain duty-free concessions are delivered by means of tariff items subject to by-law and attracting a free rate of duty. In keeping with Treasury policy to classify goods under the Excise tariff with a view to taxing them, these concessions are to be delivered under new remission circumstances on and after 1 July 2006.
5. Coal, which has not been subject to duty for some years, is removed from the Excise tariff.
6. The revocation is made under section 165 of the *Excise Act 1901* (under subsection 33(3) of the *Acts Interpretation Act 1901* the power to make an instrument includes the power to revoke an instrument).

Date of effect

7. This instrument commences on 1 July 2006.

The effect of the instrument

8. These changes mean that Excise By-Laws Nos. 68, 85, 92, 111 and 112 become redundant on 1 July 2006.
9. This instrument revokes those by-laws, together with Excise By-Laws Nos. 47 and 98 that are already redundant.

10. The following table lists the by-laws to be revoked and the reasons for revocation.

Item	By-Law	Reason for revocation
10.1	No. 47	Redundant since an administrative decision in 2000 that all concessional spirits would be delivered under tariff items 2(M) and 2(N). Since that time item 2(P), to which the by-law relates, has not been used. Item 2(P) has no equivalent in the revised tariff.
10.2	No. 68	Defines coal for the purposes of tariff item 20. The <i>Coal Excise Act 1949</i> is to be repealed and coal removed from the Excise tariff. These changes have the effect that coal producers will no longer be subject to the Excise regime, removing the current requirement for them to comply with the Excise licensing provisions.
10.3	No. 85	Specifies Commonwealth government departments and agencies for the purposes of tariff item 10(A). This tariff item became redundant in 1989 when section 54A of the <i>Excise Act 1901</i> was inserted, removing duty concessions for Commonwealth government departments and agencies. Though redundant, this by-law has not been revoked up till now.
10.4	No. 92	Specifies 2 international organisations entitled to duty-free use of goods for the purposes of tariff item 10(F). This tariff item has no equivalent in the revised tariff and the concession is to be delivered to the organisations through a new remission circumstance under the <i>Excise Regulations 1925</i> (Excise Regulations) without the need for a remission application.
10.5	No. 98	Redundant since the 1980s when a marginal rate of duty was removed from spirit used in fortifying Australian wine or grape must for export. The continuing policy is that no distinction is made between Australian fortified wine for domestic use and for export. Though redundant, this by-law has not been revoked up till now.
10.6	No. 111	Specifies goods for use by foreign governments for the purposes of tariff item 13(A). This tariff item has no equivalent in the revised tariff and the concession is to be delivered through a new remission circumstance under the Excise Regulations without the need for a remission application.
10.7	No. 112	Specifies goods for use by persons under a Status of Forces Agreement for the purposes of tariff item 13(B). This tariff item has no equivalent in the revised tariff and the concession is to be delivered through a new remission circumstance under the Excise Regulations without the need for a remission application.

11. Paragraphs 1.118, 1.119, 2.83 and 2.84 of the Explanatory Memorandum to the amending Excise Bills provide commentary on the removal of the concessional items and coal from the Excise tariff.

Impact of the instrument

12. This instrument is consequential to amendments to the Excise legislation that transfers certain duty-free concessions to remission circumstances and removes coal from the Excise system. It effects the timely removal of inoperative by-laws.

Consultation

14. On 1 June 2006 the Tax Office initiated a 2-week public consultation process on the legislative instruments arising from the Review, with the Assistant Treasurer approving the consultation prior to the related legislation being passed by Parliament.

15. The instruments and explanatory statements were published on the ATO website www.ato.gov.au in the form of drafts for consultation. The instrument, together with this explanatory statement, was included in that process.

Commissioner of Taxation

[30 June 2006]

Previous draft:

1 June 2006

Related Rulings/Determinations:

Excise By-Law (Amendment) 2006 (No. 1)

Subject references:

Excise

Excise tariff

Excise by-laws

concessional goods

coal

Legislative references:

Acts Interpretation Act 1901 subsection 33(3)

Coal Excise Act 1949

Excise Act 1901 section 165

Excise Tariff Act 1921, the Schedule, item 2(M) (current Tariff)

Excise Tariff Act 1921, the Schedule, item 2(N) (current Tariff)

Excise Tariff Act 1921, the Schedule, item 2(P) (current Tariff)

Excise Tariff Act 1921, the Schedule, item 10(A) (current Tariff)

Excise Tariff Act 1921, the Schedule, item 10(F) (current Tariff)

Excise Tariff Act 1921, the Schedule, item 13(A) (current Tariff)

Excise Tariff Act 1921, the Schedule, item 13(B) (current Tariff)

Excise Tariff Act 1921, the Schedule, item 20 (current Tariff)

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

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

Excise Regulations 1925

Excise Amendment Regulations 2006 (No. 3)

Excise By-Law No. 47

Excise By-Law No. 68

Excise By-Law No. 85

Excise By-Law No. 92

Excise By-Law No. 98

Excise By-Law No. 111

Excise By-Law No. 112

Other references:

Review of the Schedule to the Excise Tariff Act: industry discussion paper, Treasury, 2 June 2005
Explanatory Memorandum to the Excise Laws Amendment (Fuel Tax Reform and Other Measures)
Bill 2006, Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006

ATO references

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