

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 241

Issued by authority of the Assistant Treasurer

Petroleum Excise (Prices) Act 1987

Petroleum Excise (Prices) Amendment Regulations 2008 (No. 1)

Section 14 of the *Petroleum Excise (Prices) Act 1987* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Condensate (a light crude oil extracted from natural gas) has, until recently, been exempt from the Crude Oil Excise. However, the Act allows the Minister or his delegate to determine a price for stabilised crude petroleum oil or condensate to facilitate the imposition of excise on these products under the *Excise Tariff Act 1921*. The *Petroleum Excise (Prices) Regulations 1988* (the Principal Regulations) are made under the Act.

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 *Excise Act 1901* 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 *Excise Regulations 1925* (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 *Excise Act 1901*.

The Regulations prescribe oil producing regions which produce condensate, condensate production areas and the commencement date for setting the volume weighted average realised price (or VOLWARE price) for condensate. This allows the value of sales of condensate to be determined in order to calculate the excise payable on condensate produced. The Regulations also make a number of technical amendments to the Principal Regulations to ensure that the methodology for working out the VOLWARE price for condensate is the same as for working out the VOLWARE price for stabilised crude petroleum oil. Further details are provided in the Attachment.

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

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The proposed Regulations would be taken to have 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 condensate. Section 4 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. However, it is noted that the Australian Taxation Office has undertaken consultation in determining petroleum fields producing condensate and condensate production areas (which the Regulations depend on).

CONDENSATE PRODUCTION AREAS

An oil producing region is subject to excise once cumulative production of stabilised crude petroleum oil and condensate exceeds the 4,767.3 megalitres (or 30 million barrels) threshold. The listing of an oil producing region in the Schedule to the Principal Regulations enables excise to be calculated for and collected from the region.

The volume weighted average realised price (or VOLWARE price) is used as the basis for calculating each region's excise payable under the *Excise Tariff Act 1921*. The calculation of separate VOLWARE prices for different oil producing regions is necessary as the realised prices of crude oil and condensate from different regions may vary. The methodology for calculating each region's VOLWARE is currently prescribed in the Principal Regulations.

The Regulations add a new regulation 3 and a new Schedule 2 to the Principal Regulations specifying oil producing regions, production areas and VOLWARE price commencement dates for condensate. The existing oil producing regions and production areas for stabilised crude petroleum oil are listed in Schedule 2, items 1 to 5, in the event any of these production areas produce condensate. The Regulations set the VOLWARE commencement date for condensate as 13 May 2008 for these production areas. This is because cumulative production of stabilise crude oil and condensate from the relevant fields exceeds the 4,767.3 megalitres (or 30 million barrels) threshold.

In addition, the Regulations prescribe the North West Shelf project area as an oil producing region and the Rankin Trend as a condensate production area (Schedule 2, item 6). The Regulations set the VOLWARE commencement date as 13 May 2008 for these production areas. This is because cumulative production of stabilise crude oil and condensate from the Rankin Trend already exceeds the 4,767.3 megalitres (or 30 million barrels) threshold.

The Regulations also prescribe the North West Shelf project area as an oil producing region and Angel as a condensate production area (Schedule 2, item 7). The Regulations set the VOLWARE commencement date as the date on which production of condensate, or condensate and stabilised crude petroleum oil, exceeds 4767.3 megalitres for the Angel production area.

TECHNICAL AMENDMENTS

The Regulations also make a number of technical amendments to the Principal Regulations to ensure that the methodology for working out the VOLWARE price for condensate is the same as for working out the VOLWARE price for stabilised crude petroleum oil.

First, the Regulations insert the definition of condensate producer into subregulation 2(1). A condensate producer means an oil producer as defined in subsection 4(1) of the Act, as modified in accordance with subsection 5A(3) of the Act.

Second, the Regulations insert the terms 'condensate' and 'condensate producer' into several definitions contained in subregulation 2(1), the term 'condensate' into subregulation 2(3), 2(4), the term 'excisable condensate' and 'condensate' into subregulation 4(1), the terms 'condensate', 'condensate producer' and 'excisable condensate' into subregulation 4(2), the term 'condensate producer' into subregulation 4(3) subregulation 4(4), change the heading to regulation 6 to 'transport costs', and insert the term 'condensate' into subparagraph 6(1)(a)(vi).

Finally, the Regulations insert a new regulation 5A which indicates that regulation 5 applies in relation to condensate as if a reference to excisable crude petroleum oil is a reference to excisable condensate, a reference to crude petroleum oil is a reference to condensate, and a reference to oil is a reference to condensate.