

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 151

Issued by authority of the Assistant Treasurer

Excise Act 1901

Excise Amendment Regulation 2012 (No. 1)

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

The purpose of the amending Regulation is to amend the *Excise Regulations 1925* (the Principal Regulations) to:

- complement the *Excise Amendment (Reducing Business Compliance Burden) Act 2012* by specifying stabilised crude petroleum oil and condensate as classes of goods eligible to apply for permissions (a permit to report monthly, rather than weekly, on dutiable goods entering the Australian Market); and
- ensure that the carbon price for non-transport use of liquefied petroleum gas (LPG) and liquefied natural gas (LNG) is correctly applied through the fuel tax system for one year from 1 July 2012.

The amending Regulation amends the Principal Regulations to prescribe stabilised crude petroleum oil and condensate, which are items 20 and 21 to the Schedule to the *Excise Tariff Act 1921*, as classes of goods eligible to apply for monthly permissions. This allows producers and manufacturers of crude petroleum oil and condensate to deliver such goods for home consumption with payment of duty deferred until after the end of that permission period. Payment of excise duty for that month will be required on or before the day and time specified in the periodic settlement permission issued for those goods.

The reason for prescribing crude oil and condensate in the amending Regulation is that the provisions for calculating duty on these goods are based on monthly prices determined by the relevant Minister at the end of each month, as legislated in the *Excise Tariff Act 1921*. Therefore, it is not feasible for producers of such goods to provide a weekly report to the Commissioner of Taxation. Prescribing such goods as eligible to apply for monthly permissions will ensure that the current arrangements in the administration and collection of excise duty for these goods are not disturbed.

If a person has permission to deliver goods of a kind prescribed, the amending Regulation also prescribes the reporting conditions applying to the person. These conditions are that the person gives the Commissioner of Taxation a report on an

approved form on a date specified in the person's monthly permission, and that the return details particulars of the goods delivered for home consumption over the preceding month under the permission.

The amending Regulation complements recent amendments to the Excise Act that streamline the various payment periods available including the provision of a small business payment concession.

The amending Regulation also amends the Principal Regulations to specify a reduction in the automatic remission currently available on LPG and LNG for non-transport use delivered into the market by excise licence holders and/or periodic settlement permission holders from 1 July 2012 until 30 June 2013. When a full automatic remission applies, excise that might otherwise be payable is reduced to nil. The Regulation results in only a partial remission being available for LPG and LNG for the period 1 July 2012 to 30 June 2013.

The effect of the partial remissions is that entities that deliver LPG and LNG for non-transport use will have to pay excise equal to the carbon price prior to delivering the relevant goods into home consumption, or if they hold a periodic settlement permission issued under section 61C of the Excise Act, at the end of their settlement period. The Regulation will also reinstate from 1 July 2013 the full automatic remission on LPG and LNG supplied by excise licence holders and/or periodic settlement permission holders for non-transport use when non-transport use of LPG and LNG will become directly subject to the carbon pricing mechanism.

The amount of the remission for LNG will be 3.78 cents per kilogram. This is a reduction from the former remission of 10.45 cents per kilogram, which resulted in zero excise being paid. The new, lower remission leaves a duty obligation of 6.67 cents per kilogram, which is the effective carbon price of LNG.

The amount of remission for LPG will be 1.32 cents per litre. This is a reduction from the former remission of 5 cents per litre, which resulted in zero excise being paid. The new, lower remission leaves a duty obligation of 3.68 cents per litre, which is the effective carbon price of LPG.

Public consultation on the Exposure Draft Regulation prescribing stabilised crude petroleum oil and condensate as classes of goods eligible to apply for monthly permissions was carried out between 17 October 2011 and 4 November 2011 as part of the consultation on the draft clean energy amendments legislation. No concerns were raised by industry during consultations on the Exposure Draft Regulation.

Time constraints meant that no consultation was undertaken on the partial remissions Regulation changes. Important information such as the amount of the effective carbon price being applied to LPG and LNG through the partial remission has been available for some time.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The amendment listing stabilised crude petroleum oil and condensate as classes of goods eligible to apply for monthly periodic permissions will commence on the day after the Regulation is registered on the Federal Register of Legislative Instruments and the reduction to the full automatic remission to non-transport use of LPG and LNG will commence on 1 July 2012.

ATTACHMENT

Statement of Human Rights Compatibility

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Excise Amendment Regulation 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the Legislative Instrument is to:

- (i) provide for the application of monthly deferrals in accounting for entries for home consumption of stabilised crude oil and condensate with payment of duty liabilities on or before 21 days after the end of the accounting period; and
- (ii) ensure that the carbon price for non-transport use of liquefied petroleum gas (LPG) and liquefied natural gas (LNG) is correctly applied through the fuel tax system from 1 July 2012.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.