

EXPLANATORY STATEMENT

Issued by authority of the Minister for Revenue and Financial Services

Fuel Tax Act 2006

Fuel Tax Regulation 2016

Section 95-100 of the *Fuel Tax Act 2006* (the 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 *Fuel Tax Regulation 2016* (Regulation) is to remake the *Fuel Tax Regulations 2006* (former Regulations). The *Legislation Act 2003* (Legislation Act) provides that all legislative instruments, other than exempt instruments, progressively ‘sunset’ according to the timetable set out in the Legislation Act. Legislative instruments registered on the Federal Register of Legislation (previously known as the Federal Register of Legislative Instruments) on 30 June 2006, such as the *Fuel Tax Regulations 2006*, sunset on 1 October 2016. When a legislative instrument sunsets, it is automatically repealed under section 50 of the Legislation Act.

The Regulation remakes the *Fuel Tax Regulations 2006*, and makes improvements by simplifying existing provisions through consolidating repeated requirements and improving readability. In addition to remaking the former Regulations, the Government has identified opportunities to improve and streamline some of the arrangements in the Act.

Further details of the Regulation are set out in the [Attachment](#).

The Act does not specify any conditions that need to be met before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the Legislation Act.

Government stakeholders including the Australian Taxation Office and the Department of Infrastructure and Regional Development were consulted for the remake of the *Fuel Tax Regulations 2006*. An exposure draft of the Regulation was not released for public consultation given the Regulation does not make a substantive change to the *Fuel Tax Regulations 2006* and the impact upon taxpayers is negligible.

Before this Regulation was made, its expected impact was assessed using the Preliminary Assessment tool approved by the Office of Best Practice Regulation (OBPR). The assessment indicated that the likely regulation impact is minimal or machinery. This assessment has been confirmed by the OBPR (OBPR reference 20886).

The Regulation commenced on 1 October 2016.

Statement of Compatibility with Human Rights

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

Fuel Tax Regulation 2016

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 *Fuel Tax Regulation 2016* (Regulation) remakes the *Fuel Tax Regulations 2006* (former Regulations). The *Legislation Act 2003* (Legislation Act) provides that all legislative instruments, other than exempt instruments, progressively ‘sunset’ according to the timetable set out in the Legislation Act. Legislative instruments registered on the Federal Register of Legislation (previously known as the Federal Register of Legislative Instruments) on 30 June 2006, such as the former Regulations, sunset on 1 October 2016. When a legislative instrument sunsets, it is automatically repealed under section 50 of the Legislation Act.

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Further details of the Regulation are set out in the Attachment to the Explanatory Statement.

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.

Details of the Fuel Tax Regulation 2016

All references are to the *Fuel Tax Regulation 2016* (Regulation) unless otherwise stated.

The Regulation makes improvements to the *Fuel Tax Regulations 2006* (former Regulations) by repealing redundant provisions and restructuring provisions to take account of modern instrument drafting techniques such as the greater use of headings and tables. The Regulation also simplifies and updates language in accordance with standard drafting practices. For example, provisions in the former Regulations are referred to as ‘regulations’, however provisions in new principal instruments, such as the Regulation, are now referred to as ‘sections’. Principal instruments are also now referred to as ‘Regulation’ rather than ‘Regulations’. These restructuring and updating changes do not change the current operation of the equivalent provisions in the former Regulations. These changes and other changes that require further explanation are identified and explained in this Attachment.

Section 6 - Fuel tax credit for fuel to be sold or packaged

Section 6 of the Regulation restructures regulation 41-10 of the former Regulations to consolidate repeated packaging requirements and minor amendments were made to simplify and improve the readability of section 6. These amendments do not impact the scope and operation of regulation 41-10 of the former Regulations. Packaging requirements for fuels such as kerosene, mineral turpentine and white spirit have been amended to be consistent with the packaging requirements for other fuels prescribed by the Regulation.

Section 7 – Working out the effective fuel tax for fuel blends

Regulation 43-7 of the former Regulations has been remade into section 7 of the Regulation. Minor changes were made to improve readability. These amendments do not impact the scope and operation of regulation 43-7.

Conversion rate for road user charge

The Regulation did not remake regulation 43-10 of the former Regulations which allowed the Road User Charge (RUC) expressed in cents for each litre of fuel to be converted to a rate in cents for each kilogram of fuel. This regulation was designed to provide some flexibility so that the RUC, which reduces the amount of fuel tax credits under section 43-10 of the *Fuel Tax Act 2006* (the Act) can be applied to liquefied natural gas (LNG) and compressed natural gas (CNG) powered heavy vehicles on-road.

Instead the Government intends to amend section 43-10 of the Act to provide ongoing structural flexibility for the Transport Minister to determine rates for the RUC in units of weight, volume or energy. For example, taxpayers who purchase fuels sold in kilograms (such as LNG or CNG) would be able to apply the RUC expressed in cents for each kilogram of fuel directly rather than undertake a conversion process. Such changes would also allow the RUC to be adapted to new forms of fuel used in the future.

The Government intends to introduce the amendments into Parliament as soon as practicable.