

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing

Excise Tariff Act 1921

Excise Tariff Regulations 2022

The purpose of the *Excise Tariff Act 1921* (the Excise Tariff Act) is to impose excise duty on a range of goods, including excise liability on the volume of condensate and oil produced from onshore and offshore areas. Section 7 of the Excise Tariff Act provides that the Governor-General may make regulations prescribing matters required or permitted by that Act to be prescribed.

The purpose of the *Excise Tariff Regulations 2022* (the Regulations) is to prescribe the inclusion of two additional condensate reservoirs, the Greater Western Flank-2 and Persephone, as part of the existing prescribed condensate production area, the Rankin Trend as defined under subsection 6CA(1B) of the Excise Tariff Act.

Subsection 6CA(1B) of the Excise Tariff Act outlines the statutory definition of 'Rankin Trend'. The Rankin Trend is located within the North West Shelf project area situated off the coast of Western Australia and encompasses multiple spatially related reservoirs. Subsection 6CA(1B) of the Excise Tariff Act prescribes the Rankin Trend as a single condensate production area based on the determination from Geoscience Australia that the Rankin Trend reservoirs formed a single field.

Paragraph 6CA(1B)(b) of the Excise Tariff Act enables additional reservoirs to be added to the Rankin Trend through regulations where the Resources Minister has expressed satisfaction that further reservoirs form part of the same field as a reservoir or groups of reservoirs within the Rankin Trend under subsection 6CA(1C) of the Excise Tariff Act. The Resources Minister has expressed this view in respect of both the Greater Western Flank-2 and Persephone reservoirs. Therefore, the Regulations prescribe that the Greater Western Flank-2 and Persephone reservoirs are included within the condensate production area known as the Rankin Trend.

Section 5 of the Regulations prescribes the Greater Western Flank-2 and Persephone reservoirs to be included as part of the Rankin Trend condensate production area as defined in subsection 6CA(1B) of the Excise Tariff Act.

Including the Greater Western Flank-2 and Persephone reservoirs as part of the existing Rankin Trend area has the effect of contributing to the cumulative total of condensate produced from the Rankin Trend from the dates that the reservoirs commenced production. The first date of production from the Persephone reservoirs was 30 July 2017. The Greater Western Flank-2 reservoirs commenced production on 25 October 2018. The amendments are to apply from the first date of production for each reservoir due to the Rankin Trend excise-free threshold being exceeded. Retrospective application is required due to production from the reservoirs contributing to the total cumulative production levels within the Rankin Trend field, ultimately impacting the amount of excise payable.

Subsection 12(2) of the *Legislation Act 2003*, which limits the application of retrospective legislative instruments to the extent that it disadvantages a person, does

not apply in respect of prescribing additional reservoirs within the Rankin Trend. This is due to the operation of subsection 6CA(1D) of the Excise Tariff Act that allows regulations to have the effect of retrospective application when adding a reservoir or group of reservoirs to the Rankin Trend. Prescribing the Greater Western Flank-2 and Persephone reservoirs retrospectively does not make a person liable to an offence or civil penalty, rather the amendments allow the correct amount of excise duty to be calculated and collected. This is consistent with the purpose of the *Excise Tariff Amendment (Condensate) Act 2011* (Condensate Amendment Act) which implemented retrospective application and enabled excise duty to apply from a date before regulations are made.

Retrospective application is required to ensure that excise is payable on the total cumulative production from the Rankin Trend. The excise duty liability that has accrued from previous years from the Greater Western Flank-2 and Persephone reservoirs will be payable from the financial year commencing 1 July 2022.

Public consultation was not undertaken on the Regulations as the amendments only impact one production license holder. The production license holder is aware of these amendments from the Resources Minister's decision in September 2021 and was consulted on the Regulations. The Australian Taxation Office and the Department of Industry, Science, Energy and Resources have been consulted throughout the development of this measure.

The Office of Best Practice Regulation has been consulted and advised the amendments are estimated to have a minor impact on compliance costs. Therefore, the preparation of a Regulation Impact Statement is not required (OBPR ID OBPR22-01879).

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

Details of the Regulations are set out in [Attachment A](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. This Legislative Instrument is subject to sunseting by the operation of section 50 of the *Legislation Act 2003*.

The Regulations commence on 1 July 2022.

Statement of Compatibility with Human Rights

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

Excise Tariff Regulations 2022

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 *Excise Tariff Regulations 2022* is to prescribe newly discovered condensate production areas. Two recently discovered reservoirs, the Greater Western Flank-2 and Persephone, are included under the existing prescribed condensate production area, the Rankin Trend as defined under subsection 6CA(1B) of the Excise Tariff Act.

Human rights implications

This Legislative Instrument does not apply to individuals and only relates to corporations and therefore 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.