

EXPLANATORY STATEMENT

Issued under the authority of the Assistant Minister for Health and Aged Care

Industrial Chemicals Act 2019

Industrial Chemicals (Fees and Charges) Amendment (2024 Measures No. 1) Rules 2024

The *Industrial Chemicals (Fees and Charges) Amendment (2024 Measures No. 1) Rules 2024* (the Rules) makes amendments to the dollar amounts prescribed by the *Industrial Chemicals (Fees and Charges) Rules 2020* for the different kinds of fees for applications under the *Industrial Chemicals Act 2019*.

Authority

The *Industrial Chemicals Act 2019* (the Act) establishes the Australian Industrial Chemicals Introduction Scheme (AICIS), the national regulatory framework for the introduction (importation or manufacture) of industrial chemicals.

Subsection 180(1) of the Act provides that the Minister may make rules prescribing matters required or permitted by the Act, or necessary or convenient for carrying out or giving effect to the Act. Paragraph 167(1)(f) of the Act provides that the rules may prescribe fees for applications made under the Act, or prescribe a method for working out a fee for an application under the Act.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make a legislative instrument that power is to be construed as including a power, exercisable in the same manner and subject to the same conditions (if any), to amend or vary the instrument.

Consultation

A public consultation paper (as part of the Cost Recovery Implementation Statement (CRIS) 2024-25) was published on 2 April 2024 to seek stakeholder feedback on the proposed fees for services and charges. It detailed the proposed increase to fees for services by applying an indexation of 3.1%; and revised introduction value thresholds used to determine an introducer's registration level resulting in either no increase or a reduction in levy charges for introducers with an introduction value less than \$15 million, forecasted to benefit 96% of registrants.

A total of four (4) submissions were received from industry stakeholders (including industry associations):

- All four submissions supported the proposed increase of fees for services by an indexation of 3.1%.
- Three submissions support the revised introduction value thresholds of the existing eight-tiered registration model and the associated registration charges.
- One submission supported registration charges where reduced, but did not support the increase to the charge for level 8 introducers (those with an introduction value of \$15 million or greater).

Commencement

The Rules commence on 1 September 2024.

General

The Act specifies no conditions that need to be satisfied before the power to make the Rules may be exercised. The Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of this instrument are set out in **Attachment A**.

This instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

Details of the Industrial Chemicals (Fees and Charges) Amendment (2024 Measures No. 1) Rules 2024

Part 1 – Preliminary

Section 1 – Name

This section provides the title of the instrument as the *Industrial Chemicals (Fees and Charges) Amendment (2024 Measures No. 1) Rules 2024*.

Section 2 – Commencement

The Rules commence on 1 September 2024.

Section 3 – Authority

This section provides that the Rules are made under the *Industrial Chemicals Act 2019*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

The Rules make routine annual amendments to the amounts of fees prescribed by the *Industrial Chemicals (Fees and Charges) Rules 2020* (Principal Rules) for the different kinds of applications that can be made under the Act. The amount of each fee has been determined based on costing the effort and resources required for delivery of the service being applied for. No new fees for services have been prescribed by the Rules.

Item 1 – Paragraph 5(2)(b)

Item 2 – Paragraph 5(3)(e)

Item 3 – Paragraph 5(4)(e)

Items 1 to 3 amend paragraphs 5(2)(b), (3)(e) and (4)(e) of the Principal Rules to update various fees for applications made under section 31 of the Act for an assessment certificate for the introduction of an industrial chemical to reflect the 3.1% increase to all existing fees to align with the efficient cost of providing each service as part of a fee for service model.

Item 4 – Subsection 5(1) (cell at table item 20, column headed “Amount (\$)”)

Item 5 – Amendment of listed provisions – subsection 5(1)

Item 6 – Amendment of listed provisions – subsection 5(2)

Items 4 to 6 amend items in the tables to subsections 5(1) and (2) of the Principal Rules, also to reflect the 3.1% increase to all existing fees in the tables to align with the efficient cost of providing each service as part of a fee for service model.

Statement of Compatibility with Human Rights

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

Industrial Chemicals (Fees and Charges) Amendment (2024 Measures No. 1) Rules 2024

This Disallowable 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 Disallowable Legislative Instrument

The *Industrial Chemicals Act 2019* (the Act) establishes the Australian Industrial Chemicals Introduction Scheme (AICIS), the national regulatory framework for the introduction (importation or manufacture) of industrial chemicals.

It is government policy that the full costs of AICIS activities are recovered from the regulated industry through fees for services and charges.

The *Industrial Chemicals (Fees and Charges) Amendment (2024 Measures No. 1) Rules 2024* (the Rules) make a number of routine amendments to increase the amounts prescribed by the *Industrial Chemicals (Fees and Charges) Rules 2020* (Principal Rules) for the different kinds of fees for applications under the Act.

Human rights implications

As the Rules do not introduce any changes to the Principal Rules other than to implement the changes outlined above, this Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms. While fees are being increased, this is necessary to support the important functions of assessing various applications relating to the importation or manufacture of industrial chemicals, which in turn supports the protection of people's right to health.

Conclusion

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

The Hon Ged Kearney MP

Assistant Minister for Health and Aged Care