

# **Fuel Quality Standards Amendment Regulations 2002 (No. 1) 2002 No. 116**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 2002 No. 116**

Issued by the authority of the Minister for the Environment and Heritage

*Fuel Quality Standards Act 2000*

Fuel Quality Standards Amendment Regulations 2002 (No. 1)

Section 73 of the *Fuel Quality Standards Act 2000* (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 Regulations is to clarify provisions in relation to procedures for applying for an approval to vary a fuel standard.

The Act and the *Fuel Quality Standards Regulations 2001* (the principal Regulations) provide the framework for making and enforcing national fuel quality standards. The first environmental standards for petrol and diesel - the *Fuel Standard (Petrol) Determination* and the *Fuel Standard (Diesel) Determination* - commenced on 1 January 2002.

In accordance with standard Parliamentary practice, the principal Regulations, which were made in two sets, were referred to the Senate Standing Committee on Regulations and Ordinances for scrutiny. On 20 March 2002 the Committee gave notice of a disallowance motion of the first set of regulations made as Statutory Rules No. 236.

Under Section 13 of the Act, the Minister may grant to any person an approval in writing which, in respect of specified fuel that is the subject of a fuel standard, varies the standard in a specified way in respect of specified supplies of the fuel. Such a provision is intended to cater to situations such as where a motor sports organisation applies for an approval to supply non-compliant fuel on behalf of teams participating in an organised motor racing event. Section 14(2) of the Act requires that an approval application be accompanied by an application fee. Paragraph 5(2)(b) of the principal Regulations provides that if the Minister thinks the fee would cause financial hardship, the application fee payable under subsection 14(2) of the Act may be waived or reduced.

The Committee was of the view that criteria for assessing 'financial hardship' should be specified in the Regulations. Currently, criteria for assessing financial hardship are only contained in the Departmental *Procedure Manual for Approvals*.

The Committee was also of the view that the operation of the refund provision in the Regulations be clarified, and that a review mechanism be included.

The Regulations:

- insert criteria against which application fees for an approval varying the fuel standard can be waived or reduced on the grounds of 'financial hardship'; and

- clarify the operation of the application fee refund provision and include a review mechanism.

Details of the Regulations are set out in the Attachment.

The Regulations commenced on gazettal.

The Minute recommends that the Regulations be made in the form proposed.

Authority: Section 73 of the *Fuel Quality Standards Act 2000*

## **Attachment**

*Fuel Quality Standards Amendment Regulations 2002 (No. 1)*

### **Regulations 1 and 2 - Name of Regulations and Commencement**

Regulations 1 and 2 provide the name and commencement date of the regulations. They provide that the *Fuel Quality Standards Amendment Regulations 2002 (No. 1)* commence on gazettal.

### **Regulation 3 - Amendment of *Fuel Quality Standards Regulations 2001***

This regulation provides that Schedule 1 amends the *Fuel Quality Standards Regulations 2001*.

### **Schedule 1 - Amendments**

#### **Item 1 - Paragraph 5 (2) (b), substitution**

This item clarifies that the Minister may make a decision relating to financial hardship and the application fee, subject to regulation 6.

#### **Item 2 - Paragraph 5 (2) (c), omission**

This item omits the current provision in relation to the refund of an application fee if an application is withdrawn by the applicant. This provision is now located in regulation 6A.

#### **Item 3 - After Subregulation 6 (3)**

This item inserts six criteria that the Minister must have regard to for determining financial hardship. The Minister may waive or reduce the application fee if the Minister thinks the application fee for an approval would cause financial hardship to the applicant.

#### **Item 4 - Subregulation 6 (4), omit and insert**

This item omits the words 'The notice' and inserts the words 'The notice given under paragraph (3) (b)'. This is the written notice that the Minister gives to the person who made the request for a waiver or reduction of application fee.

#### **Item 5 - After regulation 6**

This item inserts regulation 6 A after regulation 6. It contains provisions in relation to the refund of an application fee, including a review mechanism for these decisions.