



Fuel Quality Standards Amendment Regulation 2012 (No. 1)¹

Select Legislative Instrument 2012 No. 259

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Fuel Quality Standards Act 2000*.

Dated 22 November 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

DON FARRELL
Parliamentary Secretary for Sustainability and Urban Water

1 Name of regulation

This regulation is the *Fuel Quality Standards Amendment Regulation 2012 (No. 1)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Amendment of *Fuel Quality Standards Regulations 2001*

Schedule 1 amends the *Fuel Quality Standards Regulations 2001*.

Schedule 1 Amendments

(section 3)

[1] Subregulation 3 (1)

insert

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

ACN has the meaning given by section 9 of the *Corporations Act 2001*

[2] Subregulation 3 (1)

insert

engage in conduct means:

- (a) do an act; or
- (b) omit to do an act.

infringement notice penalty means the penalty mentioned in an infringement notice as payable under the notice.

[3] Paragraphs 4 (1) (a) and (b)

substitute

- (a) the applicant's name, contact details and if applicable the ABN and ACN;
- (b) if the applicant is an agent for another person, the other person's name, contact details and if applicable the ABN and ACN;

[4] Paragraph 4 (1) (g)

omit

(if possible) where,

insert

where (if possible),

[5] Paragraph 4 (1) (i)

omit

relevant in

insert

necessary for

[6] Subregulation 4 (3)

substitute

- (3) The Minister or an SES employee of the Department may, by written notice, require the applicant to provide, within a reasonable time, specified further information that the Minister or SES employee reasonably considers is necessary for making a decision on the application.

[7] Regulation 5

substitute

5 Application fee

For subsection 14 (2) of the Act, the fee for an application for an approval is the amount mentioned in the following table for the quantity of fuel to which the application relates.

Item	Quantity of fuel (megalitres)	Fee (\$)
1	≤ 1	2 575
2	> 1, ≤ 25	25 000
3	> 25, ≤ 100	70 000
4	> 100	130 000

[8] Regulation 6, heading*substitute***6 Exemption from paying application fee****[9] Subregulations 6 (1), (2) and (3)***substitute*

- (1) An applicant who is not an agency of the Commonwealth or a State or Territory may ask the Minister to exempt the applicant from the payment of the whole or part of the application fee mentioned in regulation 5.
- (2) A request must set out the reasons for making the request.
- (3) Within 14 days after the Minister receives the request, the Minister must:
 - (a) decide whether to exempt the applicant from the payment of the whole or part of the application fee; and
 - (b) give to the person who made the request written notice of the decision and reasons for the decision.

[10] Subregulation 6 (3A)*omit*

waive or reduce the fee,

insert

exempt the applicant from the payment of the whole or part of the application fee,

[11] After subregulation 6 (3A)

insert

- (3B) If the request is made for a reason other than that payment of the application fee would cause financial hardship to the applicant, the Minister must, in deciding whether to exempt the applicant from the whole or part of the application fee, have regard to the following:
- (a) whether granting the approval would give the applicant a commercial advantage;
 - (b) whether the approval is required to address potential issues with the operation of an engine arising from climatic conditions;
 - (c) whether the applicant is a not-for-profit organisation;
 - (d) whether the fee would impose an unreasonable cost on industry;
 - (e) any other relevant matters.

[12] Subregulation 6 (6)

omit

waive or reduce the application fee.

insert

exempt the applicant from the payment of the whole or part of the application fee.

[13] Subregulation 7A (1)

substitute

- (1) For sections 19 and 19A of the Act, the prescribed period begins when the fuel is supplied and ends 72 hours after the fuel is supplied.

[14] Subregulation 7A (3)

omit

paragraph 19 (e)

insert

paragraphs 19 (1) (e) and 19A (2) (b)

[15] Paragraphs 7A (4) (a) and (b)*substitute*

- (a) the supplier's name, contact details and if applicable the ABN and ACN; and
- (b) if the supplier is an agent for another person, the other person's name, contact details and if applicable the ABN and ACN; and

[16] After Division 5.2*insert***Division 5.3 Infringement notices****23A Other matters to be included in infringement notices**

For paragraph 65M (1) (p) of the Act, an infringement notice must state that, within 28 days after the notice is given, the person to whom the notice is given may apply to the Secretary to make an arrangement for payment of the infringement notice penalty by instalments.

23B Ways of giving infringement notices

An infringement notice may be given to a person:

- (a) personally or by post; or
- (b) by leaving the notice:
 - (i) at the last-known place of residence or business of the person who is alleged to have engaged in the conduct to which the infringement notice relates; and
 - (ii) with a person, apparently over the age of 16 years, who appears to live or work at the place.

23C Payment by instalments

- (1) Within 28 days after an infringement notice is given to a person, the person may apply to the Secretary to make an arrangement for payment of the infringement notice penalty by instalments.
- (2) The Secretary must:
 - (a) decide whether to make, or refuse to make, the arrangement; and
 - (b) give the person written notice of the decision; and
 - (c) if the decision is a refusal—set out in the notice the reasons for refusal.
- (3) The person must pay the infringement notice penalty:
 - (a) if an arrangement is made—in accordance with the arrangement; or
 - (b) if the decision is a refusal—before the end of the latest of:
 - (i) 28 days after the infringement notice is given; and
 - (ii) if the period in which to pay the penalty has been extended under section 65N of the Act—the extended period; and
 - (iii) 7 days after receiving notice of the refusal.

23D Admissions in representations for withdrawal of infringement notice

Evidence of an admission made by a person in a representation under section 65P of the Act seeking withdrawal of an infringement notice is inadmissible in criminal or civil proceedings in relation to conduct of the person to which the infringement notice relates.

23E Evidence for proceedings

- (1) In criminal or civil proceedings in relation to conduct to which an infringement notice relates, the following certificates are evidence of the facts stated in the certificate:
 - (a) a certificate signed by an inspector and stating that:
 - (i) the infringement notice was given to a person; and
 - (ii) the infringement notice penalty has not been paid in accordance with this Division;

- (b) a certificate signed by an inspector and stating that the notice was withdrawn on a day specified in the certificate;
 - (c) a certificate signed by the Secretary and stating that:
 - (i) the period for payment of the infringement notice penalty was not extended under section 65N of the Act; and
 - (ii) the infringement notice penalty has not been paid in accordance with this Division;
 - (d) a certificate signed by the Secretary and stating that:
 - (i) the period for payment of the infringement notice penalty was extended under section 65N of the Act; and
 - (ii) the infringement notice penalty was not paid in accordance with the notice or within the extended period.
- (2) A certificate that purports to have been signed by an inspector or the Secretary is taken to have been signed by that officer unless the contrary is proved.

23F Matters not to be taken into account in determining penalty

- (1) This regulation applies if a person served with an infringement notice:
 - (a) elects not to pay the infringement notice penalty; and
 - (b) is found by a court to have committed the offence or contravened the civil penalty provision mentioned in the infringement notice.
- (2) In determining the penalty to be imposed, the court must not take into account the fact that the person chose not to pay the infringement notice penalty.

23G Payment of penalty by cheque

If a cheque is given to the Commonwealth in payment of all or part of the amount of an infringement notice penalty, the payment is taken not to have been made unless the cheque is honoured on presentation.

- [17] Subregulation 24 (1)**
omit
 subsection 66 (1)
insert
 subsections 66 (1) and 66A (2)

- [18] Paragraph 27 (2) (a)**
omit
 section 19
insert
 section 19 or 19A

- [19] Paragraph 28 (1) (a)**
omit
 section 19
insert
 section 19 or 19A

- [20] After Part 6**
insert

Part 7 Other matters

- 30 Disclosure of information obtained under the Act**
 For subparagraph 67A (b) (iii) of the Act, the *Australian Crime Commission Act 2002* is prescribed.

[21] Further amendments

<i>Provision</i>	<i>omit each mention of</i>
Regulation 8	and expert advisers
Regulation 9	or an expert adviser

Regulation 10	or an expert adviser
Regulation 10	or expert adviser
Regulation 11	or an expert adviser
Regulation 12	or expert adviser

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.