

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument No. , 2016**

Issued by authority of the Minister for the Environment

Subject - *Fuel Quality Standards Act 2000*

*Fuel Quality Standards Amendment (Fees) Regulation 2016*

The *Fuel Quality Standards Act 2000* (the Act) regulates the quality of fuel supplied in Australia, with a view to reducing the level of pollutants and emissions arising from the use of fuel that may cause environmental and health problems, facilitating the adoption of better engine and emission control technology and allowing the more effective operation of engines.

Section 73 of 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.

Section 13 of the Act provides that the Minister may grant to any person an approval to vary a fuel standard or a fuel quality information standard. Subsection 14(1) of the Act provides that an application to vary a fuel standard or a fuel quality information standard must be made in accordance with the *Fuel Quality Standards Regulations 2001* (the Principal Regulations). Subsection 14(2) of the Act states that the application must be accompanied by the application fee (if any) prescribed by the Regulations.

Regulation 5 of the Principal Regulations provides that for the purposes of subsection 14(2) of the Act, the fee for an application for approval is specified in the table (in that regulation) 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

The existing fee structure in regulation 5 of the Principal Regulations does not comply with the Australian Government Charging Framework (Framework) and the Australian Government Cost Recovery Guidelines (Guidelines), which state that the revenue for the activity must be aligned with expenses incurred in providing the activity to individuals or organisations.

The purpose of the Regulation is to ensure compliance with the Framework and Guidelines by amending regulation 5 of the Principal Regulations to replace the tiered fee structure with a flat fee of \$5,944 per application, reflecting departmental costs to process an application. Details of the Regulation are set out in the [Attachment](#).

The Office of Best Practice Regulation (OBPR) was consulted in relation to the making of the Regulation. The OBPR advised that a Regulation Impact Statement was not required as the changes do not have more than a minor regulatory impact on business, community organisations or individuals and are machinery of government in nature.

As the impact of the changes was assessed as minor and machinery, because of the number of persons affected, consultation with industry or stakeholders was not undertaken before the amendment was made. The relevant stakeholders will be informed now that the regulation has been made.

The Regulation is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulation commences on 1 July 2016.

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

## **Statement of Compatibility with Human Rights**

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

### **Fuel Quality Standards Amendment (Fees) Regulation 2016**

#### **Overview of the Legislative Instrument**

The Fuel Quality Standards Amendment (Fees) Regulation 2016 (the Regulation) amends the Fuel Quality Standards Regulations 2001 to replace the tiered fee structure for an application to vary a fuel standard or a fuel quality information standard with a flat fee, reflecting departmental costs to process an application.

#### **Human rights implications**

The Regulation has been assessment against the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The Regulations does not engage any of the applicable rights or freedoms.

#### **Conclusion**

The Regulation is compatible with Australia's human rights obligations.

**The Hon Greg Hunt MP**

**Minister for the Environment**

**Details of the *Fuel Quality Standards Amendment (Fees) Regulation 2016***

**Section 1 – Name of Regulation**

This section provides that the title of the Regulation is the *Fuel Quality Standards (Fees) Regulation 2016* (the Regulation).

**Section 2 – Commencement**

This section provides that the Regulation commences on 1 July 2016.

**Section 3 – Authority**

This section provides that the Regulation is made under the *Fuel Quality Standards Act 2000* (the Act).

**Section 4 – Schedule(s)**

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

**Schedule 1 – Amendments**

**Item 1**

Item 1 of the Regulation repeals regulation 5 and substitutes a new regulation 5. The new regulation 5 provides that, for the purpose of subsection 14(2) of the Act, the fee for an application for approval is \$5,944 per application.

The amendment ensures consistency with the Australian Government Charging Framework and the Australian Government Cost Recovery Guidelines, which state that revenue for an activity must be aligned with the expenses incurred in providing the activity.

**Item 2**

Item 2 of the Regulations inserts a new Part 8 into the Principal Regulations which deals with application, saving and transitional provisions. Regulation 31 in Part 8 provides that the amendments made by the Regulations apply to applications for approval made on or after 1 July 2016.