

EXPLANATORY STATEMENT

Narcotic Drugs Act 1967

Narcotic Drugs Amendment (Fees) Regulations 2021

The instrument increases fees for licences, fees and related inspections for medicinal cannabis related activities to support the recovery of the costs of administering the medicinal cannabis scheme.

The *Narcotic Drugs Act 1967* (the Act) gives effect to certain of Australia's obligations under the Single Convention on Narcotic Drugs 1961 (the Convention), as in force from time to time. The objective of the Convention is to establish a framework to both prevent abuse and diversion of controlled narcotics and to ensure the availability of such drugs for medicinal and scientific purposes.

Section 27 of the Act provides for the Governor-General to 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.

Amongst other matters, the regulations may prescribe fees in respect of matters under the Act or the regulations made under the Act.

The purpose of the *Narcotic Drugs Amendment (Fees) Regulations 2021* (the Regulations) is to amend the *Narcotic Drugs Regulation 2016* (the Principal Regulation) to increase the fees set out in the Principal Regulation for the financial year 2021-22. The Regulations complement the *Narcotic Drugs (Licence Charges) Amendment (Charge Amounts and Other Measures) Regulations 2021* which increase charges for licences for medicinal cannabis related activities for the 2021-2022 financial year.

The increase applies, for example, to: application fees for a medicinal cannabis licence, a cannabis research licence or a cannabis-related manufacture licence or their variation; application fees for permits or their variation; and for inspection fees.

These fees reflect recovery of the costs of administering the Act, consistent with the Australian Government Cost Recovery Guidelines.

The increase is based on an indexation formula used to calculate adjustments to fees and charges based on the relevant work effort, and average salary rates for the Department of Health. The inspection fee is increased by 0.5%. The application fees is increased by an average of approximately 0.9%. The small differences between the increases for the individual fees is a result of more specific assessments of the work effort and the difference in levels at which different tasks are undertaken.

In applying this increase, the rounding policy is for all amounts, to round to the nearest \$10.

In relation to consultation, the ODC undertook extensive stakeholder consultation during the review of the ODC's fees and charges, which led to the introduction of a new activities based

costing model for ODC in 2020, and this included indicating to industry the new framework would include annual indexation of fees and charges. Further consultation with industry continues as part of ongoing industry stakeholder events relating to the ODC's reforms process.

Details of the Regulations are set out in the Attachment.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 1 July 2021.

Authority: Section 27 of the *Narcotic Drugs Act 1967*

Details of the *Narcotic Drugs Amendment (Fees) Regulations 2021*

Section 1 – Name

This section provides for the Regulations to be referred to as the *Narcotic Drugs Amendment (Fees) Regulations 2021*.

Section 2 – Commencement

This section provides for the commencement of the Regulations on 1 July 2021.

Section 3 – Authority

This section provides that the Regulations are made under the *Narcotic Drugs Act 1967*.

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 the Regulations has effect according to its terms.

Schedule 1 – Amendments

Part 1 – Fees

Narcotic Drugs Regulation 2016

Item 1 – Subsection 54(1) – Inspection fees

This item amends the fee for an inspection to increase it from \$3,650 to \$3,670.

Item 2 – New section 61 - Application

This item inserts a new section 61, which provides for the amendments of the amounts by Item 1 and Item 3 to apply only to inspections or applications made on or after 1 July 2021.

Item 3 – Amendments of listed provisions

This item sets out a table of amendments to listed provisions of Schedule 1 of the *Narcotic Drugs Regulation 2016*. The effect of these amendments is to increase the application fees for licences and permits, and for variations, in line with the indexation method and rounding policy.

Statement of Compatibility with Human Rights

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

Narcotic Drugs Amendment (Fees) Regulations 2021

The *Narcotic Drugs Amendment (Fees) Regulations 2021* (the Regulations) are 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 Regulations

The Regulations are made under section 27 of the *Narcotic Drugs Act 1967*.

The purpose of the Regulations is to amend the Narcotic Drugs Regulation 2016 (the Main Regulation) to increase the fees set out in those regulations, for the financial year 2021-22.

The increase applies, for example, to: application fees for a medicinal cannabis licence, a cannabis research licence or a cannabis-related manufacture licence or their variation; application fees for permits or their variation; and for inspection fees.

These fees are designed to reflect recovery of the costs of administering the Act, consistent with the Australian Government Cost Recovery Guidelines.

The increase is based on an indexation formula used to calculate adjustments to fees and charges based on the relevant work effort, and average salary rates for the Department of Health. The inspection fee is increased by 0.5%. The application fees is increased by an average of approximately 0.9%. The small differences between the increases for the individual fees is a result of more specific assessments of the work effort and the difference in levels at which different tasks are undertaken.

In applying this increase, the rounding policy was for all amounts, to round to the nearest \$10.

Human rights implications

As the Regulations do not introduce any changes to the Main Regulation other than to implement the changes outlined above, they do not engage any of the applicable rights or freedoms.

Conclusion

The Regulations are compatible with human rights as they do not raise any human rights issues.

Greg Hunt
Minister for Health and Aged Care