

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and Community Housing

Petroleum Excise (Prices) Act 1987

Petroleum Excise (Prices) Amendment (Tidepole Production Area) Regulations 2022

The *Petroleum Excise (Prices) Act 1987* (the Petroleum Excise Act) establishes prices in relation to excise duty that is to be imposed on certain crude petroleum oil and condensate. Section 14 of the Petroleum Excise Act provides that the Governor-General may make regulations prescribing matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

The *Petroleum Excise (Prices) Regulations 2018* (the Petroleum Regulations) sets out the mechanics and the prescribed information used to calculate the Volume Weighted Average Realised (VOLWARE) prices for stabilised crude petroleum oil and condensate.

The purpose of the *Petroleum Excise (Prices) Amendment (Tidepole Production Area) Regulations 2022* (the Regulations) is to specify the VOLWARE commencement date for excisable condensate that is obtained from the Tidepole field. Tidepole is an offshore field situated off the coast of Western Australia in the Carnarvon Basin.

The *Excise Tariff Act 1921* (the Excise Tariff Act) outlines excise duty on a variety of goods. Section 6CA of the Excise Tariff Act specifies the requirements and excise duty calculations for a prescribed condensate production area.

Section 6AB of the Excise Tariff Act specifies that the price used to determine excise duties payable on stabilised crude petroleum oil and condensate is the final VOLWARE price or, if not yet determined, the interim VOLWARE price in respect of production obtained from production areas that are prescribed production areas under by-laws.

The Commissioner of Taxation must make by-laws that prescribe exempt offshore fields, production areas and any conditions where the production of condensate is free of excise. For the purposes of subsection 3(1) of the Excise Tariff Act, the Commissioner of Taxation has prescribed Tidepole as an exempt offshore field through *Excise By-law No. 114*.

In addition, Tidepole is a prescribed condensate production area in the *Excise (Prescribed Condensate Production Area) By-Law 2022*. These two by-laws enable production of condensate of up to 4,767.3 megalitres from Tidepole to be exempt from excise duty and is consistent with the Resources Minister's decision in July 2020 that expressed satisfaction that Tidepole is an independent production area. The by-laws do not specify a specific VOLWARE commencement date which is necessary to calculate the excise duty.

The table at subsection 7(6) of the Petroleum Regulations sets out the VOLWARE commencement dates for production areas of oil producing regions.

To ensure that excise is payable on productions of condensate that exceed the excise-free threshold of 4,767.3 megalitres, a VOLWARE commencement date must be specified in the Petroleum Regulations.

Subsection 7(6) of the Petroleum Regulations is amended to add Tidepole as a production area in the oil producing region of the North West Shelf project area. The VOLWARE commencement date for excisable condensate obtained from Tidepole is the date from which Tidepole exceeds the excise free threshold of 4,767.3 megalitres.

To avoid doubt, item 2 includes a note that specifies production levels that surpass 4,767.3 megalitres are subject to excise duty. The amendments support the by-laws and ensures complete application of the excise duty on condensate produced from Tidepole.

The Regulations prescribe that excisable condensate from Tidepole commences on the date that production exceeds the excise-free threshold. These amendments support the implementation of enforcing duties of excise on condensate obtained from Tidepole.

Public consultation was not undertaken on the Regulations as the amendments only impact one production license holder. The production license holder is aware of these amendments from the Resources Minister's decision in July 2020 and was consulted on the Regulations. The Australian Taxation Office and the Department of Industry, Science, Energy and Resources have been consulted throughout the development of this measure.

The Office of Best Practice Regulation has been consulted and advised the amendments are estimated to have a minor impact on compliance costs. Therefore, the preparation of a Regulation Impact Statement is not required (OBPR ID OBPR22-01879).

The Petroleum Excise Act does not specify any conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. As an amending instrument, the Regulations are subject to the automatic repeal provisions of section 48A of the *Legislation Act 2003*.

The Regulations commence on 1 July 2022.

A statement of Compatibility with Human Rights is in the [Attachment](#).

Statement of Compatibility with Human Rights

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

Petroleum Excise (Prices) Amendment (Tidepole Production Area) Regulations 2022

This 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 Legislative Instrument

The purpose of the *Petroleum Excise (Prices) Amendment (Tidepole Production Area) Regulations 2022* (the Regulations) is to specify the Volume Weighted Average Realised (VOLWARE) commencement date for excisable condensate that is obtained from the Tidepole field. Tidepole is an offshore field situated off the coast of Western Australia in the Carnarvon Basin.

To ensure that excise is payable on productions of condensate that exceed the excise free threshold of 4,767.3 megalitres, a VOLWARE commencement date must be specified in the *Petroleum Excise (Prices) Regulations 2018*. The Regulations prescribe that excisable condensate from Tidepole commences on the date that production exceeds the excise-free threshold. These amendments support the implementation of enforcing duties of excise on condensate obtained from Tidepole.

Human rights implications

This Legislative Instrument does not apply to individuals and only relates to corporations and therefore does not engage any of the applicable rights or freedoms.

Conclusion

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