

EXPLANATORY STATEMENT

Narcotic Drugs (Licence Charges) Act 2016

Narcotic Drugs (Licence Charges) Amendment Regulations 2024

The *Narcotic Drugs (Licence Charges) Amendment Regulations 2024* (the Regulations) increase the charges prescribed by the *Narcotic Drugs (Licence Charges) Regulation 2016* (the Charges Regulation), in accordance with annual indexation to support recovery of the costs of administering the medicinal cannabis regulatory scheme under the *Narcotic Drugs Act 1967* (the ND Act).

The *Narcotic Drugs (Licence Charges) Act 2016* (the Act) imposes charges on medicinal cannabis licences that are granted under the ND Act, and which are in force at a specified time. Charges are payable by the holder of the licence.

The ND Act gives effect to certain of Australia's obligations under the *Single Convention on Narcotic Drugs, 1961*, as in force from time to time. Among other things, the ND Act establishes a licensing and permit scheme for the cultivation and production of cannabis plants, cannabis and cannabis resin, and the manufacture of cannabis drugs, for medicinal and scientific purposes (the Scheme). The Office of Drug Control (the ODC), which is part of the Department of Health and Aged Care, is responsible for administering the Scheme and the ND Act generally.

Section 9 of the Act provides that the Governor-General may make regulations prescribing matters that are 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 8 provides that the amount of a charge is the amount prescribed by, or worked out in accordance with a method prescribed by, the regulations.

The Regulations amend the Charges Regulation to increase the prescribed charges by applying annual indexation for the 2024-25 financial year.

Under the Regulations, annual licence charges increase by 1.1%. The increase to charges has been determined using an indexation formula based on the relevant work effort to administer the medicinal cannabis regulatory scheme and average salary rates for the Department of Health and Aged Care, as provided by the Department of Finance.

Specifically, the Regulations increase the charges that are currently prescribed in the Charges Regulation in relation to:

- licence charges for:
 - a commercial medicinal cannabis licence; and
 - a non-commercial medicinal cannabis licence;
- routine compliance inspections; and
- verification inspections.

The Regulations complement the *Narcotic Drugs Amendment (Fees) Regulations 2024*, which update the fees payable in respect of applications for medicinal cannabis licences or medicinal cannabis permits, and related inspections, as well as applications for variations of a medicinal cannabis licence or medicinal cannabis permit, and related inspections.

Details of the Regulations are set out in [Attachment A](#).

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 Instrument is compatible with human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny Act 2011)*. A full statement of compatibility is set out in Attachment B.

The Regulations commence on 1 July 2024.

Consultation

The ODC undertook extensive stakeholder consultation during the review of the ODC fees and charges in 2022-23, which led to the introduction of a new activities-based costing model in August 2023. Through this consultation, stakeholders were informed that the new framework would include annual indexation of fees and charges.

In February and March 2024, the ODC conducted targeted consultation to inform the medicinal cannabis industry of the proposed increase in fees and charges due to indexation, and to seek feedback. This consultation was undertaken through direct communication channels, including directly to medicinal cannabis licence holders and relevant peak industry bodies, as well as via an update at an industry specific forum. No feedback was provided from the industry in relation to the proposed indexation of fees and charges.

Authority: Section 9 of the *Narcotic Drugs (Licence Charges) Act 2016*

Details of the *Narcotic Drugs (Licence Charges) Amendment Regulations 2024*

Section 1 – Name

This section provides that the title of the Regulations is the *Narcotic Drugs (Licence Charges) Amendment Regulations 2024*.

Section 2 – Commencement

This section provides for the commencement of the Regulations on 1 July 2024.

Section 3 – Authority

This section provides that the Regulations are made under the *Narcotic Drugs (Licence Charges) Act 2016* (the Act).

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 this instrument has effect according to its terms.

Schedule 1 – Amendments

Narcotic Drugs (Licence Charges) Regulation 2016

The *Narcotic Drugs (Licence Charges) Regulation 2016* (the Charges Regulation) is made under section 9 of the Act. It prescribes the amounts of charge imposed on a medicinal cannabis licence in a ‘*licence year*’, as that term is defined in the Charges Regulation.

The Charges Regulation complements the *Narcotic Drugs Regulation 2016* (the Principal Regulation), which prescribes fees in respect of the ODC’s administration of the medicinal cannabis regulatory scheme under the *Narcotic Drugs Act 1967* (the ND Act).

The Regulations amend the Charges Regulation to increase the charges that are currently prescribed in relation to licence charges for commercial and non-commercial medicinal cannabis licences; and in relation to routine compliance inspections and verification inspections, in accordance with annual indexation. Under the Regulations, annual licence charges increase by 1.1%.

Specifically, the Regulations increase the charges that are currently prescribed in the Charges Regulation in relation to:

- licence charges for:
 - a commercial medicinal cannabis licence; and
 - a non-commercial medicinal cannabis permit;
- routine compliance inspections; and
- verification inspections.

Item [1] – Subsection 6(2)

This item amends subsection 6(2) of the Charges Regulation to increase the charge payable for a commercial medicinal cannabis licence from \$27,520 to \$27,830.

Item [2] – Subsection 6(3)

This item amends subsection 6(3) of the Charges Regulation to increase the charge payable for a non-commercial medicinal cannabis licence from \$27,520 to \$27,830.

Item [3] – Subsection 6A(2)

This item amends subsection 6A(2) of the Charges Regulation to increase the charge payable for an ‘*inspection type 1*’ from \$12,600 to \$12,810.

Item [4] – Subsection 6A(3)

This item amends subsection 6A(3) of the Charges Regulation to increase the charge payable for an ‘*inspection type 2*’ from \$4,760 to \$4,840.

Item [5] – In the appropriate position in Part 3

This item introduces new section 12 to the Charges Regulation, which provides for the application of the amendments in these Regulations. New section 12 provides that:

- the amendments to section 6, made by the Regulations, apply to licence years that start on or after 1 July 2024; and
- the amendments to section 6A by the Regulations apply to inspections commenced on or after 1 July 2024.

Statement of Compatibility with Human Rights

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

Narcotic Drugs (Licence Charges) Amendment Regulations 2024

The *Narcotic Drugs (Licence Charges) Amendment Regulations 2024* (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 Legislative Instrument

Section 9 of the *Narcotic Drugs (Licence Charges) Act 2016* (the Act) provides that the Governor-General may make regulations prescribing matters that are 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 8 provides that the amount of a charge is the amount prescribed by, or worked out in accordance with a method prescribed by, the regulations.

The Regulations amend the *Narcotic Drugs (Licence Charges) Regulation 2016* (the Charges Regulation) to increase the prescribed charges by applying annual indexation for the 2024-25 financial year.

Under the Regulations, annual licence charges increase by 1.1%. The increase to charges has been determined using an indexation formula based on the relevant work effort to administer the medicinal cannabis regulatory scheme and average salary rates for the Department of Health and Aged Care, as provided by the Department of Finance.

Specifically, the Regulations increase the charges that are currently prescribed in the Charges Regulation in relation to:

- licence charges for:
 - a commercial medicinal cannabis licence; and
 - a non-commercial medicinal cannabis licence;
- routine compliance inspections; and
- verification inspections.

The Regulations complement the *Narcotic Drugs Amendment (Fees) Regulations 2024*, which update the fees payable in respect of applications for medicinal cannabis licences or medicinal cannabis permits, and related inspections, as well as applications for variations of a medicinal cannabis licence or medicinal cannabis permit, and related inspections.

Human rights implications

As the Regulations do not introduce any changes to the Charges 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.

Ged Kearney, Assistant Minister for Health and Aged Care