

EXPLANATORY STATEMENT

Issued under the authority of the Assistant Minister for Health and Aged Care

Industrial Chemicals Charges (Customs) Act 2019

Industrial Chemicals Charges (Customs) Amendment Regulations 2024

Purpose and Operation

The *Industrial Chemicals Charges (Customs) Amendment Regulations 2024* (the proposed Regulations) adjusts the introduction value thresholds (i.e., the upper and lower introduction value) used to determine an introducer's registration level and updates the registration charge dollar amounts for each registration level as set out in the 2024-25 Cost Recovery Implementation Statement (CRIS) for the Australian Industrial Chemicals Introduction Scheme (AICIS) from 1 September 2024.

Background

The *Industrial Chemicals Act 2019* (the Act) establishes the Australian Industrial Chemicals Introduction Scheme (AICIS), the national regulatory framework for the introduction (importation or manufacture) of industrial chemicals. The Australian Government's policy is that the full costs of AICIS activities are recovered from the regulated industry through fees for services and charges.

Authority

Subsection 13(1) of the Act provides that a person who introduces (imports or manufactures) an industrial chemical must be registered with AICIS.

Section 20 of the Act provides that a person who is registered under the Act is liable to pay a registration charge. Subsection 21(a) of the Act provides that the amount of registration charge payable by a person in relation to a registration year is the amount prescribed by regulations made under the *Industrial Chemicals Charges (Customs) Act 2019* (the IC Charges (Customs) Act), so far as the charge is a duty of customs.

Section 9 of the IC Charges (Customs) Act provides that the Governor-General may make regulations prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

The *Industrial Chemicals Charges (Customs) Regulations 2020* (the principal Regulations) prescribes the amount of registration charge payable by a person in relation to registration under the Act, so far as the charge is a duty of customs, for the purposes of section 7 of the IC

Charges (Customs) Act. The principal Regulations set out an eight-level charging structure for the registration charge that is based on the dollar value of relevant industrial chemicals imported or manufactured, known as being ‘introduced’, by the person in the previous financial year.

The full registration cost consists of a flat fee that all industrial chemical importers and manufacturers, known as ‘introducers’, pay plus a charge that varies according to the value of industrial chemicals introduced (imported or manufactured) in the previous financial year. There are 8 registration levels. Level 1 registrants pay the fee but don't pay a charge.

Consultation

AICIS issued a public consultation paper on 2 April 2024 to seek stakeholder feedback on the proposed fees and charges for 2024-25. It detailed the proposed increase to fees for services by applying an indexation of 3.1%; and revised introduction value thresholds used to determine an introducer’s registration level resulting in either no increase or a reduction in levy charges for introducers with an introduction value less than \$15 million, forecasted to benefit to 96% of registrants. A total of four submissions were received from industry stakeholders including industry associations with all supporting the proposed increase of fees for services by an indexation of 3.1%. Three submissions supported the proposed changes to the introduction value thresholds. However, one submission only supported proposed reductions but did not support the increase for those with an introduction value of \$15 million or greater.

AICIS recognises that the eight-tiered registration model, applied to determine the annual registration charge, is broadly informed by the effort required to undertake relevant leviable activities (e.g., compliance and enforcement, maintenance of the inventory, post-market evaluation and monitoring of chemicals, and regulatory support activities). Almost half of the 495 introducers previously register at level 8 (those with an introduction value from \$5 million to below \$15 million) will benefit from a charge reduction of approximately 24.5% (\$32,405 to \$24,500) a saving of \$7,905.

Commencement

The proposed Regulations commence the day after the instrument is registered and applies in relation to the registration of a person for a registration year beginning on 1 September 2024 and later registration years.

Customs

The Act does not specify any conditions that need to be satisfied before the power to make the proposed Regulations may be exercised.

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

Details of this instrument are set out in **Attachment A**.

This instrument is compatible with the 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**.

ATTACHMENT A

Details of the *Industrial Chemicals Charges (Customs) Amendment Regulations 2024*

Section 1 – Name of Regulations

This section provides that the title of the Regulations is the *Industrial Chemicals Charges (Customs) Amendment Regulations 2024* (the proposed Regulations).

Section 2 – Commencement

The proposed regulations commence the day after the instrument is registered and applies in relation to the registration of a person for a registration year beginning on 1 September 2024 and later registration years.

Section 3 – Authority

This section provides that the proposed Regulations is made under the *Industrial Chemicals Charges (Customs) Act 2019*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to the proposed Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the proposed Regulations has effect according to its terms.

Schedule 1 – Amendments

Item 1 – subsection 5(2)

This item amends the introduction value thresholds and the registration charge amounts set out in subsection 5(2) of the *Industrial Chemical Charges (Customs) Regulations 2020*.

Subsection 5(2) of the *Industrial Chemicals Charges (Customs) Regulations 2020* sets out the amount of registration charge that persons must pay to introduce industrial chemicals into Australia. The registration level and charge payable is determined for each registrant based on the annual introduction value using prior financial year introductions. The proposed Regulations changes the introduction value thresholds used to determine an introducer's registration level and adjusts the associated charges payable for each level effective from 1 September 2024. The following table summarises the proposed revised thresholds and the comparison of current and proposed levies.

Table 1 – Current and proposed new introduction value thresholds and charges for 2024-25 registration year.

Current (2023-24) registration level (based on prior year introduction value)	Current (2023-24) Charge per registration (\$)	Proposed (2024-25) registration level (based on prior year introduction value)	Proposed (2024-25) charge per registration (\$)
Registration – level 1 (\$0 - \$49,999)	NIL	Registration – level 1 (\$0 - \$49,999)	NIL
Registration – level 2 (\$50,000 - \$74,999)	65	Registration – level 2 (\$50,000 - \$99,999)	65
Registration – level 3 (\$75,000 - \$99,999)	80	Registration – level 3 (\$100,000 - \$249,999)	180
Registration – level 4 (\$100,000 - \$249,999)	205	Registration – level 4 (\$250,000 - \$499,999)	350
Registration – level 5 (\$250,000 - \$499,999)	400	Registration – level 5 (\$500,000 - \$2,999,999)	2,100
Registration – level 6 (\$500,000 - \$2,999,999)	2,430	Registration – level 6 (\$3,000,000 - \$4,999,999)	3,750
Registration – level 7 (\$3,000,000 - \$4,999,999)	4,065	Registration – level 7 (\$5,000,000 - \$14,999,999)	24,500
Registration – level 8 (\$5,000,000+)	32,405	Registration – level 8 (\$15,000,000+)	35,000

Statement of Compatibility with Human Rights

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

Industrial Chemicals Charges (Customs) Amendment Regulations 2024

The *Industrial Chemicals Charges (Customs) Amendment Regulations 2024* (the Amendment Regulations) 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 Regulations

The *Industrial Chemicals Act 2019* (the Act) establishes the Australian Industrial Chemicals Introduction Scheme (AICIS), the national regulatory framework for the introduction (importation or manufacture) of industrial chemicals.

It is government policy that the full costs of AICIS activities are recovered from the regulated industry through fees for services and charges.

Paragraph 21(a) of the Act provides that the amount of registration charge payable by a person in relation to a registration year is the amount prescribed by regulations made under the *Industrial Chemicals Charges (Customs) Act 2019* (the IC Charges (Customs) Act), so far as the charge is a duty of customs.

The *Industrial Chemicals Charges (Customs) Regulations 2020* (the principal Regulations) prescribes the amount of registration charge payable by a person in relation to registration under the Act, so far as the charge is a duty of customs, for the purposes of section 7 of the IC Charges (Customs) Act. The principal Regulations set out an eight-level charging structure where the amount of registration charge payable is based on the value of relevant industrial chemicals introduced by the person in the previous financial year.

The purpose of the Amendment Regulations is to amend the principal Regulations by adjusting the introduction value thresholds used to determine an introducer's registration level and reducing the associated levy charges payable for each level (except level 1 which has a nil registration charge). The Regulations maintain the existing eight-level charging structure where the amount of registration charge payable is based on the value of relevant industrial chemicals introduced by the person in the previous financial year.

Human rights implications

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

Conclusion

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

The Hon Ged Kearney MP

Assistant Minister for Health and Aged Care