

LI 2022/11 - Explanatory statement -



Explanatory Statement

Excise By-Law No. 114 (Amendment) (No. 1) 2022

General Outline of Instrument

1. This instrument is made under section 165 of the *Excise Act 1901*.
2. *Excise By-Law No. 114* (the By-Law) prescribes exempt offshore fields for the purposes of paragraph (a) of the definition of 'exempt offshore field' in subsection 3(1) of the *Excise Tariff Act 1921* (Excise Tariff Act).
3. This instrument amends the By-Law to add the Tidepole reservoir as a prescribed exempt offshore field.
4. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
5. Under subsection 33(3) of the *Acts Interpretation Act 1901*, 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.

Date of effect

6. This instrument commences on the day after it is registered on the Federal Register of Legislation.

Under section 12(2) of the *Legislation Act 2003* this instrument does not adversely affect the rights or liabilities of any person other than the Commonwealth.

What is the effect of this instrument

7. This instrument amends the By-Law to prescribe the Tidepole reservoir in the Carnarvon Basin as an exempt offshore field for the purposes of paragraph (a) of the definition of 'exempt offshore field' in subsection 3(1) of the Excise Tariff Act 1921. This will not impact any exempt offshore fields that were already prescribed prior to the commencement of this instrument.
8. Compliance Cost Impact: Minor – There will be no additional regulatory impacts for both implementation and ongoing compliance costs from this Instrument. The legislative instrument is minor or machinery in nature.

Background

9. The Minister for Resources and Water recently determined that Tidepole reservoir is separate from an existing production area (the Rankin Trend). This instrument will ensure that an exemption from excise is provided on the first 4767.3 megalitres of production from the Tidepole reservoir.

Consultation

10. Subsection 17(1) of the *Legislation Act 2003* requires, before the making of a determination, that the Commissioner is satisfied that appropriate and reasonably practicable consultation has been undertaken.

11. Targeted consultation was undertaken for a period of 2 weeks. Copies of the draft legislative instrument and explanatory statement were sent to the operator of the Tidepole reservoir for comment and feedback.

12. No comments were received.

Legislative references

Acts Interpretation Act 1901

Excise Act 1901

Excise Tariff Act 1921

Legislation Act 2003

Legislation (Exemptions and Other Matters) Regulation 2015.

Statement of compatibility with Human Rights

Table item 16 of section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015* states that a by-law is not subject to disallowance where it is made under section 165 of the *Excise Act 1901* for the purposes of the Excise Tariff within the meaning of section 4 of that Act. This by-law falls within that item and is therefore not subject to disallowance. Paragraph 15J(2)(f) of the *Legislation Act 2003* exempts this instrument from the requirement to contain a statement of compatibility with human rights.