

DRAFT EXPLANATORY MATERIALS

Subject: *Petroleum Excise (Prices) Act 1987*

Petroleum Excise (Prices) Regulations 2018

The *Petroleum Excise (Prices) Act 1987* (the Act) sets out the manner in which the price of crude petroleum oil and condensate is determined for the purposes of imposing excise under the *Excise Tariff Act 1921*. Broadly, it provides for the price to be the volume weighted average of the relevant realised price for the period (the VOLWARE price).

Section 14 of the Act provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

The purpose of the proposed Petroleum Excise (Prices) Regulations 2018 (the proposed Regulations) is to remake and improve the operation of the *Petroleum Excise (Prices) Regulations 1988* (the prior Regulations). Under the rules set out in section 50 of the *Legislation Act 2003*, the prior Regulations are due to sunset on 1 April 2018.

The proposed Regulations would remake and improve the prior Regulations by simplifying language and restructuring provisions for ease of navigation. The key changes include the consolidation of defined terms in a single section for ease of reference and the reference to provisions as sections rather than regulations.

The proposed changes would not affect the substantive meaning or operation of the provisions.

Further details of the proposed Regulations are set out in Attachment A.

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

The proposed Regulations would commence on 1 April 2018.

Details of the Petroleum Excise (Prices) Regulations 2018

This attachment sets out further details of the proposed Petroleum Excise (Prices) Regulations 2018 (the proposed Regulations). All references are to the proposed Regulations unless otherwise stated. References to a ‘corresponding provision’ are to the corresponding provision in the *Petroleum Excise (Prices) Regulations 1988* (prior Regulations), as identified by the finding table in Attachment B.

Changes of an editorial nature, such as the increased use of headings and also references to ‘section’ rather than ‘regulation’ in accordance with modern drafting practice, are generally not specifically identified in this Attachment. Where changes are made that are intended to apply in a different way or require further explanation, these are identified and explained in this Attachment.

Opening provisions

Section 1 – Name of Regulations

This section would provide that the title of the proposed Regulations is the Petroleum Excise (Prices) Regulations 2018 (the proposed Regulations).

Section 2 – Commencement

This section would provide that the proposed Regulations commence on 1 April 2018.

Section 3 – Authority

This section would provide that the proposed Regulations are made under the *Petroleum Excise (Prices) Act 1987*.

Section 4 – Schedules

This section would provide 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.

Definitions

Consistent with modern drafting practice, the proposed Regulations include a section titled ‘Definitions’ that would list all of the defined terms used in the proposed Regulations. This replaces regulation 2 of the prior Regulations that was titled ‘Interpretation’. *[section 5]*

These provisions would replicate the corresponding provisions in the prior Regulations, but have been updated in accordance with modern drafting practice.

Unlike the corresponding provision in the prior Regulations, the list of defined terms would include some terms that were previously defined elsewhere in the prior Regulations. The proposed Regulations would specify that the term has the meaning given by that definition throughout the regulations. *[section 5, definitions of applicable whole cost, applicable whole price, associate, delivered by pipeline, excisable quantity cost, excisable quantity price and relevant delivery price]*

The proposed Regulations also include a definition of ‘number of credit days allowed’ as the period allowed for payment must be made under a contract for the sale of crude petroleum oil or condensate. The corresponding provision in the prior Regulations effectively gave this term a substantively identical meaning, but did not formally define the term. This change would not affect the substantive meaning or operation of the provisions. *[section 5, definition of number of credit days allowed]*

Oil producing regions, production areas and VOLWARE commencement dates

The proposed Regulations prescribe regions as oil producing regions for the purposes of the Act. *[sections 6 and 7]*

These provisions would largely replicate the corresponding provisions in the prior Regulations. However, the corresponding provisions specified regions by references to tables that were set out in Schedules to the prior Regulations. In the proposed Regulations, the tables would instead be included directly in sections in the proposed Regulations.

The proposed change would not affect the substantive meaning or operation of the provisions.

Prescribed information

The proposed Regulations also contain provisions setting out information that would need to be given to the Minister in relation to transactions involving crude petroleum oil or condensate that is subject to excise in the month the petroleum is entered for home consumption. *[section 8]*

These provisions would replicate the corresponding provisions in the prior Regulations, but have been updated in accordance with modern drafting practice.

Calculation of transaction prices

The proposed Regulations also contain provisions that set out how to calculate the transaction price for crude petroleum oil and condensate. *[sections 9 to 11]*

No substantive changes would be made to the way in which the transaction price was calculated under the corresponding provisions in the prior Regulations.

These provisions would replicate the corresponding provisions in the prior Regulations, but have been updated in accordance with modern drafting practice.

Rules for transport costs and conversion of foreign currency

To supplement the rules dealing with prescribed information and the calculation of transaction prices, the proposed Regulations contain provisions for working out transport costs and the value of amounts expressed in foreign currency where it is relevant for those rules. *[sections 12 and 13]*

These provisions would replicate the corresponding provisions in the prior Regulations, but have been updated in accordance with modern drafting practice.

Repeal and transitional provisions

The proposed Regulations would repeal the prior Regulations, and provide that things done under the prior Regulations before this repeal are treated as if they had been done under the proposed Regulations. *[section 14 of and Schedule 1 to the proposed Regulations]*

This would ensure the seamless transition from the prior Regulations to the proposed Regulations.

ATTACHMENT B

Finding Tables

In the finding tables, references to the old regulation are to provisions in the *Petroleum Excise (Prices) Regulations 1988* (old regulations), and references to the new regulations are to provisions in the proposed Regulations. Also, in the finding tables:

- *no equivalent* means that this is a new provision that has no equivalent in the old regulations. Typically, these provisions are guide material or similar.
- *omitted* means that the provision in the old regulations has not been rewritten in the new regulations. Typically, this is because the provision has been removed because it is redundant.

Table 1.1: New regulations to old regulations

<i>New regulations</i>	<i>Old regulations</i>
1	1
2	No equivalent
3	No equivalent
4	No equivalent
5	2
6	2A and Schedule 1
7	3 and Schedule 2
8	4
9	5(2) to (5)
10	5(1)
11	5A
12	6
13	7
14	No equivalent
Schedule 1	No equivalent

Table 1.2: Old regulations to new regulations

<i>Old regulations</i>	<i>New regulations</i>
1	1
2	5
2A	6(1) to (4)
3	7(1) to (4)
4	8
5	9 and 10
5A	11
6	12
7	13
Schedule 1	6(5)
Schedule 2	7(5)