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## Explanatory Statement

### Excise By-Law - Condensate

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#### General Outline of Instrument

1. This instrument is made under section 165 of the *Excise Act 1901*.
2. Condensate to which subitem 21.1 of the Schedule to the *Excise Tariff Act 1921* (the Tariff) applies is subject to a rate of duty of free. This instrument prescribes the circumstances under which condensate is classified to subitem 21.1 of the Schedule to the Tariff.
3. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. 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

5. The instrument commences on the day after it is registered on the Federal Register of Legislation.

#### What is this instrument about

6. This instrument prescribes goods that are classified to subitem 21.1 of the Schedule to the Tariff. Goods classified to subitem 21.1 have a rate of duty of free.

#### What is the effect of this instrument

7. This instrument provides that condensate will continue to be classified to subitem 21.1 of the Schedule to the Tariff where it is for use in the recovery or production, or the recovery and production, of goods falling within items 20 and 21 of the Schedule to the Tariff.
8. Compliance Cost Impact: Minor – There will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

#### Background

9. This instrument repeals and replaces *Excise By-Law 155* (F2008L04515), registered on 27 November 2008 (previous instrument).
10. This instrument is substantially the same as the previous instrument that it replaces. An entity that satisfied the requirements of the previous instrument will satisfy the requirements of this instrument.

## **Consultation**

11. Subsection 17(1) of the *Legislation Act 2003* requires that the CEO undertake an appropriate level of consultation that is reasonably practicable to undertake before making a legislative instrument.
12. Broad consultation was undertaken on the draft determination and draft explanatory statement. These documents were published on the ATO Legal Database in October 2018 inviting feedback and comments within a two week period. The ATO Legal Database is available to the general public through [ato.gov.au](http://ato.gov.au) and is referred to by stakeholders such as tax professionals and industry.
13. Targeted consultation was also undertaken for a period of two weeks. Draft copies of the determination and explanatory statement were sent to the peak national body for petroleum producers and explorers in Australia and its members inviting feedback and comments.
14. No comments were received from this consultation process.

## **Legislative references:**

*Acts interpretation Act 1901*

*Excise Act 1901*

*Excise Tariff Act 1921*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*Legislation Act 2003*

## **Statement of compatibility with Human Rights**

This statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### ***Excise By-Law – Condensate***

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**

This By-law describes the circumstances under which petroleum condensate is effectively free of excise duty.

### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms as it simply describes the circumstances under which petroleum condensate is effectively free of excise duty. It is considered to be minor or machinery in nature and continues the current approach.

### **Conclusion**

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