



Explanatory Statement

Excise (Volume—recycled waste oil) Determination 2016 (No.1)

General outline of determination

1. This Explanatory Statement is provided in accordance with sections 15G(4) and 15J of the *Legislation Act 2003* (**'Legislation Act'**).
2. Under section 65 of the *Excise Act 1901* (**'Excise Act'**) the CEO may make rules for working out the volume or weight of excisable goods.

Revoking of previous instrument

3. *Excise (Volume – recycled waste oil) Determination 2006 (No. 2)* (**'previous instrument'**) was registered on 30 June 2006 and is scheduled to be repealed on 1 October 2016 under the sunset provisions prescribed in Part 4 of Chapter 3 of the *Legislation Act 2003*.
4. *Excise (Volume – recycled waste oil) Determination 2016 (No. 1)* (**'determination'**) revokes and replaces the previous instrument.

Date of effect

5. The determination commences on the day after registration.

What is the determination about?

6. The determination is made under section 65 of the *Excise Act* and is intended to be a restatement of the previous instrument.
7. The determination provides rules for working out the volume of recycled waste oil that is an excisable good in circumstances where a licensed manufacturer recycles waste oil and uses the recycled product.

What is the effect of the determination?

8. The amount of excise duty payable is determined by multiplying the volume of excisable goods classified to item 10 of the *Excise Tariff Act 1921* by the rate of duty that applies to those goods.
9. The determination provides rules to ensure that the correct amount of duty is paid by determining acceptable methods for working out the volume of recycled waste oil produced and then used by a licensed manufacturer.
10. Where a licensed manufacturer recycles waste oil for consumption in carrying on its own enterprise, the recycled product will generally not be stored in calibrated tanks or placed into containers which facilitate the measurement of volume. The product may, for example, be stored for a relatively short period

in a holding tank or may be fed directly from the recycling process into consumption. It is appropriate to use alternative methods for the measuring of volume in such circumstances.

11. In these circumstances, the volume of excisable goods may be worked out by using a properly calibrated flow meter or a formula that calculates output on the basis of historical output from similar feedstock. Other methods providing comparable degrees of accuracy may be used also.
12. A formula must be capable of providing an accurate reflection of the volume of output. It should be reassessed for accuracy where there is a change in the recycling equipment or processes employed, or the nature or source of the feedstock waste oil. Historical data will generally be dated within 6 months.

Impact of the instrument

13. The determination provides greater administrative certainty around the rules for measuring the volume of excisable goods in these circumstances.
14. Compliance cost impact: Minor – There will be no or minimal impacts for both implementation and ongoing compliance costs. The determination is minor or machinery in nature.

Consultation

15. Subsection 17(1) of the *Legislation Act* requires that the CEO undertake an appropriate level of consultation that is reasonably practicable to undertake before making a legislative instrument.
16. An exposure draft of the determination was released for public consultation and no comments were received.

Related Rulings/Determinations:

Excise (Volume—recycled waste oil) Determination 2006 (No. 2)

Excise (Volume—recycled waste oil) Determination 2006 (No. 2) Explanatory Statement

Subject references:

Excise

Excisable goods

Excise duty

Legislative references:

Excise Act 1901 section 65

Excise Tariff Act 1921 The Schedule

Legislations Act 2003 section 15G(4)

Legislations Act 2003 section 15J)

Legislations Act 2003 section 17

Other references:

Review of the Schedule to the Excise Tariff Act: industry discussion paper, Treasury, 2 June 2005

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13/9/2016

Statement of compatibility with Human Rights

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

Excise (Volume – recycled waste oil) Determination 2016 (No. 1)

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

Excise (Volume- recycled waste oil) Determination 2016 (No. 1) revokes and replaces *Excise (Volume- recycled waste oil) Determination 2006 (No. 2)*. The determination provides rules for working out the volume of recycled waste oil consumed by the recycler and for the purposes of working out the amount of excise duty payable on such fuel.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms as it is considered to be minor or machinery in nature. It provides greater certainty in relation to excise obligations around the measurement of recycled oil consumed by a recycler in carrying on its own enterprise.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.