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## Explanatory Statement

### Excise (Denatured Spirits) Determination 2026

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#### General outline of instrument

1. This instrument is made under subsection 77FG (1) of the *Excise Act 1901* (the Act).
2. A spirit that has been denatured using the formula determined by the CEO under subsection 77FG(1) of the Act can be delivered for use, other than as fuel used in an internal combustion engine, in the domestic market free of excise duty. This instrument sets out the CEO-determined formula.
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. This instrument commences on the day after it is registered on the Federal Register of Legislation.

#### Background

6. Spirits are excisable goods under Australian excise law if used for an excisable purpose (for example, the manufacture of alcoholic beverages or as fuel). Excise duty must be paid on such spirit at the time it is entered for home consumption (that is, it is released from excise control so it can be sold, used, or consumed within Australia). Duty is paid at the relevant rate specified for the spirit under item 3 of the Schedule to the Tariff Act.
7. However, a spirit may be denatured by the addition of particular substances (the denaturant) which makes it unfit for human consumption.
8. Under subsection 77FG(1) of the Act, the CEO may determine a formula for denaturing spirits for the purposes of subitem 3.8 in the Schedule to the *Excise Tariff Act 1921* (Tariff Act). Where a spirit has been denatured using this formula, and the spirit is not for use as a fuel in an internal combustion engine, the spirit may be entered for home consumption duty free.
9. Subsection 77FG(2) of the Act requires the CEO to give the greatest weight to the protection of the revenue when determining the formula for denaturing spirits. The CEO has taken into account the following factors when determining which denaturants should be used and at what concentration, to appropriately reduce the risk of the denatured spirit being consumed as a beverage:
  - (a) the degree of difficulty in removing the denaturant from the spirit
  - (b) the effectiveness of the denaturant as a deterrent to using the spirit in a beverage at 5% strength on dilution by the addition of water, cola, lemonade or other beverages – its effectiveness as a deterrent may be due to the denaturant's unpleasant odour or taste, toxicity, or oily or viscous qualities

- (c) the relative price of the spirit and fuel, and
- (d) whether a denaturant is itself a fuel (such as petrol) or an additive typically used in producing fuel ethanol (such as an emulsifier).

10. The CEO has determined that the risk of a denatured spirit being consumed as a beverage is appropriately mitigated where the concentration of the denaturant in a spirit (100% ethanol) meets or exceeds the minimum concentration specified in column 3 of the following table. At these concentrations, the denaturants are readily detectable and render the spirit unsuitable.

Table 1: Approved denaturants and the minimum concentrations for a spirit to be denatured

Item	Column 1 Approved denaturant	Column 2 CAS registry number	Column 3 Minimum denaturant concentration (in 100% ethanol)	Column 4 Detectable levels/Detrimental effects (parts per million)
1	acetaldehyde	75-07-0	1.0% v/v	Detectable at less than 1ppm
2	n-propanol	71-23-8	1.0% v/v	Detectable at approx 20ppm
3	n-propyl acetate	109-60-4	1.0% v/v	Detectable at approx 20ppm
4	acetone	67-64-1	2.0% v/v	Detectable at approx 1000ppm
5	denatonium benzoate	3734-33-6	5 ppm	Taste threshold 1:20,000,000
6	ethyl acetate	141-78-6	1.0% v/v	Detectable at approx 1ppm
7	propylene glycol mono-methyl ether	107-98-2	1.0% v/v	Detectable at approx 100ppm
8	sodium nitrite	7632-00-0	0.25% v/v	Toxic at 85ppm
9	methyl ethyl ketone	78-93-3	0.5% v/v	Detectable at approx 10ppm
10	methoxy propyl acetate	108-65-6	0.5% v/v	Detectable at approx 150ppm
11	methanol	67-56-1	5.0% v/v	Detectable at approx 2000ppm
12	isopropanol	67-63-0	5.0% v/v	Detectable at approx 2500ppm
13	tertiary butyl alcohol	75-65-0	0.25% v/v	Detectable at approx 73ppm
14	methyl isobutyl ketone	108-10-1	0.25% v/v	Detectable at approx 10ppm
15	n-hexane	110-54-3	1.0% v/v	Detectable at minute levels
16	ethyl ether	60-29-7	1.0% v/v	Detectable at approx 0.33ppm
17	propylene glycol	57-55-6	20.0% v/v	Colourless, odourless but oily liquid
18	sodium hydroxide	1310-73-2	0.25% w/w	Odourless but very corrosive
19	sodium molybdate	7631-95-0	0.25% w/w	Odourless but harmful if inhaled or swallowed
20	sodium tolytriazole	64665-57-2	0.25% w/w	Characteristic odour

11. The *Excise (Denatured spirits) Determination 2016 (No. 3)* (2016 Determination) set out the formula for denaturing spirits, as determined by the CEO.

12. This instrument repeals and replaces the 2016 Determination, which would otherwise sunset on 1 October 2026. This instrument has the same substantive effect as the one it is replacing.

### Effect of this instrument

13. Under subsection 6(1) a spirit will be denatured, for the purpose of sub-item 3.8 in the Schedule to the Tariff Act, if it contains a covered denaturant at a concentration that equals or exceeds the specified concentration for that denaturant.

14. Subsection 6(2) provides the following formula for working out the specified concentration of covered denaturant that is required to denature a spirit:

$$\text{specified concentration} = \text{minimum concentration} \times \text{ethanol concentration}$$

15. For the purposes of working out the specified concentration of a covered denaturant:

- (a) covered denaturants are the substances listed in column 1 of the table in section 7 that the CEO has determined are able to denature a spirit when added at a sufficient concentration
- (b) minimum concentration is the concentration of covered denaturant that would be required to denature 100% ethanol, and
- (c) ethanol concentration means the proportion of ethanol in the spirit being denatured, expressed as a decimal. For example, the ethanol concentration of a spirit with an ethanol concentration of 70% is expressed as 0.7.

### How to apply the formula

16. To calculate specified concentration required to denature a spirit:

- (a) find the covered denaturant and note the minimum concentration required to denature 100% ethanol
- (b) work out the spirit's ethanol concentration (expressed as a decimal)
- (c) apply the formula in subsection 6(2).

### Example 1

*XYZ Company wishes to denature a spirit that is 80% ethanol by the addition of methanol. The ethanol concentration of this spirit, expressed as a decimal, is 0.8.*

*XYZ Company notes that methanol is a covered denaturant that will denature 100% ethanol at a minimum concentration of 5% v/v.*

*XYZ Company uses the formula in subsection 6(2) to work out the concentration of methanol that will denature a spirit with an ethanol concentration of 0.8:*

$$\text{specified concentration} = \text{minimum concentration} \times \text{ethanol concentration}$$

$$\text{specified concentration} = 5\% \text{ v/v} \times 0.8 = 4\% \text{ v/v}$$

*A spirit is considered denatured if it contains **at least** 4% v/v methanol.*

17. To be covered by sub-item 3.8 of the Schedule in the Tariff Act, the spirit must contain at least one covered denaturant at or above the specified concentration worked out under section 6. Where the spirit contains more than one covered denaturant the formula is applied to each covered denaturant separately. If none of the covered denaturants in the spirit, individually, equals or

exceeds the specified concentration for that denaturant, then the spirit is not denatured in accordance with the formula and cannot be classified to subitem 3.8.

### **Example 2**

*XYZ Company now wishes to denature a spirit that is 80% ethanol by the addition of methanol and isopropanol. The ethanol concentration of this spirit, expressed as a decimal, is 0.8.*

*XYZ Company notes that methanol and isopropanol are both covered denaturants and each will denature 100% ethanol at a minimum concentration of 5% v/v.*

*XYZ Company applies the formula in subsection 6(2) to methanol and isopropanol and determines the spirit must contain either methanol or isopropanol at a minimum concentration of 4% v/v to be denatured.*

*XYZ Company knows the spirit contains methanol at 3% v/v and isopropanol at 1% v/v. The spirit is therefore not denatured in accordance with the formula as it does not contain at least one covered denaturant at or above the required specified concentration for that denaturant.*

*As the formula is applied to each covered denaturant separately the concentration of methanol and isopropanol in the spirit cannot be added together to equal the required specified concentration of 4% v/v.*

18. Column 2 in the table in section 7 provides the CAS registry number, a unique identifier allocated to chemical substances, that relates to the covered denaturants specified in column 1. These identifiers are incorporated, as they exist on the Chemical Registry System and Chemical Abstracts Service, at the time this instrument commences. The material is freely available on the CAS Common Chemistry resource and can be accessed at <https://commonchemistry.cas.org>.

### **Compliance cost assessment**

19. To be advised.

### **Consultation**

20. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner is satisfied that appropriate and reasonably practicable consultation has been undertaken before they make a legislative instrument.

21. As part of the consultation process, you are invited to comment on the draft instrument and its accompanying draft explanatory statement.

Please forward your comments to the contact officer by the due date.

<b>Due date:</b>	26 June 2026
<b>Contact officer:</b>	Anthony Barnard
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## **Statement of compatibility with human rights**

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

### **Excise (Denatured Spirits) Determination 2026**

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**

Spirits are excisable goods under excise law and duty must be paid on the spirit at the time it is entered for home consumption. Duty is paid at the relevant rate specified for the spirit under item 3 of the Schedule to the *Excise Tariff Act 1921* (Tariff Act).

However, a spirit may be denatured by the addition of particular substances that make it unfit to be consumed as a beverage.

A spirit that has been denatured using the formula determined by the CEO under subsection 77FG(1) of the *Excise Act 1901* can be delivered for use, other than as fuel used in an internal combustion engine, in the domestic market duty free. It is duty free because the denaturing prevents the spirit from being used for an excisable purpose. This instrument sets out the CEO-determined formula.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms. It provides a formula to work out whether a spirit is denatured for the purposes of sub-item 3.8 of the Tariff Act.

#### **Conclusion**

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