

Drugs Misuse (Fees for Commercial Production of Industrial Cannabis) Amendment Regulation 2022

Explanatory Notes for SL 2022 No. 6

made under the

Drugs Misuse Act 1986

General Outline

Short title

Drugs Misuse (Fees for Commercial Production of Industrial Cannabis) Amendment Regulation 2022

Authorising law

Sections 54, 65, 70, 110G and 134 of the *Drugs Misuse Act 1986*

Policy objectives and the reasons for them

Reforms to Part 5B of the *Drugs Misuse Act 1986* (Act), contained in the *Hospital Foundations Act 2018* (Hospital Foundations Act), commenced automatically on 30 March 2020. The amendments to the Act related to industrial cannabis production in Queensland, which is limited to those persons holding a licence.

The amendments to the Act included a rationalisation of licence types and created a head of power to charge a prescribed fee for monitoring activities. To facilitate the food supply chain and manage associated risks, the amendments also created a new seed handler licence which replaced the previous authorisation in the regulation for seed denaturers and seed suppliers.

Following significant regulatory impact analysis and consultation, a new fee structure for licensing and monitoring has been developed. Under the new fee structure, separate licence fees will be charged for the different licence types of grower, researcher, and seed handler and for new licence applications, licence renewal applications and licence amendment applications. Licence fees for each licence and application type will be commensurate to the regulatory cost associated with the different types of licences. Currently, the fee structure does not include a fee for licence amendments and consists of only a generic application fee and generic licence renewal fee.

The policy objective of the amendment regulation is to implement the new licencing fee structure into the *Drugs Misuse Regulation 1987* (Regulation).

Achievement of policy objectives

The *Drugs Misuse (Fees for Commercial Production of Industrial Cannabis) Amendment Regulation 2022* (amendment regulation) achieves its objective by replacing the existing fees contained in section 28 of the Regulation with a new fee schedule in schedule 8E. The new fee schedule reflects the new fee structure and, accordingly, contains fees for the application, renewal and amendment of seed handler licences, researcher licences and grower licences. Moreover, the new fee schedule contains a fee for monitoring by an inspector of an activity performed under a relevant authority and section 28A replaces a previous statutory licence condition requiring a licensee to pay the 'reasonable costs' of monitoring activities including recovery of the costs to the Department of Agriculture and Fisheries for analysing samples taken by inspectors.

The fees in the new fee schedule reflect the Government's 2021-2022 indexation rate.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The amendment regulation is not inconsistent with the policy objectives of any other legislation.

Alternative Ways of Achieving Policy Objectives

An alternative way of achieving the policy objectives would be for the fees to be progressed as administrative fees charged by the Department of Agriculture and Fisheries. However, the recent amendments to the Act in the Hospital Foundations Act removed the previous statutory licence condition for the recovery of reasonable monitoring costs and introduced a power for the fees to be prescribed in regulation. Accordingly, prescribing the fees in regulation is consistent with the Act amendments.

Benefits and costs of implementation

The benefit of the amendment regulation is that it will ensure that the fees charged for industrial cannabis licences reflect the different types of licence categories and different application types introduced by the Act amendments. This will result in a more equitable system whereby the fees for each licence type will be commensurate to the regulatory cost associated with the different types of licences and applications.

A further benefit is that the new fee structure will now enable the Government to recover the full cost of delivering the industrial cannabis licensing system. This aligns the fees charged for industrial cannabis with the requirements of the *Financial and Performance Management Standard 2019*, which provides that fees or charges applied by departments and statutory bodies for the provision of goods and services should reflect full cost recovery. This will ensure that the cost of licensing the industrial cannabis industry is borne by industry and not subsidised by the general public.

Consistency with fundamental legislative principles

The subordinate legislation has been drafted with regard to, and is consistent with, the fundamental legislative principles contained in section 4 of the *Legislative Standards Act 1992*.

Consultation

In May 2019, the consultation regulatory impact statement (consultation RIS) “*Amendment of Industrial Cannabis Legislation*” was released, which canvassed the following two options to amend the fees charged for industrial cannabis:

Option 1: Maintain the *status quo*

Option 2: Revise and restructure fees to achieve full cost recovery.

The consultation RIS received 13 submissions from industry stakeholders and the general public, and further stakeholder views were provided at a stakeholder meeting held on 4 June 2019.

Sixty-two percent of respondents preferred to maintain the *status quo*, and thirty-eight percent supported the proposal. The decision RIS, approved for release on 20 December 2021, provided that the Government’s preferred approach was option 2, to revise and restructure fees to achieve full cost recovery. The new fee structure is reflected in the amendment regulation.

The Office of Best Practice Regulation (OBPR) provided a letter of adequacy for the consultation RIS on 5 March 2019. On 17 October 2019, OBPR provided a letter of adequacy for the decision RIS. The Premier and Minister for the Olympics approved the release of the decision RIS on 20 December 2021.