

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 179

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

LEGISLATIVE INSTRUMENTS ACT 2003

Legislative Instruments Amendment Regulation 2012 (No. 1)

The *Legislative Instruments Act 2003* (the Act) provides a comprehensive regime for the registration, tabling, scrutiny and sunseting of Commonwealth legislative instruments.

Section 62 provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the Regulation is to implement a government decision to transfer the functions of the Office of Legislative Drafting and Publishing within the Attorney-General's Department to the Office of Parliamentary Counsel.

The Regulation supports the changes which are being made to the Act by the *Parliamentary Counsel and Other Legislation Amendment Act 2012*, which transfer functions from the Secretary of the Department to the First Parliamentary Counsel of the Office of Parliamentary Counsel; and from the Department to the Office of Parliamentary Counsel.

Details of the Regulation are set out in the Attachment.

The Act specifies no conditions that need to be met before the power to make the Regulation may be exercised.

The Regulation amends the *Legislative Instruments Regulations 2004*.

The Regulation is a legislative instrument for the purposes of the Act.

The Regulation commences on the same day as the commencement of Schedule 1 to the *Parliamentary Counsel and Other Legislation Amendment Act 2012*.

The Regulation was developed in consultation with the Office of Parliamentary Counsel and the Office of Legislative Drafting and Publishing. The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required as the amendments are machinery in nature and do not change the regulatory burden placed on businesses or the non-profit sector.

The Regulation 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*. The amendments made by the Regulation do not engage any of the applicable rights or freedoms under that Act.

Authority: Section 62 of the
*Legislative Instruments
Act 2003*

Details of the *Legislative Instruments Amendment Regulation 2012 (No. 1)***Section 1 – Name of regulation**

Section 1 provides that the Regulation be named the *Legislative Instruments Amendment Regulation 2012 (No. 1)*.

Section 2 - Commencement

Section 2 provides that the Regulation commences on the commencement of Schedule 1 to the *Parliamentary Counsel and Other Legislation Amendment Act 2012*.

Section 3 – Amendment of *Legislative Instruments Regulations 2004*

Section 3 provides that Schedule 1 amends the *Legislative Instruments Regulations 2004*.

Schedule 1 – Amendments

Item [1] substitutes new subregulations 4(2) and 4(3). Subregulation 4(2) provides for the way in which an electronic document can be lodged for registration. It may be lodged in prescribed formats or in a format agreed to by the Secretary of the Attorney-General's Department (subregulation 4(2)(a)) and may be given to the Secretary through an electronic lodgement facility or in another way agreed by the Secretary (subregulation 4(2)(b)). The Regulation removes the references to the Secretary and provides that the format or lodgement can occur in another way agreed, in writing, by the First Parliamentary Counsel of the Office of Parliamentary Counsel.

Subregulation 4(3) provides for the ways in which a non-electronic document can be lodged. It may be delivered or posted to the Office of Legislative Drafting and Publishing or otherwise given to the Secretary in a way agreed by the Secretary. The Regulation removes the references to the Office of Legislative Drafting and Publishing and to the Secretary and provides that a non-electronic document is lodged if it is delivered or posted to the Office of Parliamentary Counsel or delivered, posted or otherwise given to the First Parliamentary Counsel in a way agreed in writing.

These amendments support the transfer of functions from the Office of Legislative Drafting and Publishing to the Office of Parliamentary Counsel.

Item [2] removes the reference to Secretary in regulation 5 and inserts in its place a reference to the First Parliamentary Counsel. Regulation 5 currently provides that when lodging a legislative instrument for registration, certain prescribed information must also be lodged with the Secretary. The Regulation ensures that the prescribed information is instead lodged with the First Parliamentary Counsel.

This amendment supports the transfer of functions from the Office of Legislative Drafting and Publishing to the Office of Parliamentary Counsel.