

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 7

Issued by authority of the Assistant Treasurer

A New Tax System (Goods and Services Tax) Act 1999

A New Tax System (Goods and Services Tax) Amendment Regulation 2013 (No. 2)

Section 177-15 of the *A New Tax System (Goods and Services Tax) Act 1999* (the Act) 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 amend the *A New Tax System (Goods and Services Tax) Regulations 1999* (the Regulations) to ensure consistency within the Regulations by updating the examples for guarantees and indemnities to reflect that they are now considered as separate interests.

The *A New Tax System (Goods and Services Tax) Amendment Regulation 2012 (No. 1)* made a number of amendments to the GST financial supply provisions in the Regulations that commenced on 1 July 2012. These amendments included the listing of guarantees and indemnities as separate items in subregulation 40-5.09(3) of the Regulations. However, the relevant examples for guarantees and indemnities contained in Part 5 in Schedule 7 to the Regulations were not also amended to reflect these changes.

The amending Regulation separates the examples for guarantees and indemnities by moving the example regarding indemnities from Part 5 in Schedule 7 to the GST Regulations to a new Part (Part 5A) in the Schedule.

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

This amendment was raised as an issue in the Treasury Tax Issues Entry System (TIES). Consultation on this matter was undertaken through the TIES Working Group.

The Regulation commences the day after its registration on the Federal Register of Legislative Instruments.

Details of the proposed *A New Tax System (Goods and Services Tax) Amendment Regulation 2013 (No. 2)*

Section 1 – Name of Regulation

This section provides that the name of the Regulation is the *A New Tax System (Goods and Services Tax) Amendment Regulation 2013 (No. 2)*.

Section 2 – Commencement

This section provides that the Regulation commences the day after its registration on the Federal Register of Legislative Instruments.

Section 3 – Amendment of *A New Tax System (Goods and Services Tax) Regulations 1999*

This section provides that the Regulation amends the *A New Tax System (Goods and Services Tax) Regulations 1999* (the Regulations).

SCHEDULE 1 – AMENDMENTS

Background

Subregulation 40-5.09(3) of the Regulations lists guarantees and indemnities as separate items.

The amending Regulation makes some changes to the examples given in the financial supply provisions in the Regulations.

Change to the examples

Item [1] – Schedule 7, Part 5, item 1

Item [2] – Schedule 7, Part 5, items 2 and 3

Item [3] – Schedule 7, after Part 5

Existing items 7 and 7A define guarantees and indemnities as legally distinct arrangements. However, Schedule 7 of the Regulations still lists the examples for guarantees and indemnities together. Grouping these examples together leads to inconsistency within the Regulations and could cause confusion.

Item [1] omits existing item 1, the example concerning indemnities, of Part 5 of Schedule 7 of the Regulations.

Item [2] renumbers item 2 and 3 of Part 5 of Schedule 7 of the Regulations to items 1 and 2, following the omission of the existing item 1.

Item [3] inserts new Part 5A after Part 5 of Schedule 7 to the Regulations to list the example for indemnities separately from the example for guarantees.

It is not intended that these amendments change the existing interpretation of the terms guarantee or indemnity as set out in the Regulations. The amendments merely ensure consistency within the Regulations and confirm the existing treatment.

Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011
A New Tax System (Goods and Services Tax) Amendment Regulation 2013 (No. 2)*

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

The purpose of the Legislative Instrument is to amend the *A New Tax System (Goods and Services Tax) Regulations 1999* (the Regulations) to ensure consistency in the Regulation by updating the examples for guarantees and indemnities.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

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