

# **EXPLANATORY STATEMENT**

## **Select Legislative Instrument 2013 No. 81**

### **Issued by authority of the Assistant Treasurer**

*A New Tax System (Australian Business Number) Act 1999*

*A New Tax System (Australian Business Number)  
Amendment Regulation 2013 (No. 1)*

Section 31 of the *A New Tax System (Australian Business Number) Act 1999* (the Act) provides that the Governor-General may make regulations, inter alia, prescribing matters required or permitted by the Act to be prescribed.

Paragraph 26(3)(k) of the Act states that the regulations may prescribe details which the Registrar of the Australian Business Register (ABR) must provide to a person who requests a copy of an entity's entry in the ABR. Regulation 8 of the *A New Tax System (Australian Business Number) Regulations 1999* currently prescribes details for the purposes of paragraph 26(3)(k) of the Act.

The purpose of this Regulation is to effectively extend a transitional period which has allowed trading names that are currently displayed on the ABR, to continue to be displayed until 30 June 2014. This is done by prescribing 'a name used for business purposes' as a detail for the purposes of the Act up until 30 June 2014.

The ABR was established under the Act in 1999, providing a national system for issuing businesses with unique identifying numbers (known as Australian Business Numbers or ABNs). The States and Territories remained responsible for maintaining business names registers after the ABR was established, however, trading names were listed next to ABNs on the ABR to identify businesses.

On 28 May 2012, the Australian Government launched the national Business Names Register (BNR) to provide a national register of business names, replacing the State and Territory registers. From this time businesses were required to register a business name which would appear on the BNR, and it was intended that trading names would no longer be displayed on the ABR. A one-year transitional period was provided to allow time for businesses to register a business name on the BNR. This meant that trading names could continue to be displayed on the ABR until 28 May 2013.

However, a large number of businesses did not register a business name and therefore do not have a business name on the BNR. If the extension was not provided, for a large number of businesses there would be neither a trading name, nor a registered business name, publicly available on either register. Without the extension, businesses and others who use these public registers to identify businesses would be inconvenienced. This Regulation provides the extension to 30 June 2014.

The Act does not specify any conditions that need to be satisfied before the power to make this Regulation is exercised.

Two weeks of public consultation were conducted on the draft Regulation as the amendments were of a minor nature.

The Regulation commences the day after it is registered.

The details of the Regulation are listed below:

#### Section 1 – Name of Regulation

This section specifies the name of the Regulation as the *A New Tax System (Australian Business Number) Amendment Regulation 2013 (No. 1)*.

#### Section 2 – Commencement

This section provides for the Regulation to commence the day after registration.

#### Section 3 – Authority

This section states that the Regulation is made under the *A New Tax System (Australian Business Number) Act 1999*.

#### Schedule 1 – Amendments

Schedule 1 amends Regulation 8 of the *A New Tax System (Australian Business Number) Regulations 1999* to prescribe as a detail which the Registrar must provide, if a person requests a copy of an entity's entry in the ABR, the entity's name used for business purposes (an unregistered business name) if this name appeared on the ABR prior to the commencement of Part 2 of Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (which occurred on 28 May 2013).

Schedule 1 also specifies in subregulation 8(2) that this requirement will cease to have effect on 1 July 2014.

### **Statement of Compatibility with Human Rights**

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

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 legislative instrument effectively allows unregistered business names displayed on the ABR prior to 28 May 2013 to continue to be displayed until 30 June 2014.

#### **Human rights implications**

As this Legislative Instrument only affects businesses in their commercial dealings, it 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.