

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 152

Issued by authority of the Parliamentary Secretary to the Treasurer

Corporations Act 2001

Corporations and Related Legislation Amendment Regulation 2013 (No. 1)

The authority to make the amending regulations is provided to the Governor-General by:

- section 20(1) of the *Australian Securities and Investments Commission Act 2001*;
- section 90 of the *Business Names Registration (Fees) Act 2011*;
- section 1364(1) of the *Corporations Act 2001*;
- section 633-1(1) of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*;
- section 8 of the *Corporations (Fees) Act 2001*;
- section 359(1) of the *Fair Work (Registered Organisations) Act 2009*;
- section 14 of the *Statutory Declarations Act 1959*;
- section 22 of the *Occupational Superannuation Standards Act 1987*; and
- section 353(1) of the *Superannuation Industry (Supervision) Act 1993*.

The *Corporations and Related Legislation Amendment Regulation 2013 (No. 1)* (the Regulation):

- changes the name of the National Institute of Accountants (NIA) to the Institute of Public Accountants (IPA) in various Commonwealth regulations, listed below;
- places remuneration disclosure requirements into the *Corporations Regulations 2001* following the removal of these requirements from the relevant accounting standards;
- removes references to the Financial Reporting Panel (FRP) from the *Corporations Regulations 2001*; and
- changes the fees payable for the registration of a business name under the *Business Names Registration Regulations 2011*.

Name change of the National Institute of Accountants (NIA) to the Institute of Public Accountants (IPA)

The NIA rebranded to the IPA in 2011. As one of the three legally recognised professional bodies for accountants in Australia, the NIA appeared in various Commonwealth regulations, particularly in reference to educational requirements for accountants.

Schedule 1 of the Regulation amends a number of Commonwealth regulations to reflect the name change of the NIA to the IPA. Amendments have been made to the following regulations to give effect to this change:

- *Australian Securities and Investment Commission Regulations 2001* (items 1,2,3 and 4)
- *Business Names Registration (Fees) Regulations 2011* (items 5,6,7 and 8)

- *Corporations (Aboriginal and Torres Strait Islander) Regulations 2007* (item 9)
- *Corporations (Fees) Regulations 2001* (item 10)
- *Corporations Regulations 2001* (item 11,12,13,14,15,16 and 17)
- *Fair Work (Registered Organisations) Regulations 2009* (item 18)
- *Occupational Superannuation Standards Regulations* (items 19 and 20)
- *Statutory Declarations Regulations 1993* (item 21)
- *Superannuation Industry (Supervision) Regulations 1994* (item 22)

Disclosure requirements to be withdrawn from the accounting standards

In July 2011, the Australian Accounting Standards Board (AASB) announced the withdrawal of certain disclosure requirements contained in the accounting standards it publishes, with effect from 1 July 2013. The AASB decided to remove, among other things, the requirements contained in *AASB 124 Related Party Transactions*, which required disclosure of certain transactions with, and remuneration paid to, the key management personnel (KMP) of certain corporations, as defined in the *Corporations Act 2001*.

The AASB was of the view that these disclosures were more in the nature of governance disclosures that were better dealt with in the legislation, rather than by the accounting standards.

Schedule 1 of the Regulation moves these requirements into the *Corporations Regulations 2001* to ensure that shareholders continue to be informed of the details of transactions between corporations and related parties such as KMP (items 11 and 12).

Closure of the Financial Reporting Panel (FRP)

The FRP closed on 1 October 2012 on the commencement of *the Corporations Legislation Amendment (Financial Reporting Panel) Act 2012*. However, references to the FRP remained in the *Corporations Regulations 2001*. Schedule 1 of the Regulation removes these references (items 3, 4, 10, 13, 15 to 17).

Increase in fees for the registration of business names

As part of the 2013-14 Budget, the Government announced increased funding to the Australian Securities and Investment Commission (ASIC) to improve ASIC's client contact centre. This funding was to be offset by a modest increase in the fees for the registration of business names. Schedule 1 of the Regulation raises the fee for the registration of business names by \$2 for a one year registration, and \$4 for a three year registration (items 5 to 8).

Consultation

An exposure draft of the Regulation, containing amendments to reflect the name change of the NIA to the IPA, inclusion of AASB 124 requirements in the *Corporations Regulations 2001*, and removal of references to the FRP, was released on the Treasury website for public consultation for four weeks, with submissions closing on 10 May 2013. A number of key stakeholders were also emailed directly to inform them that the draft regulation was available for consultation.

Eight submissions were received following consultation, with responses coming from accounting, legal and industry bodies (available on the Treasury website). As a result of the submissions received, minor changes were made to better reflect the related party requirements being removed from AASB 124.

The increase in fees for the registration of business names was announced as part of the 2013-14 Budget.

Under the *Corporations Agreement 2002* (the Corporations Agreement), the State and Territory Governments referred their constitutional powers with respect to corporate regulation to the Commonwealth. Pursuant to subclause 506(1) of the Corporations Agreement, the Legislative and Governance Forum for Corporations (the Forum, formerly the Ministerial Council for Corporations) has been consulted, and approved, the Regulation. Three State/Territory Ministers approved the Regulation, as required by subclause 507(2) of the Corporations Agreement.

Pursuant to paragraph 4.4 of the *Business Names Agreement 2009*, the States and Territories have been consulted on the amendments to the *Business Names Registration Regulations 2011*.

The Acts do not imposed any conditions that need to be satisfied before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 1 July 2013.

Statement of Compatibility with Human Rights

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

CORPORATIONS AND RELATED LEGISLATION AMENDMENT REGULATION 2013 (NO. 1)

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 proposed *Corporations and Related Legislation Amendment Regulation 2013 (No.1)* will:

1. change references to the National Institute of Accountants (NIA) to the Institute of Public Accountants (IPA) in various Commonwealth regulations.
2. insert various remuneration disclosure requirements regarding related party transactions into the Corporations Regulations 2001.
3. remove references to the Financial Reporting Panel (FRP) from the Corporations Regulations 2001.
4. change the fees payable for the registration of a business name under the Business Names Registration Regulations 2011.

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.