

## **EXPLANATORY STATEMENT**

Subject – *Trans-Tasman Proceedings Act 2010*

### Proclamation

This proclamation sets 11 October 2013 as the date for commencement of sections 3 to 110 of the *Trans-Tasman Proceedings Act 2010* (the Act).

The Act received Royal Assent on 13 April 2010. The Act domestically implements Australia's obligations under the Agreement, which was signed on 24 July 2008. The primary purpose of the Act is to streamline the process for resolving civil proceedings with a trans-Tasman element in order to reduce costs and improve efficiency.

Part 1 deals with preliminary matters such as commencement and definitions. Part 2 allows for initiating documents for certain civil proceedings in Australian courts or tribunals to be served in New Zealand. Part 3 provides for Australian courts to stay a proceeding where a New Zealand court is the more appropriate forum to determine the matters in dispute. Part 4 provides for certain Australian courts to give interim relief in support of civil proceedings in New Zealand courts. Part 5 allows for the trans-Tasman service of subpoenas issued by certain Australian and New Zealand courts and tribunals. Part 6 allows for trans-Tasman remote appearance in Australian and New Zealand proceedings. Part 7 provides for the recognition and enforcement in Australia of specified judgments of New Zealand courts and tribunals. Part 8 provides special rules for particular Australian and New Zealand proceedings that relate to the trans-Tasman market. Part 9 contains a number of evidentiary rules relating to New Zealand based evidence that apply in proceedings in Australian courts and certain other bodies. Part 10 deals with miscellaneous issues.

Commencement of sections 3 to 110 of the Act will cause Schedule 1 and items 1 to 23 and 25 to 28 of Schedule 2 to the *Trans-Tasman Proceedings (Transitional and Consequential Provisions) Act 2010* to commence. Schedule 1 provides the rules governing the application of the Act to civil proceedings that have not yet commenced or have commenced but have not been completed. Schedule 2 repeals the *Evidence and Procedure (New Zealand) Act 1994* and updates references to the *Evidence and Procedure (New Zealand) Act 1994* to now reference the *Trans-Tasman Proceedings Act 2010*. Commencement of sections 3 to 110 of the Act will also cause the *Trans-Tasman Proceedings Regulation 2012* to commence.

The Proclamation was drafted by the Office of Parliamentary Counsel. No consultation was required given the administrative nature of the instrument.

The Proclamation is registered on the Federal Register of Legislative Instruments under the *Legislative Instruments Act 2003*.

Authority: Subsection 2(1) of the *Trans-Tasman Proceedings Act 2010*

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

***Trans-Tasman Proceedings Act Commencement Proclamation 2013***

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 Proclamation sets 11 October 2013 as the date for commencement of sections 3 to 110 of the *Trans-Tasman Proceedings Act 2010* (the Act).

**Human rights implications**

The Proclamation does not engage any of the applicable rights or freedoms.

**Conclusion**

The Proclamation is compatible with human rights and does not raise any human rights issues.