

# ***Legislation (ACT Self-Government Instruments) Sunset-altering Declaration 2017***

## **EXPLANATORY STATEMENT**

Issued by the Attorney-General in compliance with section 15G of the *Legislation Act 2003*

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### **INTRODUCTION**

This declaration was made under subsection 51A(1) of the *Legislation Act 2003* and is a legislative instrument for the purposes of the Legislation Act. The declaration is subject to the disallowance provisions of the Legislation Act.

### **OUTLINE**

The purpose of the sunset provisions of the Legislation Act is to ensure that legislative instruments are kept up to date and only remain in force for so long as they are needed.

Section 51A enables the Attorney-General to align the sunset dates of two or more instruments by declaration. The instruments will then all cease to be in force on the day specified in the declaration instead of the scheduled sunset day of each instrument.

This allows instruments to continue to be in force for a further but limited period of time when they would otherwise sunset, or to sunset earlier than the originally scheduled sunset day. The purpose of such alignment is to facilitate more efficient and effective review processes by enabling a single thematic review into the fitness-for-purpose of all instruments relevant to a particular industry or theme.

This reduces the administrative burden and legislative inconsistencies that can arise from independently reviewing and remaking related legislative instruments at different times.

### **PROCESS BEFORE CERTIFICATE WAS MADE**

#### **Regulatory impact analysis**

Sunset-altering declarations are machinery of government instruments, and are therefore not subject to the regulatory impact assessment requirements set out by the Office of Best Practice Regulation (OBPR). The OBPR reference for this standing exemption is ID 19486.

#### **Statement of compatibility with human rights obligations**

Before this declaration was made, its impact on human rights was assessed using tools and guidance published by the Attorney-General's Department. It is fully compatible with human rights as defined in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Consultation before making**

Before this declaration was issued, the Attorney-General considered the general obligation to consult imposed by section 17 of the Legislation Act. In preparing the application for this declaration,

the Department of Infrastructure and Regional Development consulted with the Attorney-General's Department. The Regulatory Reform Division in the Department of the Prime Minister and Cabinet was also provided with a copy of the application.

As this declaration does not itself significantly alter the existing arrangements of any other agency, further consultation at this stage of the review process was unnecessary.

### **Statutory preconditions relevant to this declaration**

If the Attorney-General is satisfied that the statutory conditions in section 51A of the Legislation Act are met, the sunset day of two or more legislative instruments can be aligned by means of a declaration made under that section. The statutory conditions are that:

- all the instruments to be reviewed would (in the absence of a declaration under section 51A) be subject to sunset
- all the instruments to be reviewed are or will be the subject of a single review, and
- the making of the declaration will facilitate the undertaking of the review and the implementation of its findings.

In terms of process, the Legislation Act requires:

- the responsible rule maker to apply to the Attorney-General
- the Attorney-General to be satisfied of the statutory conditions, and
- the Attorney-General to make the declaration, which is a legislative instrument and subject to disallowance.

### **More information**

Further details regarding this declaration are set out in [Attachment A](#).

A copy of each instrument which is the subject of this declaration, and which will now sunset on 1 April 2020, is available on the Federal Register of Legislation.

## NOTES ON THE DECLARATION

### **Section 1      Name**

This section provides for the declaration to be named the *Legislation (ACT Self-Government Instruments) Sunset-altering Declaration 2017*. The declaration may be cited by that name.

### **Section 2      Commencement**

This section provides for the declaration to commence on the day after it is registered.

### **Section 3      Authority**

This section provides that the declaration is made under subsection 51A(1) of the *Legislation Act 2003*.

### **Section 4      Repeal of ACT self-government instruments to facilitate review etc.**

This section provides that the instruments listed in subsection (1) are repealed on 1 April 2020.

This is the aligned sunset day for those instruments, which would otherwise have sunset between 1 April 2018 and 1 April 2019.

For the purpose of clarity, this section includes a statement that the legal requirements in the Legislation Act are met – that is, that these instruments would otherwise be repealed by section 50 of the Legislation Act, that they are or will be the subject of a single review, and that the declaration facilitates the undertaking of the review and the implementation of its findings.

### **Section 5      Repeal of this instrument**

This section provides that the declaration is repealed on 2 April 2020, which is the day after the aligned sunset day. This ensures that the declaration remains in force only for as long as it is needed.