

# ***Legislation (National Measurement Instruments) Sunset-altering Declaration 2018***

## **EXPLANATORY STATEMENT**

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

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### **INTRODUCTION**

The 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, enabling Act, or theme.

This reduces the administrative burden as well as legislative inconsistencies that can arise from reviewing and remaking related legislation independently 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 the 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 made, 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 then Department of Industry, Innovation and Science consulted with the Attorney-General's Department.

The regulation reform area in the Department of Jobs and Small Business was also provided with a copy of the application.

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

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

If the Attorney-General is satisfied on written application from the rule-maker that the statutory conditions in section 51A of the Legislation Act are met, the sunseting 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 sunseting
- are or will be the subject of a single review, and

that 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 a declaration, which is a legislative instrument and subject to disallowance.

On 27 June 2017, the then Minister for Industry, Innovation and Science, the Hon Arthur Sinodinos, provided a written application to the Attorney-General requesting to align the sunseting dates of thirteen instruments to 1 April 2024.

The declaration is a legislative instrument and as such must be registered on the Federal Register of Legislation, laid before each House of Parliament no later than six sitting days after that registration, and is subject to the disallowance provisions of the Legislation Act.

The thirteen instruments aligned by the declaration relate to the establishment and functioning of Australia's national measurement system. There has never been a comprehensive review examining the entire legislative policy framework. However, in 2015 and 2016 the Department of Industry, Innovation and Science commissioned independent reviews of the National Measurement Institute's (NMI) measurement activities and policy. These reviews recommended that a legislative review be undertaken to simplify the regulatory framework and reduce the amount of prescription to enhance the appropriateness, effectiveness and efficiency of measurement in Australia.

The review of the legislative framework underpinning Australia's measurement system aims to modernise, streamline and simplify Australia's measurement legislation, to ensure the framework is fit for purpose.

The aligned sunseting date of 1 April 2024 will facilitate the undertaking of the review and the implementation of its finding by allowing sufficient time for:

- all thematic areas to be fully analysed
- new legislation to be finalised and introduced into Parliament where necessary, and
- education and transitional arrangements to enable both public and private stakeholders sufficient time to adopt and implement the revised national measurement legislation.

## More information

Further detail on the provisions of the declaration is provided in [Attachment A](#).

A copy of each instrument which is the subject of the declaration, and which will now sunset on 1 April 2024, is available on the Federal Register of Legislation.

Further information about the operation of these instruments may also be requested from the Department of Industry, Innovation and Science. Further information about the operation of the declaration may be sought from the Attorney-General's Department.

NOTES ON THE DECLARATION

**Section 1      Name**

This section provides for the declaration to be named the *Legislation (National Measurement Instruments) Sunset-altering Declaration 2018*. 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 national measurement instruments to facilitate review etc.**

This section lists the thirteen instruments that are repealed on 1 April 2024.

This is the aligned sunset day for those instruments, which would otherwise have sunset between 1 April 2019 and 1 April 2028.

**Section 5      Repeal of this instrument**

This section provides that the declaration is repealed on 2 April 2024, which is the day after the aligned sunset day. This ensures that the declaration remains in force only as long as it is needed.