

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer

A New Tax System (Australian Business Number) Act 1999

*A New Tax System (Australian Business Number) Amendment
(Display of Trading Names) Regulations 2018*

The *A New Tax System (Australian Business Number) Act 1999* (the Act) establishes the Australian Business Register (ABR) and provides a national system for issuing businesses with unique identifying numbers (the Australian Business Number or ABN), so that they can identify themselves reliably in their dealings with the Government.

Section 31 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 26(3) of the Act specifies the details of an entity included on the ABR that the Australian Business Registrar (the Registrar) may publicly display on the ABR, including any details prescribed by the regulations for the purposes of section 26 of the Act (as provided for in paragraph 26(3)(k) of the Act).

Regulation 8 of the *A New Tax System (Australian Business Number) Regulations 1999* (the Principal Regulations) prescribes the details for the purposes of paragraph 26(3)(k) of the Act. These details include providing that the Registrar may, until 1 November 2018, display trading names that had appeared on the ABR prior to the commencement of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.

The purpose of *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2018* (the Regulations) is to amend the Principal Regulations to provide that trading names that were on the ABR before 28 May 2012 can continue to be displayed on the ABR until 31 October 2023. A trading name is essentially an unregistered name that a business may use to conduct its business activities.

The registration of business names was historically the responsibility of the States and Territories. Given the different business name registration requirements and systems that were in place across the States and Territories, the ABR previously allowed entities to include any trading names on their ABR entry.

As part of the Council of Australian Government's reforms outlined in the National Partnership to Deliver a Seamless National Economy, responsibility for business names registration was transferred to the Commonwealth on 28 May 2012 with the launch of the Australian Securities and Investments Commission's (ASIC) national Business Names Register. ASIC's Business Names Register is now the primary source of publicly available information regarding registered business names and

business name holders in Australia. As a result, it is intended that the ABR will at some point cease to display unregistered trading names.

Following the introduction of the national business names registration regime, a one year transition period allowed trading names to continue to be displayed on the ABR until 28 May 2013. The transition period was further extended to 30 June 2014 and then again to 31 October 2018.

Many businesses use the ABR to verify the identity of business entities with which they conduct business. However, a large number of businesses have still not registered their business names on the national Business Names Register during the extended transitional period. If the ABR ceased to display these unregistered names from 1 November 2018, it could impact these businesses.

The Regulations further extend the transitional period until 31 October 2023, to allow unregistered trading names which are currently displayed on the ABR to continue to be displayed and be viewed by businesses for identity verification purposes. The extended transitional period will also allow additional time for Government to communicate with businesses that are still using a trading name, but have not yet registered a business name, to ensure they take the next steps to register a business name and can inform their customers and suppliers of this change.

The amendment to the Principal Regulations specifies that the Registrar can make available on the public register until 31 October 2023 a name used for business purposes which appeared on the ABR prior to 28 May 2012.

Details of the Regulations are included in the [Attachment](#).

The *A New Tax System (Australian Business Number) Act 1999* does not specify any conditions that need to be met before the power to make the Regulations is exercised.

Public consultation has not been conducted on the draft Regulations, as the amendments are of a minor nature.

The Regulations commenced on the day after registration.

Details of the *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2018*

Section 1 — Name of Regulations

This section specifies that the name of the Regulations is the *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2018* (the Regulations).

Section 2 — Commencement

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

Section 3 — Authority

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

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to the Regulations are amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Amendments

Schedule 1

Schedule 1 amends Regulation 8 of the *A New Tax System (Australian Business Number) Regulations 1999* to prescribe that the Registrar may, until 31 October 2023, display a name used for business purposes which was on the ABR prior to the commencement of Part 2 of Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*. This encompasses the concept of trading names that currently appear on the ABR.

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 allows unregistered business names displayed on the ABR up to 28 May 2012 to continue to be easily displayed on the ABR until 31 October 2023.

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.