

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer

A New Tax System (Luxury Car Tax) Act 1999

A New Tax System (Luxury Car Tax) Regulations 2019

Section 21-20 of the *A New Tax System (Luxury Car Tax) Act 1999* (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.

The purpose of the *A New Tax System (Luxury Car Tax) Regulations 2019* (the New Regulations) is to remake and improve the operation of the *A New Tax System (Luxury Car Tax) Regulations 2000* (the Sunsetting Regulations) before they sunset. There are no substantive changes to the underlying policy settings. The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, progressively sunset according to the timetable in section 50 of that Act. Sunsetting legislative instruments generally cease to have effect after ten years. The Sunsetting Regulations are scheduled to sunset on 1 October 2019.

As with the Sunsetting Regulations, the New Regulations support the operation of the Luxury Car Tax by:

- defining when a vehicle is an emergency vehicle, which are exempt from the luxury car tax; and
- defining the term ‘refund eligible car’ to provide a tax refund for certain cars used in primary production and tourism industries.

The New Regulations largely remake and improve the Sunsetting Regulations by simplifying language and clarifying concepts. Where provisions are redrafted in accordance with modern drafting techniques, the changes are not intended to affect the meaning or substantive operation of the provisions.

Public consultation on an exposure draft of the New Regulations and the accompanying exposure draft explanatory statement occurred from 30 July 2019 to 13 August 2019. No submissions were received regarding the remake of the Sunsetting Regulations and as a result no changes were made in response to public consultation.

Details of the New Regulations are set out in [Attachment A](#).

The New Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The New Regulations commence on 1 October 2019.

Prior to the making of the New Regulations and in accordance with the Office of Best Practice Regulation’s Guidance Note on sunsetting instruments, the Department of the

Treasury self-assessed that the Sunsetting Regulations were operating effectively and efficiently, and therefore a Regulation Impact Statement was not required. This assessment was informed by the public consultation on the exposure draft New Regulations.

A statement of Compatibility with Human Rights is at Attachment B. The New Regulations are compatible with human rights as they do not raise any human rights issues.

ATTACHMENT A

Details of the *A New Tax System (Luxury Car Tax) Regulations 2019*

This Attachment sets out further details of the *A New Tax System (Luxury Car Tax) Regulations 2019* (the New Regulations). All references are to the New Regulations unless otherwise stated.

The New Regulations remake the *A New Tax System (Luxury Car Tax) Regulations 2000* (the Sunsetting Regulations) before they sunset on 1 October 2019. The New Regulations do not incorporate any changes to the underlying policy settings of the Luxury Car Tax.

This Attachment outlines some of the changes made during the remake of the Sunsetting Regulations. Changes of a minor or technical nature, such as references to section rather than regulation in accordance with modern drafting practices, are generally not specifically identified in this Attachment. Where the New Regulations make changes that require further explanation, these are identified and explained in this Attachment.

Part 1—Preliminary

Section 1—Name of the New Regulations

Section 1 provides that the name of the Regulations is the *A New Tax System (Luxury Car Tax) Regulations 2019*.

Section 2—Commencement

Section 2 provides that the New Regulations commence on 1 October 2019.

Section 3—Authority

Section 3 provides that the New Regulations are made under the Act.

Section 4—Schedules

Section 4 provides that the instrument specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule and that any other item in the Schedule to this instrument has effect according to its terms.

Section 5—Definitions

Section 5 provides a list of definitions used in the New Regulations.

Part 5—Rules for interpreting the Act

Division 25—Luxury Cars

Subsection 25-1.01(1) corresponds to section 25-1.01 of the Sunsetting Regulations, with the exception of subparagraph 25-1.01(1)(b)(ii) which does not have a corresponding section in the Sunsetting Regulations.

Subsection 25-1.01(1) provides that, in order for a vehicle to satisfy the meaning of an ‘emergency vehicle’ for the purposes of paragraph 25-1(2)(a) of the Act, a vehicle must satisfy paragraph (a) of this subsection along with either subparagraph (b)(i) or subparagraph (b)(ii) of this subsection.

Subparagraph 25-1.01(1)(b)(ii) does not have a corresponding section in the Sunsetting Regulations. This clarifies circumstances where an eligible emergency vehicle is directly imported into Australia.

Where emergency vehicles are directly imported, in order for the vehicle to be exempt from Luxury Car Tax for the purposes of paragraph 25-1(2)(a) of the Act, the vehicle must first satisfy the condition under paragraph 25-1.01(1)(a). Further, in order for this vehicle to be considered an ‘emergency vehicle’ for the purposes of Luxury Car Tax, the person importing the vehicle must then provide a statement to the Comptroller-General of Customs at the time the vehicle is imported. This provision clarifies the exemption for Luxury Car Tax where eligible emergency vehicles are directly imported. This exemption for eligible emergency vehicles that are directly imported works alongside the exemption for eligible emergency vehicles purchased in Australia.

When a vehicle is imported, the importer is already engaged with the Department of Home Affairs. By integrating this procedure at the Department of Home Affairs, it minimises the compliance costs of the Luxury Car Tax exemption where there is a direct import of an emergency vehicle.

Subsection 25-1.01(2) corresponds with Schedule 1 to the Sunsetting Regulations. This subsection provides a table of eligible classes of emergency vehicles for the purposes of paragraph 25-1.01(1)(a). There is no change to the law between subsection 25-1.01(2) and Schedule 1 to the Sunsetting Regulations.

Division 27—The Dictionary

Under Division 18 of the Act, a refund is available for eligible primary producers or certain tourism businesses that acquire a ‘refund-eligible car’.

Section 27-1.01 corresponds to section 27-1.01 of the Sunsetting Regulations. This section provides for the meaning of ‘refund-eligible car’.

Section 27-1.02 correspond to section 27-1.02 of the Sunsetting Regulations. This section provides for the meaning of ‘tourist activity’.

Part 6—Application, saving and transitional provisions

Part 6 ensures that the repealed section 25-1.01 of the Sunsetting Regulations (meaning of luxury car – emergency vehicles) continues to apply in relation to supplies made, or importations occurring, before the commencement of this instrument, as if the repeal had not happened. Section 29-1.01 ensures the continuity of the application between the Sunsetting Regulations and the New Regulations.

Schedule 1—Repeals

Schedule 1 to the New Regulations repeals the Sunsetting Regulations.

Statement of Compatibility with Human Rights

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

A New Tax System (Luxury Car Tax) Regulations 2019

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 purpose of the *A New Tax System (Luxury Car Tax) Regulations 2019* (the New Regulations) is to remake and improve the operation of the *A New Tax System (Luxury Car Tax) Regulations 2000* (the Sunsetting Regulations) before they sunset.

The New Regulations largely remake and improve the Sunsetting Regulations by simplifying language and clarifying concepts. The New Regulations cover the emergency vehicle exemption and refunds for the purposes of the *A New Tax System (Luxury Car Tax) Act 1999*.

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.