

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Coronavirus Economic Response Package (Payments and Benefits) Act 2020

*Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules
(No. 3) 2020*

Subsection 20(1) of the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* (the Act) provides that the Treasurer may make rules 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 7(1) of the Act provides that the rules may make provision for and in relation to one or more kinds of payments by the Commonwealth to an entity in respect of a time that occurs during the prescribed period (the period between 1 March 2020 and 31 December 2020), and the establishment of a scheme providing for matters relating to one or more of those payments, and matters relating to such a scheme. Any payments must relate to the prescribed period.

The object of the Act is to provide financial support to entities to assist with the impact of the Coronavirus known as COVID-19. In particular, the Act establishes a framework for the Treasurer to make rules about one or more kinds of payments to an entity in respect of a prescribed period.

On 30 March 2020, the Australian Government announced a wage subsidy called the JobKeeper payment for entities that have been significantly affected by the economic impacts of the Coronavirus. In support of the Act, the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* (the Rules) establish the JobKeeper scheme and specify details about the scheme, including when an employer or business is entitled to a payment and other matters relevant to the administration of the payment.

The purpose of the *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 3) 2020* (the Amending Rules No. 3) is to refine and clarify elements of the JobKeeper scheme to ensure that it most appropriately supports businesses and employees affected by the significant economic impact caused by the Coronavirus. In particular, the Amending Rules No. 3 ensure the 6 month turnover test period applying to universities is limited to only those universities that are Table A providers within the meaning of *Higher Education Support Act 2003*.

Details of the Amending Rules No. 3 are set out in [Attachment A](#).

Prior to making the instrument, consultation on draft legislation was conducted with a number of stakeholders, including the Australian Taxation Office, and the Department of Education, Skills and Employment. These stakeholders provided expert advice regarding the operation of the draft legislation, and this advice was incorporated into the final design of the instrument.

An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

The Amending Rules No. 3 do not materially change the estimated financial impact of the JobKeeper scheme that was included in the Explanatory Memorandum for the Act and Schedule 2 to the *Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020*.

The Amending Rules No. 3 are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amending Rules No. 3 commenced immediately after the time they were registered on the Federal Register of Legislation.

A Statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 3) 2020

Section 1 – Name of the Instrument

This section provides that the name of the Instrument is the *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 3) 2020* (the Amending Rules No. 3).

Section 2 – Commencement

The Amending Rules No. 3 commence immediately after the time they were registered on the Federal Register of Legislation.

Section 3 – Authority

The Amending Rules No. 3 are made under the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* (the Act).

Section 4 – Schedules

This section provides that each instrument that is specified in the Schedules to this instrument will be amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Amendments

JobKeeper payment amendments

The Amending Rules No. 3 ensure the 6 month turnover test period applying to universities is limited to only those universities that are Table A providers within the meaning of *Higher Education Support Act 2003*.

Decline in turnover test –universities

Paragraph 8(7)(aa) requires that universities use the six month period commencing on 1 January 2020 as the turnover test period to determine if they have had a sufficient decline in their turnover which potentially qualifies them for the JobKeeper scheme. This ensures that a significant period of the year is tested to confirm any decline in turnover.

The six month test period currently applies to an entity that is a Table A provider or a Table B provider within the meaning of sections 16-15 and 16-17 of the *Higher Education Support Act 2003*. Generally, Table A providers are approved for Australian Government grants under the *Higher Education Support Act 2003* and their students can receive all forms of assistance. Table B providers are eligible for some grants for particular purposes. The terms Table A and Table B provider are defined in subsection 4(1) to take their meaning under the above Act.

The Amending Rules No. 3 amend paragraph 8(7)(aa) so that it only applies to Table A providers. Table B providers will instead be permitted to assess their eligibility based on a monthly or quarterly test period similar to other entities.

Statement of Compatibility with Human Rights

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

Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 3) 2020

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 *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 3) 2020* (the Amending Rules No. 3) is to refine and clarify elements of the JobKeeper scheme to ensure that it most appropriately supports businesses and employees affected by the significant economic impact caused by the Coronavirus. In particular, the Amending Rules No. 3 ensure the 6 month turnover test period applying to universities is limited to only those universities that are Table A providers within the meaning of *Higher Education Support Act 2003*.

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.