

EXPLANATORY STATEMENT

Issued by authority of the Minister for Housing and Assistant Treasurer

A New Tax System (Australian Business Number) Act 1999

A New Tax System (Australian Business Number) Regulations 2020

Section 31 of the *A New Tax System (Australian Business Number) 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 (Australian Business Number) Regulations 2020* (the Amending Regulations) is to remake and improve the operation of the *A New Tax System (Australian Business Number) Regulations 1999* (the Regulations) before they sunset. 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 and further action is required to continue their operation, such as remaking the instrument.

The Regulations were originally due to sunset on 1 April 2019, however, a twelve-month deferral was granted by the Attorney-General under section 51 of the *Legislation Act 2003* on 17 October 2018 (F2018L01510). On 21 March 2020, the Attorney-General issued an amendment certificate extending the previously granted deferral of sunsetting for the Regulations by an additional 12 months, resulting in a deferral of 24 months in total (F2020L00316). The Regulations are now due to sunset on 1 April 2021.

As with the Regulations, the Amending Regulations prescribe certain details that must be entered into the Australian Business Register and supports the administration processes related to registering for an Australian Business Number.

The Amending Regulations remake and improve the Regulations by repealing redundant provisions, simplifying language and restructuring provisions for ease of navigation. These changes do not affect the substantive meaning or operation of the provisions.

The Amending Regulations and explanatory material were released for a four-week public consultation between 4 September and 5 October 2020. Feedback received during consultation supported the making of the proposed Regulations.

The Act does not specify any conditions that need to be met before the power to make the Amending Regulations may be exercised.

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

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

The Amending Regulations commence on 1 April 2021.

The Amending Regulations have a negligible impact on compliance costs.

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

Details of the *A New Tax System (Australian Business Number) Regulations 2020*

This attachment sets out further details on *A New Tax System (Australian Business Number) Regulations 2020* (the Amending Regulations). All references are to the Amending Regulations unless otherwise stated. References to a ‘corresponding provision’ are to the corresponding provision in the *A New Tax System (Australian Business Number) Regulations 1999* (the Regulations).

Changes of a minor or machinery 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 Amending Regulations make changes that require further explanation, these are identified and explained in this Attachment.

Part 1 – Introduction

This Part has been renamed from ‘Preliminary’ to ‘Introduction’ to align with modern drafting practices.

Section 1 – Name of the Regulations

This section provides that the name of the regulations is the *A New Tax System (Australian Business Number) Regulations 2020*.

Section 2 – Commencement

This section provides that the Amending Regulations commence on 1 April 2021.

Section 3 – Authority

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

Section 4 – Schedule

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.

The corresponding provision in the Regulations has not been remade. The Act now relies on the declaration provisions in Division 388 in Schedule 1 of the *Tax Administration Act 1953* rather than section 4 of the Regulations. Therefore, section 4 of the Regulations is redundant and has not been replicated in the Amending Regulations.

Section 5 – Definitions

Section 5 sets out the definitions of key terms used in the Amending Regulations.

The section has been updated to include definitions of the ACN, ARBN and Business Names' Register. A note has also been added to the section, which provides that certain expressions in the Regulations are defined in the Act. These changes align the provision with modern drafting practices and improves the clarity of the Amending Regulations.

Part 2 – The Australian Business Register

This Part has been renamed from 'Information for the Australian Business Register' to 'The Australian Business Register' to better encapsulate the subject matter of the provisions under this Part.

Section 6 – Details to be entered in the Australian Business Register

Section 6 replicates sections 5 and 6 in the Regulations but has been restructured to simplify the Amending Regulations.

Sections 5 and 6 in the Regulations required the Registrar (as defined in the Act), for the purposes of paragraph 25(2)(b) of the Act, to enter onto the Australian Business Register certain prescribed details for all entities and other details prescribed in section 6, which may apply to an entity. In this remake, only one section is required to replicate the operation of both sections in the Regulations. The wording of the section has changed, as a consequence of the change in structure and to simplify the language in the subsections and subparagraphs. However, there has not been a change in the operation of the law.

Further, the reference to the 'Australian New Zealand Standard Industrial Classification code' in the Regulations has been updated by citing the 'Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006' as it is the latest version of the document cited in the Regulations. This update does not change the operation of the law. Additionally, the section heading has been updated to better indicate the subject matter of the section.

Section 7 – Fee for access to the Australian Business Register

Section 7 largely replicates the corresponding provision in the Regulations but has been restructured and updated to clarify the provision. Subsection 7(1) has been added to the provision to provide the purpose of the section. Subregulations 7(1), (2) and (3) in the Regulations have been redrafted as subsections 7(2), (3) and (4) with small editorial changes to improve the clarity of the subsections. However, these updates do not change the operation of the law.

Further, the section heading has been changed from 'Fees for copies (Act s 26, s 27)' to 'Fee for access to the Australian Business Register' to more accurately reflect the subject matter of the provision and align with modern drafting practices.

Section 8 – Details to be included in copies of the Australian Business Register

Section 8 replicates the corresponding provision in the Regulations but with some editorial updates to align with modern drafting practices. The updates will not change the operation of the law. Further, the section heading has been changed from

‘Prescribed details’ to ‘Details to be included in copies of the Australian Business Register’ to better reflect the subject matter of the section.

Schedule 1 – Repeals

This Schedule provides for the repeal of the 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 (Australian Business Number) Regulations 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

A New Tax System (Australian Business Number) Regulations 2020 remake and improve the *A New Tax System (Australian Business Number) Regulations 1999* by repealing redundant provisions, simplifying language and restructuring provisions for ease of navigation.

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.