

## **EXPLANATORY STATEMENT**

### *Coronavirus Economic Response Package (Payments and Benefits) Act 2020*

### *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 9) 2020*

Section 20 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.

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.

As part of the 2020-21 Budget, the Australian Government announced the JobMaker Hiring Credit payment which will support businesses to hire additional employees where they otherwise may not have done so and expand their organisation to provide young people with access to new employment opportunities as the economy recovers from the Coronavirus.

The Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 9) 2020 (Amending Rules No. 9) amend the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* (the Rules) to establish the JobMaker scheme and specify details about the scheme, including:

- the start and end date of the scheme;
- when an employer or business is entitled to a payment;
- the amount and timing of a payment; and
- other matters relevant to the administration of the payment.

The amount of the JobMaker Hiring Credit payment depends on the age of the eligible employee when they commence employment with the entity. An entity may receive up to \$200 per week for each eligible additional employee aged 16 to 29 years and up to \$100 per week for each eligible additional employee aged 30 to 35 years.

The JobMaker Hiring Credit payment is targeted at younger people as they have been disproportionately impacted by the COVID-19 pandemic.

As at October 2020 and compared to March 2020:

- youth employment (aged 15 to 34 years) had fallen by 210,000 (or 4.2 per cent) and the youth unemployment rate stood at 10.6 per cent for those aged 15 to 34 years and 15.6 per cent for those aged 15 to 24 years, compared to 7.0 per cent for the whole population; and
- employment for those aged 35 and over had fallen by 13,200 persons (down 0.2 per cent).

While the 15 to 34 year old cohort represented around 40 per cent of those that are employed, it accounts for around 95 per cent of the total fall in employment over this period.

The experience from past recessions shows that it takes a particularly long time for youth employment to recover. It took nearly 10 years after the early 1990s recession to get the unemployment rate to return to pre-recession levels and it took 15 years to get employment for young people back to where it started.

In addition to the significant number of young people who have lost employment this year, there are large numbers of young people entering the labour force each year who are likely to struggle to access employment in the current climate. For example, job advertisements for graduate positions and internships have fallen 29 per cent in the year-to-September 2020 (Burning Glass Technologies 2020).

Young people have a larger share of working years ahead of them. The long-term economic costs of becoming disconnected from the labour market is, therefore, much greater for young people.

Older workers will also generally have more substantial work experience to support them finding re-employment.

Expanding employment opportunities will reduce the ‘scarring effects’ of an extended period of unemployment for people that have lost employment or are yet to gain employment. There are direct impacts for the individual through long-term reductions in earnings and employment outcomes as well as negative health and social impacts. There are broader economic losses in terms of human capital, lower levels of income, consumption and productivity.

A four week public consultation was undertaken on the draft Rules. Feedback received during consultation broadly supported the proposed amendments, although some concerns were raised around complexity for small businesses. Changes have been made in response to this feedback to clarify certain provisions and to reduce complexity where possible. While some complexity in the provisions is unavoidable, in particular in relation to the ‘additionality’ requirements, much of the practical implications will be resolved through the Australian Taxation Office’s proposed administration of the scheme.

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

The Act specifies no conditions that must be met before the power to make the Amending Rules No. 9 can be exercised.

Details of the Amending Rules No. 9 are set out in [Attachment A](#)

The Amending Rules No. 9 are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amending Rules No. 9 commenced immediately after registration.

**Details of the Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 9) 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. 9) 2020* (Amending Rules No. 9).

**Section 2 – Commencement**

Schedule 1 to the Amending Rules No. 9 commence immediately after the instrument is registered on the Federal Register of Legislation.

**Section 3 – Authority**

The Amending Rules No. 9 are made under the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* (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.

**Schedule 1 – Amendments**

**JobMaker Hiring Credit payment**

Schedule 1 to the Amending Rules No. 9 amends the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* (the Rules) to establish the JobMaker scheme. The JobMaker scheme makes the ‘JobMaker Hiring Credit’ payment available to qualifying employers to encourage job creation in the economic recovery from the impacts of the Coronavirus known as COVID-19. The scheme encourages employers to engage individuals aged 16 to 35 years for long term employment.

The JobMaker scheme was announced on 6 October 2020.

All legislative references in this attachment are to the Amending Rules No. 9 unless otherwise stated.

Item 1 of Schedule 1 inserts a number of definitions into subsection 4(1) of the Rules for key terms used in the JobMaker scheme. Details of these terms are provided in their relevant sections below. Subsection 4(2) of the Rules already provides that where an expression is not defined in subsection 4(1) of the Rules but that expression is defined in the *Income Tax Assessment Act 1997* (ITAA 1997), the expression has the same meaning in this instrument as it has in that Act.

## **Entitlement to the JobMaker Hiring Credit payment**

Division 2 sets out the circumstances in which an employer with eligible employees is entitled to the JobMaker Hiring Credit payment. In general terms, an employer is entitled to a JobMaker Hiring Credit payment for a period if:

- the period is a JobMaker period;
- the employer qualifies for the JobMaker scheme for the period;
- the employer is not disqualified for the JobMaker scheme for the period;
- the employer has one or more eligible additional employees for the period;
- the employer has a headcount increase for the period;
- the employer has a payroll increase for the period;
- the employer has notified the Commissioner of Taxation (Commissioner) of its election to participate in the scheme;
- the employer has given information about the entitlement for the period to the Commissioner in accordance with the reporting requirements determined by the Commissioner; and
- the employer is not entitled to a JobKeeper payment for an individual for a fortnight that begins during the period.

Each of these requirements is described in greater detail below.

There are also provisions in the Act that may affect whether an entity is entitled to a JobMaker Hiring Credit payment, such as the requirements relating to record keeping (section 14) and contrived schemes (section 19).

These provisions ensure the integrity of the JobMaker scheme by requiring entities to maintain sufficient records to substantiate their claim and prevent both employers and employees from entering into arrangements for the sole or dominant purpose of obtaining the JobMaker Hiring Credit payment. These general provisions are supported by a specific rule inserted by the Amending Rules No. 9 which disqualifies an employer from accessing the JobMaker scheme where they have terminated the employment, or reduced the ordinary hours of work, of an existing employee in certain circumstances. This disqualification rule is explained in further detail below.

### *JobMaker periods*

Entitlement to a JobMaker Hiring Credit payment is assessed in relation to three-month periods known as ‘JobMaker periods’. The JobMaker scheme commences on 7 October 2020 and ends on 6 October 2022, with each period being 3 months. Accordingly, each of the following is a JobMaker period (inclusive):

- 7 October 2020 to 6 January 2021;

- 7 January 2021 to 6 April 2021;
- 7 April 2021 to 6 July 2021;
- 7 July 2021 to 6 October 2021;
- 7 October 2021 to 6 January 2022;
- 7 January 2022 to 6 April 2022;
- 7 April 2022 to 6 July 2022; and
- 7 July 2022 to 6 October 2022.

*Participation and general notification requirements in the JobMaker scheme*

To be entitled to the JobMaker Hiring Credit payment in relation to a JobMaker period, an entity must have notified the Commissioner in the approved form of its election to participate in the scheme. This notification must be provided by the end of the first period the entity wishes to receive an entitlement for JobMaker. Once an entity has notified the Commissioner of its election to participate for a period, the election also applies for any subsequent period.

For example, to participate in the second JobMaker period of 7 January 2021 to 6 April 2021, the notice must be provided to the Commissioner by 6 April 2021. This could include a notice that was given before 7 January 2021 in relation to the first period.

The entity must also comply with all reporting obligations of the scheme as determined by the Commissioner. A legislative instrument issued by the Commissioner may specify the types of information that must be reported, the timing of that reporting and how the entity is required to provide that information to the Commissioner.

The reporting requirements specified by the Commissioner will include information required by the Commissioner to calculate the entity's entitlement for a period. This will include the details of employees that have commenced or ceased employment during a JobMaker period and the entity's payroll amount. The Commissioner will also specify that the information must be provided through the single touch payroll reporting regime.

An entity cannot participate in the JobMaker scheme if they are entitled to receive a JobKeeper payment in respect of an individual for a JobKeeper fortnight that begins during the JobMaker period. This ensures that an entity cannot participate in both the JobKeeper scheme and JobMaker scheme simultaneously.

The prohibition on JobKeeper fortnights that begin during a JobMaker period allows an entity to have a single JobKeeper fortnight end at the start of a JobMaker period. Permitting this overlap allows an entity to cease its participation in the JobKeeper scheme and begin its participation in the JobMaker scheme without requiring a 'gap' between the two schemes. Preventing a JobKeeper fortnight from starting in a

JobMaker period ensures that any such overlap is always limited to a part of a single JobKeeper fortnight. This reflects that any transition between the two schemes must be limited and temporary in nature.

An entity that transitions from the JobKeeper scheme to the JobMaker scheme can employ an eligible employee during a JobMaker period for which the entity is not entitled to receive a payment under the JobMaker scheme.

For example, an entity that receives JobKeeper payments for their existing employees up until the JobKeeper fortnight ending on 3 January 2021 could have employed an individual who is an eligible employee under the JobMaker scheme on 1 December 2020. The entity would not be entitled to receive the JobMaker Hiring Credit payment for the JobMaker period of 7 October 2020 to 6 January 2021.

However, assuming the entity's last JobKeeper fortnight ended on 3 January 2021, the entity could become entitled to receive the JobMaker Hiring Credit payment from the JobMaker period starting on 7 January 2021. The eligible employee who commenced employment on 1 December 2020 would be taken into account in working out the entity's entitlement from that later time.

However, the employee will cease to provide the entity with an entitlement to the JobMaker Hiring Credit payment from 1 December 2021, as entitlement to receive payments relating to an eligible employee ceases 12 months after they commence employment.

### **Employer must be a qualifying entity**

The JobMaker Hiring Credit payment is only available to qualifying entities. An entity is a qualifying entity in respect of a JobMaker period if:

- From the time the entity elected to participate in the scheme, the entity satisfies any one of the following requirements:
  - it carries on a business in Australia; or
  - it is a non-profit body pursuing its objectives principally in Australia; or
  - it is a deductible gift recipient that is, or operates, a public fund covered by item 9.1.1 or 9.1.2 of the table in subsection 30-80(1) of the ITAA 1997 (international affairs deductible gift recipients); and
- From the time the entity elected to participate in the scheme, the entity both:
  - has an ABN; and
  - is registered as a withholder in accordance with section 16-141, 16-142 or 16-146 in Schedule 1 to the Taxation Administration Act 1953; and
- at the time the entity gives information to the Commissioner about its entitlement for the period, the entity does not have any outstanding income tax returns or GST returns that the entity was required to lodge in the 2 years prior to the end of the JobMaker period.

As noted above, the Commissioner will also specify that the information that must be provided in relation to an entity's entitlement is to be provided through the single touch payroll reporting regime. This will mean that entities must be enrolled in single touch payroll reporting in order to qualify for the JobMaker scheme.

#### *Carrying on a business or pursuing objectives as a non-profit body or certain public funds*

To be a qualifying entity, the entity must be either carrying on a business, be a non-profit body that pursues its objectives principally in Australia, or be a public fund covered by items 9.1.1 or 9.1.2 of the table in subsection 30-80(1) of the ITAA 1997 (international affairs deductible gift recipients).

The term 'business' is defined in section 995-1 of the ITAA 1997. As noted in the dictionary for the Rules, the term 'non-profit body' takes the same meaning as given to the term in section 23-15 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Items 9.1.1 and 9.1.2 of the table in subsection 30-80(1) of the ITAA 1997 broadly apply to public funds that are declared to be developing country relief funds or developed country disaster relief funds.

#### *ABN registration, withholding obligations and tax lodgments up to date*

To provide for efficient administration of the scheme, at the time they elect to participate in the JobMaker scheme the entity must have an ABN and be registered to withhold Pay As You Go.

At the time the entity provides information to the Commissioner about their entitlement under the scheme for a JobMaker period, the entity must not have any outstanding income tax or business activity statement lodgments that were required to be lodged in the two years before the end of the JobMaker period. This means that an entity can rectify any lodgments that were outstanding at the end of the period before they provide the required information to the Commissioner in relation to the period.

#### *Exclusions*

An entity is excluded from being a qualifying entity if any of the following applies:

- it is an entity that has been subject to the levy imposed by the *Major Bank Levy Act 2017* for any quarter ending before 1 October 2020, or it was a member of a consolidated group and another member of the group had been subject to the levy;
- it is an Australian government agency, local governing body or a wholly-owned entity of those;
- it is a sovereign entity; or
- at any time in the JobMaker period, a provisional liquidator or liquidator has been appointed to the business or a trustee in bankruptcy had been appointed to the individual's property.

Each of these exclusions is described in more detail below.

#### *Entities subject to the major bank levy*

A qualifying entity cannot be an employer that was subject to the major bank levy in a quarter ending on or before 30 September 2020. The major bank levy is imposed by the *Major Bank Levy Act 2017* and is payable by authorised deposit-taking institutions with total liabilities of more than \$100 billion on a quarterly basis.

In addition, an employer is not a qualifying entity if the major bank levy was imposed on another member of a consolidated group that it is a member of for any quarter ending before 1 March 2020. For example, if an employer is a small bank that is part of a consolidated group that includes an authorised deposit-taking institution that is subject to the major bank levy, then the small bank cannot be a qualifying employer.

#### *Government entities*

An Australian government agency is not a qualifying entity for the purposes of the JobMaker scheme. ‘Australian government agency’ is defined in section 995-1 of the ITAA 1997 as the Commonwealth, a State or a Territory or an authority of the Commonwealth, of a State or of a Territory. A ‘local governing body’, which is also defined in that Act, is also excluded from being a qualifying employer for the purposes of JobMaker scheme.

An entity that is wholly-owned by an Australian government agency or a local governing body is not a qualifying entity for the purposes of the JobMaker scheme.

Australian universities may participate in the JobMaker Hiring Credit scheme.

A sovereign entity is not a qualifying employer for the purposes of JobMaker Hiring Credit payment. The term ‘sovereign entity’ takes its meaning from the ITAA 1997 and, generally, includes a body politic of a foreign country or a foreign government agency. However, wholly-owned resident subsidiaries of a body politic of a foreign country or foreign government agency may be a qualifying entity.

#### *Liquidators and bankruptcy*

For the purposes of JobMaker scheme, an employer is not a qualifying entity for one or more JobMaker periods if at any time during the period a liquidator or trustee in bankruptcy has been appointed. This reflects that the JobMaker Hiring Credit payment is intended to incentivise new hires within entities as they recover from the impacts of the Coronavirus by encouraging the employment of young JobSeekers. Consistent with the approach taken under the JobKeeper scheme, the reference to ‘has been appointed’ applies to appointments that were made during the period, or that continue to apply during the period. It does not capture historical appointments that are no longer in place.

#### **Disqualification of employers**

Despite satisfying the requirements for being a qualifying entity, an entity may be separately disqualified for the JobMaker scheme for a period if:



- at or before the end of the period, the entity terminates the employment, or reduces the ordinary hours of work, of an employee; and
- the termination or reduction is done as part of a scheme for the sole or dominant purpose of the entity obtaining, or increasing the amount of, the JobMaker Hiring Credit payment.

This provision denies access to the JobMaker Hiring Credit for an employer who enters into an arrangement to artificially inflate their employee headcount and/or payroll for a JobMaker period. Terminating, or reducing the hours of, an existing employee could be done as part of a scheme that was entered into to facilitate greater access to the JobMaker Hiring Credit by hiring other employees. This could be done to increase the number of eligible employees or demonstrate a headcount increase despite there being no substantive increase in their overall employment levels.

Generally, this rule would not apply to an arrangement voluntarily entered into by the employee whose employment was terminated or whose ordinary hours of work were reduced. This is because such arrangements would usually be for some other purpose (such as facilitating the needs or preferences of the employee). However, the arrangements could be in scope of the rule if they were not truly voluntary (for example, because the employee was manipulated or coerced into agreeing to them).

This provision complements the general rule in section 19 of the Act that applies to contrived schemes. However, in contrast to that general rule (which denies specific entitlements arising from a contrived scheme), an employer who is disqualified under this specific rule loses all entitlements to the JobMaker Hiring Credit payment for any JobMaker period that ends after the termination or reduction in hours occurred. This will include a period in which the termination or reduction occurred, as well as any subsequent periods.

In addition to losing access to the hiring credit under the general anti-avoidance provisions, employers who take adverse action against an older employee in order to benefit from the scheme may also be acting unlawfully under the *Age Discrimination Act 2004* and the *Fair Work Act 2009*. Those Acts make it unlawful for an employer to discriminate against an employee on the grounds of the employee's age by dismissing them, altering the terms and conditions of their employment or subjecting the employee to any other detriment.

**Example 1.1 – a scheme which inflates headcount**

Oscar is 53 years old and has been employed by Titan Co for 14 months. Oscar's hours can vary depending on the shifts he is allocated each fortnight but he typically works four days per week and an average of 26 hours per week.

On 10 October 2020, Titan Co hires Bella. Bella is 26 years old and satisfies the other requirements to be an eligible additional employee.

On 17 October 2020, Titan Co provides Oscar with his roster for the fortnight which shows Oscar has not been allocated any shifts in the coming fortnight. Oscar does not get allocated any shifts for the remainder of the JobMaker period.

Titan Co instead allocates Bella similar shifts to those previously worked by Oscar. To offset the fact that Bella is receiving the wages that Oscar would have ordinarily received in the period, Titan Co increases the wages of its managing director, Douglas, who is also employed as an employee of Titan Co.

Titan Co submits a claim to the Commissioner for the JobMaker Hiring Credit payment for the first JobMaker period. In doing so, Titan Co claims that Oscar is still an employee and that, as a result, employing Bella has caused Titan Co to have a headcount increase for the period. Titan Co also claims that it has had a payroll increase for the period because of the additional amount of wages it has paid to Douglas.

The Commissioner calculates Titan Co's entitlement for the period based on this information and pays an amount of the JobMaker Hiring Credit payment to Titan Co.

A short time after paying the JobMaker Hiring Credit payment to Titan Co, the Commissioner reviews Titan Co's entitlement to the JobMaker Hiring Credit payment. The Commissioner identifies that Titan Co reduced Oscar's hours and made additional payments to Douglas for the sole or dominant purpose of obtaining the JobMaker Hiring Credit payment in relation to Bella.

The Commissioner therefore determines that Titan Co was disqualified from the JobMaker scheme for the period, and for all subsequent periods.

Titan Co is liable to repay all amounts of JobMaker Hiring Credit payment that it received in the period. Titan Co is also subject to general interest charges in relation to the overpayment of the JobMaker Hiring Credit payment that it received.

### **Employer must have eligible additional employees**

Under the JobMaker scheme, qualifying entities can only receive the payment for a JobMaker period in respect of eligible additional employees.

An eligible additional employee is an individual who:

- was employed by the qualifying entity at any time during the JobMaker period;
- commenced employment between 7 October 2020 and 6 October 2021;
- was aged between 16 and 35 years at the time they commenced their current employment with the entity;
  - employers are eligible for the 'higher rate' for individuals aged 16 to 29 (inclusive) at the commencement of their employment; and
  - employers are eligible for the 'lower rate' for individuals aged 30 to 35 (inclusive) at the commencement of their employment;
- has worked or has been paid for an average of 20 hours a week for the time the individual was employed by the qualifying entity during the JobMaker period;
- meets the pre-employment conditions;
- meets the notice requirement; and
- is not excluded as an eligible additional employee.

The requirement that an employee must commence employment between 7 October 2020 and 6 October 2021 means that the JobMaker Hiring Credit payment is available for additional employment that occurs within this 12 month period.

The 20 hour per week requirement ensures that the JobMaker Hiring Credit payment additional employment that is substantial.

The requirement can be satisfied in relation to the hours that an employee actually worked during a period, or the hours for which they were paid during the period. These apply as alternatives and the employer can choose which one to use. Including hours for which an employee was paid is intended to allow employers to use existing information in their payroll systems relating to employees who are paid on an hourly basis.

The 20 hour average applies in relation to the number of whole weeks that an employee was employed in a period. While the hours that an individual worked during a part week count towards whether an employee has met this threshold, the threshold itself is only based on the number of full weeks that the employee was employed. For example, if an employee was employed for 38 days in a period because they commenced or terminated their employment during the period, the 20 hour threshold would be based on the five full weeks that they were employed. The employer would be required to demonstrate 100 hours of work or for which the employee was paid over the period.

The pre-employment condition is that for at least 28 consecutive days of the 84 days (i.e. for 4 out of 12 weeks) immediately before the commencement of employment of the individual, the individual was receiving at least one of the following payments under the *Social Security Act 1991*:

- parenting payment;
- youth allowance (except if the individual was receiving this payment on the basis that they were undertaking full time study or was a new apprentice); or
- JobSeeker payment.

The policy intent of the JobMaker scheme is to encourage additional employment by providing a payment to qualifying entities who hire eligible additional employees.

An individual who received a nil payment for a time (for example, due to waiting period, nil rate period or a suspension that would generally be lifted), can meet the pre-employment condition by including days in respect of which they received the nil rate.

However, the number of days in respect of which they received the nil rate, or a combination of days paid and nil payment days, must still be at least 28 consecutive days out of the 84 days immediately preceding their employment by the entity.

The notice requirement for an eligible additional employee is that the individual must give written notice to the employer in the approved form that the individual:

- met one of the applicable age requirements at the time they commenced employment (that is, they were either aged between 16 and 29, or between 30 and 35);
- meets the pre-employment condition; and
- has not provided such a notice to another entity of which they are currently an employee.

This notice requirement allows qualifying entities to rely on declarations made by the employee regarding their satisfaction of the pre-employment condition and that they are not nominated by another entity to receive the JobMaker Hiring Credit payment. As these facts are not expected to be known by the employer, it is appropriate that the employee confirm that they satisfy the requirements by providing a notice to the employer.

The notification can only be given once the employee commences employment with the employer and ceases to have effect once the individual ceases employment with the employer. This ensures that an employee can provide a further nomination to a new employer if they have ceased employment with an employer that they have already provided the nomination notice to. In order to provide a further notice the individual would again need to meet the requirements for being an eligible additional employee at the time of the later commencement of employment (for example, the age and pre-employment requirements).

Under no circumstances are employees able to have valid notices with multiple employers at the same time. Where an individual has more than one employer, the employee can only give a notice to one of those employers and that notice will only cease to have effect if the employee ceases employment with that employer.

Despite a notice ceasing to have effect from this time, an individual cannot give a further notice to an alternative employer that they were already employed by. This reflects the fact that the requirement about no other notices is tested at the time an individual commences employment. This will prevent an individual transferring their eligible employee status between existing employers, and is appropriate because the alternative employer would have already taken the decision to hire the employee on the basis that they will not be an eligible employee.

Individuals who provide a false or misleading statement may be liable to criminal and administrative penalties under the *Taxation Administration Act 1953*. Individuals may also be jointly and severally liable for any overpayments made to an entity under the JobMaker scheme where the overpayment occurred because the entity reasonably relied on a statement that was made by the individual in the approved form (see section 11 of the Act).

#### *Exclusions from being an eligible additional employee*

An individual is excluded from being an eligible additional employee if the individual is, where applicable, any of the following persons:

- if the entity is a sole trader – a relative of the sole trader;

- if the entity is a partnership – a partner of the partnership or a close associate of a partner in the partnership;
- if the entity is a trust (other than a widely held unit trust as defined in section 272-105 of Schedule 2F to the ITAA 1936) – the trustee or beneficiary of that trust, or a close associate of a trustee or a beneficiary of the trust; or
- if the entity is a company (other than a widely-held company as defined in subsection 995-1(1) of the ITAA 1997) – a shareholder in the company or a director of the company or a close associate of a shareholder in or a director of the company.

For the purposes of the exclusion, the term ‘close associate’ is defined in the Amending Rules No. 9 and includes a relative of a partner in a partnership, trustee of a trust or shareholder or director in a company. The term also applies on a look-through basis, which allows the exclusion to disregard an interposed entity. For example, where a trust with a corporate trustee is the entity carrying on the business, a person is excluded from being an eligible additional employee of the qualifying entity (the trust), if that person is the child of the director of the company that is the corporate trustee.

The term ‘relative’ has the same meaning as in the ITAA 1997. Subsection 995-1(1) of the ITAA 1997 defines the relative of a person as:

- the person’s spouse; or
- the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendent or adopted child of that person, or of that person's spouse; or
- the spouse of the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendent or adopted child of that person, or of that person's spouse.

This provides that a qualifying entity cannot claim an amount of the JobMaker Hiring Credit payment in relation to a person who is related to the entity even if the employee would otherwise meet all other eligibility requirements.

An individual is also excluded from being an eligible additional employee if:

- at any time between 6 April 2020 and 6 October 2020, the individual was engaged, other than as an employee, to perform a substantially similar role or substantially similar functions or duties for the entity (for example, as a subcontractor); or
- they last commenced employment with the entity 12 months or more before the first day of the period.

The exclusion for individual performing substantially similar roles or functions prevents an entity from obtaining a benefit from the JobMaker scheme by converting an existing relationship they have with an individual into a substantially similar employment relationship. This reflects that the JobMaker scheme is intended to apply to additional aggregate employment.

The 12 month rule assists in limiting the payments an employer can receive in relation to a single eligible employee to 12 months. The 12 month rule does not apply to the period that includes the 12 month anniversary of the employee commencing employment with the entity, as doing this would prevent the entity from being able to take account of any part of the period that occurred before the employee's 12 month anniversary. The part of the period that occurs after the 12 month anniversary is dealt with separately by a further rule (explained below) that limits the total number of days in relation to which an individual eligible employee can be counted in calculating an employer's entitlement.

### **Employer must have a headcount increase for the JobMaker period**

To be entitled to the JobMaker Hiring Credit payment for a period, an entity must have created additional employment during the period. Additional employment is measured by reference to the number of employees that were employed by the entity on 30 September 2020.

Ensuring that the entity has created additional employment prevents an employer from replacing their existing employees with eligible additional employees.

An entity has a headcount increase for a period if the number of employees employed by the entity at the end of the last day of the JobMaker period is greater than the entity's baseline headcount for the period. This excess or increase in employees in comparison to baseline headcount is the 'headcount increase amount'.

#### *The baseline headcount for the first four JobMaker periods*

For the first four JobMaker periods (7 October 2020 to 6 January 2021, 7 January 2021 to 6 April 2021, 7 April 2021 to 6 July 2021, and 7 July 2021 to 6 October 2021), the entity's baseline headcount will be the number of employees employed by the entity at the end of 30 September 2020.

#### *Increasing the baseline headcount for the fifth and subsequent JobMaker periods*

For the fifth to eighth JobMaker periods (7 October 2021 to 6 January 2022, 7 January 2022 to 6 April 2022, 7 April 2022 to 6 July 2022, and 7 July 2022 to 6 October 2022) the entity will need to increase its baseline headcount by the aggregate number of eligible additional employees that the entity was entitled to the JobMaker Hiring Credit payment for the earlier corresponding period 12 months prior or the increase of the previous period, whichever is higher.

The baseline headcount increase means that the entity may only receive the JobMaker Hiring Credit payment in respect of each additional headcount for a period of 12 months. This ensures that an entity does not have an incentive to separate from an eligible additional employee at the end of 12 months and hire a new eligible employee in order to claim for a further 12 month period.

For the fifth JobMaker period, the baseline headcount increase is worked out as the lesser of:

- the headcount increase amount in the first JobMaker period; and
- the total counted days in relation to the headcount increase amount in the first JobMaker period divided by the total days in the period and rounded down to

the nearest whole number (the concept of ‘total counted days’ is explained further below).

Rounding down to the nearest whole number ensures that the headcount increase does not prevent an entity from demonstrating an increase in headcount in the adjusted period in relation to an employee who started part way through the corresponding period.

For the sixth, seventh and eighth JobMaker periods, the baseline headcount increase is again calculated with reference to the headcount increase amount, total counted days and total days in the corresponding period (second, third and fourth periods) as explained above for the fifth period.

However, for these periods, there is an additional step and the entity needs to compare the result from the above calculation with the baseline headcount increase amount for the previous period (the period that ended immediate before the current period). The entity must take the greater of the above step and this step in working out the baseline headcount increase amount for these periods. For example this means that for the seventh period the base headcount would be the greater of the increase for the sixth and seventh periods.

The purpose of the additional step in the sixth, seventh and eighth JobMaker periods is to provide that the baseline headcount only increases by any marginal increase in headcount over the corresponding periods.

After working out the baseline headcount for the JobMaker period, the entity must compare the baseline headcount for the period against the number of employees employed at the end of the JobMaker period to determine if it has a headcount increase in the period and if so, its headcount increase amount for the period.

#### **Example 2.1: Headcount increase for the first JobMaker period**

TBT Co has elected to participate in the JobMaker scheme. To be entitled to the JobMaker Hiring Credit payment for the first JobMaker period (between 7 October 2020 and 6 January 2021), TBT Co must have a headcount increase.

At the end of 30 September 2020, TBT Co had eight employees. Therefore TBT Co’s baseline headcount is eight.

During the first JobMaker period, one of the eight employees voluntarily ceased employment and TBT Co employed three new employees during the period. This meant that at the end of the last day in the first period, TBT Co had ten employees.

TBT Co has had a headcount increase for the period because at the end of the last day of the period, its headcount of ten exceeds its 30 September 2020 headcount of eight.

TBT Co’s headcount increase amount for the first period is two.

#### **Example 2.2: Headcount increase for the sixth JobMaker period**

Following on from Example 2.1, TBT Co continues to be a qualifying entity under the JobMaker scheme for the sixth JobMaker period (7 January 2022 to 6 April 2022).

TBT Co’s baseline headcount increase amount for the sixth JobMaker period is worked out as the greater of the baseline headcount increase amount for the

corresponding period and the amount by which TBT Co's baseline headcount was increased by in the fifth period.

The corresponding period for the sixth JobMaker period is the second JobMaker period (7 January 2021 to 6 April 2021). The baseline headcount for the second JobMaker period was eight. The baseline headcount increase for the fifth period was two.

TBT Co's baseline headcount increase for the corresponding period for the sixth period is worked out as the lesser of:

- the headcount increase amount for the second JobMaker period; and
- the total counted days divided by the total days in the period – this formula calculates the proportion of the claim in relation to the headcount increase in the corresponding period where the maximum payable days has not capped the total counted days.

TBT Co applies the formula using the following information:

- the headcount increase amount for the second JobMaker period was 4;
- total counted days for the second JobMaker period was 280;
- the total days in the 6<sup>th</sup> JobMaker period was 90; and
- $280/90 = 3.111$ , rounded down to 3.

Further, TBT Co's baseline headcount increase for the sixth JobMaker period (3) is greater than TBT Co's baseline headcount increase amount in the fifth JobMaker period (2) and therefore TBT Co's baseline headcount increase for the sixth JobMaker period is three.

This means that TBT Co's baseline headcount for the sixth JobMaker period is increased to 11 (being the 30 September 2020 headcount of eight, plus the baseline increase amount of three as worked out above).

At the end of the sixth JobMaker period (6 April 2022), TBT Co had a total of fourteen employees. This number is greater than the increased baseline headcount of eleven (as worked out above) and therefore, TBT Co has satisfied the headcount increase for the sixth JobMaker period.

### **Employer must have a payroll increase for the JobMaker period**

An entity satisfies the payroll increase condition for a JobMaker period if the entity's total payroll amount for the period is greater than the entity's baseline payroll for that period. For the purposes of the JobMaker scheme:

- an entity's total payroll amount for a JobMaker period is the sum of payroll amounts (see below) for each of the entity's employees for payroll amounts paid during the JobMaker period; and
- an entity's baseline payroll amount is the sum of the payroll amounts paid during a period comprising the same number of days that ended on 6 October 2020.

The payroll increase is worked out as the excess of the entity's total payroll amount for a JobMaker period from the baseline payroll amount.



This is used in working out the amount of payment. Where the payroll amount for a JobMaker period is less than or equal to the reference period payroll amount, the entity may not claim a JobMaker Hiring Credit for that JobMaker period. This reflects that in such cases, the entity has not had a substantive increase in their overall employment levels, irrespective whether it has nominally increased the number of its employees.

When comparing the total payroll amount and baseline payroll amount between the JobMaker period and the reference period, the number of days in the JobMaker period being tested will determine the number of days in the reference period. Any payments relating to the entity's pay cycles (e.g. weekly, fortnightly or monthly) that were paid during the JobMaker period will count towards the total amounts. To ensure that businesses can have regard to their existing pay cycles, it does not matter if all or part of a particular pay cycle occurred outside of the JobMaker period, so long as the related payment was made within the JobMaker period.

As the number of days varies between JobMaker periods, the number of payroll cycles covered by a reference period may differ from one JobMaker period to the next.

**Example 3.1: Payroll increase for the first JobMaker period**

Continuing on from Example 2.1, TBT Co operates on a fortnightly pay cycle that is paid every second Wednesday. There were seven fortnightly pay cycles paid in the first JobMaker period of 7 October 2020 to 6 January 2021, with the first fortnightly payment made on 14 October 2020, and the final payment made 6 January 2021.

<b>TBT Co's payments in the first JobMaker period (7 October 2020 and 6 January 2021)</b>	<b>Payroll amount</b>
14 October 2020	\$14,000
28 October 2020	\$14,000
11 November 2020	\$12,500
25 November 2020	\$15,000
9 December 2020	\$17,000
23 December 2020	\$17,000
6 January 2021	\$13,000
<b>Total payroll amount in the first JobMaker period:</b>	<b>\$102,500</b>

As there were 92 days in first JobMaker period, the reference period for working out the baseline payroll amount is the 92 day period ending on 6 October 2020 (which commenced on 7 July 2020).

To determine whether it has had a payroll increase for the first period, the entity sums up the total payroll amounts paid in that 92 day reference period.

<b>TBT Co's payments in the reference period (7 July 2020 to 6 October 2020)</b>	<b>Payroll amount</b>
30 September 2020	\$12,500
16 September 2020	\$12,500
2 September 2020	\$9,000
19 August 2020	\$12,000
5 August 2020	\$15,300
22 July 2020	\$17,000
8 July 2020	\$10,000
<b>Total payroll amount in the reference period:</b>	<b>\$88,300</b>

TBT Co sums up the payroll amounts for the JobMaker period and compares that to the corresponding reference period. TBT Co has a payroll increase of \$14,200 for the first JobMaker period.

Where an entity has not made payments in the period, the payroll amount for that period is nil (this could occur, for example, if the business was created after 6 October 2020).

The payroll amount is equivalent to the amount worked out under the concept of the 'wage condition' used in the JobKeeper scheme. However, they do not apply only on a fortnightly basis as per the JobKeeper scheme. These amounts generally include:

- salary, wages, commission, bonuses and allowances;
- amounts withheld under the Pay As You Go withholding regime;
- salary sacrifice superannuation contributions; and
- amounts applied or dealt with in any way where the employee has agreed for the amount to be so dealt with in return for salary and wages to be reduced – generally, this means amounts forming part of salary sacrifice arrangements.

These amounts do not include amounts that are the result of an employee's employment being terminated. An example of an amount of this kind is an 'employment termination payment' which is taxed on a concessional basis under Division 82 of the ITAA 1997. Eligible termination payments are generally payments made to an individual as the result of their employment being terminated, or made to an individual after someone else's death as a result of the other person's employment terminating.

Payments of this kind cannot be salary or wages because they are causally related to termination of employment rather than being a reward for services rendered. Not counting these amounts in the payroll calculations is also appropriate because they represent a cost to the employer for the cessation of an individual's employment. While other payments (such as bonuses) may be paid on an intermittent basis, they generally represent a cost of ongoing employment.

## Working out the amount of JobMaker Hiring Credit payment for a period

The JobMaker Hiring Credit is intended to support entities in creating additional employment. The amount of payment a qualifying entity may receive in relation to a JobMaker period is worked out as the lesser of:

- the headcount amount for the period; and
- the payroll amount for the period.

It is expected that the ATO will establish systems to automate these two calculations for most employers. This is possible because the calculations only rely on inputs relating to start and cessation times, the age of eligible employees at the time they commenced employment, the entity's baseline headcount on 30 September 2020 and baseline payroll on 6 October 2020 and the entity's headcount and payroll at the end of the period.

### *Working out the headcount amount*

Unlike the headcount increase which is worked out on the last day of the JobMaker period, the headcount amount is worked out on a daily basis for the JobMaker period. This has been designed to ensure that the scheme recognises periods of partial employment during the period to optimise the maximum amount payable to an employer without requiring the employer to track and claim for the most efficient combination of eligible employees within their headcount for the period.

In working out the headcount amount, different calculations apply based on whether an eligible additional employee is aged from 16 to 29, and from 30 to 35. For these two groups, the higher rate of payment is \$200 per week, and the lower rate of payment is \$100 per week. The headcount amount based on the total counted days in a period is capped by the maximum payable days as worked out below.

There are three key steps in calculating the headcount amount for a period:

1. count the number of *higher rate days* for the JobMaker period by adding together the number of days each higher rate eligible additional employee was employed in the period – these individuals are those who were aged 16 to 29 years (inclusive) at the commencement of their employment.
2. count the number of *lower rate days* for the JobMaker period by adding together the number of days each lower rate eligible additional employee was employed in the period – these individuals are those who were aged 30 to 35 years (inclusive) at the commencement of their employment.
3. count the number of *maximum payable days* for the JobMaker period by subtracting the entity's baseline headcount from the number of employees employed by the entity at the end of the last day of the period, and multiply this by the number of days in the period. For example, for the JobMaker period of 7 October 2020 to 6 January 2021 (dates inclusive), there are 92 days.

For the purposes of calculating the number of higher rate and lower rate days, the entity must disregard any days that the employee was employed after the employee

has been continuously employed by the entity for more than 12 months. This 12 month period begins on the day the eligible additional employee last commenced employment with the entity. This rule only applies in the JobMaker period that includes the 12 month anniversary of the employee commencing employment with the entity. As noted above, the related 12 month rule for eligible employees will ensure that the individual is no longer an eligible employee in any subsequent JobMaker period.

Where the sum of steps 1 and 2 (*total counted days*) is equal to or less than the maximum payable days for the period, the headcount amount in a JobMaker period is the sum of:

- the amount derived by multiplying the higher rate days for the period by \$200, dividing the result by 7 (for the number of days in a week) and rounded up to the nearest cent; and
- the amount derived by multiplying the lower rate days for the period by \$100, dividing the result by 7 (for the number of days in a week) and rounded up to the nearest cent.

However, if the total counted days (sum of the higher rate days and the lower rate days) exceeds the cap imposed by the maximum payable days, the counted days are reduced to the number of maximum payable days by:

- reducing the lower rate days; then
- reducing the higher rate days.

Accordingly, it is possible for the maximum payable days to cap the total counted days for a JobMaker period to the effect that there are only higher rate days used for the calculation and no lower rate days. After applying the cap imposed by the maximum payable days, the headcount amount is worked out according to the above formula.

**Example 4: Working out the headcount amount for the first JobMaker period**

Continuing from Example 2.1, during the first JobMaker period, TBT Co employed three eligible employees, all of whom were still employed at the end of the period. However, TBT Co only had a headcount increase amount for the period of 2. This was because there was one other employee who left TBT Co before the end of the first JobMaker period.

During the first JobMaker period, two of the eligible commenced employment on 1 November 2020. These employees were 21 and 26 years old at the time they commenced employment, and were both employed for 67 days in the period.

The other eligible employee was aged 35 when they commenced employment on 8 November 2020. This employee was employed for 60 days in the period.

For the first JobMaker period:

- the *total counted days* for the period were 194 (134 higher rate days and 60 lower rate days); and

- the *maximum days payable* was 184 (headcount increase amount of 2 multiplied by 92 days in the period).

Because TBT Co's total counted days exceeded its maximum payable days for the JobMaker period, TBT Co must reduce the total counted days to its maximum payable days. To ensure TBT Co obtains the highest payment possible, this is done by reducing its number of lower rate days from 60 to 50. For the purposes of the calculation of the headcount amount for the first JobMaker period, TBT Co has 134 higher rate days and 50 lower rate days.

TBT Co calculates its headcount amount as the sum of:

- the amount derived from multiplying the 134 higher rate days by \$200, divide the result by 7 and round up to the nearest cent, which is \$3,828.58; and
- the amount derived from multiplying the 50 lower rate days by \$100, divide the result by 7 and round up to the nearest cent, which is \$714.29.

TBT Co's headcount amount for the first JobMaker period (between 7 October 2020 and 6 January 2021) is \$4,542.87.

### *Working out the payroll amount*

The payroll amount is the excess of the total payroll amount for a JobMaker period compared to the reference period payroll amount worked out according to the payroll increase condition.

### **Example 5: Working out the payroll amount and the amount of JobMaker Hiring Credit payment for the first JobMaker period**

Following on from Examples 3.1 and 4, TBT Co had a payroll increase because its total payroll amount for the first JobMaker period (\$104,500) exceeded its baseline payroll amount in the corresponding reference period (\$88,000) by \$14,200.

The amount of the JobMaker Hiring Credit payment TBT Co may claim for the first JobMaker period is the lesser of:

- the headcount amount, \$4,542.87; and
- the payroll amount, \$14,200.

TBT Co claims the JobMaker Hiring Credit in the amount of \$4,542.87 for the first JobMaker period (between 7 October 2020 and 6 January 2021).

### **Payment by the Commissioner and administration**

For a qualifying entity to receive the JobMaker payment, it must meet the entitlement conditions and give the Commissioner information about their entitlement for a JobMaker period in the approved form (i.e. lodge a claim for the JobMaker Hiring Credit payment for the period).

If the Commissioner is satisfied that an entity is entitled to a JobMaker Hiring Credit payment for a period, the Commissioner must, as soon as practicable, pay the entity in accordance with Rules and the Act.

Where the Commissioner has paid the entity for the JobMaker period and that amount is consistent with the Commissioner being satisfied that the entity is entitled to the full amount of JobMaker Hiring Credit payment for the period, the Commissioner is taken to have given notice of decision to the entity on the same day the payment is made unless notice was provided at an earlier time.

However, if the Commissioner has paid the entity (including of a nil amount) for the JobMaker period and that amount is not consistent with the Commissioner being satisfied that the entity is entitled to the full amount of the JobMaker Hiring Credit payment for the period, the Commissioner must give a notice to the entity as soon as practicable after the decision is made.

Where the Commissioner has overpaid an entity a payment, the entity must repay the overpaid amount to the Commissioner under section 9 of the Act. This can arise where the entity is not entitled to the whole or part of a payment that is made, or where the entity is paid more than the correct amount. Therefore, the payment itself does not mean that the entity is entitled to the JobMaker scheme.

### **Later legislation**

The operation of the JobMaker scheme will be closely monitored to ensure that it provides an effective incentive to the entities that it is intended to assist in the period of economic recovery from the impacts of the Coronavirus. Compliance with the requirements for accessing the JobMaker scheme will also be monitored. If it is determined that changes to the JobMaker scheme are necessary, relevant amendments will be made. Such changes may be necessary, for example, to remove an entitlement from an entity where it is determined that the entity has acted in a way which means that it should not receive or should not continue to receive the JobMaker Hiring Credit payment.

Any entitlement to JobMaker Hiring Credit payment may be cancelled, revoked, terminated, varied or made subject to conditions by or under later legislation.

### **Constitutional basis of the JobMaker scheme**

The Amending Rules No. 9 include an express statement about the constitutional basis for the JobMaker scheme.

The Rules rely on:

- the treaty implementation aspect of the external affairs power (section 51(xxix));
- the power with respect to unemployment benefits in section 51(xxiiiA);
- the nationhood power.

Regarding the treaty implementation aspect of the external affairs power, Australia has obligations under the:

- *ILO Convention concerning Employment Policy* [1970] ATS 17 (ILO Convention 122) – in particular, Articles 1 and 2;

- *International Covenant on Economic, Social and Cultural Rights* [1976] ATS 5 (ICESCR) – in particular, Article 6.

Article 1(1) of ILO Convention 122 obliges Members to pursue ‘an active policy designed to promote full, productive and freely chosen employment.’ Article 1(2) specifies that this policy shall aim to ensure that (among other things) ‘there is work for all who are available for and seeking work’. Article 2 further obliges each State party to ‘take such steps as may be needed, including when appropriate the establishment of programmes’, to achieve the objectives specified in Article 1.

Article 6(1) of the ICESCR recognises the right to work, while Article 6(2) provides that the steps taken by State parties to realise this right ‘shall include technical and vocational guidance and training programmes, policies and techniques to achieve... full and productive employment...’ Article 2(1) obliges State parties to take steps to progressively realise these rights.

The statement inserted into the rules refers to the obligations that Australia has under these instruments as in force ‘from time to time’. This timing reflects that Australia’s obligations under those instruments may change over time (for example, in the event of an amendment to one of the instruments). The reference to these obligations are not within the scope of section 14 of the *Legislation Act 2003*, which deals with prescribing matters by reference to other instruments. While subsection 20(5) of the Act permits matters contained in an instrument from time to time to be incorporated into the Rules by reference, neither provision is relevant in respect of the statement about constitutional basis. This is because the statement merely describes the obligations that arise under the two instruments – it does not incorporate any part of those instruments into the Rules by reference.

**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. 9) 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 Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 9) 2020 amend the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* to establish the JobMaker scheme and specify details about the scheme, including:

- the start and end date of the scheme;
- when an employer or business is entitled to a payment;
- the amount and timing of a payment; and
- other matters relevant to the administration of the payment.

**Human rights implications**

The *Coronavirus Economic Response Package (Payments and Benefits) Amendment Rules (No. 9) 2020* may engage the following human rights or freedoms:

*Right to work*

The measure engages the right to work in Article 6 of the International Covenant on Economic, Social and Cultural Rights.

Article 6(1) recognises the right to work and obliges States Parties to take appropriate steps to safeguard this right.

The JobMaker scheme under these amendments helps to improve the prospects of individuals getting employment in Australia and/or increasing workforce participation and employment in Australia by supporting businesses to hire additional employees. The amendments help businesses expand their organisation to encourage the long term employment of young people whose employment opportunities have been impacted by the Coronavirus. The JobMaker scheme provides adequate assistance to businesses as the economy recovers from the Coronavirus.

The measure is compatible with human rights and positively engages the right to work as the JobMaker scheme is aimed to create new opportunities for work by assisting employers to create jobs for people.



## *Age*

The Amending Rules No. 9 may also engage the rights of equality and non-discrimination contained in Articles 2 and 26 of the International Covenant on Civil and Political Rights in relation to age. This may occur because the Amending Rules No. 9 exclude entitlement to a JobMaker Hiring Credit payment in relation to an employee aged over 35 when they commence employment with an eligible employer. Accordingly, some in the working population cannot obtain the benefit of the JobMaker Hiring Credit payment.

Younger people generally experience more barriers to employment due to their lack of work experience, training or skills. Due to the impacts of the Coronavirus, the period of unemployment has further prevented younger people from securing employment to gain experience and develop skills.

Applying the benefit of the JobMaker Hiring Credit payment in respect of workers who are aged between 16 and 35 years old is justified and is rationally connected and proportionate to the objective because it is designed to relieve the long term consequences of prolonged unemployment in younger people. Further, the amendments are proportionate to the intended outcome because it creates a two-tiered approach for eligible additional employees of an entity aged between 16 to 29 years, and 30 to 35 years. The amendments ensure that the more vulnerable group aged between 16 and 29 years are proportionately supported.

For these reasons, the Amending Rules No. 9 do not unnecessarily restrict the rights of equality and non-discrimination based on age.

## **Conclusion**

The Amending Rules No. 9 are compatible with human rights.