

EXPLANATORY STATEMENT

Issued by authority of the Minister for Superannuation, Financial Services and the Digital Economy

Business Names Registration Act 2011, Commonwealth Registers Act 2020, Corporations Act 2001, National Consumer Credit Protection Act 2009

Commonwealth Registers Rules 2021

Each of the *Business Names Registration Act 2011*, the *Commonwealth Registers Act 2020*, the *Corporations Act 2001*, and the *National Consumer Credit Protection Act 2009* (the Registries Acts) provides that the Minister may, by legislative instrument, make Rules prescribing matters required or permitted by the relevant Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the relevant Act.

The Registrar's functions under each of the Registries Acts include such functions as are prescribed by the Rules

These Rules are made under the relevant provisions of the Registries Acts. The Rules prescribe additional functions for the Registrars to enable the Registrars to carry out various preparatory activities necessary for the transfer of registry functions from the Australian Securities and Investments Commission (ASIC) to the Commonwealth Registrars. The Commissioner of Taxation has been appointed as the Commonwealth Registrars.

As part of the Digital Business Plan, the Australian Government is implementing a modern approach to managing Commonwealth business registers via the implementation of the Modernising Business Registers (MBR) Program. The MBR Program will transform business services by creating a single source of trusted and accessible business data and provide efficient registry service delivery. The initial focus of this Program is on the business registers administered by ASIC.

An interim delegation from ASIC to the Commonwealth Registrars facilitates a gradual transfer of registry functions which would be synchronised with the development of supporting technology systems. These Rules ensure that the Commonwealth Registrars are able to prepare for the delegation and perform the delegated functions during the transition period.

The Rules commence on and apply from the later of the day they are registered and 4 April 2021 (the date the Registrars' appointments commence).

The Rules specify that the Commonwealth Registrars' functions include:

- assisting ASIC in the performance of the functions that will eventually be transferred to the Registrars; and
- preparing for the conferral of such functions on the Registrars.

Consultation on these Rules was undertaken with both ASIC and the Australian Taxation Office who support the making of the Rules. The MBR Program has also been subject to extensive public consultation and has received broad support from industry and government stakeholders. Public consultation on the Rules was not undertaken as the Rules are machinery in nature.

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

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

A Regulation Impact Statement is not required because this instrument has no more than a minor impact on business, individuals or community organisations as it is effectively only facilitating a transitional element of the MBR Program (OBPR Ref. 22346).

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

Details of the *Commonwealth Registers Rules 2021*

Section 1 – Name of the Instrument

This section provides that the name of the Instrument is the *Commonwealth Registers Rules 2021* (the Rules).

Section 2 – Commencement

The Rules commence on the later of the day after the instrument is registered on the Federal Register of Legislation and 4 April 2021.

Section 3 – Authority

The Rules are made under the following Acts:

- the *Business Names Registration Act 2011*; and
- the *Commonwealth Registers Act 2020*; and
- the *Corporations Act 2001*; and
- the *National Consumer Credit Protection Act 2009*.

Section 4 – Definitions

This section specifies the meaning of defined terms used in the Rules.

Through the operation of paragraph 13(1)(b) of the *Legislation Act 2003*, other expressions have the same meaning in the Rules as in the *Business Names Registration Act 2011*, the *Commonwealth Registers Act 2020*, the *Corporations Act 2001*, or the *National Consumer Credit Protection Act 2009* as appropriate and as in force from time to time.

Section 5 – Additional functions of the Commonwealth Registries Act Registrar

Section 5 specifies additional functions of the Commonwealth Registrar under the *Commonwealth Registers Act 2020*, including to assist the Australian Securities and Investments Commission in the performance of each registry function currently conferred on it under a Commonwealth law (other than a law covered by sections 6, 7 and 8); and to prepare for, and implement all systems necessary for, the permanent transfer of Commonwealth registry functions to the Commonwealth Registrar.

Section 6 – Additional functions of the Business Names Registration Act Registrar

Section 6 specifies additional functions of the Business Names Registrar under the *Business Name Registration Act 2011*, including to assist the Australian Securities and Investments Commission in the performance of each registry function currently conferred on it under the *Business Names Registration Act 2011*, the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*, and any

legislative instruments made under those Acts; and to prepare for, and implement all systems necessary for, the permanent transfer of Commonwealth registry functions to the Business Names Registrar.

Section 7 – Additional functions of the Corporations Act Registrar

Section 7 specifies additional functions of the Corporations Act Registrar under the *Corporations Act 2001*, including to assist the Australian Securities and Investments Commission in the performance of each registry function currently conferred on it under the corporations legislation (within the meaning of the *Corporations Act 2001*) and legislative instruments made under the *Corporations Act 2001* or the *Australian Securities and Investments Commission Act 2001*; and to prepare for, and implement all systems necessary for, the permanent transfer of Commonwealth registry functions to the Corporations Act Registrar.

Section 8 – Additional functions of the National Consumer Credit Protection Act Registrar

Section 8 specifies additional functions of the National Consumer Credit Protection Registrar under the *National Consumer Credit Protection Act 2009*, including to assist the Australian Securities and Investments Commission in the performance of each registry function currently conferred on it under the Commonwealth credit legislation (within the meaning of the *National Consumer Credit Protection Act 2009*); and to prepare for, and implement all systems necessary for, the permanent transfer of Commonwealth registry functions to the National Consumer Credit Protection Registrar.

Statement of Compatibility with Human Rights

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

Commonwealth Registers Rules 2021

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 Rules enable the Registrars under the *Business Names Registration Act 2011*, the *Commonwealth Registers Act 2020*, the *Corporations Act 2001*, and the *National Consumer Credit Protection Act 2009* (the Registries Acts) to carry out various preparatory activities necessary for the transfer of registry functions from Australian Securities and Investments Commission (ASIC) to the Commonwealth Registrars.

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.