

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Treasurer**

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

*Treasury Laws Amendment (Miscellaneous Amendments) Rules 2021*

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.

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. These details included the start and end date of the scheme, when an employer or entity is entitled to a payment, the amount and timing of a payment, and other matters relevant to the administration of the payment.

In particular, the Rules provide that the Commissioner cannot make a JobKeeper payment after 31 March 2022. This date applies to all payments, including those needed to give effect to decisions on taxation objections (and reviews on objection decisions) that have been made in accordance with Part IVC of the *Taxation Administration Act 1953* (about reviews and appeals of taxation decisions). However, due to the impact of the COVID-19, there have been delays in the ability of entities to seek advice and lodge objections with the Commissioner, and consequently in decisions of the Administrative Appeals Tribunal (AAT) and the courts in relation to JobKeeper disputes.

The purpose of the *Treasury Laws Amendment (Miscellaneous Amendments) Rules 2021* (the Amending Rules) is to allow the Commissioner to make JobKeeper payments beyond the currently specified end date of 31 March 2022 to give effect to objection decisions of the Commissioner and decisions of the AAT or a court if a valid objection has been given to the Commissioner on or before 30 November 2021 (more than 6 months after the end of the last JobKeeper fortnight and well after the deadline for lodging objections). Where the outcome of these decisions is favourable to JobKeeper recipients, the Amending Rules ensure that they will receive payments that they are otherwise entitled to under the JobKeeper scheme.

Consultation was undertaken with the Australian Taxation Office.

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

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

The Amending Rules commence on the day after they are registered on the Federal Register of Legislation.

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

**Details of the *Treasury Laws Amendment (Miscellaneous Amendments) Rules 2021***

**Section 1 – Name of the Rules**

This section provides that the name of the Rules is the *Treasury Laws Amendment (Miscellaneous Amendments) Rules 2021* (the Amending Rules).

**Section 2 – Commencement**

Schedule 1 to the Amending Rules commence on the day after the instrument is registered on the Federal Register of Legislation.

**Section 3 – Authority**

The Amending Rules 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**

**Item 1**

Item 1 inserts definitions for ***objection decision*** and ***taxation objection***, which have the same meanings as in sections 14ZY and 14ZL of the *Taxation Administration Act 1953* respectively.

**Items 2 and 3**

Items 2 and 3 amend section 19 of the Rules to provide that the Commissioner may make JobKeeper payments beyond the currently specified end date for JobKeeper payments of 31 March 2022 to give effect to:

- objection decisions of the Commissioner;
- decisions of the Administrative Appeals Tribunal (AAT) on the review of an objection decision; or
- orders of a court on the appeal of an objection decision.

This amendment applies to payments made by the Commissioner to give effect to decisions only where the original taxation objection was lodged on or before 30 November 2021.

**Statement of Compatibility with Human Rights**

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

**Treasury Laws Amendment (Miscellaneous Amendments) 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 purpose of the *Treasury Laws Amendment (Miscellaneous Amendments) Rules 2021* (the Amending Rules) is to ensure that the Commissioner may make JobKeeper payments beyond the currently specified end date of 31 March 2022 to give effect to:

- objection decisions of the Commissioner;
- decisions of the Administrative Appeals Tribunal (AAT) on the review of an objection decision; or
- orders of a court on the appeal of an objection decision.

The objection to which decisions of the Commissioner, the AAT or a court relate must be a taxation objection that was lodged with the Commissioner on or before 30 November 2021.

**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.