

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer and Minister for Financial Services

A New Tax System (Australian Business Number) Act 1999

A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2023

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.

Paragraph 26(3)(k) of the Act states that the regulations may prescribe details which the Registrar of the Australian Business Register (ABR) may provide to a person who requests a copy of an entity's entry in the ABR. Regulation 8 of the *A New Tax System (Australian Business Number) Regulations 2020* (the Principal Regulations) currently prescribes details for the purposes of paragraph 26(3)(k) of the Act.

The purpose of the *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2023* (the Regulations) is to amend the Principal Regulations to extend a transitional period which allows trading names to continue to be displayed on the ABR. This extension will give Australian businesses that are yet to register their business names with the Australian Securities and Investments Commission (ASIC) additional time to do so before the Australian Business Register (the ABR) ceases to display unregistered trading names. The Regulations extend the final date for display of unregistered trading names on the ABR by two years, until 31 October 2025 (ceasing 1 November 2025).

The ABR, which is operated by the Australian Taxation Office (the ATO), provides a national system for issuing businesses with unique identifying numbers, known as Australian Business Numbers (ABNs). At the time it was established, the States and Territories remained responsible for maintaining business names registers. However, to assist users to identify businesses when searching the ABR, trading names (either business names registered under State and Territory laws or other names used for business purposes i.e. unregistered trading names) were included in ABR entries.

On 28 May 2012, a new national regime for business name registration commenced which is administered by ASIC, replacing the State and Territory registers. The Business Names Register (BNR) is designed to ensure consumers and others engaging with businesses can easily identify and contact the entities behind a business, and to avoid confusion by restricting the registration of identical or nearly identical names (as well as offensive, undesirable or potentially misleading names). From this time, registered business names would appear on the BNR and it was intended that, after a transitional period, unregistered trading names would no longer be displayed on the ABR. While business names registered with ASIC would continue to be included in, and publicly available from, the ABR, unregistered trading names could no longer be added or amended.

The transitional period following commencement of the national BNR regime provides time for entities with a trading name on the ABR to register a business name with ASIC for inclusion on the BNR, before the ABR ceases to display unregistered trading names. Initially a 12-month period, it has been extended several times to accommodate the large number of businesses yet to register under the new regime. The transitional period is currently due to expire on 1 November 2023. If an extension is not provided, a large number of businesses will not have a trading name publicly available on the ABR, inconveniencing users who rely on the registers to identify businesses.

The Regulations extend the transitional period to minimise this inconvenience, with the ultimate aim to encourage affected businesses to register a business name in an orderly and efficient manner.

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

No public consultation was undertaken as the Regulations extend the status quo and are of a minor nature.

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

The Regulations commence on the first day after this instrument is registered on the Federal Register of Legislation.

The Office of Impact Analysis has been (OIA) has been consulted (OIA ref: OIA23-5515) and concluded that the Regulations are unlikely to have a more than minor impact. Accordingly, no Regulatory Impact Statement has been prepared.

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

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

Details of the *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2023*

Section 1 – Name

This section provides that the name of the regulations is the *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2023* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The 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 Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule, and any other item in the Schedule to this instrument has effect according to its terms.

Schedule 1 - Amendments

Item 1 – Extending the expiry date for trading names on the Australian Business Register

Item 1 amends subsection 8(2) of the *A New Tax System (Australian Business Number) Regulations 2020* to change the date from 1 November 2023 to 1 November 2025.

Section 8 prescribes details which may be included in copies of entries on the Australian Business Register (ABR) given to a person, including names used for business purposes prior to the introduction of the Business Names Register – that is, unregistered trading names. By prescribing these details, the Registrar may also make them publicly available (subsection 26(5) of the Act). Subsection 8(2) sets the date when unregistered trading names will cease to be a detail that is included in the publicly available search of the ABR and in copies of ABR entries under section 26 of the Act.

The amendment extends the period in which unregistered trading names can be displayed on the ABR to 31 October 2025, ceasing on 1 November 2025. This extension gives Australian businesses that are yet to register a business name with the Australian Securities and Investments Commission additional time to do so before the ABR ceases to display unregistered trading names.

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) Amendment (Display of Trading Names) Regulations 2023

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 *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2023* amends the *A New Tax System (Australian Business Number) Regulations 2020* to allow unregistered trading names that are currently displayed on the Australian Business Register to continue to be displayed until 1 November 2025.

This extension gives Australian businesses that are yet to register a business name with the Australian Securities and Investments Commission additional time to do so before the Australian Business Register ceases to display unregistered trading names.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms because it only affects businesses in their commercial dealings.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.