

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Competition, Charities and Treasury

Local Government (Financial Assistance) Act 1995

Payment Times Reporting Act 2020

Tax Agent Services Act 2009

Competition and Consumer Act 2010

Treasury Laws Amendment (Miscellaneous and Technical Amendments No. 1) Instrument 2025

The purpose of the *Treasury Laws Amendment (Miscellaneous and Technical Amendments No. 1) Instrument 2025* (the Amending Instrument) is to make miscellaneous and technical amendments to instruments in the Treasury portfolio, including to laws with respect to government matters, payment times reporting, taxation and consumer protection. The amendments demonstrate the Government's commitment to the care and maintenance of Treasury portfolio legislation.

The following provisions provide that the Minister may make a relevant Amending Instrument (collectively, the Authorising Acts): section 8 of the *Local Government (Financial Assistance) Act 1995*, section 58 of the *Payment Times Reporting Act 2020*, section 30-12 of the *Tax Agent Services Act 2009*, and sections 114 and 34 of Schedule 2 to the *Competition and Consumer Act 2010* (CCA).

Miscellaneous and technical amendments are periodically made to Treasury portfolio legislation to correct errors and unintended outcomes, make technical changes and improve the quality of Treasury portfolio legislation. The process was first supported by a recommendation of the 2008 Tax Design Review Panel, which considered ways to improve the quality of tax legislation. It has since been expanded to all Treasury legislation.

Regarding Schedule 1, Treasury consulted with the public on an exposure draft and accompanying explanatory materials. The amendments were publicly consulted between 20 January 2025 and 31 January 2025. No submissions were received regarding the Amending Instrument in response to the consultation.

Schedule 2, containing the repeal of the *Competition and Consumer (Tobacco) Information Standard 2011* and the revocation of the *Trade Practices Act 1974 – Consumer Protection Notice No 10 of 1991 – Permanent Ban on Goods*, was publicly consulted on by the Department of Health and Aged Care in 2023 as part of the broader consolidation of tobacco control legislation and was broadly supported.

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

The Authorising Acts do not specify any conditions that need to be satisfied before the power to make the Amending Instrument may be exercised.

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

The Office of Impact Analysis has been consulted (OIA24-08814 and OIA24-084444) and agreed that these proposals are either minor and technical amendments that do not represent adverse impacts on individuals and/or businesses or that they do not represent a significant difference from the status quo. As such, an Impact Analysis is not required.

The Amending Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The amendments to the *Local Government (Financial Assistance) (Final Factor for 2022-23 and Estimated Factor for 2023-24) Determination 2023* are not subject to disallowance or sunseting due to the operation of subsections 44(1) and 54(1) of the *Legislation Act 2003*. The enabling legislation facilitates the operation of an intergovernmental scheme involving the Commonwealth providing financial assistance to local government through the States and Territories. The enabling legislation authorises the instrument to be made for the purposes of this arrangement. The factors determined by the instrument are largely mechanical in nature and have been derived from statistics published by the Australian Statistician.

The amendments to the *Payment Times Reporting Rules 2024* and *Tax Agent Services (Code of Professional Conduct) Determination 2024* are subject to the disallowance regime under section 42 of the *Legislation Act 2003* and is subject to the sunseting regime under section 50 of the *Legislation Act 2003*.

The repeal of the *Competition and Consumer (Tobacco) Information Standard 2011* and the revocation of the *Trade Practices Act 1974 – Consumer Protection Notice No 10 of 1991 – Permanent Ban on Goods* are exempt from disallowance and sunseting under subsections 44(1) and subsections 54(1) of the *Legislation Act 2003* respectively. This is because enabling legislation, Schedule 2 to the CCA, facilitates the operation of an intergovernmental scheme involving the Commonwealth and all the States and Territories (the *Intergovernmental Agreement for the Australian Consumer Law*), and the ACL authorises the making of this instrument for the purposes of that scheme. Further, item 16 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* provides that Schedule 2 of the Amending Instrument not subject to the sunseting provisions in the *Legislation Act 2003*. This is on the grounds that instruments made under section 114 of Schedule 2 to the CCA create mandatory and permanent bans on consumer goods or product related services and instruments made under section 134 of Schedule 2 to the CCA set mandatory product safety information standards about consumer goods. These instruments, by their nature, are intended to be enduring and not subject to regular review, and therefore are not appropriate for sunseting.

Once the amendments are made, the Amending Instrument will be automatically repealed under section 48A of the *Legislation Act 2003*.

The Amending Instrument commences on the day after the instrument is registered on the Federal Register of Legislation.

Details of the Treasury Laws Amendment (Miscellaneous and Technical Amendments No. 1) Instrument 2025

Section 1 – Name

This section provides that the name of the instrument is the *Treasury Laws Amendment (Miscellaneous and Technical Amendments No. 1) Instrument 2025* (the Amending Instrument).

Section 2 – Commencement

Schedules 1 and 2 to the Amending Instrument commence the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Amending Instrument is made under the *Local Government (Financial Assistance) Act 1995*, the *Payment Times Reporting Act 2020*, the *Tax Agent Services Act 2009* and the *Competition and Consumer Act 2010* (collectively the Authorising Acts).

Section 4 – Schedules

This section provides that each instrument that is specified in the Schedules to this instrument are 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

Legislative references are made to Schedule 1 to the Amending Instrument unless otherwise stated.

Local Government (Financial Assistance) (Final Factor for 2022-23 and Estimated Factor for 2023-24) Determination 2023

Items 1 to 3 – Subsection 8(3)

Items 1 to 3 amend subsection 8(3) of the *Local Government (Financial Assistance) (Final Factor for 2022-23 and Estimated Factor for 2023-24) Determination 2023* (the Financial Assistance Determination) to correct typographical errors in cross-references.

Each year, the level of financial assistance available to the States and Territories from the Commonwealth for local government purposes is indexed by a factor which is to be estimated before the start of each financial year.

Section 8 of the Financial Assistance Determination provides for the details of working out the estimated factor for the 2023-24 financial year. Subsection 8(3) of the Financial Assistance Determination incorrectly referred to “subsection (3)” and “sub (3) factor”. The amendments correct these references to “subsection (2)” and “sub (2) factor” respectively.

The amendments do not change the estimated factor for the 2023-24 financial year.

Payment Times Reporting Rules 2024

Items 4 and 5 – paragraph 13(1)(a) and section 101

Item 4 amends paragraph 13(1)(a) of the *Payment Times Reporting Rules 2024* (PTR Rules) to correct a typographical error.

Paragraph 13(1)(a) of the PTR Rules provides that the payment times report of a reporting entity must include the proportion of the total number of payments in the trade credit payments dataset for a reporting period that comprises payments in the small business trade credit payments dataset for the reporting period (expressed as a percentage).

The amendment corrects the provision by replacing the word ‘number of payments’ with ‘value of payments’ in the calculation. The amendment ensures continuity with the previous scheme of payment reporting provided for under the *Payment Times Reporting Rules 2020* and affords greater insight into economic impact. The continuity with the previous scheme effected by the amendment also prevents imposition of administrative burden on reporting entities.

Item 5 of the amendment inserts an application provision to ensure consistency with the application of the PTR Rules and to reports given to the Regulator on or after 1 January 2025 for a reporting period starting on or after 1 July 2024.

Tax Agent Services (Code of Professional Conduct) Determination 2024

Item 6 – subsection 151(1)

The Code of Professional Conduct (the Code), set out in section 30-10 of the *Tax Agent Services Act 2009* (the TAS Act), establishes ethical principles that apply to all registered tax agents and business activity statement (BAS) agents (together referred to as ‘tax practitioners’). The *Tax Agent Services (Code of Professional Conduct) Determination 2024*, made under section 30-12 of the TAS Act, sets out additional professional and ethical obligations that supplement the Code.

Item 6 corrects a typographical error in a cross-reference in the transitional provisions of subsection 151(1) of the *Tax Agent Services (Code of Professional Conduct) Determination 2024* to paragraph 45(1)(d) instead of 45(1)(c). The amendment confirms that section 45 of the *Tax Agent Services (Code of Professional Conduct) Determination 2024* applies only in relation to events that have arisen on or after 1 July 2022.

Schedule 2 – Repeals

Competition and Consumer (Tobacco) Information Standard 2011 Trade Practices Act 1974 – Consumer Protection Notice No.10 of 1991 – Permanent Ban on Goods

Schedule 2 repeals the *Competition and Consumer (Tobacco) Information Standard 2011* and revokes the *Trade Practices Act 1974 – Consumer Protection Notice No. 10 of 1991 – Permanent Ban on Goods*. The effect of these legislative instruments was incorporated into the *Public Health (Tobacco and Other Products) Act 2023* and associated Regulations as part of broader consolidation of tobacco control laws.

Statement of Compatibility with Human Rights

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

Treasury Laws Amendment (Miscellaneous and Technical Amendments No. 1) Instrument 2025

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 and Technical Amendments No. 1) Instrument 2025* (the Amending Instrument) is to make miscellaneous and technical amendments to instruments in the Treasury portfolio, including to laws with respect to consumer protection, government matters, payment times reporting and taxation. The amendments demonstrate the Government's commitment to the care and maintenance of Treasury portfolio legislation.

Miscellaneous and technical amendments are periodically made to Treasury portfolio legislation to correct errors and unintended outcomes, make technical changes and improve the quality of Treasury portfolio legislation. The process was first supported by a recommendation of the 2008 Tax Design Review Panel, which considered ways to improve the quality of tax legislation. It has since been expanded to all Treasury legislation.

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.