



A New Tax System (Australian Business Number) Act 1999

Act No. 84 of 1999 as amended

This compilation was prepared on 24 September 2008
taking into account amendments up to Act No. 154 of 2007

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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**An Act to implement A New Tax System by
establishing a Register of Australian Business and
providing for the issue of Australian Business
Numbers, and for related purposes**

Part 1—Preliminary

Division 1—Formalities

1 Short title [see Note 1]

This Act may be cited as the *A New Tax System (Australian Business Number) Act 1999*.

2 Commencement [see Note 1]

This Act commences on the day on which it receives the Royal Assent.

Division 2—Objects

3 Objects

- (1) The main object of this Act is to make it easier for businesses to conduct their dealings with the Australian Government. This is done by establishing a system for registering businesses and issuing them with unique identifying numbers so that they can identify themselves reliably:
 - (a) in all their dealings with the Australian Government; and
 - (b) for all other Commonwealth purposes.
- (2) Without limiting paragraph (1)(b), the main object of this Act includes allowing businesses to identify themselves reliably for the purposes of *taxation laws.
- (3) The objects of this Act also include reducing the number of government registration and reporting requirements by making the system available to State, Territory and local government regulatory bodies.

Note: Section 30 facilitates this object by enabling the Registrar to provide information collected under this Act to State, Territory and local government bodies.

Division 3—Application of this Act

4 Crown bound by this Act

This Act binds the Crown in each of its capacities, but does not make the Crown liable to be prosecuted for an offence.

5 Application to government entities, non-profit sub-entities, superannuation funds and certain RSE licensees

- (1) This Act applies to a *government entity, a *non-profit sub-entity or a *superannuation fund as if it were an *entity *carrying on an *enterprise in *Australia.
- (2) This Act applies to an *RSE licensee, or an applicant for an *RSE licence, that is a group of individual trustees as if the group were an *entity *carrying on an *enterprise in *Australia.

5A Application to religious practitioners and religious institutions

If a *religious practitioner:

- (a) does an activity, or a series of activities:
 - (i) in pursuit of his or her vocation as a religious practitioner; and
 - (ii) as a member of a religious institution; and
- (b) does not do the activity, or series of activities, as an employee or agent of the religious institution or another entity;

this Act applies as if the activity, or series of activities, had been done by the religious institution and not by the religious practitioner.

Note: This will mean that such an activity will be an enterprise of the religious institution and not an enterprise of the religious practitioner.

6 Application of *Criminal Code*

The *Criminal Code* applies to all offences against this Act.

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Division 3 Application of this Act

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7 Application to the external Territories

This Act extends to every external Territory.

Part 2—Registering for ABN purposes

Division 4—Registration

8 Are you entitled to an ABN?

- (1) *You are entitled to have an Australian Business Number (*ABN) if:
 - (a) you are *carrying on an *enterprise in *Australia; or
 - (b) in the course or furtherance of carrying on an enterprise, you make *supplies that are *connected with Australia.
- (2) A *Corporations Act company is entitled to have an Australian Business Number (*ABN).

9 Applying for registration

- (1) To get an *ABN, *you must apply to be registered in the *Australian Business Register.

Note 1: You may apply yourself or someone may apply on your behalf.

Note 2: If you are registered, you will be allocated an ABN and your ABN will be entered in the Register (see subsection 11(1)).
- (2) *Your application:
 - (a) must be in a form approved by the *Registrar; and
 - (b) must be lodged at, or posted to, an office or facility designated by the Registrar as a receiving centre for applications of that kind; and
 - (c) may be *lodged electronically.

Note: Your application must be signed (see section 20).
- (3) Without limiting paragraph (2)(a), the form approved under that paragraph:
 - (a) may require you to set out in your application:
 - (i) the name and address of, and other information about, an *associate; or
 - (ii) any identifying number (other than a *TFN) that has been issued to you or to an associate; and

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- (b) may request, but not compel, you to provide your TFN or that of an associate.

10 Registrar must register you if conditions met

- (1) The *Registrar must register *you in the *Australian Business Register if:
 - (a) you have applied under section 9; and
 - (b) the Registrar is satisfied that you:
 - (i) are entitled to have an *ABN; or
 - (ii) are likely to be entitled to have an ABN by the date specified in your application; and
 - (c) the Registrar is satisfied that your identity has been established; and
 - (d) you are not already registered in the Register.
- (2) The *Registrar may request *you to give the Registrar specified information or a specified document the Registrar needs to be satisfied that:
 - (a) you are entitled to have an *ABN; or
 - (b) your identity is established.

11 Steps taken by Registrar to register you

- (1) The *Registrar registers *you by:
 - (a) allocating you an *ABN; and
 - (b) entering in the *Australian Business Register:
 - (i) your name; and
 - (ii) your ABN; and
 - (iii) the date of effect of the registration.
- (2) The date specified as the date of effect of *your registration may be any date (including a date before your application for registration was made).
- (3) The *Registrar must give *you a written notice of:
 - (a) the fact that you have been registered; and
 - (b) your *ABN; and
 - (c) the date of effect of your registration; and

- (d) the other details entered in relation to you in the *Australian Business Register (see section 25).

Note: Section 12 deals with giving notice to a registered entity.

12 If you are registered, notices may be sent to you at your registered address for service

- (1) If *you are registered in the *Australian Business Register, a notice under this Act, or the regulations, may be given to you by leaving it at, or sending it by pre-paid post to, the address shown in the Register as your address for service.
- (2) Subsection (1):
 - (a) does not affect the operation of any other law of the Commonwealth, or any law of a State or Territory, that authorises the service of a document in some other way; and
 - (b) does not affect the power of a court to authorise service of a document in some other way.

13 Refusal to register

- (1) If the *Registrar refuses *your application for registration, the Registrar must give you written notice of:
 - (a) the refusal; and
 - (b) the reasons for the refusal.
- Note: Section 22 requires the notice to be accompanied by a statement of your right to seek AAT review.
- (2) If the *Registrar has not decided *your application for registration within 28 days after your application is made, you may, at any time, give the Registrar written notice that you wish to treat your application as having been refused.
 - (3) For the purposes of section 21, if *you give notice under subsection (2), the *Registrar is taken to have refused your application for registration on the day on which the notice is given.
 - (4) For the purposes of measuring the 28 days mentioned in subsection (2), disregard each period (if any):
 - (a) starting on the day when the *Registrar requests *you under subsection 10(2) to give the Registrar specified information or a specified document; and

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- (b) ending at the end of the day you give the Registrar the specified information or document.

Division 5—Your obligations if you are registered

14 You must notify Registrar of changes to matters set out in the Register

- (1) If:
- (a) *you give information to the *Registrar; and
 - (b) the information is recorded in relation to you in the *Australian Business Register under section 25; and
 - (c) circumstances change so that the information you gave the Registrar is no longer correct;
- you must notify the Registrar of the change within 28 days after you become aware of the change.

Note 1: The information may have been given to the Registrar as part of applying for registration or it may have been given in a previous notice under this subsection or section 15.

Note 2: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. If you fail to comply with this subsection, you commit an offence against section 8C of that Act.

- (2) The notice:
- (a) must be lodged with the *Registrar; and
 - (b) may be *lodged electronically.

Note: The notice must be signed (see section 20).

15 Your obligation to give Registrar information if requested

- (1) If *you are registered in the *Australian Business Register, the *Registrar may request you to give the Registrar information that is relevant to:
- (a) your entitlement to be registered; or
 - (b) confirming your identity; or
 - (c) the details entered in relation to you in the Register.

You must comply with the request.

Note: This Act is a taxation law for the purposes of the *Taxation Administration Act 1953*. If you fail to comply with this subsection, you commit an offence against section 8C of that Act.

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- (2) The request:
- (a) is to be made by notice in writing to *you; and
 - (b) may ask you to give the information in writing; and
 - (c) must specify:
 - (i) the information you are to give; and
 - (ii) the period within which you are to give the information.

The period specified under subparagraph (c)(ii) must end at least 14 days after the notice is given.

Note: Section 12 deals with giving notice to a registered entity.

- (3) If the request asks *you to give the information in writing, the information:
- (a) must be lodged with the *Registrar; and
 - (b) may be *lodged electronically.

Note: The information must be signed (see section 20).

16 Application of sections 14 and 15 to partnerships, unincorporated associations and bodies and certain RSE licensees

Application to partnerships

- (1) If, but for this subsection, section 14 or 15 would impose an obligation on a *partnership, the obligation is imposed on each partner, but may be discharged by any of the partners.

Application to unincorporated association or body

- (2) If, but for this subsection, section 14 or 15 would impose an obligation on an unincorporated association or body, the obligation is imposed on each member of the committee of management of the association or body, but may be discharged by any of the members of the committee.

Application to RSE licensee that is a group of individual trustees

- (2A) If, but for this subsection, section 14 or 15 would impose an obligation on an *RSE licensee that is a group of individual trustees, the obligation is imposed on each individual, but may be discharged by any of the individuals.

Defences for partners, members of committee of management and certain RSE licensees

- (3) In a prosecution of a *person for an offence against section 8C of the *Taxation Administration Act 1953* because of subsection (1), (2) or (2A), it is a defence if the person proves that the person:
- (a) did not aid, abet, counsel or procure the act or omission because of which the offence is taken to have been committed; and
 - (b) was not in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the act or omission because of which the offence is taken to have been committed.

Application to government entities headed by one person

- (4) If, apart from this subsection, section 14 or 15 (as applied by section 5) would impose an obligation on a *government entity:
- (a) that is an unincorporated association or body; and
 - (b) for whose management a single person is responsible to persons or bodies outside the government entity;
- the obligation is imposed on that person.
- (5) Subsection (4) has effect despite:
- (a) subsection (2); and
 - (b) sections 14 and 15 as they apply because of section 5.

Division 6—Variation and cancellation of registration

17 Registrar may change your ABN

- (1) The *Registrar may, at any time, change *your *ABN by:
 - (a) making an appropriate change to the *Australian Business Register (including the date from which the new ABN has effect); and
 - (b) giving you written notice of the new ABN.

Note: Section 12 deals with giving notice to a registered entity.

- (2) The notice must state the date from which the new *ABN has effect.
- (3) The change to the *ABN takes effect on the date stated in the *Australian Business Register.

18 When your registration can be cancelled

On Registrar's initiative

- (1) The *Registrar may cancel *your registration in the *Australian Business Register if satisfied that:
 - (a) you are registered under an identity that is not your true identity; or
 - (b) at the time you were registered, you were not entitled to have an *ABN; or
 - (c) you are no longer entitled to have an ABN.

Note: If your registration is cancelled, you cease to have an ABN (see the definition of *ABN* in section 41).

- (2) The *Registrar must give *you written notice of the cancellation. The notice must state:
 - (a) the reasons for the cancellation; and
 - (b) the date of effect of the cancellation.

Note 1: Section 22 requires the notice to be accompanied by a statement of your right to seek AAT review.

Note 2: Section 12 deals with giving notice to a registered entity.

- (3) The date of effect of the cancellation may be any of the following:
 - (a) the date on which *you are given notice under subsection (2);
 - (b) a specified date in the future;
 - (c) a date before the date on which the notice is given.

At your request

- (4) The *Registrar may cancel *your registration if you apply to the Registrar for cancellation of the registration in a form approved by the Registrar.
- (5) The *Registrar must give *you written notice of the cancellation. The notice must state the date of effect of the cancellation.

Note: Section 12 deals with giving notice to a registered entity.
- (6) The date of effect of the cancellation may be any of the following:
 - (a) the date on which *you are given notice under subsection (5);
 - (b) a specified date in the future;
 - (c) a date before the date on which the notice is given.

19 Reinstating your registration

- (1) The *Registrar must reinstate *your registration in the *Australian Business Register if the Registrar is satisfied that the registration should not have been cancelled.
- (2) The *Registrar must give *you written notice of the reinstatement.

Note: Section 12 deals with giving notice to a registered entity.
- (3) The reinstatement has effect on and from the day on which the registration was cancelled.

Division 7—Signatures

20 Applications and notices must be signed

An application under section 9, a notice under subsection 14(1) and information lodged under subsection 15(3) must either:

- (a) be signed by *you, or the *person lodging it on your behalf, if it is not *lodged electronically; or
- (b) contain *your *electronic signature, or the electronic signature of the person lodging it on your behalf, if it is lodged electronically.

Division 8—Review of decisions about registration

21 Review of decisions

- (1) Applications may be made to the Administrative Appeals Tribunal for review of the following decisions of the *Registrar:
 - (a) a decision setting the date of effect of *your registration under subsection 11(1);
 - (b) a decision refusing your application for registration under section 13 (including a decision that is taken to have been made because of subsections 13(2) and (3));
 - (c) a decision to cancel your registration under subsection 18(1);
 - (d) a decision to refuse to cancel your registration under subsection 18(4);
 - (e) a decision setting the date of effect of a cancellation of your registration under subsection 18(2) or (5).
- (2) If an application is made to the Tribunal for review of a decision referred to in paragraph (1)(b), the orders that may be made under subsection 41(2) of the *Administrative Appeals Tribunal Act 1975* include an order that the *Registrar register *you pending the determination of your application for review.
- (3) *Your registration under an order under subsection (2) ceases to have effect when your application is finally disposed of.

22 Statement of rights to seek review

- (1) If:
 - (a) a decision of a kind referred to in section 21 is made; and
 - (b) notice in writing of the decision is given to a *person whose interests are affected by the decision;that notice must:
 - (c) include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision; and

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- (d) except where subsection 28(4) of that Act applies—also include a statement to the effect that the person may request a statement under section 28 of that Act.
- (2) A failure to comply with subsection (1) does not affect the validity of the decision.

Division 9—Offences in relation to use of ABNs

23 Misuse of ABN

- (1) *You must not purport to identify yourself by using:
- (a) a number that is not an *ABN as if it were an ABN; or
 - (b) an ABN that is not your own.

Penalty: Imprisonment for 2 years.

- (2) *You must not purport to identify an *entity that is an *associate of yours by using:
- (a) a number that is not an *ABN as if it were an ABN; or
 - (b) an ABN that is not the entity's own ABN.

Penalty: Imprisonment for 2 years.

Part 3—Administration

Division 10—The Australian Business Register

24 The Australian Business Register

- (1) The *Registrar must establish and maintain an *Australian Business Register.
- (2) The *Australian Business Register may be kept in any form that the *Registrar considers appropriate.

25 Entries in the Australian Business Register

- (1) Under paragraph 11(1)(b), the *Registrar enters in the *Australian Business Register in relation to each *entity registered in the Register:
 - (a) the entity's name; and
 - (b) the entity's *ABN; and
 - (c) the date of effect of the registration.
- (2) The *Registrar must also enter the following details in the *Australian Business Register in relation to the *entity:
 - (a) an address for service of notices under this Act;
 - (b) the details prescribed in the regulations.

Note 1: Section 30-229 of the *Income Tax Assessment Act 1997* also requires the Registrar to make entries in the Australian Business Register about entities gifts to which are tax-deductible.

Note 2: Section 426-65 in Schedule 1 to the *Taxation Administration Act 1953* also requires the Registrar to make entries in the Australian Business Register about entities that are endorsed in the ways mentioned in that section.

26 Access to certain information in the Australian Business Register

- (1) The *Registrar may (on receiving payment of any prescribed fee) give a *person a copy of the entry in the *Australian Business Register relating to an *entity.

- (2) Before the copy is given to the *person, the *Registrar must excise from it:
- (a) any detail not listed in subsection (3) or in regulations made under subsection (3); and
 - (b) any detail that the Registrar is prohibited from disclosing under subsection (4).
- (3) The details are the following:
- (a) the *entity's name;
 - (b) the entity's *ABN;
 - (c) the date of effect of the registration;
 - (d) either:
 - (i) the business name registered for the entity under the law of a State or Territory; or
 - (ii) if a business name is not registered for the entity—any name used for business purposes by the entity;
 - (e) the date of effect of any GST registration under section 25-10 of the *A New Tax System (Goods and Services Tax) Act 1999*;
 - (f) the date of effect of any GST cancellation under section 25-60 of the *A New Tax System (Goods and Services Tax) Act 1999*;
 - (g) any statement required to be entered in the *Australian Business Register in relation to the entity under section 30-229 of the *ITAA 1997;
 - (ga) any statement required to be entered in the *Australian Business Register in relation to the entity under section 426-65 in Schedule 1 to the *Taxation Administration Act 1953*;
 - (h) the entity's Australian Company Number and Australian Registered Body Number (if any);
 - (i) the kind of entity;
 - (j) the State or Territory in which the entity's principal place of *business is located, and the postcode relating to the location;
 - (ja) if the entity is an *RSE licensee:
 - (i) the class of licence held by the licensee; and
 - (ii) the address for the licensee recorded by the Australian Prudential Regulation Authority for the purposes of the *Superannuation Industry (Supervision) Act 1993*; and
 - (iii) the licensee's postal address; and

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- (iv) the licensee's telephone number;
 - (jb) if the entity is a registrable superannuation entity within the meaning of the *Superannuation Industry (Supervision) Act 1993*:
 - (i) the address for the entity recorded by the Australian Prudential Regulation Authority for the purposes of the *Superannuation Industry (Supervision) Act 1993*; and
 - (ii) the entity's postal address; and
 - (iii) the entity's telephone number; and
 - (iv) the entity's contact person; and
 - (v) the RSE licensee of the entity;
 - (k) any details prescribed in the regulations for the purposes of this section.
- (4) If:
- (a) a *person applies for a detail listed in subsection (3), or in regulations made under subsection (3), in relation to an *entity, not to be disclosed; and
 - (b) the *Registrar is satisfied that it is not appropriate to disclose the detail;
- the Registrar must not disclose the detail under this section.
- (5) In addition to providing copies under subsection (1), the *Registrar may make publicly available any details listed in subsection (3), or in regulations made under subsection (3), in relation to an *entity, other than any detail that the Registrar is prohibited from disclosing under subsection (4).

27 Evidentiary value of the Australian Business Register

- (1) The *Australian Business Register is admissible in proceedings as evidence of the matters registered in it.
- (2) If the *Australian Business Register is kept by the use of a computer, the *Registrar may issue a document containing the details of a matter taken from the Register.
- (3) The document issued under subsection (2) is admissible in proceedings as evidence of the matter.

- (4) The *Registrar may give a *person a certified copy of, or extract from, the *Australian Business Register on payment of the prescribed fee (if any).
- (5) The certified copy is admissible in proceedings without any further proof of, or the production of, the original.
- (6) This section does not limit the manner in which evidence may be adduced, or the admissibility of evidence, under the *Evidence Act 1995*.
- (7) If:
 - (a) a *person applies for a detail included in the *Australian Business Register in relation to an *entity not to be disclosed; and
 - (b) the *Registrar is satisfied that it is not appropriate to disclose the detail;the detail must not be included in any document the Registrar issues or gives under subsection (2) or (4).

Division 10A—Review of decisions about disclosure

27A Review of decisions

- (1) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the *Registrar under subsection 26(4) or 27(7).
- (2) If an application for review is made under subsection (1), the orders that may be made under subsection 41(2) of the *Administrative Appeals Tribunal Act 1975* include an order that the *Registrar not disclose the details that are the subject of the application pending the determination of the application for review.

27B Statement of rights to seek review

- (1) If:
 - (a) a decision of a kind referred to in section 27A is made; and
 - (b) notice in writing of the decision is given to a *person whose interests are affected by the decision;that notice must:
 - (c) include a statement to the effect that, if the person is dissatisfied with the decision, application may, subject to the *Administrative Appeals Tribunal Act 1975*, be made to the Tribunal for review of the decision; and
 - (d) except where subsection 28(4) of that Act applies—also include a statement to the effect that the person may request a statement under section 28 of that Act.
- (2) A failure to comply with subsection (1) does not affect the validity of the decision.

Division 11—Other administrative matters

28 The Registrar

- (1) There is to be a Registrar of the *Australian Business Register.
- (2) The Commissioner of Taxation is the Registrar of the *Australian Business Register.

Note 1: Subsections 6B(6) and (6A) of the *Taxation Administration Act 1953* allow a person acting as Commissioner of Taxation to exercise the powers and perform the functions that this Act gives to the Registrar.

Note 2: Subsections 8(1) and (1A) of the *Taxation Administration Act 1953* allow the Registrar to delegate powers and functions that this Act gives the Registrar.
- (3) As well as the specific powers and functions conferred on the *Registrar by this Act, the Registrar has the general administration of this Act.
- (4) For the purposes of any other law of the Commonwealth, this Act is taken to be one that the Commissioner of Taxation administers or has the general administration of.

29 Annual report on operation of this Act

- (1) The *Registrar must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report on the working of this Act during the year ending on that 30 June.

Note: Section 34C of the *Acts Interpretation Act 1901* applies to reports under this section.
- (2) The Minister must table a copy of the report before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

30 Protection of confidentiality of information

- (1) This section restricts what a *person (the *entrusted person*) may do with *protected information, or *protected documents, that the person has obtained in the course of *official employment.

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(2) The *entrusted person:

- (a) must not make a record of *protected information; and
- (b) must not disclose it to anyone else;

if the recording or disclosure is not done in accordance with subsection (3).

Penalty: Imprisonment for 2 years.

(3) It is not an offence against subsection (2) if any of the following apply to the recording or disclosure:

- (a) the recording or disclosure is for the purposes of this Act;
- (b) the recording or disclosure happens in the course of the performance of the duties of the *entrusted person's *official employment;

(c) the entrusted person is the *Registrar and the disclosure is to:

- (i) an Agency Head (within the meaning of the *Public Service Act 1999*) for the purposes of carrying out functions of the Agency (within the meaning of that Act); or
- (ii) the Chief Executive of a prescribed agency within the meaning of the *Financial Management and Accountability Act 1997* for the purposes of carrying out functions conferred on the agency by a law of the Commonwealth; or
- (iii) another *person for the purpose of that other person carrying out functions under a *taxation law; or
- (iv) the Administrative Appeals Tribunal in connection with proceedings under a taxation law; or
- (vi) the head (however described) of a Department of State of a State or Territory for the purposes of carrying out functions of the Department; or
- (vii) the head (however described) of a body established for a public purpose by or under a law of a State or Territory (including a local governing body) for the purposes of carrying out functions conferred on the body by a law of the State or Territory; or
- (viii) a prescribed body for the prescribed purposes;

(d) the disclosure is by a person authorised by the Registrar to disclose the information and the disclosure is made to:

- (i) an Agency Head (within the meaning of the *Public Service Act 1999*) for the purposes of carrying out functions of the Agency (within the meaning of that Act); or
 - (ii) the Chief Executive of a prescribed agency within the meaning of the *Financial Management and Accountability Act 1997* for the purposes of carrying out functions conferred on the agency by a law of the Commonwealth; or
 - (iii) another person for the purpose of that other person carrying out functions under an Act administered by the Commissioner of Taxation; or
 - (iv) the head (however described) of a Department of State of a State or Territory for the purposes of carrying out functions of the Department; or
 - (v) the head (however described) of a body established for a public purpose by or under a law of a State or Territory (including a local governing body) for the purposes of carrying out functions conferred on the body by a law of the State or Territory; or
 - (vi) a prescribed body for the prescribed purposes.
- (4) Subsection (3) does not authorise the disclosure of information to:
- (a) a Commonwealth Minister; or
 - (b) a Minister of a State or Territory; or
 - (c) an elected member of a body established under a law of a State or Territory.
- (5) Except where it is necessary to do so for the purpose of giving effect to a *taxation law, the *entrusted person is not to be required:
- (a) to produce any *protected document to a court; or
 - (b) to disclose *protected information to a court.
- (6) In this section:
- disclose*** means divulge or communicate.

Section 31

31 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;and, in particular:
 - (c) prescribing fees; or
 - (d) prescribing penalties, not exceeding 10 penalty units, for offences against the regulations.
- (2) The amount of a fee prescribed under paragraph (1)(c):
 - (a) must be reasonably related to the expenses incurred or to be incurred by the *Registrar in connection with the activity that attracts the fee; and
 - (b) must not be such as to amount to taxation.

Part 4—Rules for interpreting this Act

Division 12—Identifying defined terms

32 When defined terms are identified

- (1) Many of the terms used in this Act are defined.
- (2) Most defined terms in this Act are identified by an asterisk appearing at the start of the term: as in “*enterprise”. The footnote that goes with the asterisk contains a signpost to the Dictionary definitions in section 41.

33 When terms are *not* identified

Once a defined term has been identified by an asterisk, later occurrences of the term in the same subsection are *not* usually asterisked.

34 Identifying the defined term in a definition

Within a definition, the defined term is identified by ***bold italics***.

Division 13—What forms part of this Act

35 What forms part of this Act

- (1) These all form part of this Act:
 - the headings to the Parts, Divisions and Subdivisions of this Act;
 - the headings to the sections and subsections of this Act;
 - the notes and examples (however described) that follow provisions of this Act.
- (2) The asterisks used to identify defined terms form part of this Act. However, if a term is not identified by an asterisk, disregard that fact in deciding whether or not to apply to that term a definition or other interpretation provision.

36 What does not form part of this Act

Footnotes and endnotes do not form part of this Act.

Division 15—The Dictionary

41 Dictionary

In this Act, except so far as the contrary intention appears:

ABN (Australian Business Number) for an *entity means the entity's ABN as shown in the *Australian Business Register.

associate has the meaning given by section 318 of the *ITAA 1936.

Australia does not include any external Territory. However, it includes an installation (within the meaning of the *Customs Act 1901*) that is deemed by section 5C of the *Customs Act 1901* to be part of Australia.

Australian Business Register means the register established under section 24.

business includes any profession, trade, employment, vocation or calling, but does not include occupation as an employee.

carrying on an *enterprise includes doing anything in the course of the commencement or termination of the enterprise.

company means:

- (a) a body corporate; or
 - (b) any other unincorporated association or body of *persons;
- but does not include a *partnership or a *non-entity joint venture.

connected with Australia, in relation to a *supply, has the meaning given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Corporations Act company means a body registered as a company under the *Corporations Act 2001*.

electronic signature has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

enterprise has the meaning given by section 9-20 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Section 41

entity has the meaning given by section 184-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

entrusted person has the meaning given by subsection 30(1).

government entity means:

- (a) a Department of State of the Commonwealth; or
- (b) a Department of the Parliament; or
- (c) an Executive Agency, or Statutory Agency, within the meaning of the *Public Service Act 1999*; or
- (d) a Department of State of a State or Territory; or
- (e) an organisation that:
 - (i) is not an entity; and
 - (ii) is either established by the Commonwealth, a State or a Territory (whether under a law or not) to carry on an *enterprise or established for a public purpose by an *Australian law; and
 - (iii) can be separately identified by reference to the nature of the activities carried on through the organisation or the location of the organisation;whether or not the organisation is part of a Department or branch described in paragraph (a), (b), (c) or (d) or of another organisation of the kind described in this paragraph.

individual means a natural person.

ITAA 1936 means the *Income Tax Assessment Act 1936*.

ITAA 1997 means the *Income Tax Assessment Act 1997*.

lodged electronically: a document is lodged electronically if it is transmitted to the Registrar in an electronic format approved by the Registrar.

non-cash benefit has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

non-entity joint venture means an arrangement that the Registrar is satisfied is a contractual arrangement:

- (a) under which 2 or more parties undertake an economic activity that is subject to the joint control of the parties; and
- (b) that is entered into to obtain individual benefits for the parties, in the form of a share of the output of the

arrangement rather than joint or collective profits for all the parties.

Non-profit sub-entity: a branch of an entity is a **non-profit sub-entity** if:

- (a) the entity has chosen to apply Division 63 of the *A New Tax System (Goods and Services Tax) Act 1999*, and that choice still has effect; and
- (b) the branch maintains an independent system of accounting; and
- (c) the branch can be separately identified by reference to:
 - (i) the nature of the activities carried on through the branch; or
 - (ii) the location of the branch; and
- (d) the branch is referred to in the entity's records to the effect that it is to be treated as a separate entity for the purposes of the GST law.

official employment means:

- (a) appointment or employment by the Commonwealth, or the performance of services for the Commonwealth; or
- (b) the exercise of powers or performance of functions under a delegation by the *Registrar; or
- (c) appointment or employment by a State or Territory, or the performance of services for a State or Territory; or
- (d) appointment or employment by a local governing body, or the performance of services for a local governing body.

Note: The Registrar may delegate powers and functions under section 8 of the *Taxation Administration Act 1953*.

partnership has the meaning given by section 995-1 of the *ITAA 1997.

person includes a *company.

protected document means any document made or given under, or for the purposes of, this Act.

protected information means information that meets all the following conditions:

- (a) it relates to the affairs of a *person other than the *entrusted person;

Section 41

- (b) it was obtained by the entrusted person, or by any other person, in the course of *official employment;
- (c) it was disclosed or obtained under this Act.

Registrar means the Registrar of the *Australian Business Register.

religious practitioner means:

- (a) a minister of religion; or
- (b) a student at an institution who is undertaking a course of instruction in the duties of a minister of religion; or
- (c) a full-time member of a religious order; or
- (d) a student at a college conducted solely for training persons to become members of religious orders.

RSE licence means an RSE licence within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

RSE licensee means an RSE licensee within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

superannuation fund has the meaning given by section 995-1 of the ITAA 1997.

supply has the meaning given by section 9-10 of the *A New Tax System (Goods and Services Tax) Act 1999*.

taxation law has the meaning given by section 2 of the *Taxation Administration Act 1953*.

TFN means tax file number as defined in section 202A of the *ITAA 1936.

withholding payment has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

withholding payment covered by a particular provision in Schedule 1 to the *Taxation Administration Act 1953* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

you: if a provision of this Act uses the expression **you**, it applies to entities generally, unless its application is expressly limited.

Note: The expression **you** is not used in provisions that apply only to entities that are not individuals.

Table of Acts

Notes to the *A New Tax System (Australian Business Number) Act 1999***Note 1**

The *A New Tax System (Australian Business Number) Act 1999* as shown in this compilation comprises Act No. 84, 1999 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitional) Act 2001*, see Act No. 55, 2001.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>A New Tax System (Australian Business Number) Act 1999</i>	84, 1999	8 July 1999	8 July 1999	
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 92–94): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (a)	—
<i>A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999</i>	177, 1999	22 Dec 1999	Schedule 4: (b)	—
<i>A New Tax System (Pay As You Go) Act 1999</i>	178, 1999	22 Dec 1999	Schedule 1 (items 6, 8, 70–78): 1 July 2000 Remainder: Royal Assent	S. 2(1A) (ad. by 179, 1999, Sch. 10 (item 19))
as amended by				
<i>A New Tax System (Tax Administration) Act 1999</i>	179, 1999	22 Dec 1999	Schedule 10 (item 19): 22 Dec 1999 (c)	—
<i>A New Tax System (Tax Administration) Act 1999</i>	179, 1999	22 Dec 1999	Schedule 9: Royal Assent (d)	—
<i>Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Act 1999</i>	201, 1999	23 Dec 1999	Schedule 3: 24 Dec 1999 (e)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>A New Tax System (Tax Administration) Act (No. 2) 2000</i>	91, 2000	30 June 2000	Schedule 2 (item 1): (f) Schedule 4C: 1 July 2000 (f)	Sch. 4C (item 9)
<i>Indirect Tax Legislation Amendment Act 2000</i>	92, 2000	30 June 2000	Schedule 7 (items 1–3) and Schedule 11 (items 1, 2): (g) Schedule 11 (items 2A, 2B) (g)	—
<i>Corporations (Repeals, Consequentials and Transitionals) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 28–30): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (h)	Ss. 4–14
<i>Taxation Laws Amendment Act (No. 5) 2001</i>	168, 2001	1 Oct 2001	Schedule 2: 1 July 2000 Remainder: Royal Assent	Sch. 1 (item 3)
<i>Energy Grants (Credits) Scheme (Consequential Amendments) Act 2003</i>	54, 2003	27 June 2003	1 July 2003	—
<i>Tax Laws Amendment (2004 Measures No. 1) Act 2004</i>	95, 2004	29 June 2004	Schedule 6: Royal Assent Schedule 10 (items 1–3): 1 July 2005	Sch. 6 (item 5)
<i>Tax Laws Amendment (2006 Measures No. 3) Act 2006</i>	80, 2006	30 June 2006	Schedule 10 (items 1, 2): 1 July 2005	—
<i>Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006</i>	101, 2006	14 Sept 2006	Schedule 1 (items 1, 2), Schedule 2 (items 5–8) and Schedule 6 (items 1, 6–11): Royal Assent	Sch. 6 (items 1, 6–11)
<i>Tax Laws Amendment (2007 Measures No. 4) Act 2007</i>	143, 2007	24 Sept 2007	Schedule 7 (item 1): Royal Assent	—
<i>Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007</i>	154, 2007	24 Sept 2007	Schedule 1 (items 1–9, 296): Royal Assent Schedule 1 (item 245): 24 Sept 2008	Sch. 1 (item 296)

Act Notes

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- (a) The *A New Tax System (Australian Business Number) Act 1999* was amended by Schedule 1 (items 92–94) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (b) The *A New Tax System (Australian Business Number) Act 1999* was amended by Schedule 4 only of the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999*, subsections 2(2) and (7) of which provide as follows:
- (2) Part 1 of Schedule 1 to this Act commences immediately after the commencement of Part 1 of Schedule 1 (other than the items for which specific commencement has been provided) to the *A New Tax System (Indirect Tax and Consequential Amendments) Act 1999*.
 - (7) Schedule 4 commences at the same time as the commencement of Part 1 of Schedule 1.
- Part 1 of Schedule 1 commences immediately after 1 July 2000.
- (c) The *A New Tax System (Pay As You Go) Act 1999* was amended by Schedule 10 (item 19) only of the *A New Tax System (Tax Administration) Act 1999*, subsection 2(11) of which provides as follows:
- (11) Subsection 2(1A) of the *A New Tax System (Pay As You Go) Act 1999* (inserted by item 19 of Schedule 10 to this Act) commences, or is taken to have commenced, at the commencement of section 1 of that Act.
- (d) The *A New Tax System (Australian Business Number) Act 1999* was amended by Schedule 9 only of the *A New Tax System (Tax Administration) Act 1999*, subsection 2(7) of which provides as follows:
- (7) The following provisions commence on the day on which this Act receives the Royal Assent:
 - (a) section 1, this section and section 3;
 - (b) Part 2 of Schedule 5, and the amendments of the *Taxation Administration Act 1953* made by Part 1 of that Schedule;
 - (c) items 1 to 22 and 24 of Schedule 6;
 - (d) Schedules 7, 8, 9 and 17;
 - (e) items 16 and 20 of Schedule 18.
- (e) The *A New Tax System (Australian Business Number) Act 1999* was amended by Schedule 3 only of the *Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Act 1999* subsection 2(3) of which provides as follows:
- (3) The remaining provisions of this Act commence on the day after the day on which this Act receives the Royal Assent.
- (f) The *A New Tax System (Australian Business Number) Act 1999* was amended by Schedule 2 (item 1) and Schedule 4C only of the *A New Tax System (Tax Administration) Act (No. 2) 2000*, subsections 3(1) and (5B) of which provide as follows:
- (1) Subject to this section, this Act commences, or is taken to have commenced, immediately after the commencement of section 1-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.
 - (5B) Schedule 4C commences, or is taken to have commenced, on 1 July 2000.
- Section 1-1 of the *A New Tax System (Goods and Services Tax) Act 1999* commenced on 1 July 2000.
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Act Notes

(g) The *A New Tax System (Australian Business Number) Act 1999* was amended by Schedule 7 (items 1–3) and Schedule 11 (items 1, 2, 2A and 2B) only of the *Indirect Tax Legislation Amendment Act 2000*, subsections 3(1) and (5) of which provide as follows:

(1) Subject to this section, this Act commences immediately after the commencement of Part 1 of Schedule 1 to the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999*.

(5) Items 1, 2 and 3 of Schedule 7 and items 1 and 2 of Schedule 11 commence immediately after the commencement of Schedule 4 to the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999*.

Part 1 of Schedule 1 to the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999* commenced on 1 July 2000.

Schedule 4 to the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999* commenced on 1 July 2000.

(h) The *A New Tax System (Australian Business Number) Act 1999* was amended by Schedule 3 (items 28–30) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:

(3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
Division 2	
Note to s. 3(3)	rs. No. 91, 2000
Division 3	
Heading to s. 5.....	rs. No. 177, 1999; No. 92, 2000; No. 154, 2007
S. 5	am. No 177, 1999; No. 92, 2000; No. 154, 2007
S. 5A	ad. No. 168, 2001
Note to s. 5A.....	am. No. 101, 2006
Part 2	
Division 4	
S. 8	am. No. 177, 1999; No. 55, 2001
S. 10	am. No. 179, 1999
S. 13	am. No. 179, 1999
Division 5	
S. 14	am. No. 179, 1999
Heading to s. 16.....	rs. No. 154, 2007
Subhead. to s. 16(3)	rs. No. 154, 2007
S. 16	am. No. 179, 1999; No. 154, 2007
Part 3	
Division 10	
Note to s. 25(2)	ad. No. 179, 1999
Renumbered Note 1	No. 95, 2004
Note 2 to s. 25(2)	ad. No. 95, 2004
S. 26	rs. No. 91, 2000 am. No. 95, 2004; No. 154, 2007
S. 27	am. No. 91, 2000
Division 10A	
Div. 10A of Part 3.....	ad. No. 91, 2000
S. 27A	ad. No. 91, 2000
S. 27B	ad. No. 91, 2000
Division 11	
S. 30	am. Nos. 146 and 201, 1999; No. 91, 2000; No. 54, 2003; No. 95, 2004
Part 4	
Div. 14 of Part 4	rep. No. 101, 2006
S. 37	am. No. 92, 2000 rep. No. 101, 2006
S. 38	am. Nos. 177 and 178, 1999; No. 92, 2000; No. 80, 2006 rep. No. 101, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

<u>Provision affected</u>	<u>How affected</u>
S. 39	rep. No. 177, 1999
S. 40	rep No. 101, 2006
Division 15	
S. 41	am. Nos. 146, 177, 178 and 179, 1999; Nos. 91 and 92, 2000; Nos. 55 and 168, 2001; No. 101, 2006; Nos. 143 and 154, 2007

Table A

Application, saving or transitional provisions

A New Tax System (Tax Administration) Act (No. 2) 2000 (No. 91, 2000)

Schedule 4C

9 Regulations

Regulations made for the purposes of subsection 26(1) of the *A New Tax System (Australian Business Number) Act 1999* and in force immediately before the commencement of this Schedule continue in force as if they had been made for the purposes of that subsection as amended by item 2. This does not prevent amendment or repeal of the regulations.

Taxation Laws Amendment Act (No. 5) 2001 (No. 168, 2001)

Schedule 1

3 Application

The amendments of the *A New Tax System (Australian Business Number) Act 1999* made by this Schedule apply to activities done by a religious practitioner on or after 1 July 2000.

Tax Laws Amendment (2004 Measures No. 1) Act 2004 (No. 95, 2004)

Schedule 6

5 Application of amendments

The amendments of the *A New Tax System (Australian Business Number) Act 1999* made by this Schedule apply in relation to disclosures made on or after 15 October 2001.

Table A

Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006
(No. 101, 2006)

Schedule 6

1 Application of Schedule 1 and 2 amendments

Except as mentioned in items 2 and 3, the repeals and amendments made by Schedules 1 and 2 apply:

- (a) so far as they affect assessments—to assessments for the 2006-07 income year and all later income years; and
- (b) otherwise—to acts done or omitted to be done, or states of affairs existing, after the commencement of the repeals and amendments.

6 Object

The object of this Part is to ensure that, despite the repeals and amendments made by this Act, the full legal and administrative consequences of:

- (a) any act done or omitted to be done; or
- (b) any state of affairs existing; or
- (c) any period ending;

before such a repeal or amendment applies, can continue to arise and be carried out, directly or indirectly through an indefinite number of steps, even if some or all of those steps are taken after the repeal or amendment applies.

7 Making and amending assessments, and doing other things, in relation to past matters

Even though an Act is repealed or amended by this Act, the repeal or amendment is disregarded for the purpose of doing any of the following under any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*):

- (a) making or amending an assessment (including under a provision that is itself repealed or amended);
- (b) exercising any right or power, performing any obligation or duty or doing any other thing (including under a provision that is itself repealed or amended);

Table A

in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

Example 1: On 31 July 1999, Greg Ltd lodged its annual return under former section 160ARE of the *Income Tax Assessment Act 1936*. The return stated that the company had a credit on its franking account and that no franking deficit tax was payable for the 1998-99 franking year. Under former section 160ARH of that Act, the Commissioner was taken to have made an assessment consistent with the return.

Following an audit undertaken after the repeal of Part IIIAA of that Act, the Commissioner concludes that Greg Ltd fraudulently overfranked dividends it paid during the 1998-99 franking year, and had a franking account deficit for that franking year. As a result, the Commissioner considers that franking deficit tax and a penalty by way of additional tax are payable.

The Commissioner can amend the assessment under former section 160ARN of that Act, because item 7 of this Schedule disregards the repeal of that section for the purposes of making an assessment in relation to the 1998-99 franking year. Item 7 will also disregard the repeal of Division 11 of former Part IIIAA to the extent necessary for the Commissioner to assess Greg Ltd's liability to a penalty by way of additional tax.

Despite the repeal of sections 160ARU and 160ARV, item 9 will ensure that the general interest charge will accrue on the unpaid franking deficit tax and penalty until they are paid.

Item 7 will also preserve Greg Ltd's right, under former section 160ART of that Act, to object against the Commissioner's amended assessment (including the penalty), since the objection is the exercise of a right in relation to a franking year that ended before the repeal of Part IIIAA.

Example 2: During the 1997-98 income year, Duffy Property Ltd withheld amounts from its employees' wages as required by former Divisions 1AAA and 2 of Part VI of the *Income Tax Assessment Act 1936*. The company failed to notify the Commissioner of those amounts, and failed to remit them to the Commissioner.

Following an audit undertaken after the repeal of those Divisions, the Commissioner discovers that the withheld amounts have not been remitted. The company's records are incomplete and the Commissioner is unable to completely ascertain the extent of its liability for the withheld amounts. Under section 222AGA of that Act, the Commissioner makes an estimate of the liability.

Item 7 will disregard the repeal of section 220AAZA of that Act (which empowered the Commissioner to recover the amount of the estimate). Even though the estimate is made after the repeal, it relates to amounts withheld before the repeal.

Table A

8 Saving of provisions about effect of assessments

If a provision or part of a provision that is repealed or amended by this Act deals with the effect of an assessment, the repeal or amendment is disregarded in relation to assessments made, before or after the repeal or amendment applies, in relation to any act done or omitted to be done, any state of affairs existing, or any period ending, before the repeal or amendment applies.

9 Saving of provisions about general interest charge, failure to notify penalty or late reconciliation statement penalty

If:

- (a) a provision or part of a provision that is repealed or amended by this Act provides for the payment of:
 - (i) general interest charge, failure to notify penalty or late reconciliation statement penalty (all within the meaning of the *Income Tax Assessment Act 1936*); or
 - (ii) interest under the *Taxation (Interest on Overpayments and Early Payments) Act 1983*; and
- (b) in a particular case, the period in respect of which the charge, penalty or interest is payable (whether under the provision or under the *Taxation Administration Act 1953*) has not begun, or has begun but not ended, when the provision is repealed or amended;

then, despite the repeal or amendment, the provision or part continues to apply in the particular case until the end of the period.

10 Repeals disregarded for the purposes of dependent provisions

If the operation of a provision (the *subject provision*) of any Act or legislative instrument (within the meaning of the *Legislative Instruments Act 2003*) made under any Act depends to any extent on an Act, or a provision of an Act, that is repealed by this Act, the repeal is disregarded so far as it affects the operation of the subject provision.

11 Schedule does not limit operation of section 8 of the Acts Interpretation Act 1901

This Schedule does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

Table A

Financial Sector Legislation Amendment (Simplifying Regulation and Review)
Act 2007 (No. 154, 2007)

Schedule 1

296 Regulations may prescribe matters

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) in relation to the amendments or repeals made by this Schedule.