

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2012 No. 70**

**Issued by authority of the Assistant Treasurer**

*A New Tax System (Australian Business Number) Act 1999*

*A New Tax System (Australian Business Number) Amendment Regulation 2012  
(No. 1)*

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 5(a) of the *A New Tax System (Australian Business Number) Regulations 1999* (the Principal Regulations) prescribes details which the Registrar of the Australian Business Register (the Registrar) must enter onto the Australian Business Register (ABR) for each entity with an Australian Business Number (ABN).

The purpose of this Regulation is to amend the Principal Regulations to implement changes associated with the transferring of business names from the States' and Territories' business names registers to the new national Business Names Register (BNR), in accordance with the new Commonwealth business name registration legislation, and specifically Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.

The previous regulations required the Registrar to enter onto the ABR either the business name registered to the entity under the law of a State or Territory, or where not registered, the name used for business purposes by that entity.

This Regulation firstly provides for a transitional period. This transitional period lasts for 12 months beginning from the commencement of Part 2 of the *Business Names Registration Act 2011*. During this transitional period, the Registrar is required to enter onto the ABR either the business name registered to the entity on the BNR, or where not registered, the name relating to that entity on the ABR immediately prior to the beginning of the transitional period.

The Regulation subsequently, on the first anniversary of the commencement of Part 2 of the *Business Names Registration Act*, requires the Registrar to enter only any business name registered to the entity on the BNR.

As this is a minor machinery change, no public consultation was undertaken, however, consultation was undertaken with the Australian Business Register and the Australian Taxation Office. Public consultation for the wider National Business Names Registration Package was undertaken on two occasions prior to the introduction of related legislation into Parliament. The text of all elements of this legislative package was negotiated with State and Territory officials over a period of more than one year. The Bills were also approved by the Ministerial Council for Corporations before introduction.

The Regulation 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*.

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

The Act specifies no conditions that need to be satisfied before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Schedule 1 of the Regulation commences at the same time as Part 1 of Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*. Schedule 2 of the Regulation commences at the same time as Part 2 of Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.

**ATTACHMENT****Details of the A New Tax System (Australian Business Number) Amendment Regulation 2012 (No. 1)****Section 1 – Name of Regulation**

This section provides that the title of the Regulation is the *A New Tax System (Australian Business Number) Amendment Regulation 2012 (No. 1)*

**Section 2 – Commencement**

This section provides for sections 1 to 3 to commence on the day the Regulation is registered.

This section provides for Schedule 1 of the Regulation to commence at the same time as Part 1 of Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.

This section provides for Schedule 2 of the Regulation to commence at the same time as Part 2 of Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.

**Section 3 – Amendment of A New Tax System (Australian Business Number) Regulations 1999**

This section provides that the *A New Tax System (Australian Business Number) Regulations 1999* (the Principal Regulations) are amended as set out in the Schedule.

**Schedule 1 – Amendment to commence on Part 1 of Schedule 2 of the Business Names Registration (Transitional and Consequential Provisions) Act 2011****Item [1] – paragraph 5(a)**

Paragraph 5(a) of the Principal Regulations requires that the Registrar must enter onto the ABR either the business name registered to the entity under the law of a State or Territory or, where not registered, the name used for business purposes by that entity. This item removes that requirement and instead requires that the Registrar must enter either any business name registered to the entity on the Business Names Register (BNR), or if not registered, the name relating to the entity on the Australian Business Register (ABR), immediately before the commencement of Part 2 of the *Business Names Registration Act 2011*.

Schedule 2 – Amendment to commence on Part 2 of Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*

**Item [2] – paragraph 5(a)**

Following the commencement of Item 1, Paragraph 5(a) of the Principal Regulations would require that the Registrar must enter either any business name registered to the entity on the BNR, or, if a business name is not registered to the entity, the name relating to the entity on the ABR, immediately before commencement of Part 2 of the *Business Names Registration Act 2011*. This item removes that requirement and instead requires that the Registrar must enter only any business name registered to the entity on the BNR.