

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 24

Issued by authority of the Minister for Revenue and Assistant Treasurer

A New Tax System (Goods and Services Tax Transition) Act 1999

*A New Tax System (Goods and Services Tax Transition) Amendment Regulations
2005 (No. 1)*

Section 25 of the *A New Tax System (Goods and Services Tax Transition) 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.

The amending Regulation amends the *A New Tax System (Goods and Services Tax Transition) Regulations 2000* (the Principle Regulations) to specify that for the definition of ‘arbitrator’ in section 15B of the Act, a person who is a member of a body mentioned in the table is specified. The amending Regulation inserts into the Principle Regulations a table that lists four bodies; the Institute of Arbitrators and Mediators Australia, the Australian Commercial Disputes Centre, the Chartered Institute of Arbitrators Australia, and LEADR.

The Act contains rules that apply to supplies made under certain agreements. These agreements are ones entered into before 8 July 1999, or in cases where the recipient of those supplies would not be entitled to input tax credits ones entered into before 2 December 1998, and which do not have ‘review opportunities’. A ‘review opportunity’ is an opportunity that arises under the agreement allowing for one or more of the parties to change the consideration directly or indirectly because of the imposition of goods and services tax (GST); or to conduct, on or after 1 July 2000, a general review, renegotiation or alteration of the consideration; or to conduct before 1 July 2000, a general review, renegotiation or alteration of the consideration that takes into account the imposition of the GST.

To the extent these supplies are made before 1 July 2005, they are GST-free. From that date, the supplies are subject to the GST laws in the normal way. However, as these agreements were entered into before the GST laws commenced, the prices under these agreements are likely to have been determined without regard to the GST. As a result, suppliers will have no ability under these agreements to pass that cost on to their recipients.

The Act establishes an arbitration process to determine the appropriate change to the consideration for those supplies that takes into account the impact of the GST. If the supplier chooses to commence the arbitration process, the supplier must apply to an arbitrator for the appointment of an assessor. The proposed Regulations specify that an ‘arbitrator’ is a person who is a member of the Institute of Arbitrators and

Mediators Australia, or of the Australian Commercial Disputes Centre, or of the Chartered Institute of Arbitrators Australia, or of LEADR.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.