

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 89

Issued by authority of the Parliamentary Secretary to the Treasurer

Business Names Registration (Fees) Act 2011

Business Names Registration (Fees) Amendment Regulation 2012 (No. 1)

Section 7 of the *Business Names Registration (Fees) Act 2011* (the Fees Act) provides that the Governor-General may make regulations for the purposes of sections 4, 5 and 6 of the Fees Act.

The Fees Act forms part of the National Business Names Registration legislative package (legislative package) which also includes the *Business Names Registration Act 2011* (the Registration Act) and the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (the Transitional Act). A number of other legislative instruments also form part of the legislative package.

The Fees Act allows for the imposition of fees for chargeable matters done under the Registration Act. Chargeable matters include: registration of a business name to an entity; renewal of the registration of a business name to an entity; and an application by an entity for an extract of the Business Names Register.

The purpose of the *Business Names Registration (Fees) Regulations 2011* (the Principal Regulations) is to prescribe amounts payable for chargeable matters under the Fees Act.

Section 70 of the Registration Act provides that the fees imposed under the Fees Act are payable to the Commonwealth. These fees will be collected by the Australian Securities and Investments Commission (ASIC), on behalf of the Commonwealth. Section 72 of the Registration Act provides ASIC with the discretion, on behalf of the Commonwealth, to reduce, waive or refund fees that would otherwise be payable under the Registration Act, the Transitional Act or the Fees Act in a particular case, or class of case.

The *Business Names Registration (Fees) Amendment Regulation 2012 (No. 1)* (the Amendment Regulation) makes a number of minor and technical changes to the Principal Regulations.

Details of the Amendment Regulation are set out in the Attachment.

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

The Amendment Regulation commences on 28 May 2012, at the same time as the commencement of Part 2 of the Registration Act.

Authority: Section 7 of the *Business Names Registration (Fees) Act 2011*

Details of the *Business Names Registration (Fees) Amendment Regulation 2012 (No. 1)*

Section 1 – Name of Regulation

This section provides that the name of the Amendment Regulation is the *Business Names Registration (Fees) Amendment Regulation 2012 (No. 1)*.

Section 2 – Commencement

This section provides for the Amendment Regulation to commence on 28 May 2012, at the same time as the commencement of Part 2 of the *Business Names Registration Act 2011* (the Registration Act).

Section 3 – Amendment of *Business Names Registration (Fees) Regulations 2011*

This section provides that the *Business Names Registration (Fees) Regulations 2011* (the Principal Regulations) are amended as set out in Schedule 1 of the Amendment Regulation.

Schedule 1 – Amendments

Item [1] – Regulation 3, definition of *evidence of registration*

Item [1] removes the definition of ‘evidence of registration’. This definition is unnecessary, as the phrase is not referred to elsewhere in the Regulations.

Items [2] and [3] – Schedule 1, items 6 and 8

Under section 60 of the Registration Act, a person may lodge an application with ASIC for an extract of:

- an entry in the National Register relating to a particular business name;
- an entry in the National Register relating to a particular entity.

An entity includes a person, a corporation, a partnership and anyone else who is entitled under the Registration Act to have a business name registered to them.

The Principal Regulations do not have fees which line up with the applications that can be made under section 60.

The amendments in items [2] and [3] ensure that the fees match the applications that people can make for copies of entries on the National Register, as follows:

- Schedule 1, item 6 of the Principal Regulations provides that the fee for a copy of the extract of the Register containing current information relating to only one entity is \$18.
- Schedule 1, item 8 of the Principal Regulations provides that the fee for a copy of the extract of the Register containing current and non-current information relating to only one entity is \$34.

Statement of Compatibility with Human Rights

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

BUSINESS NAMES REGISTRATION (FEES) AMENDMENT REGULATION 2012 (No. 1)

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 *Business Names Registration (Fees) Amendment Regulation 2012 (No. 1)* is to clarify the circumstances in which fees are payable for chargeable matters under the *Business Names Registration (Fees) Act 2011*.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms. The Legislative Instrument makes a number of minor and technical changes to the *Business Names Registration (Fees) Regulation 2011* in order to clarify the circumstances in which fees are payable for chargeable matters under the *Business Names Registration (Fees) Act 2011*.

Conclusion

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

Parliamentary Secretary to the Treasurer