

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 201

Issued by authority of the Assistant Treasurer

Income Tax Assessment Act 1936

Income Tax Amendment Regulation 2013 (No. 3)

Section 266 of the *Income Tax Assessment Act 1936* (the Act) provides, in part, that the Governor-General may make regulations not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or necessary or convenient to be prescribed for giving effect to the Act.

The Regulation updates the *Income Tax Regulations 1936* in respect of tax arrangements for overseas defence service by extending the end date of the income tax exemption for duty with the United Nations Assistance Mission in Afghanistan (Operation Palate II) to 31 December 2014.

Section 23AD of the Act provides an exemption from income tax of pay and allowances of Australian Defence Force (ADF) members performing certain overseas duty. Subsection 23AD(1) of the Act exempts the pay and allowances earned by ADF members from income tax where there is a certificate in force, issued in writing by the Chief of the Defence Force, to the effect that the members are on 'eligible duty'. Subsection 23AD(2) of the Act provides that the regulations may declare that duty with a specified organisation, in a specified area outside Australia, and after a specified day, is 'eligible duty' for the purposes of that section.

Regulation 7A of the *Income Tax Regulations 1936* specifies duty with various organisations in various areas outside Australia and declares that duty to be 'eligible duty' for the purposes of section 23AD of the Act.

Operation Palate II is the ADF contribution to the United Nations Assistance Mission in Afghanistan. Operation Palate II was previously approved until 31 December 2013. It has been extended to 31 December 2014.

The Regulation extends the period for which service as part of Operation Palate II is 'eligible duty' for the purposes of section 23AD of the Act to 31 December 2014.

A Statement of Compatibility with Human Rights has been completed for the Regulation, in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The Statement's assessment is that the measures in the Regulation are compatible with human rights. A copy of the Statement is at [Attachment A](#).

The Act specifies no conditions that need to be met 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*.

The amendments in this Regulation are minor and machinery in nature, and are beneficial to taxpayers. As such, no consultation was undertaken on this Regulation.

The Regulation commences on the day after it is registered on the Federal Register of Legislative Instruments.

ATTACHMENT A

Statement of Compatibility with Human Rights

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

Income Tax Amendment Regulation 2013 (No. 3)

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 Regulation amends the *Income Tax Regulations 1936* to extend the end date of the income tax exemption for Operation Palate II to 31 December 2014.

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.