

EXPLANATORY STATEMENT

PDV Offset Rules Amendment 2014 (No. 1)

Issued by the Authority of the Minister for the Arts

Income Tax Assessment Act 1997
Acts Interpretation Act 1901

Amending Instrument

Pursuant to subsections 376-260(2) and (3) of the *Income Tax Assessment Act 1997* (Income Tax Assessment Act), and subsection 33(3) of the *Acts Interpretation Act 1901*, the Minister for the Arts may, by legislative instrument, make certain rules in relation to the Post, Digital and Visual Effects (PDV) Offset.

The *PDV Offset Rules 2008* were made by the Minister for the Environment, Heritage and the Arts on 5 February 2008. The Rules set out the application requirements and procedures for the issuing of provisional and final certificates for the PDV Offset.

The purpose of the amending instrument is to correct an amendment to the auditor's statement at Schedule 3 of the Rules in 2012, which is currently listed as a misdescribed amendment, and to amend the notes at subrules 23(3) and 24(3) to align the Rules with the Income Tax Assessment Act.

The instrument amends the form of the auditor's statement at Schedule 3. This statement must accompany applications for a certificate for the offset. The amendment updates the format of the statement to conform to current accounting practices and standards. The amendment addresses issues identified in the 2010 Review of the Australian Independent Screen Production Sector by reducing the administrative burden of applying for a film tax offset. Consultation on amendments to the auditing requirements was undertaken with Screen Australia, the Australian Taxation Office, the Film Certification Advisory Board and independent auditors as part of the review.

The instrument also amends the notes at subrules 23(3) and 24(3) which reference the level of qualifying Australian production expenditure, to the extent that it relates to post, digital and visual effects production. In the 2010-11 Budget, the qualifying Australian production expenditure threshold for the PDV Offset was reduced from \$5 million to \$500,000, and the Income Tax Assessment Act was amended to give effect to that change. These amendments align the Rules with the Income Tax Assessment Act.

The amendments do not have a regulatory impact on businesses or individuals.

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

This amending instrument will be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Statement of Compatibility with Human Rights

Overview

The instrument amends the *PDV Offset Rules 2008*, which were made pursuant to subsections 376-260(2) and (3) of the *Income Tax Assessment Act 1997*, and subsection 33(3) of the *Acts Interpretation Act 1901*.

Human rights implications

The instrument makes technical and administrative amendments to the *PDV Offset Rules 2008* to reduce the administrative burden on applicants. These include amendments to align the Rules with the *Income Tax Assessment Act 1997*.

The amendments in the instrument do not give rise to human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Conclusion

The amendments in the instrument are compatible with the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Authority: Subsections 376-260(2) of the
Income Tax Assessment Act 1997
Subsection 33(3) of the
Acts Interpretation Act 1901