



ASIC
Australian Securities &
Investments Commission

Explanatory Statement

ASIC Corporations (Amendment) Instrument 2024/806

This is the Explanatory Statement for *ASIC Corporations (Amendment) Instrument 2024/806*.

The Explanatory Statement is approved by the Australian Securities and Investments Commission (**ASIC**).

Summary

1. The instrument amends *ASIC Corporations (Externally-Administered Bodies) Instrument 2015/251* (***Externally-Administered Bodies Instrument***) and *ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751* (***Group Purchasing Bodies Instrument***) to take account of the establishment of the Administrative Review Tribunal (***ART***) by the *Administrative Review Tribunal Act 2024* (***ART Act***) and the abolition of the Administrative Appeals Tribunal (***AAT***) by the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024* (***ART Consequential and Transitional Provisions Act***).

Purpose of the instrument

2. The instrument omits references to the AAT in the Externally-Administered Bodies Instrument and the Group Purchasing Bodies Instrument and replaces those with references to the ART, coinciding with the abolition of the AAT and the commencement of the ART on 14 October 2024,

Consultation

3. Consultation in relation to this instrument was not undertaken by ASIC as the instrument only makes amendments of a minor or machinery nature that are consequential on the commencement of the ART Act.

Operation of the instrument

4. Section 2 of the instrument provides that it commences on 14 October 2024. This coincides with the date that the AAT is abolished and the ART commences.
5. Items 1 to 3 of Schedule 1 to the instrument amend the Externally-Administered Bodies Instrument to omit references to the *Administrative Appeals Tribunal Act*

1975 and the Administrative Appeals Tribunal and replace those with references to the *Administrative Review Tribunal Act 2024* and the Administrative Review Tribunal.

6. Items 4 and 5 of Schedule 1 to the instrument amend the Group Purchasing Bodies Instrument to omit references to the *Administrative Appeals Tribunal Act 1975* and the Administrative Appeals Tribunal and replace those with references to the *Administrative Review Tribunal Act 2024* and the Administrative Review Tribunal.

Legislative instrument and primary legislation

7. The instrument makes amendments to legislative instruments that are designed to ensure consistent application with primary legislation and apply in a way consistent with the intended policy and the enabling provisions in primary legislation.

Duration of the instrument

8. The duration of the amendments made by the instrument will coincide with the durations of the Externally-Administered Bodies Instrument and the Group Purchasing Bodies Instrument, which are due to sunset on 1 October 2025 and 1 October 2028 respectively.

Legislative authority

9. The instrument is made under 250PAA, 341, 341A, 601QA, 926A, 951B, 992B and 1217 of the *Corporations Act 2001*.
10. To make an order under section 341 or 341A, ASIC must be satisfied that complying with the relevant requirements of Parts 2M.2, 2M.3 and 2M.4 of the Act would make the financial report, sustainability report or other reports misleading, or be inappropriate in the circumstances or impose unreasonable burdens.
11. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
12. Section 13(1) of the ART Act provides that a legislative instrument may provide for an application to be made to the ART for review of a decision made under the instrument.
13. The instrument is a disallowable legislative instrument.

Statement of Compatibility with Human Rights

14. The Explanatory Statement for a disallowable legislative instrument must contain a Statement of Compatibility with Human Rights under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A Statement of Compatibility with Human Rights is in the Attachment.

Statement of Compatibility with Human Rights

This Statement of Compatibility with Human Rights is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

ASIC Corporations (Amendment) Instrument 2024/806

Overview

1. The instrument amends *ASIC Corporations (Externally-Administered Bodies) Instrument 2015/251* and *ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751* to take account of the establishment of the Administrative Review Tribunal (**ART**) by the *Administrative Review Tribunal Act 2024 (ART Act)* and the abolition of the Administrative Appeals Tribunal (**AAT**) by the *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024 (ART Consequential and Transitional Provisions Act)*.

Assessment of human rights implications

2. This instrument does not engage any of the applicable rights or freedoms.

Conclusion

3. This 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*.