

***AUSTRALIA'S FOREIGN RELATIONS
(STATE AND TERRITORY ARRANGEMENTS) AMENDMENT (FOREIGN
ENTITIES) RULES 2024***

EXPLANATORY STATEMENT

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Issued by the authority of the Minister for Foreign Affairs

The *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (the Act) allows the Minister to assess whether arrangements between State/Territory entities and foreign entities are consistent with Australia's foreign policy and do not adversely affect Australia's foreign relations.

Section 54 of the Act allows the Minister to make rules prescribing matters required or permitted by the Act to be prescribed by the rules, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. In addition, rules may be made pursuant to subsection 8(1)(j) of the Act to prescribe a foreign entity.

The *Australia's Foreign Relations (State and Territory Arrangements) Amendment (Foreign Entities) Rules 2024* (the Amendment Rules) will amend the *Australia's Foreign Relations (State and Territory Arrangements) Rules 2020* (the Rules) to prescribe universities in Russia and Belarus as foreign entities for the purposes of the Act.

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Rules are compatible with human rights. A copy of the Statement is at Attachment A.

Details of the Amendment Rules are set out in Attachment B.

The Office of Impact Analysis (OIA) has been consulted in relation to the Rules. No Impact Analysis is required (OIA23-05483).

The Act specifies no conditions that need to be satisfied before the power to make the Amendment Rules may be exercised.

The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Rules commence on the day after registration on the Federal Register of Legislation.

Given the nature of the Scheme and the Rules, the foreign entities to be prescribed were not consulted. The department regularly engages with State/Territory entities on the operation of the Act and any changes. Given the minor regulatory impact of the Rules, State/Territory entities were not consulted on the Rules.

ATTACHMENT A

Statement of Compatibility with Human Rights

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

Australia's Foreign Relations (State and Territory Arrangements) Amendment (Foreign Entities) Rules 2024

This disallowable legislative instrument, the *Australia's Foreign Relations (State and Territory Arrangements) Amendment (Foreign Entities) Rules 2024* (the 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

Section 1 titles the Legislative Instrument the *Australia's Foreign Relations (State and Territory Arrangements) Amendment (Foreign Entities) Rules 2024*. Section 2 provides that the Legislative Instrument will commence on the day after it is registered. Section 3 provides that the Legislative Instrument is made under the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (the Act). Section 4 provides that each instrument in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

Schedule 1 amends the *Australia's Foreign Relations (State and Territory Arrangements) Rules 2020*. Clause 1 specifies the entities prescribed to be foreign entities— universities in Russia or Belarus.

Human rights implications

The Legislative Instrument does not engage any rights or freedoms.

Conclusion

The Legislative Instrument is compatible with human rights because it does not engage any rights or freedoms.

Australia's Foreign Relations (State and Territory Arrangements) Amendment (Foreign Entities) Rules 2024

Senator the Hon. Penny Wong, Minister for Foreign Affairs

ATTACHMENT B

DETAILS OF THE *AUSTRALIA'S FOREIGN RELATIONS (STATE AND TERRITORY ARRANGEMENTS) AMENDMENT (FOREIGN ENTITIES) RULES 2024*

Section 1

Section 1 provides that the name of the Rules is *Australia's Foreign Relations (State and Territory Arrangements) Amendment (Foreign Entities) Rules 2024* (the Amendment Rules).

Section 2

Section 2 provides that the Amendment Rules commence on the day after registration on the Federal Register of Legislation.

Section 3

Section 3 states that the authority for making the Amendment Rules is taken from the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020*.

Section 4

Section 4 is a provision that gives effect to the amendments to the *Australia's Foreign Relations (State and Territory Arrangements) Rules 2020* (the Rules) as described in the Schedule.

Schedule 1

Clause 1

This clause adds a new Part 2AA regarding foreign entities. The clause prescribes a university that is located in Russia or Belarus as a non-core foreign entity.

Once the Amendment Rules commence, State/Territory entities will be subject to the requirements in Part 3 of the Act in relation to entering non-core foreign arrangements with those universities. Namely:

- a State/Territory entity will be required to notify the Minister about proposals to enter an arrangement with a prescribed entity, in accordance with section 34 of the Act, and
- a State/Territory entity will be required to notify the Minister if it enters an arrangement with a prescribed entity, in accordance with section 38 of the Act.

In addition, once the Amendment Rules commence, the Minister may make a declaration under Division 2, Part 4 of the Act in relation to foreign arrangements and subsidiary arrangements with a prescribed entity that are in operation if satisfied that the arrangement:

- (a) adversely affects, or is likely to adversely affect, Australia's foreign relations or
- (b) is, or is likely to be, inconsistent with Australia's foreign policy.

Any arrangements with universities in Russia and Belarus will also be published on the Foreign Arrangements Scheme Public Register.

This clause is consistent with the purpose of the Act to protect and manage Australia's foreign relations. By prescribing universities in Russia and Belarus as foreign entities, the Minister will receive notification of any proposals to enter an arrangement with a university in Russia or Belarus, providing greater visibility of these arrangements to both the Minister and the public. It will also provide the Minister with the ability to ensure that arrangements involving universities in Russia or Belarus do not continue to operate if they adversely affect Australia's foreign relations or are inconsistent with Australia's foreign policy.