

## **EXPLANATORY STATEMENT**

**Issued by authority of the Assistant Minister for Productivity, Competition, Charities and Treasury and Parliamentary Secretary to the Treasurer**

*A New Tax System (Australian Business Number) Act 1999*

*A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2025*

Section 31 of the *A New Tax System (Australian Business Number) Act 1999* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 26(3)(k) of the Act provides that the Governor-General may make regulations prescribing details which must be included in an entry from the Australian Business Register that is given to a person who requests it and pays the fee.

The purpose of the *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2025* (the Amendment Regulations) is to continue displaying business' trading names, which are historic business registration identifiers, on the Australian Business Register from 1 November 2025.

Under existing provisions business' trading names will not be allowed to be displayed on the Australian Business Register from 1 November 2025, due to subsection 8(2) of the *A New Tax System (Australian Business Number) Regulations 2020* (the Regulations). The Amendment Regulations repeal that subsection, allowing the continued display of trading names.

It is intended that trading names will be permanently displayed on the Australian Business Register. However, once the program to stabilise and uplift ASIC's registers is complete these trading names will be made accessible as historical details only. It is expected that this will occur around 2030.

The Act does not specify any conditions that need to be satisfied before the power to make the Amendment Regulations may be exercised.

Public consultation was not undertaken as this is a minor amendment that would not materially benefit from consultation.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. The Regulations are subject to disallowance under section 42 of the *Legislation Act 2003*. The Regulations are not exempt from sunset.

The Amendment Regulations commenced the day after they were registered on the Federal Register of Legislation.

Details of the Amendment Regulations are set out in Attachment A. A statement of Compatibility with Human Rights is at Attachment B.

**Details of the *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2025***

**Section 1 – Name**

This section provides that the name of the regulations is the *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2025* (the Amendment Regulations).

**Section 2 – Commencement**

Schedule 1 to the Amendment Regulations commenced on the day after the instrument was registered on the Federal Register of Legislation.

**Section 3 – Authority**

The Amendment Regulations are made under the *A New Tax System (Australian Business Number) Act 1999* (the Act).

**Section 4 – Schedule**

This section provides that each instrument that is specified in the Schedules to this instrument are amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

**Schedule 1**

*Item 1*

This item makes an amendment that is consequential to Item 2.

*Item 2*

Under section 26 of the Act, the Registrar is restricted from giving a person access to information in the Australian Business Register (including by making the information publicly available), unless that information is listed in subsection 26(3) of the Act or in regulations made under that subsection.

The Regulations contain a temporary provision for trading names to be displayed on the Australian Business Register. Read together, paragraph 8(1)(c) and subsection 8(2) of the Regulations allow details of ‘a name used for business purposes by the entity that appeared in the entry immediately before Part 2 of Schedule 2 of the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* commenced’ to be displayed on the Australian Business Register until 1 November 2025.

This item repeals subsection 8(2), allowing the continued display of trading names.

**Statement of Compatibility with Human Rights**

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

***A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2025***

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 *A New Tax System (Australian Business Number) Amendment (Display of Trading Names) Regulations 2025* (the Amendment Regulations) is to continue displaying business' trading names, which are historic business registration identifiers, on the Australian Business Register from 1 November 2025.

Business' trading names will not be allowed to be displayed on the Australian Business Register from 1 November 2025, due to subsection 8(2) of the *A New Tax System (Australian Business Number) Regulations 2020* (the Regulations). The Amendment Regulations repeal that subsection, allowing the continued display of trading names.

**Human rights implications**

The Amendment Regulations engage the right to protection from arbitrary or unlawful interference with privacy under article 17 of the International Covenant on Civil and Political Rights (ICCPR).

**Right to Privacy**

The Amendment Regulations engage the right to protection from unlawful or arbitrary interference with privacy under Article 17 of the ICCPR because they:

- allow the continued display of business trading names on the Australian Business Register.

The right in Article 17 may be subject to permissible limitations, where these limitations are authorised by law and are not arbitrary. In order for an interference with the right to privacy to be permissible, the interference must be authorised by law, be for a reason consistent with the ICCPR and be reasonable in the particular circumstances. The UN Human Rights Committee has interpreted the requirement of 'reasonableness' to imply that any interference with privacy must be proportional to the end sought and be necessary in the circumstances of any given case.

The display of business trading names on the Australian Business Register is proportionate because it only seeks the publication of a single piece of business information that has a benefit to the public, and the requirement for this piece of information to be public is

uncontroversial. Further, it is necessary to publish business trading names as these names are still used as historic business identifiers by some groups of people.

Accordingly, any interference with privacy under the Amendment Regulations is lawful, necessary, and proportionate, and is therefore consistent with Article 17 of the ICCPR.

## **Conclusion**

The Amendment Regulations are compatible with human rights as to the extent human rights issues are engaged, such engagement is necessary and proportionate to the intended policy outcome.