

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Act 2020

Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Rules 2020

Section 8 of the *Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Act 2020* (the Act) provides that the Minister may by legislative instrument make rules prescribing matters required or permitted by the Act to be prescribed by the legislative rules.

The Government announced on 22 March 2020 it will enter into risk-sharing agreements with financial institutions to ensure credit continues to flow to SME entities so that they can meet their immediate financing needs during the uncertain economic conditions caused by the Coronavirus known as COVID-19. Under this scheme, the Minister may, on behalf of the Commonwealth, grant a guarantee to a financial institution in connection with loans made, or to be made, by the financial institution if it is likely to assist in dealing with the economic impacts of COVID-19.

The Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Rules 2020 (the Rules) defines the term ‘SME entity’.

The Act specifies no conditions that need to be met before the power to make the Rules is exercised.

Targeted consultation was undertaken with industry stakeholders.

Details of the Rules are set out in [Attachment A](#)

The Rules are a legislative instrument for the purposes of the *Legislation Act 2003*. The Rules commenced on the day after they were registered.

A statement of Compatibility with Human Rights is at [Attachment B](#)

Details of the *Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Rules 2020*

Section 1 – Name

This section provides that the name of the Rules is the *Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Rules 2020*.

Section 2 – Commencement

The Rules commenced on the day after the instrument was registered on the Federal Register of Legislation.

Section 3 – Authority

The Rules are made under the *Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Act 2020*.

Section 4 – Definitions

This section defines key terms used in the Rules.

Annual turnover is defined in subsection 5(2) of the Rules.

Business has the same meaning as in the *Income Tax Assessment Act 1997*. This is a broad definition, and includes sole traders, partnerships, companies and trusts.

Entity has the same meaning as in the *Income Tax Assessment Act 1997*.

Non-profit body has the same meaning as in section 23-15 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Section 5 – Meaning of *SME entity*

This section defines *SME entity* for the purposes of the Act. An *SME entity* is either an entity that carries on a business or is a non-profit body with an annual turnover that is likely to be less than \$50 million in the current financial year, or an entity that carried on a business or was a non-profit body in the previous financial year and had an annual turnover less than \$50 million.

The *annual turnover* of an entity is defined as an entity's total earnings in a financial year in the course of the business. The activities or operations of a non-profit body are treated as a business of the non-profit body for the purpose of calculating its annual turnover.

Statement of Compatibility with Human Rights

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

Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Rules 2020

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

This Legislative Instrument defines the term ‘SME entity’ for the purposes of the *Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Act 2020*.

SME entity is defined as either an entity that carries on a business or is a non-profit body with an annual turnover that is likely to be less than \$50 million in the current financial year, or an entity that carried on a business or was a non-profit body in the previous financial year and had an annual turnover less than \$50 million.

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.

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