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## Explanatory Statement

# Taxation Administration – Single Touch Payroll – Exemption for payments made to Members by Portable Long Service Leave and Portable Redundancy Scheme Providers

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### General Outline of Instrument

1. This instrument is made under subsection 389-10(1) of Schedule 1 to the *Taxation Administration Act 1953*.
2. This instrument exempts entities which administer a Portable Long Service Leave scheme or a Portable Redundancy scheme from reporting under Single Touch Payroll in respect of payments made to members of the scheme.
3. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. 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.

### Date of effect

5. This instrument commences on 1 July 2018.
6. It applies retrospectively from 1 July 2018 to ensure that affected entities will not be disadvantaged by not having the exemption apply from the beginning of the financial year. It applies for the 2018-2019 and 2019-2020 financial years.
7. For the purposes of subsection 12(2) of the *Legislation Act 2003* this instrument does not adversely affect the rights or liabilities of any person.

### What is this instrument about

6. Division 389 of Schedule 1 to the *Taxation Administration Act 1953* establishes Single Touch Payroll reporting. That Division provides for the reporting of employee payroll and superannuation information by certain employers from 1 July 2018.
6. Subsection 389-10(1) allows the Commissioner of Taxation to exempt by way of legislative instrument a class of entities from reporting under Single Touch Payroll.
7. This instrument only exempts those entities who administer a Portable Long Service Leave scheme or Portable Redundancy scheme.

8. Portable Long Service Leave scheme providers are not required to report long service leave payments made to members of the scheme, as would otherwise be required by section 389-5 of Schedule 1 to the *Taxation Administration Act 1953*.
9. Similarly, Portable Redundancy scheme providers are not required to report termination of employment payments made to members of the scheme, as would otherwise be required by section 389-5.
10. Portable Long Service Leave scheme and Portable Redundancy scheme providers are still required to report under Single Touch Payroll payments made to individuals who are not members of their respective schemes.
11. This transitional relief from reporting under Single Touch Payroll is limited to the 2018-19 and 2019-2020 financial years. Portable Long Service Leave scheme and Portable Redundancy scheme providers are required to commence reporting member payments through Single Touch Payroll from 1 July 2020.

#### **What is the effect of this instrument**

12. An entity that meets the requirements specified in the instrument is exempted from reporting under Single Touch Payroll for the 2018-2019 and 2019-2020 financial years.
13. However, such an entity may still choose voluntarily to report under Single Touch Payroll in accordance with Division 389 notwithstanding their exemption.
14. This determination applies retrospectively. It provides certain entities with an exemption from their reporting obligations under Single Touch Payroll until 30 June 2020. No individual will be detrimentally affected by retrospective application of the instrument.
15. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs. The instrument is of a minor or machinery nature.

#### **Consultation**

16. The rules specified in this instrument have been developed in consultation with payroll software developers and bodies representing payroll users. Additionally, the relevant state and territory bodies who administer Portable Long Service Leave schemes have also been consulted.

#### **Legislative references:**

*Acts Interpretation Act 1901*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*Legislation Act 2003*

*Taxation Administration Act 1953*

## **Statement of Compatibility with Human Rights**

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

### **Taxation Administration – Single Touch Payroll – Exemption for payments made to Members by Portable Long Service Leave and Portable Redundancy Scheme Providers**

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 Commissioner will afford an exemption to employers that administer a portable Long Service Leave scheme or make payments of long service leave to members of the scheme. Additionally, Portable Redundancy scheme providers are not required to report termination of employment payments made to members of the scheme in the 2018-2019 and 2019-2020 financial years. This will provide extra time to update software so that these employers/entities can be compliant with the Single Touch Payroll reporting requirements.

### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms because it is of a minor or machinery nature as it provides certain entities with an exemption from a reporting requirement for the 2018-2019 and 2019-2020 financial years.

### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.