



## Explanatory Statement

# Taxation Administration Amendment (Withholding Variation for Payment of Certain Allowances) Legislative Instrument 2026

Note for consultation: this draft Instrument is subject to the passage and commencement of the Treasury Laws Amendment (Tax Reform No. 1) Bill 2026. However, this draft explanatory statement has been drafted as though that Bill has already been enacted and is in operation.

If there are any changes to the Bill that affect the operation of this instrument, they will be appropriately reflected in the instrument and explanatory statement before they are finalised or registered.

### General outline of instrument

1. This instrument is made under section 15-15 in Schedule 1 to the *Taxation Administration Act 1953* (the Act).
2. This instrument amends the *Taxation Administration (Withholding Variation for Payment of Certain Allowances) Legislative Instrument 2025* (2025 Instrument) in relation to payments of allowances for laundry expenses and award transport payments. These amendments are required due to changes made to the *Income Tax Assessment Act 1997* (ITAA 1997) by the *Treasury Laws Amendment (Instant Tax Deduction) Act 2026* (2026 Amending Act).
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 at the same time as the *Treasury Laws Amendment (Tax Reform No. 1) Act 2026* commences.

### Background

6. Section 15-15 in Schedule 1 to the Act enables the Commissioner to vary the amount required to be withheld by an entity (through a written notice) or classes of entity (by legislative instrument) from a withholding payment (including to nil).
7. This power was exercised in making the 2025 Instrument, which varies to nil the amount required to be withheld from payments of the following allowances in certain circumstances (including where the payee is reasonably expected to be able to claim a deduction for the full amount of the allowance):
  - (a) cents per kilometre car allowances
  - (b) laundry allowances

- (c) domestic and overseas travel allowances
- (d) overtime meal allowances, and
- (e) award transport payments.

8. The 2025 Instrument also specifies limits on the amount of these payments that can be varied to nil.

9. After the 2025 Instrument was made, the Parliament passed the 2026 Amending Act which changes the law relating to the substantiation of work-related expense deductions and provides for a standard deduction for income years beginning on or after 1 July 2026. Amendments are required to the 2025 Instrument to reflect these changes.

10. The amendments to the 2025 Instrument, in relation to payments of allowances for laundry expenses and award transport payments, commence at the same time as the 2026 Amending Act commences.

## **Effect of this instrument**

### ***Laundry allowances***

11. The 2025 Instrument varies to nil the amount to be withheld from allowances for certain laundry expenses where the total amount of the allowance paid during a financial year does not exceed a specified limit. Laundry expenses had the meaning given in subsection 900-40(4) of the ITAA 1997 being a work expense to do with washing, drying or ironing clothes (but not dry cleaning).

12. Paragraph 7(b) of the 2025 instrument limited the variation to nil for laundry expenses allowances to the amount that can be deducted without substantiation under section 900-40 of the ITAA 1997.

13. As the 2026 Amending Act repeals section 900-40 of the ITAA 1997, the variation to nil for laundry expenses in the 2025 instrument, if not amended, would no longer have effect.

14. While the 2026 Amending Act changes the rules about when an individual is required to substantiate deductions they claim for work-related laundry expenses, it does not change the deductibility of those laundry expenses and, therefore, the need for a withholding variation for allowances paid in relation to these laundry expenses. Consequently, the variation to nil for certain payments relating to work-related laundry expenses is still appropriate.

15. To continue the variation, this instrument amends the 2025 Instrument by:

- (a) inserting a definition of laundry expenses as a work expense to do with washing, drying or ironing clothes (but not dry cleaning), and
- (b) replacing the reference to section 900-40 in paragraph 7(b) of the 2025 Instrument with a reference to the amount of \$150.

16. \$150 is the amount that could have been deducted without substantiation under section 900-40 before it was repealed.

17. The amendments made by this instrument therefore preserve the existing operation of the variation for laundry expense allowances.

### ***Award transport payments***

18. The 2025 Instrument varies to nil the amount required to be withheld from award transport payments.

19. Award transport payments were defined in section 900-220 of the ITAA 1997 as a transport payment covering particular travel that was paid under an industrial instrument that was in force on 29 October 1986.

20. The 2026 Amending Act repeals Subdivision 900-I of the ITAA 1997, which contains section 900-220 of the ITAA 1997 and other provisions concerning deducting expenses that relate to award transport payments.

21. To account for this repeal, the amendments made by this instrument also repeal the reference to award transport payments in the 2025 Instrument.

22. This means that, from the date this instrument commences, the variation in relation to award transport payments provided by the 2025 Instrument will no longer apply and payers will be required to withhold from payments that would previously have been considered award transport payments.

23. It is appropriate to remove the variation to nil for these payments because the nexus to industrial instruments in force 40 years ago mean it has become increasingly difficult for payers and payees to identify when a payment is an award transport payment. Therefore, requiring award transport payments to be identified for the purposes of the variation would unreasonably perpetuate that difficulty when there is no longer any differential treatment of these payments for income tax purposes.

24. This instrument also makes minor editorial changes to the 2025 Instrument to ensure consistency with the Office of Parliamentary Counsel's legislative drafting directions.

### **Compliance cost assessment**

25. To be confirmed.

### **Consultation**

26. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner be satisfied that appropriate and reasonably practicable consultation has been undertaken before they make a determination.

27. As part of the consultation process, you are invited to comment on the draft instrument and its accompanying draft explanatory statement, noting this draft instrument and its explanatory statement is subject to the commencement of the 2026 Amending Act and will be amended prior to commencement to reflect any changes during passage of the 2026 Amending Act that affect the operation of this instrument.

Please forward your comments to the contact officer by the due date.

<b>Due date:</b>	12 June 2026
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## Statement of compatibility with Human Rights

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

### **Taxation Administration (Withholding Variation for Payment of Certain Allowances Amendment – Standard Deduction) Legislative Instrument 2026**

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 *Taxation Administration (Withholding Variation for Payment of Certain Allowances) Legislative Instrument 2025* (2025 Instrument) reduces the amount required to be withheld by a payer under the pay as you go withholding system from payments of specified allowances to nil in certain circumstances.

This instrument amends the 2025 Instrument to reflect changes in the *Income Tax Assessment Act 1997* (ITAA 1997), in relation to laundry expense allowances and award transport payments, made by the *Treasury Laws Amendment (Instant Tax Deduction) Act 2026*.

To ensure the variation for laundry expense allowance payments under the 2025 Instrument continues, this instrument amends the 2025 Instrument by inserting a definition for laundry expenses, specifying the limit on these payment that can be varied to nil, and makes other consequential amendments such as removing references to repealed provisions of the ITAA 1997.

The instrument also amends the 2025 Instrument to repeal provisions relating to award transport payments, as these payments have been removed from income tax law.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms. It merely amends the 2025 Instrument to ensure the variation in relation to laundry expense allowances continues to apply, and removes the variation to nil for a type of payment that no longer exists.

#### **Conclusion**

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