

EXPOSURE DRAFT EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer and Minister for Financial Services

Australian Securities and Investments Commission Act 2001

Competition and Consumer Act 2010

Corporations Act 2001

Terrorism and Cyclone Insurance Act 2003

Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Miscellaneous and technical amendments – Spring 2023

Section 251 of the *Australian Securities and Investments Commission Act 2001*, section 172 of the *Competition and Consumer Act 2010*, section 1364 of the *Corporations Act 2001*, and section 43 of the *Terrorism and Cyclone Insurance Act 2003* (the Authorising Acts) provide that the Governor-General may make regulations prescribing matters required or permitted by the Authorising Acts to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Authorising Acts.

The purpose of the *Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Miscellaneous and technical amendments – Spring 2023* (the Regulations) is to make miscellaneous and technical amendments to regulations in the Treasury portfolio including corporations and financial services laws, competition laws, and laws relating to terrorism and cyclone insurance. The amendments demonstrate the Government's commitment to the care and maintenance of Treasury portfolio legislation.

Miscellaneous and technical amendments are periodically made to Treasury portfolio legislation to correct errors and unintended outcomes, make technical changes, and improve the quality of Treasury portfolio legislation. The process was first supported by a recommendation of the 2008 Tax Design Review Panel, which considered ways to improve the quality of tax legislation. It has since been expanded to all Treasury legislation.

The Regulations amend various Treasury portfolio regulations to correct drafting errors and unintended outcomes, repeal inoperative provisions, and make other technical changes.

The Authorising Acts do not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a disallowable legislative instrument for the purposes of the *Legislation Act 2003*.

Sections 1 to 4, and Schedule 1 of Part 1 of the Regulations commence on the day after the Regulations are registered.

Schedule 1, Part 2 of the Regulations commence on the day after the end of the period of 28 days beginning on the day the Regulations are registered.

Details of the Regulations are set out in Attachment A.

EXPOSURE DRAFT

Details of the Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Miscellaneous and technical amendments – Spring 2023

Section 1 – Name

This section provides that the name of the regulations is the *Treasury Laws Amendment (Measures for Consultation) Regulations 2023: Miscellaneous and technical amendments – Spring 2023* (the Regulations).

Section 2 – Commencement

Sections 1 to 4 of the Regulations commence on the day after the Regulations are registered.

Schedule 1 of Part 1 of the Regulations commence on the day after the Regulations are registered.

Schedule 1 of Part 2 of the Regulations commence on the day after the end of the period of 28 days beginning on the day the Regulations are registered.

Section 3 – Authority

The Regulations are made under the *Australian Securities and Investments Commission Act 2001*, the *Competition and Consumer Act 2010*, the *Corporations Act 2001*, and the *Terrorism and Cyclone Insurance Act 2003*.

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

Part 1 – Amendments commencing on the day after registration

Division 1 - Australian Securities and Investments Commission Regulations 2001

Item 1 of the Regulations replaces the reference to ‘Insolvency Practitioners Association of Australia’ in section 8B of the *Australian Securities and Investment Commission Regulations 2001* (ASIC Regulations) with ‘Australian Restructuring Insolvency and Turn Around Association’. The amendment reflects the renaming of the entity.

Section 8B of the ASIC Regulations is made under subsection 203(1B) of the *Australian Securities and Investment Commission Act 2001* which sets out the requirements for members of the Company Auditors Disciplinary Board, and includes ‘any other body prescribed by the regulations’ as per sub-paragraph 203(1B)(b)(ii). *Division 2 – Corporations Regulations 2001*

Item 2 of the Regulations removes references to obsolete provisions in the *Corporations Act 2001* (Corporations Act). Subsection 1.0.03A(1) of the *Corporations Regulations 2001* (Corporations Regulations) states that the documents mentioned in the table under a provision of the Corporations Act must be in the prescribed form. Item 2 repeals items 1A, 1B and 1C of the table in subsection 1.0.03A(1) of the Corporations Regulations, which refer to obsolete provisions: paragraph 265(4)(b), and subsections 268(1) and 268(2) of the Corporations Act. These provisions were repealed by the *Personal Property Securities (Corporations and Other Amendments) Act 2010*.

Item 3 of the Regulations amends sub-paragraph 1.0.08(1)(c)(ii) of the Corporations Regulations to align the language of this paragraph with sub-paragraphs 1.0.08(1)(a)(ii), (b)(ii), (d)(v) and (e)(ii). This amendment does not affect the operation of sub-paragraph 1.0.08(1)(c)(ii).

Subsection 1.0.08(1) of the Corporations Regulations provides that a report lodged under subsection 319(1) of the Corporations Act must be accompanied by an approved form specifying certain information. This provision applies to disclosing entities that are companies, registered schemes, registrable superannuation funds, retail corporate collective investment vehicles (CCIVs) and other bodies.

The nature of the information required from each type of entity is substantively identical. However, subparagraph 1.0.08(1)(c)(ii), which relates to the information required to be provided by registered schemes, incorrectly refers to ‘the dates of the beginning and end of the half-year to which the document relates’. The amendment is consistent with the other equivalent subparagraphs, which stipulate the requirements by reference to ‘the dates on which the financial year to which the document relates begins and ends’.

Item 4 amends subparagraph 7.6.01(1)(z)(ii) of the Corporations Regulations by replacing the full stop at the end of the paragraph with a semi-colon, to ensure grammatical consistency with the preceding paragraphs.

Item 4 is a consequential amendment to item 1 of Schedule 1 to the *Treasury Laws Amendment (Rationalising ASIC Instruments) Regulations 2022*, which inserted new paragraphs (za) and (zb) at the end of sub-paragraph 7.6.01(1), setting out additional circumstances in which an Australian financial services licence is not required.

Division 3—Terrorism and Cyclone Insurance Regulations 2003

Item 5 updates subsection 5A(2) so that it refers to the *Financial Sector (Collection of Data) (Reporting Standard) Determination No. 15 of 2023*.

Subsection 5A(2) of the *Terrorism and Cyclone Insurance Regulations 2003* prescribes a reporting standard for the purposes of section 8A of the *Terrorism and Cyclone Insurance Act 2003*. The prescribed standard is set out in Schedule 1 to the *Financial Sector (Collection of Data) (Reporting Standard) Determination No. 18 of 2013*.

The *Financial Sector (Collection of Data) (Reporting Standard) Determination No. 18 of 2013* (the 2013 instrument) was due to sunset on 1 April 2023. It was revoked and replaced by the *Financial Sector (Collection of Data) (Reporting Standard) Determination No. 15 of 2023* (the new instrument) which contains the reporting standard (Reporting Standard

GRS 310.1 Premium Revenue and Reinsurance Expense). The new instrument commenced on 1 April 2023.

This item updates the reference to the 2013 instrument in section 5A(2) of the *Terrorism and Cyclone Insurance Regulations 2003* to refer to the new instrument containing the reporting standard.

Part 2 – Amendments with other commencements

Division 1—Competition and Consumer Regulations 2010

Item 6 of the Regulations amends table item 8A.1 in subsection 7(1) of the *Competition and Consumer Regulations 2010* (Competition and Consumer Regulations) to include the year of the Act in the Act title, replacing the ‘*Utilities Commission Act (NT)*’ with the ‘*Utilities Commission Act 2000 (NT)*’.

Item 7 of the Regulations repeals table item 9.1 of section 7A of the Competition and Consumer Regulations to remove the reference to the *Electricity Networks (Third Party Access) Act (NT)*, as this Act was repealed by the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015*.

Items 8 to 14 of the Regulations amend the table in section 92 of the Competition and Consumer Regulations.

Subsections 131(1) and 132(1) of Schedule 2 to the *Competition and Consumer Act 2010* (the Australian Consumer Law) require suppliers of goods, or product related services, to give the Commonwealth Minister a written notice within two days, if the supplier:

- becomes aware of the death or serious injury or illness of any person; and
- either:
 - considers that the death, serious injury or illness was caused, or may have been caused, by the foreseeable misuse of the consumer goods; or
 - becomes aware that another person considers that the death, serious injury or illness was caused, or may have been caused, by the foreseeable misuse of the consumer goods.

Paragraphs 131(2)(c) and 132(2)(c) of the Australian Consumer Law provide that these notice requirements do not apply if the supplier, or another person, is required to report the same death, serious injury or illness in accordance with a law of the Commonwealth, a State or a Territory which is specified in the regulations.

For the purposes of paragraphs 131(2)(c) and 132(2)(c) of the Australian Consumer Law, section 92 of the Competition and Consumer Regulations lists the Commonwealth, State and Territory laws that are exempt from the requirement to give a notice under subsections 131(1) and 132(1) of the Australian Consumer Law.

Items 8 to 14 of the Regulations amend the table in section 92 of the Competition and Consumer Regulations as follows:

Table 1: Comparison of current and proposed requirements (Section 92)

Item	[Current law] Law of the Commonwealth, a State or a Territory	Item	[Proposed law] Law of the Commonwealth, a State or a Territory
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1	<i>Agricultural and Veterinary Chemicals Act 1994 (Cth)</i>	1	<i>Agricultural and Veterinary Chemicals Act 1994 (Cth)</i>
2	<i>National Health Security Act 2007 (Cth)</i>	2	<i>National Health Security Act 2007 (Cth)</i>
3	<i>Therapeutic Goods Act 1989 (Cth)</i>	3	<i>Therapeutic Goods Act 1989 (Cth)</i>
4	<i>Coroners Act 2009 (NSW)</i>	4	<i>Food Act 2003 (NSW)</i>
5	<i>Public Health Act 1991 (NSW)</i>	5	<i>Public Health Act 2010 (NSW)</i>
6	<i>Road Transport (Safety and Traffic Management) Act 1999 (NSW)</i>	6	<i>Road Transport Act 2013 (NSW)</i>
7	Coroners Act 2008 (Vic)	7	<i>Food Act 1984 (Vic)</i>
8	Public Health and Wellbeing Act 2008 (Vic)	8	<i>Public Health and Wellbeing Act 2008 (Vic)</i>
9	Road Safety Act 1986 (Vic)	9	<i>Road Safety Act 1986 (Vic)</i>
10	<i>Coroners Act 2003 (Qld)</i>	10	<i>Food Act 2006 (Qld)</i>
11	<i>Motor Accident Insurance Act 1994 (Qld)</i>	11	<i>Motor Accident Insurance Act 1994 (Qld)</i>
12	<i>Public Health Act 2005 (Qld)</i>	12	<i>Public Health Act 2005 (Qld)</i>
13	<i>Transport Operations (Road Use Management — Road Rules) Regulation 2009 (Qld)</i>	13	<i>Transport Operations (Road Use Management — Road Rules) Regulation 2009 (Qld)</i>
14	<i>Coroners Act 1996 (WA)</i>	14	<i>Food Act 2008 (WA)</i>
15	<i>Food Regulations 2009 (WA)</i>	15	<i>Health (Miscellaneous Provisions) Act 1911 (WA)</i>
16	<i>Health Act 1911 (WA)</i>	16	<i>Public Health Act 2016 (WA)</i>
17	<i>Road Traffic Act 1974 (WA)</i>	17	<i>Road Traffic Act 1974 (WA)</i>
18	<i>Coroners Act 2003 (SA)</i>	18	<i>Food Act 2001 (SA)</i>
19	<i>Public and Environmental Health Act 1987 (SA)</i>		
20	<i>Road Traffic Act 1961 (SA)</i>	20	<i>Road Traffic Act 1961 (SA)</i>
		20A	<i>South Australian Public Health Act 2011 (SA)</i>
21	<i>Coroners Act 1995 (Tas)</i>	21	<i>Food Act 2003 (Tas)</i>
22	<i>Public Health Act 1997 (Tas)</i>	22	<i>Public Health Act 1997 (Tas)</i>
23	<i>Traffic Act 1925 (Tas)</i>	23	<i>Traffic Act 1925 (Tas)</i>
24	<i>Coroners Act 1997 (ACT)</i>	24	<i>Food Act 2001 (ACT)</i>
25	<i>Public Health Act 1997 (ACT)</i>	25	<i>Public Health Act 1997 (ACT)</i>
26	<i>Road Transport (Safety and Traffic Management) Act 1999 (ACT)</i>	26	<i>Road Transport (Safety and Traffic Management) Act 1999 (ACT)</i>
27	<i>Coroners Act (NT)</i>	27	<i>Food Act 2004 (NT)</i>
28	<i>Notifiable Diseases Act (NT)</i>	28	<i>Notifiable Diseases Act 1981 (NT)</i>
29	<i>Traffic Act (NT)</i>	29	<i>Traffic Act 1987 (NT)</i>
30	Regulations made under an Act mentioned in items 1 to 12, 14 and 16 to 29	30	Regulations made under an Act mentioned in items 1 to 12, and 14 to 29

Items 8 to 14 of the Regulations amend the table in section 92 of the Competition and Consumer Regulations to reflect:

- Where a state or territory law has been renamed, repealed and replaced or consolidated in new legislation;
 - See: items 5, 6, 16, 19, 28 and 29 of the current law; and items 5, 6, 15, 16, 20A, 28 and 29 of the proposed law.
- The removal of the state and territory Coroners Acts to ensure that the Commonwealth Minister receives timely notification of deaths reported under these Acts;
 - See: items 4, 7, 10, 14, 18, 21, 24 and 27 of the current law.
- The addition of state and territory food safety legislation to remove duplicative reporting requirements under the Australian Consumer Law;
 - See: items 4, 7, 10, 14, 18, 21, 24 and 27 of the proposed law.
- The incorporation of requirements in regulations into item 30 of the table;
 - See: item 15 of the current law and item 30 of the proposed law.
- The consistent formatting of Act titles.
 - See: items 8 and 9 of the current and proposed law.

Item 15 of the Regulations repeals sections 93 and 94 of the Competition and Consumer Regulations. Section 93 of the Competition and Consumer Regulations was a transitional provision that applied between 1 January 2011 and 30 June 2011. Section 93 is no longer required.

Similarly, section 94 of the Competition and Consumer Regulations was an application provision, which applied during the period between 1 January 2011 and 31 December 2011. Section 94 is no longer required.