

# EXPOSURE DRAFT



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## Treasury Laws Amendment (ASIC Fees) Regulations 2018

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2018

Peter Cosgrove  
Governor-General

By His Excellency's Command

Kelly O'Dwyer [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Minister for Revenue and Financial Services

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## 1 Name

This instrument is the *Treasury Laws Amendment (ASIC Fees) Regulations 2018*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	1 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the following:

- (a) the *Corporations (Fees) Act 2001*;
- (b) the *National Consumer Credit Protection (Fees) Act 2009*;
- (c) the *Superannuation Auditor Registration Imposition Act 2012*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Amendments

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## Schedule 1—Amendments

### *Corporations (Fees) Regulations 2001*

#### # Part 1 (note before Part 1)

Repeal the note.

#### # Regulation 1B

Insert:

*indexable matter*: see subregulation 3(2A).

#### # Regulation 3 (heading)

Repeal the heading, substitute:

#### 3 Prescribed fees—Schedule 1

#### # At the end of subregulation 3(1)

Add “, except if *no fee* appears in column 3 of the item”.

#### # Subregulation 3(2)

Repeal the subregulation, substitute:

- (2) The amount of the fee in a financial year starting on or after 1 July 2018 is, subject to subregulations (3) to (5), the amount mentioned in column 3 of the item.

#### *Indexable matters*

- (2A) A chargeable matter is an *indexable matter* if it is mentioned in item 5, 6, 7, 7A, 8, 9A, 22, 24, 25, 26, 27, 27JS, 27JT, 28, 29, 30, 30AB, 30A, 31, 31A, 32, 33, 34, 35, 36 or 37 of Schedule 1.

#### # Subregulation 3(3)

Omit “For paragraph 6(1)(b) of the Act, in the financial year starting on 1 July 2010, or a subsequent 1 July”, substitute “In the financial year starting on or after 1 July 2019”.

#### # Subregulation 3(3)

Omit “a chargeable matter”, substitute “an indexable matter”.

#### # Subregulation 3(3) (definition of *previous indexable amount*)

Omit “chargeable matter”, substitute “indexable matter”.

#### # Subregulation 3(4)

Omit “In the financial year starting on 1 July 2010, or a subsequent 1 July”, substitute “In the financial year starting on or after 1 July 2019”.

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## # Subregulation 3(4)

Omit “a chargeable matter”, substitute “an indexable matter”.

## # Subregulation 3(4)

Omit “the chargeable matter”, substitute “the indexable matter”.

## # Subregulation 3(5)

Repeal the subregulation, substitute:

- (5) If the amount worked out under subregulation (3) is an amount of dollars and cents:
- (a) if the amount of cents is at least 50 cents—the amount is to be rounded up to the nearest dollar; or
  - (b) otherwise—the amount is to be rounded down to the nearest dollar.

## # Regulation 5 (heading)

Repeal the heading, substitute:

## 5 Performance of ASIC functions

### # Before subregulation 5(1)

Insert:

*Matters with hourly fee rate*

### # Subregulation 5(3)

Repeal the subregulation, substitute:

- (2A) For the purposes of section 5 of the Act, the fee set out in subregulation (3) is prescribed for the performance by ASIC of a function conferred on ASIC by the operating rules of a market as required by subsection 798DA(2) of the Corporations Act.
- Note 1: These functions are mentioned in subparagraph (k)(iii) of the definition of *chargeable matter* in subsection 4(1) of the Act. Expressions that are defined in the Corporations Act have the same meanings in these Regulations: see subsection 4(2) of the Act.
- Note 2: The fees in this subregulation are subject to limits imposed by section 6 of the Act.
- Note 3: Paragraph 7(1)(k) of the Act identifies the person liable to pay the fee and the time at which the liability to pay the fee is incurred.
- (2B) For the purposes of section 5 of the Act, the fee set out in subregulation (3) is prescribed for the performance by ASIC of a function required or permitted by regulations made for the purposes of subsection 798E(1) of the Corporations Act.
- Note 1: These functions are mentioned in paragraph (l) of the definition of *chargeable matter* in subsection 4(1) of the Act. Expressions that are defined in the Corporations Act have the same meanings in these Regulations: see subsection 4(2) of the Act.
- Note 2: Paragraph 7(1)(l) of the Act identifies the person liable to pay the fee and the time at which the liability to pay the fee is incurred.
- (3) The fee is:

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## Schedule 1 Amendments

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$$\$175.95 \times \frac{\text{Number of minutes taken to perform the function}}{60}$$

- (3A) If the amount worked out under subregulation (3) is an amount of dollars and cents:
- (a) if the amount of cents is at least 50 cents—the amount is to be rounded up to the nearest dollar; or
  - (b) otherwise—the amount is to be rounded down to the nearest dollar.

*Other matters*

### # Regulation 6

Repeal the regulation.

### # Subregulations 9A(4) and 9B(3)

Omit “a chargeable matter”, substitute “an indexable matter”.

## *National Consumer Credit Protection (Fees) Regulations 2010*

### # Regulation 3

Insert:

*credit provider* has the same meaning as in the National Credit Act.

*indexable matter*: see subregulation 4(4).

### # Regulation 3 (definition of *sole trader*)

Repeal the definition.

### # Subregulations 4(1A), (1) and (2)

Repeal the subregulations, substitute:

*Fees*

- (1) For the purposes of sections 5 and 6 of the Act, a fee is prescribed for a chargeable matter mentioned in an item in Part 2 of Schedule 1.
- (2) The amount of the fee in a financial year starting on or after 1 July 2018 is, subject to subregulations (3) to (5), the amount mentioned in the item.

### # Subregulation 4(3)

Omit “worked out in accordance with Part 1 or”, substitute “specified in Part”.

### # Subregulation 4(4)

Repeal the subregulation, substitute:

*Indexable matters*

- (4) A chargeable matter is an *indexable matter* if it is a matter mentioned in item 2.7, 2.23B, 2.23C, 2.23D or 2.23E in Part 2 of Schedule 1.



- (5) In the financial year starting on 1 July 2019, or a subsequent 1 July, the fee for an indexable matter is to be indexed in accordance with regulation 6 and rounded (if necessary) in accordance with regulation 7.

## # Subregulations 5(1A) and (1)

Repeal the subregulations, substitute:

- (1) For the purposes of sections 5 and 6 of the Act, and subject to subregulation (2), a fee is prescribed for a chargeable matter mentioned in an item in Schedule 2.
- (1A) The amount of the fee in a financial year starting on or after 1 July 2018 is the amount mentioned in the item.

## # Subregulation 5(3)

Repeal the subregulation.

## # Subregulation 6(1)

Omit “1 July 2011”, substitute “1 July 2019”.

## # Subregulation 6(1)

Omit “a chargeable matter mentioned in an item in Schedule 1 or 2”, substitute “an indexable matter”.

## # Subregulation 6(2)

Omit “1 July 2011”, substitute “1 July 2019”.

## # Subregulation 6(2)

Omit “a chargeable matter mentioned in an item in Schedule 1 or 2”, substitute “an indexable matter”.

## # Subregulation 6(2)

Omit “the chargeable matter”, substitute “the indexable matter”.

## # Subregulation 6(4) (definition of *previous indexable amount*)

Repeal the definition, substitute:

*previous indexable amount* is the amount of the fee for an indexable matter (including any alteration in accordance with this regulation or regulation 7) that was applicable immediately before the relevant 1 July.

## # Subregulation 7(1)

Repeal the subregulation.

## # Subregulation 7(2)

Omit “(2)”.

## # Subregulation 7(3)

Repeal the subregulation.

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## Schedule 1 Amendments

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### *Superannuation Auditor Registration Imposition Regulation 2012*

#### # Section 3

Insert:

*indexable matter*: see subsection 5(2).

#### # Subsections 5(1) and (2)

Repeal the subsections, substitute:

- (1) For the purposes of paragraph 4(2)(b) of the Act, the amount of a fee in a financial year starting on or after 1 July 2018 is, subject to subregulations (2A) to (4), the amount mentioned in column 2 of the table in section 4.

*Indexable matters*

- (2) A matter is an *indexable matter* if it is mentioned in items 8 to 11 of the table in section 4.
- (2A) For the purposes of paragraph 4(2)(b) of the Act, in the financial year starting on 1 July 2019, or a subsequent 1 July, if the latest CPI number is greater than the earlier CPI number, the fee for an indexable matter is the amount worked out using the formula:

$$\frac{\text{Previous indexable amount} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

*previous indexable amount* is the amount of the fee for the indexable matter that was applicable immediately before that 1 July.

#### # Subsection 5(3)

Omit “the matter mentioned in an item in section 4”, substitute “the matter that is an indexable matter”.

#### # Subsection 5(4)

Omit “subsection (1) or (2)”, substitute “subsection (2)”.