

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Measures
for a later sitting) Bill 2019:
miscellaneous amendments**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
2. Schedule 1, Part 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
3. Schedule 1, Part 3	The first 1 January, 1 April, 1 July or 1 October to occur after the end of the period of 60 days beginning on the day this Act receives the Royal Assent.	

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1 Schedule 1—Miscellaneous amendments

2 Part 1—Amendments commencing day after Royal 3 Assent

4 *Australian Securities and Investments Commission Act 2001*

5 1 Subsection 8(2) (note)

6 Repeal the note.

7 2 After paragraph 127(4)(e)

8 Insert:

9 or (f) if the information relates to a relevant provider (within the
10 meaning of Part 7.6 of the *Corporations Act 2001*)—will
11 enable or assist a monitoring body (within the meaning of
12 that Part) for a compliance scheme (within the meaning of
13 that Part) that covers the relevant provider to perform its
14 functions or exercise its powers under that Part;

15 3 Part 23 (the Part 23 inserted by item 2 of Schedule 2 to the 16 *Treasury Laws Amendment (2017 Measures No. 1) Act* 17 *2017*)

18 Renumber as Part 24.

19 4 Section 302 (the section 302 inserted by item 2 of 20 *Schedule 2 to the Treasury Laws Amendment (2017* 21 *Measures No. 1) Act 2017*)

22 Renumber as section 308.

23 5 Section 315 (the section 315 inserted by item 9 of 24 *Schedule 1 to the Treasury Laws Amendment (ASIC* 25 *Governance) Act 2018*)

26 Renumber as section 314A.

27 6 Part 26 (the Part 26 inserted by item 1 of Schedule 12 to the 28 *Treasury Laws Amendment (Australian Consumer Law* 29 *Review) Act 2018*)

30 Renumber as Part 26A.

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7 In the appropriate position

Insert:

Part 29—Application provisions relating to the Treasury Laws Amendment (Measures for a later sitting) Act 2019

326 Application—authorised disclosure to monitoring body

The amendment of section 127 of this Act made by item 2 of Schedule 1 to the *Treasury Laws Amendment (Measures for a later sitting) Act 2019* applies in relation to disclosures of information made on or after the commencement of that item, whether ASIC obtained the information before, on or after that commencement.

Competition and Consumer Act 2010

8 Paragraph 8A(6)(b)

After “a matter”, insert “, or a class of matters,”.

9 Subsection 19(2)

Repeal the subsection, substitute:

(2) Without limiting subsection 33(3AB) of the *Acts Interpretation Act 1901*, a direction may:

- (a) specify a particular matter in relation to which the Division is to exercise the powers of the Commission; or
- (b) specify a class of matters in relation to which the Division is to exercise the powers of the Commission from time to time.

(2A) The Chairperson may vary or revoke a direction:

- (a) if the direction specifies a particular matter under paragraph (2)(a)—at any time before the Division makes a determination in relation to the matter; or
- (b) otherwise—at any time.

(2B) If a direction is varied to change the membership of the Division, the Division as constituted after the change may continue and complete the determination of any matter that the Division was dealing with before the change.

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10 After subsection 19(3)

Insert:

- (3A) However, a direction under subsection (1) specifying a matter, or a class of matters, in relation to which a Division is to exercise the powers of the Commission does not prevent the Commission dealing with that matter, or a matter in that class of matters, otherwise than in the Division.

11 At the end of section 19

Add:

- (8) A direction given under subsection (1) is not a legislative instrument.

12 Subsection 51ADE(2)

Omit “The Commission”, substitute “A member of the Commission”.

13 At the end of section 51ADE

Add:

- (3) Subsection (2) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a notice under section 51ADD of this Act.

Delegation

- (4) A member of the Commission may, by writing, delegate the member’s powers under subsection (2) to a member of the staff of the Commission who is an SES employee or an acting SES employee.

Note 1: Section 2B of the *Acts Interpretation Act 1901* contains the definitions of *SES employee* and *acting SES employee*.

Note 2: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (5) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the member.

14 Subsection 93AB(9)

After “subsection”, insert “(1A) or”.

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15 After subsection 95ZK(3)

Insert:

(3A) A member of the Commission may vary a notice under subsection (1) to extend, or further extend, the period.

(3B) Subsection (3A) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a notice under subsection (1) of this section.

16 At the end of section 95ZK

Add:

Delegation

(10) A member of the Commission may, by writing, delegate the member's powers under subsection (3A) to a member of the staff of the Commission who is an SES employee or an acting SES employee.

Note 1: Section 2B of the *Acts Interpretation Act 1901* contains the definitions of *SES employee* and *acting SES employee*.

Note 2: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(11) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the member.

Corporations Act 2001

17 Paragraph 5.3 of the small business guide in Part 1.5

Omit "10 years", substitute "15 years".

18 Paragraph 422C(1)(c)

Repeal the paragraph, substitute:

(c) a registered liquidator (the *new controller*):

(i) is appointed instead as the controller of that property of the corporation; or

(ii) if the corporation is a company under external administration—is appointed instead as the external administrator of the company; or

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(iii) if subparagraphs (i) and (ii) do not apply and the corporation is a company under external administration—is the external administrator of the company.

19 Subsection 422C(2)

Repeal the subsection, substitute:

Transfer of books to new controller

(2) The former controller must transfer to the new controller possession or control of any books relating to the control of the property that are in the former controller's possession or control.

(2A) The transfer must be made:

(a) if the new controller is appointed instead of the former controller—within 5 business days after the new controller is appointed; or

(b) otherwise—within 5 business days after the former controller ceases to act.

20 Subsection 445HA(1)

Omit “The notice must be in the prescribed form.”.

21 Subsection 445HA(2)

Omit “The notice must be in the prescribed form.”, substitute “The notice must be lodged with ASIC and must be in the prescribed form (if any).”.

22 Section 760B (after table item 10)

Insert:

10A 7.10A authorisation and regulation of an external dispute resolution scheme for financial complaints
additional provisions relating to superannuation complaints

23 Subsection 890C(3)

Before “any”, insert “all or”.

24 Paragraphs 1053(4)(a), (b) and (c)

Omit “self-managed superannuation fund”, substitute “self managed superannuation fund”.

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25 Subsection 1101J(1)

Before “any”, insert “all or”.

26 Subsection 1345A(1)

Omit “such of the Minister’s functions and powers under this Act as are prescribed”, substitute “all or any of the Minister’s functions and powers under this Act that are prescribed by the regulations for the purposes of this subsection”.

27 After subsection 1345A(1)

Insert:

(1AA) If:

- (a) under subsection (1), the Minister delegates to an officer of the Department all of the Minister’s functions and powers that are prescribed for the purposes of that subsection; and
- (b) the regulations are amended to prescribe one or more additional functions or powers for the purposes of that subsection; and
- (c) the delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the delegation is taken to include the additional functions or powers.

28 In the appropriate position in Chapter 10

Insert:

Part 10.40—Transitional provisions relating to the Treasury Laws Amendment (Measures for a later sitting) Act 2019

1667 Transitional—delegations

- (1) The amendments of sections 890C, 1101J and 1345A made by items 23, 25, 26 and 27 of Schedule 1 to the *Treasury Laws Amendment (Measures for a later sitting) Act 2019* do not affect a delegation in effect for the purposes of any of those sections immediately before the commencement of those items.

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1 (2) Despite the amendment of subsection 1345A(1) made by item 26
2 of that Schedule, regulations in force for the purposes of that
3 subsection immediately before the commencement of that item
4 continue in force, on and after that commencement, for the
5 purposes of that subsection.

6 **29 Paragraph 90-26(4)(c) of Schedule 2**

7 After “Court under”, insert “subsection 90-23(6) or”.

8 *International Monetary Agreements Act 1947*

9 **30 Section 3 (note to the definition of IMF loan agreement** 10 **2016)**

11 Repeal the note, substitute:

12 Note: The Loan Agreement is in Australian Treaty Series 2017 No. 41
13 ([2017] ATS 41) and could in 2019 be viewed in the Australian
14 Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

15 **31 Section 3 (at the end of the definition of New** 16 **Arrangements to Borrow)**

17 Add:

18 Note: The decision referred to in paragraph (d) is in Australian Treaty Series
19 2017 No. 42 ([2017] ATS 42) and could in 2019 be viewed in the
20 Australian Treaties Library on the AustLII website
21 (<http://www.austlii.edu.au>).

22 *National Consumer Credit Protection Act 2009*

23 **32 Paragraphs 100(6)(a) and (b)**

24 Repeal the paragraphs, substitute:

- 25 (a) if the credit service licensee is a body corporate to which
26 section 323D of the *Corporations Act 2001* applies—a
27 financial year of the body corporate (within the meaning of
28 that section); and
29 (b) in any other case—a year ending on 30 June.

30 **33 Paragraph 151(d)**

31 Omit “section 130”, substitute “section 153”.

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34 Paragraph 263(d)

Omit “a contravention” (wherever occurring), substitute “an alleged or suspected contravention”.

35 Subsection 50(8) of the *National Credit Code* (definition of *relevant limit*)

Omit “the *Bankruptcy Regulations 1966* for the purposes of subparagraph 116(2)(c)(i) of the *Bankruptcy Act 1966*”, substitute “regulations made under the *Bankruptcy Act 1966* for the purposes of subparagraph 116(2)(c)(i) of that Act”.

36 Paragraph 150(1)(b) of the *National Credit Code*

After “is included”, insert “or required to be included”.

37 After subsection 150(3) of the *National Credit Code*

Insert:

(3A) Subsection (3) does not apply if the credit would, if provided as advertised, be provided under a small amount credit contract.

National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009

38 Subsection 2(1) (table item 4)

Repeal the item.

39 Subsection 6(4)

Repeal the subsection, substitute:

(4) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply to regulations made under this section.

40 Paragraph 6(5)(a)

Repeal the paragraph, substitute:

(a) regulations are expressed to commence on a date (the *registration date*) before the regulations are registered under the *Legislation Act 2003*; and

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41 Subitem 41(6) of Schedule 2

Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act 2003*”.

42 Subitem 43(2) of Schedule 2

Omit “one-fourtieth”, substitute “one-fortieth”.

43 Schedule 3

Repeal the Schedule.

44 In the appropriate position

Insert:

Schedule 10—Application provisions for the Treasury Laws Amendment (Measures for a later sitting) Act 2019

1 Application—exercise of information-gathering powers

The amendment made by item 34 of Schedule 1 to the *Treasury Laws Amendment (Measures for a later sitting) Act 2019* applies on and after the commencement of that item in relation to a contravention that is alleged or suspected to have occurred before, on or after that commencement.

Product Grants and Benefits Administration Act 2000

45 Subparagraph 9(3A)(b)(i)

Before “recycling”, insert “oil”.

46 After paragraph 9(3A)(b)

Insert:

(ba) except in relation to registration for entitlement only to product stewardship (oil) benefits under subsection 9(3) of the *Product Stewardship (Oil) Act 2000*—satisfy the following conditions:

(i) you comply with relevant Commonwealth, State or Territory legislation relating to oil recycling operations or enterprises;

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- (ii) the Commissioner has not been informed by a Department, agency or authority of the Commonwealth, a State or a Territory that is responsible for the administration of any such legislation that you do not comply with the legislation; and

47 Application—registration for grants and benefits

- (1) The amendments made by items 45 and 46 apply in relation to applications made under section 9 of the *Product Grants and Benefits Administration Act 2000* on or after the commencement of this Part.
- (2) Regulations made for the purposes of paragraph 9(3A)(b) of that Act and in force immediately before the commencement of this Part continue to apply in relation to applications made under section 9 of that Act before the commencement of this Part.

Superannuation Industry (Supervision) Act 1993

48 After section 16

Insert:

17 Persons involved in a contravention

For a contravention that is not an offence, a person is *involved* in the contravention if, and only if, the person:

- (a) has aided, abetted, counselled or procured the contravention; or
- (b) has induced, whether by threats or promises or otherwise, the contravention; or
- (c) has been in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) has conspired with others to effect the contravention.

49 Application—persons involved in a contravention

The amendment made by item 48 applies in relation to contraventions happening on or after the commencement of this Part.

50 Paragraph 99G(1)(b)

Repeal the paragraph, substitute:

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- 1 (b) a member of the fund:
2 (i) holds the product on the last day of a year of income of
3 the fund and, on that day, has an account balance with
4 the fund that relates to the product that is less than
5 \$6,000; or
6 (ii) holds the product on one or more days during a year of
7 income of the fund and, on the last of those days, has an
8 account balance with the fund that relates to the product
9 that is less than \$6,000.

10 **51 Section 194**

11 After “this Act”, insert “that is not an offence”.

12 ***Superannuation (Unclaimed Money and Lost Members) Act*** 13 ***1999***

14 **52 Subsection 16(2)**

15 Repeal the subsection.

16 **53 Subparagraph 20QA(1)(a)(viii)**

17 Omit “68AAA(7)”, substitute “68AAA(2), (7)”.

18 **54 Application—unclaimed money days**

19 The amendment of subparagraph 20QA(1)(a)(viii) made by item 53
20 applies in relation to unclaimed money days that occur on or after
21 30 June 2019.

22 **55 Subparagraph 20QA(1A)(b)(iv)**

23 Omit “Commissioner, declared”, substitute “superannuation provider,
24 elected”.

25 **56 Subparagraph 20QA(1A)(b)(iv)**

26 Omit “account;”, substitute “account.”.

27 **57 Subparagraph 20QA(1A)(b)(v)**

28 Repeal the subparagraph.

29 **58 Subsection 20QB(3)**

30 Repeal the subsection.

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1 **59 Subsection 24C(3)**

2 Repeal the subsection.

3 ***Treasury Laws Amendment (2018 Measures No. 4) Act 2019***

4 **60 Subsection 2(1) (table item 4)**

5 Repeal the item, substitute:

6

4. Schedule 3, Part 2 The later of:
- (a) immediately after the commencement of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Measures for a later sitting) Act 2019*; and
 - (b) immediately after the commencement of Schedule 7 to the *Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Act 2019*.

However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.

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8 ***Treasury Laws Amendment (Protecting Your***
9 ***Superannuation Package) Act 2019***

10 **61 Subitem 38(2) of Schedule 3**

11 Omit “item 8”, substitute “item 30”.

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1 **Part 2—Amendments commencing first day of the**
2 **next quarter**

3 ***Fringe Benefits Tax Assessment Act 1986***

4 **62 Paragraph 7(7)(a)**

5 Omit “a taxi”, substitute “a car used for taxi travel (other than a
6 limousine)”.

7 **63 Subparagraph 8(2)(a)(i)**

8 Omit “taxi,”.

9 **64 After subparagraph 8(2)(a)(i)**

10 Insert:

11 (ia) used for taxi travel, designed to carry a load of less than
12 1 tonne, and not a limousine; or

13 **65 Subparagraph 47(6)(aa)(i)**

14 Omit “a taxi”, substitute “a car used for taxi travel (other than a
15 limousine)”.

16 **66 Subsections 58Z(1) and (2)**

17 After “taxi travel”, insert “(otherwise than by limousine)”.

18 **67 Subsection 136(1) (paragraph (p) of the definition of *fringe***
19 ***benefit*)**

20 Repeal the paragraph, substitute:

21 (p) a payment made, or liability incurred, to a person to the
22 extent that the payment or liability is non-assessable
23 non-exempt income (within the meaning of the *Income Tax*
24 *Assessment Act 1997*) of the person because of
25 subsection 26-35(4) of that Act; or

26 **68 Subsection 136(1) (definition of *taxi*)**

27 Repeal the definition.

28 **69 Subsection 136(1)**

29 Insert:

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taxi travel has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999*.

70 Application—fringe benefits tax

- (1) The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by items 62, 63, 64, 65, 66, 68 and 69 apply in relation to the provision of a fringe benefit on or after the day after the day on which this Act receives the Royal Assent.
- (2) The amendment of paragraph (p) of the definition of *fringe benefit* in subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986* made by item 67 applies, and is taken to have applied, to the FBT year starting on 1 April 2014 and to later FBT years.

Income Tax Assessment Act 1997

71 Subsection 30-45(2) (table item 4.2.10)

Omit “the Royal Society for the Prevention of Cruelty to Animals Western Australia (Incorporated)”, substitute “the Royal Society for the Prevention of Cruelty to Animals, Western Australia”.

72 Application—welfare and rights recipients

The amendment made by item 71 applies in relation to gifts or contributions made on or after 24 July 2018.

73 Subsection 30-248(5)

Omit “section 30-249A, 30-249B or 30-249C”, substitute “section 30-249A or 30-249B”.

74 Subsection 30-248(5) (note)

Omit “Sections 30-249A, 30-249B and 30-249C”, substitute “Sections 30-249A and 30-249B”.

75 Section 30-249C

Repeal the section.

76 Subparagraph 70-10(2)(b)(i)

Omit “*complying superannuation fund, a *complying approved deposit fund or a *pooled superannuation trust”, substitute “*complying superannuation entity”.

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1 77 Section 109-60 (table item 12)

2 Omit “complying superannuation fund, complying approved deposit
3 fund or pooled superannuation trust”, substitute “a complying
4 superannuation entity”.

5 78 Section 112-97 (table item 14)

6 Omit “complying superannuation fund, complying approved deposit
7 fund or pooled superannuation trust”, substitute “a complying
8 superannuation entity”.

9 79 At the end of section 166-230

10 Add:

11 *Acquisition of tested company by new interposed entity*

12 (5) If:

- 13 (a) a new entity (the *new interposed entity*) acquires all the
14 *shares and other interests in the tested company; and
15 (b) assuming that the time immediately before the acquisition
16 had been an *ownership test time, section 166-225 would
17 have applied the tests to the tested company as if there were a
18 single notional entity as described in subsection 166-225(2)
19 in respect of some or all of the *voting stakes, *dividend
20 stakes or *capital stakes in the tested company; and
21 (c) the new interposed entity has the same classes of shares or
22 other interests as the tested company; and
23 (d) in a case where the new interposed entity is a company—the
24 shares are not *redeemable shares; and
25 (e) in any case—each entity that held a proportion of the voting
26 stakes, dividend stakes or capital stakes in the tested
27 company immediately before the acquisition (disregarding
28 section 166-225) holds the same proportion of that kind of
29 stake in the new interposed entity immediately after the
30 acquisition;

31 then, at all times that the single notional entity mentioned in
32 paragraph (b) held or is taken to have held a stake in the tested
33 company, the new interposed entity is taken to have held that stake.

- 34 (6) Except for the purposes of determining whether a time is an
35 alteration time (within the meaning of section 165-115L),

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1 section 166-272 (which is about the same shares or interests) is to
2 be disregarded when applying subsection (5) of this section.

3 *Small shareholdings in new interposed entity*

4 (7) For the purposes of subsections (3) and (5), disregard *shares in the
5 new interposed entity that are held by entities other than the
6 stakeholders referred to in paragraph (3)(d) or the entities referred
7 to in paragraph (5)(e) if:

8 (a) there are fewer than 5 such shares; and

9 (b) the *market value of those shares expressed as a percentage
10 of the market value of all the shares in the new interposed
11 entity is such that it is reasonable to treat all the shares in the
12 new interposed entity as being owned by stakeholders
13 referred to in paragraph (3)(d) or entities referred to in
14 paragraph (5)(e).

15 **80 At the end of section 166-270**

16 Add:

17 *Acquisition of tested company by new interposed entity—minimum*
18 *control of voting power*

19 (3) If:

20 (a) the *ownership test time is after the start of the *test period;
21 and

22 (b) at the start of the test period, a single notional entity
23 mentioned in section 166-225 had voting power in a
24 company (disregarding subsection 166-230(5)); and

25 (c) under subsection 166-230(5), a new interposed entity is taken
26 to have held that voting power at the start of the test period;
27 and

28 (d) at the ownership test time, the voting power in the company
29 held indirectly by stakeholders covered by
30 subsection 166-230(1) is greater than the voting power that
31 the single notional entity had at the start of the test period;

32 then the stakeholders referred to in paragraph (d) are, collectively,
33 taken to have indirect voting power in the company at the
34 ownership test time only to the extent that the single notional entity
35 had it at the start of the test period.

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Acquisition of tested company by new interposed entity—minimum percentage of rights to dividends and capital

(4) If:

- (a) the *ownership test time is after the start of the *test period; and
- (b) at the start of the test period, a single notional entity mentioned in section 166-225 had a percentage of rights to the *dividends or distributions of capital of a company (disregarding subsection 166-230(5)); and
- (c) under subsection 166-230(5), a new interposed entity is taken to have had those rights at the start of the test period; and
- (d) the percentage that stakeholders covered by subsection 166-230(1) have rights to indirectly at the ownership test time is greater than the percentage (the ***lower percentage***) of the dividends or distributions of capital of the company that the single notional entity had rights to at the start of the test period;

then the stakeholders referred to in paragraph (d) are, collectively, taken to have indirect rights to the lower percentage of the dividends or distributions of capital at the ownership test time.

81 Application—acquisition of tested company by interposed entity

- (1) The amendment made by item 79 applies to an acquisition referred to in subsection 166-230(3) or (5) of the *Income Tax Assessment Act 1997* that occurs, or occurred, on or after 1 July 2018.
- (2) The amendment made by item 80 applies to an acquisition referred to in subsection 166-230(5) of the *Income Tax Assessment Act 1997* that occurs, or occurred, on or after 1 July 2018.

82 Paragraph 207-45(d)

Repeal the paragraph (not including the note), substitute:

- (d) the trustee of a *complying superannuation entity, a *non-complying superannuation fund or a *non-complying approved deposit fund in relation to that income year.

83 Subparagraphs 210-70(1)(b)(i) to (iii)

Repeal the subparagraphs, substitute:

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- 1 (i) the trustee of an entity that is a *complying
2 superannuation entity in relation to the income year in
3 which the distribution is made and is not a *self
4 managed superannuation fund; or

5 **84 Subparagraph 210-170(1)(b)(ii)**

6 Repeal the subparagraph, substitute:

- 7 (ii) a trustee (other than the trustee of a *complying
8 superannuation entity, a *non-complying superannuation
9 fund or a *non-complying approved deposit fund); and

10 **85 Paragraphs 210-170(2)(a) to (c)**

11 Repeal the paragraphs, substitute:

- 12 (a) the trustee of an entity that is a *complying superannuation
13 entity in relation to the income year in which the *distribution
14 is made and is not a *self managed superannuation fund;

15 **86 Paragraph 230-460(11)(b)**

16 Repeal the paragraph, substitute:

- 17 (b) a right or obligation arising from an interest in:
18 (i) a *complying superannuation entity; or
19 (ii) a *non-complying superannuation fund or
20 *non-complying approved deposit fund; or
21 (iii) an *RSA.

22 **87 Subparagraph 292-102(1)(d)(ii)**

23 Omit “had you held the old interest”, substitute “had you *acquired the
24 old interest on or after 20 September 1985 and held it”.

25 **88 Paragraph 292-102(3)(b)**

26 After “already covered under this section”, insert “, because of the
27 disposal of the old interest or any related spousal interest to the old
28 interest.”.

29 **89 Application—downsizer contributions**

30 The amendments made by items 87 and 88 apply in relation to a
31 disposal of an ownership interest in a dwelling if the contract for the
32 disposal is or was entered into on or after 1 July 2018.

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90 After subsection 292-102(3)

Insert:

(3A) In working out an amount of *capital proceeds for the purposes of paragraph (3)(b), disregard section 116-30 to the extent that it has the effect of increasing the amount.

91 Application—capital proceeds for downsizer contributions

The amendment made by item 90 applies in relation to a disposal of an ownership interest in a dwelling if the contract for the disposal is entered into on or after the day this Act receives the Royal Assent.

92 Subsection 295-10(1) (method statement, steps 4 and 5)

Repeal the steps, substitute:

Step 4. For a *complying superannuation entity, work out the *low tax component and *non-arm's length component of the entity's taxable income.

Step 5. Apply the applicable rates as set out in the *Income Tax Rates Act 1986* to:

(a) if step 4 applies to the entity—the components worked out under that step; or

(b) otherwise—the entity's taxable income.

93 Subsection 295-25(1)

Omit “*complying superannuation fund, *complying approved deposit fund or *pooled superannuation trust”, substitute “*complying superannuation entity”.

94 Subsection 295-85(1)

Repeal the subsection, substitute:

(1) The modifications in subsection (2) apply if a *CGT event happens involving a *CGT asset that was owned by a *complying superannuation entity just before the time of the event.

95 Subsection 295-90(1)

Repeal the subsection, substitute:

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1 (1) This section applies to the trustee of a *complying superannuation
2 entity.

3 **96 Section 295-105**

4 Omit “*complying superannuation fund, *complying approved deposit
5 fund or *pooled superannuation trust”, substitute “*complying
6 superannuation entity”.

7 **97 Section 295-105 (note)**

8 Omit “These entities will not be subject to any tax liability when they
9 dispose”, substitute “The entity will not be subject to any tax liability
10 when it disposes”.

11 **98 Paragraph 295-173(a)**

12 Omit “*complying superannuation fund, a *complying approved deposit
13 fund or a *pooled superannuation trust”, substitute “*complying
14 superannuation entity”.

15 **99 Subsection 295-545(1)**

16 Repeal the subsection, substitute:

17 (1) The taxable income of a *complying superannuation entity is split
18 into a *non-arm’s length component and a *low tax component.

19 Note: A concessional rate applies to the low tax component, while the
20 non-arm’s length component is taxed at the highest marginal rate. The
21 rates are set out in the *Income Tax Rates Act 1986*.

22 **100 Subsection 295-550(1)**

23 Omit “*complying superannuation fund, a *complying approved deposit
24 fund or a *pooled superannuation trust”, substitute “*complying
25 superannuation entity”.

26 **101 Subsection 295-555(1) (note)**

27 Omit “complying superannuation funds, complying approved deposit
28 funds and pooled superannuation trusts”, substitute “complying
29 superannuation entities”.

30 **102 Subparagraph 328-430(1)(d)(ii)**

31 After “income year”, insert “, or would be satisfied in that income year
32 if paragraph 152-10(1AA)(b) were disregarded”.

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103 Application—small business roll-over

The amendment made by item 102 applies to:

- (a) the transfer of a depreciating asset if the balancing adjustment event arising from the transfer occurs or occurred on or after 1 July 2016; or
- (b) the transfer of trading stock or a revenue asset if the transfer occurs or occurred on or after 1 July 2016; or
- (c) the transfer of a CGT asset (other than a depreciating asset, trading stock or a revenue asset) if the CGT event arising from the transfer occurs or occurred on or after 1 July 2016.

104 Section 705-55

Omit “705-50”, substitute “705-47”.

105 Subsection 705-75(1A) (heading)

Repeal the heading, substitute:

Reduction for future deduction

106 Subsection 705-75(1A)

Omit “This section”, substitute “Subsection (1)”.

107 Subsection 705-75(1) (heading)

Repeal the heading.

108 Application—liabilities of joining entity

The amendments made by items 105, 106 and 107 apply in relation to an entity that becomes a subsidiary member of a consolidated group or MEC group if the arrangement under which the entity becomes a subsidiary member of the group commences on or after 1 July 2016.

Note: For the commencement of these arrangements, see Part 8 of Schedule 1 to the *Treasury Laws Amendment (Income Tax Consolidation Integrity) Act 2018*.

109 Paragraph 716-440(1)(e)

Omit “subsection (2)”, substitute “subsection (3)”.

110 Section 727-125

Repeal the section, substitute:

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1 **727-125 No consequences if losing entity is a superannuation entity**
2 **etc.**

3 An *indirect value shift has no consequences under this Division if
4 the *losing entity is one of the following in relation to the income
5 year in which the indirect value shift happens:

- 6 (a) a *complying superannuation entity;
7 (b) a *non-complying superannuation fund;
8 (c) a *non-complying approved deposit fund.

9 **111 Section 768-10**

10 Omit “a foreign resident”, substitute “not a Part X Australian resident
11 (within the meaning of Part X of the *Income Tax Assessment Act*
12 *1936*)”.

13 **112 Application—foreign equity distributions**

14 The amendment made by item 111 applies to distributions or non-share
15 dividends made on or after the commencement of Schedule 2 to the *Tax*
16 *and Superannuation Laws Amendment (2014 Measures No. 4) Act*
17 *2014*.

18 Note: Schedule 2 to the *Tax and Superannuation Laws Amendment (2014 Measures No. 4) Act*
19 *2014* commenced on 17 October 2014.

20 **113 Paragraph 815-135(2)(a)**

21 Omit “subject to paragraph (aa),”.

22 **114 Paragraph 815-135(2)(a)**

23 Omit “22 July 2010”, substitute “19 May 2017”.

24 **115 Paragraph 815-135(2)(aa)**

25 Repeal the paragraph.

26 **116 Application—guidance for identifying arm’s length**
27 **conditions**

28 The amendments made by items 113, 114 and 115 apply for the
29 purposes of identifying conditions operating on or after the
30 commencement of this Part.

EXPOSURE DRAFT

1 **117 Subsection 995-1(1) (paragraph (a) of the definition of**
2 ***complying superannuation life insurance policy*)**

3 Repeal the paragraph, substitute:

- 4 (a) is held by the trustee of a *complying superannuation entity;
5 or

6 **118 Subsection 995-1(1) (definition of *Employment Secretary*)**

7 Omit “administered by the Minister administering the *Fair Work (State*
8 *Referral and Consequential and Other Amendments) Act 2009*”,
9 substitute “responsible for employment policy”.

10 **119 Subsection 995-1(1)**

11 Insert:

12 *foreign service of document request* has the meaning given by
13 section 263-60 in Schedule 1 to the *Taxation Administration Act*
14 *1953*.

15 ***Income Tax (Transitional Provisions) Act 1997***

16 **120 Section 40-830**

17 Renumber as section 40-840.

18 ***Taxation Administration Act 1953***

19 **121 Section 8AAZA (at the end of the definition of *credit*)**

20 Add:

- 21 ; and (c) an amount that the Commissioner determines under
22 section 8AAZAB to be an amount the Commissioner must
23 pay to a taxpayer under a taxation law.

24 **122 Section 8AAZA (definition of *primary tax debt*)**

25 Repeal the definition, substitute:

26 *primary tax debt* means:

- 27 (a) an amount due to the Commonwealth by an entity directly
28 under a taxation law (other than, except in Division 4, the
29 *Product Grants and Benefits Administration Act 2000*),
30 including any such amount that is not yet payable; or

EXPOSURE DRAFT

1 (b) an amount that the Commissioner determines under
2 section 8AAZAA to be an amount due to the
3 Commonwealth.

4 **123 Section 8AAZA (paragraph (b) of the definition of *RBA***
5 ***deficit debt*)**

6 Repeal the paragraph, substitute:

7 (b) payments made in respect of current or anticipated primary
8 tax debts of the entity that have been allocated to the RBA;
9 and

10 (c) any credits to which the entity is entitled under a taxation law
11 that have been allocated to the RBA (disregarding any credits
12 that have already been allocated to the RBA under
13 paragraph (a)).

14 Note: For paragraph (c), a credit may have already been allocated to the
15 RBA under paragraph (a) as a part of a primary tax debt determined
16 by the Commissioner under section 8AAZAA.

17 **124 Section 8AAZA (paragraph (b) of the definition of *RBA***
18 ***surplus*)**

19 Repeal the paragraph, substitute:

20 (b) payments made in respect of current or anticipated primary
21 tax debts of the entity that have been allocated to the RBA;
22 and

23 (c) any credits to which the entity is entitled under a taxation law
24 that have been allocated to the RBA (disregarding any credits
25 that have already been allocated to the RBA under
26 paragraph (a)).

27 Note: For paragraph (c), a credit may have already been allocated to the
28 RBA under paragraph (a) as a part of a primary tax debt determined
29 by the Commissioner under section 8AAZAA.

30 **125 After section 8AAZA**

31 Insert:

32 **8AAZAA Amount due to the Commonwealth**

33 For the purposes of paragraph (b) of the definition of *primary tax*
34 *debt* in section 8AAZA, the Commissioner may determine an
35 amount (including a nil amount) due to the Commonwealth by an
36 entity that is:

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- 1 (a) the sum of some or all of the amounts covered by
2 paragraph (a) of that definition for the entity; or
3 (b) the balance of:
4 (i) the sum of some or all of the amounts covered by
5 paragraph (a) of that definition for the entity; less
6 (ii) the sum of some or all of the credits to which the entity
7 is entitled to under a taxation law.

8 **8AAZAB Amount payable by the Commonwealth**

9 For the purposes of paragraph (c) of the definition of *credit* in
10 section 8AAZA, the Commissioner may determine an amount
11 (including a nil amount) that the Commissioner must pay to an
12 entity that is:

- 13 (a) the sum of some or all of the amounts covered by
14 paragraph (a) or (b) of that definition for the entity; or
15 (b) the balance of:
16 (i) the sum of some or all of the amounts covered by
17 paragraph (a) or (b) of that definition for the entity; less
18 (ii) the sum of some or all of the amounts due to the
19 Commonwealth by the entity under a taxation law.

20 **126 Subsection 8AAZD(1)**

21 Omit “debt to an RBA that has been established for that type of tax
22 debt”, substitute “debt, that has not already been allocated under this
23 section, to an RBA that has been established for that type of tax debt or
24 debts”.

25 **127 Subsection 8AAZD(1) (note)**

26 Omit “Note”, substitute “Note 1”.

27 **128 At the end of subsection 8AAZD(1)**

28 Add:

- 29 Note 2: A primary tax debt to be allocated to an RBA may be:
30 (a) a single amount due under a taxation law; or
31 (b) an amount determined under section 8AAZAA from several
32 amounts due under taxation laws.

33 **129 After section 8AAZD**

34 Insert:

EXPOSURE DRAFT

1 8AAZDA Reallocation of primary tax debts between RBAs

- 2 (1) This section applies to a primary tax debt that has already been
3 allocated to an RBA of an entity.
- 4 (2) The Commissioner may reallocate the primary tax debt, in whole
5 or in part, to any RBA of the entity that has been established for
6 that type of tax debt in the manner the Commissioner determines.

7 130 After section 8AAZF

8 Insert:

9 8AAZFA Transfer of RBA balance

10 The Commissioner may determine that the balance of an RBA of
11 an entity be transferred, in whole or in part, to any other RBA that
12 has been established for the entity.

13 8AAZFB Transfer of other account balance

- 14 (1) This section applies if the Commissioner has allocated one or more
15 primary tax debts to an account (a *non-RBA account*) other than
16 an RBA for an entity.
- 17 (2) The Commissioner may determine that the balance of the
18 non-RBA account for the entity be transferred, in whole or in part,
19 to any RBA that has been established for the entity.
- 20 (3) If the Commissioner transfers an amount from a non-RBA account
21 for the entity to an RBA for the entity under subsection (2), the
22 following provisions apply in relation to each primary tax debt to
23 which the amount corresponds:
- 24 (a) the primary tax debt is taken to have been allocated to the
25 RBA under section 8AAZD;
- 26 (b) any general interest charge allocated to the non-RBA account
27 for the primary tax debt is taken to have altered the balance
28 of the RBA in the Commissioner's favour under
29 subsection 8AAZF(2);
- 30 (c) any amounts of a kind mentioned in subsection 8AAZL(1)
31 allocated to the non-RBA account and applied against the
32 primary tax debt are taken to have been allocated and applied
33 under section 8AAZLA in the manner determined by the
34 Commissioner.

EXPOSURE DRAFT

131 Application—RBAs

The amendments of the *Taxation Administration Act 1953* made by items 121 to 130 apply in relation to amounts due to the Commonwealth, or amounts that must be paid to an entity, regardless of whether the amount became due, or was required to be paid, before, on or after the commencement of this item.

132 Subsection 8AAZLGB(4) (note)

Omit “and subsection 14ZW(4)”.

133 Subdivision 255-C in Schedule 1 (heading)

Repeal the heading, substitute:

Subdivision 255-C—Service of documents if person absent from Australia or cannot be found

134 Section 255-35 in Schedule 1

Omit “procedural and evidentiary matters relating to proceedings to recover an amount of a tax-related liability”, substitute “the service of documents on people who are absent from Australia or cannot be found”.

135 Subsection 255-40(3) in Schedule 1

Repeal the subsection, substitute:

(3) If the Commissioner, after making reasonable inquiries, is satisfied that the person has an address in a foreign country, a constituent part of a foreign country or a foreign territory (an *overseas address*), the Commissioner may, without the court’s leave, serve the document on the person at that overseas address in accordance with an agreement between Australia and:

(a) a foreign country or a constituent part of a foreign country; or

(b) a foreign territory;

that deals with the service of documents on tax matters.

136 Sections 255-45, 255-50 and 255-55 in Schedule 1

Repeal the sections.

EXPOSURE DRAFT

137 Division 263 in Schedule 1 (heading)

Omit “collection of foreign tax debts”, substitute “the administration of foreign tax laws”.

138 At the end of Division 263 in Schedule 1

Add:

Subdivision 263-B—Service of documents in Australia on behalf of foreign revenue authorities

Guide to Subdivision 263-B

263-55 What this Subdivision is about

This Subdivision can be activated if there is in force an agreement between Australia and a foreign country or foreign territory that deals with service of documents on tax matters.

If a foreign government agency asks the Commissioner to serve a document relating to foreign taxes on an entity in Australia in accordance with the agreement, the Commissioner may serve the document in the same way as a similar document under an Australian taxation law may be served.

Table of sections

Operative provisions

263-60 Meaning of *foreign service of document request*

263-65 Service of document subject to foreign service of document request

Operative provisions

263-60 Meaning of *foreign service of document request*

A *foreign service of document request* is a request made to the Commissioner:

(a) in accordance with an agreement (the *international agreement*) between Australia and:

(i) a foreign country or a constituent part of a foreign country; or

EXPOSURE DRAFT

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- 1 (ii) a foreign territory;
2 that deals with service of documents on tax matters; and
3 (b) by a *foreign government agency; and
4 (c) for the service of one or more documents on an entity in
5 Australia in relation to taxes imposed otherwise than by an
6 *Australian law.

7 **263-65 Service of document subject to foreign service of document** 8 **request**

- 9 (1) If a *foreign service of document request is made to the
10 Commissioner, the Commissioner may serve a document covered
11 by the request in the same way that a similar document under a
12 *taxation law may be served.
- 13 (2) The Commissioner must also serve a translation of the document
14 into English, or a summary of the document in English, if:
15 (a) the document is in a language other than English; and
16 (b) the Commissioner is satisfied that the entity being served
17 would not understand the language of the document.
- 18 (3) Before serving a translation of the document into English, or a
19 summary of the document in English, the Commissioner must be
20 satisfied that the translation or summary is accurate.

21 **139 Subparagraph 284-90(1A)(a)(iii) in Schedule 1**

22 Omit “period; and”, substitute “period; or”.

23 **140 At the end of paragraph 284-90(1A)(a) in Schedule 1**

24 Add:

- 25 (iv) you are a *subsidiary member of a *consolidated group
26 and subparagraph (i) is satisfied in relation to another
27 member of the consolidated group; or
28 (v) you are a member of a *MEC group and
29 subparagraph (i) is satisfied in relation to another
30 member of the MEC group; and

31 **141 Paragraph 284-90(1B)(a) in Schedule 1**

32 Repeal the paragraph, substitute:

- 33 (a) the Commissioner:
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- 1 (i) makes an assessment of your income tax for the income
2 year that includes your trigger day; or
3 (ii) if subsection (1A) applied to you in relation to your
4 trigger day only because of subparagraph (1A)(a)(iv) or
5 (v)—makes an assessment of the income tax of the
6 other member of the group referred to in that
7 subparagraph for the income year that includes your
8 trigger day; and

142 Subparagraph 286-80(4A)(b)(iii) in Schedule 1

9 Omit “period; and”, substitute “period; or”.

143 At the end of paragraph 286-80(4A)(b) in Schedule 1

11 Add:

- 12 (iv) the entity is a *subsidiary member of a *consolidated
13 group and subparagraph (i) is satisfied in relation to
14 another member of the consolidated group; or
15 (v) the entity is a member of a *MEC group and
16 subparagraph (i) is satisfied in relation to another
17 member of the MEC group; and
18

144 Paragraph 286-80(4B)(a) in Schedule 1

19 Repeal the paragraph, substitute:

- 20 (a) the Commissioner:
21 (i) makes an assessment of the entity’s income tax for the
22 income year that includes that day; or
23 (ii) if subsection (4A) applied to you in relation to your
24 trigger day only because of subparagraph (4A)(b)(iv) or
25 (v)—makes an assessment of the income tax of the
26 other member of the group referred to in that
27 subparagraph for the income year that includes that day;
28 and
29

145 Application—penalty amounts for members of groups

- 30 (1) The amendments made by items 139, 140 and 141 apply in relation to
31 trigger days (within the meaning of paragraph 284-90(1A)(a) in
32 Schedule 1 to the *Taxation Administration Act 1953*) that occur on or
33 after the start of the day on which the Bill that became this Act was
34 introduced into the House of Representatives.
35

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- 1 (2) The amendments made by items 142, 143 and 144 apply in relation to a
2 failure to give a return, notice or other document as mentioned in
3 paragraph 286-80(4A)(a) in Schedule 1 to the *Taxation Administration*
4 *Act 1953* if the return, notice or document was due on or after the start
5 of the day on which the Bill that became this Act was introduced into
6 the House of Representatives.

7 **146 At the end of section 350-1 in Schedule 1**

8 Add:

9

This Division also deals with procedural and evidentiary matters 10 relating to proceedings to recover an amount of a tax-related 11 liability.

12 **147 At the end of Division 350 in Schedule 1**

13 Add:

14 **350-20 Certain statements or averments**

- 15 (1) In a proceeding to recover an amount of a *tax-related liability, a
16 statement or averment about a matter in the plaintiff's complaint,
17 claim or declaration is prima facie evidence of the matter.
- 18 (2) This section applies even if the matter is a mixed question of law
19 and fact. However, the statement or averment is prima facie
20 evidence of the fact only.
- 21 (3) This section applies even if evidence is given in support or rebuttal
22 of the matter or of any other matter.
- 23 (4) Any evidence given in support or rebuttal of the matter stated or
24 averred must be considered on its merits. This section does not
25 increase or diminish the credibility or probative value of the
26 evidence.
- 27 (5) This section does not lessen or affect any onus of proof otherwise
28 falling on a defendant.

29 **350-25 Evidence by affidavit**

- 30 In a proceeding to recover an amount of a *tax-related liability:
31 (a) a person may give evidence by affidavit; and
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EXPOSURE DRAFT

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- (b) the court may require the person to attend before it:
- (i) to be cross-examined on that evidence; or
 - (ii) to give other evidence relating to the proceedings.

148 Subsection 355-65(2) in Schedule 1 (table item 4)

Repeal the item, substitute:

4	the *Student Assistance Secretary	is for the purpose of administering any *Commonwealth law relating to pensions, allowances or benefits.
4A	the Secretary of the Department administered by the Minister administering the <i>Fair Entitlements Guarantee Act 2012</i>	is for the purpose of administering the <i>Fair Entitlements Guarantee Act 2012</i> .
4B	the *Employment Secretary	is for the purpose of administering any *Commonwealth law relating to pensions, allowances or benefits, other than the <i>Fair Entitlements Guarantee Act 2012</i> .

EXPOSURE DRAFT

1 **Part 3—Amendments relating to instruments**

2 **Division 1—Amendments**

3 *A New Tax System (Goods and Services Tax) Act 1999*

4 **149 Subsection 79-100(1)**

5 Omit all the words after “third party scheme for a *financial year”,
6 substitute:

7 is:

- 8 (a) if paragraph (b) does not apply—the same fraction as the
9 average input tax credit fraction for the scheme for the
10 preceding financial year; or
11 (b) if, under subsection (3), the Minister determines the average
12 input tax credit fraction for the scheme for the financial
13 year—that fraction.

14 Note: The average input tax credit fraction for financial years beginning on
15 or before 1 July 2006 was worked out under this section as in force
16 before the commencement of item 149 of Schedule 1 to the *Treasury*
17 *Laws Amendment (Measures for a later sitting) Act 2019*.

18 **150 Subsection 79-100(2)**

19 Repeal the subsection.

20 **151 Subsection 79-100(3) (heading)**

21 Repeal the heading, substitute:

22 *Minister to use statistical information to determine whether*
23 *average input tax credit fraction is to be varied*

24 **152 Paragraph 79-100(3)(e)**

25 Omit “subparagraph (1)(c)(i)”, substitute “paragraph (1)(a)”.

26 **153 Paragraph 79-100(3)(e)**

27 Omit “in writing”, substitute “by legislative instrument”.

28 **154 Subsection 79-100(6)**

29 Repeal the subsection.

EXPOSURE DRAFT

1 **155 Subsection 131-60(1) (method statement, step 3)**
2 Omit “notice published in the *Gazette*”, substitute “instrument made”.

3 **156 Subparagraph 151-45(1)(a)(i)**
4 Omit “notice published in the *Gazette*”, substitute “instrument made”.

5 **157 Paragraph 162-60(1)(a)**
6 Omit “notice published in the *Gazette*”, substitute “instrument made”.

7 *Australian Prudential Regulation Authority Act 1998*

8 **158 Subsection 12(1)**
9 Omit “may give APRA a written direction”, substitute “may, by
10 legislative instrument, give APRA a direction”.

11 **159 Subsection 12(5)**
12 Repeal the subsection.

13 *Banking Act 1959*

14 **160 Section 6A**
15 Omit “notice published in the *Gazette*”, substitute “legislative
16 instrument”.

17 **161 Section 6A**
18 Omit “the notice” (wherever occurring), substitute “the instrument”.

19 **162 Section 6A**
20 Omit “a notice”, substitute “an instrument”.

21 *Business Names Registration Act 2011*

22 **163 Subsection 64(1)**
23 Omit “may give ASIC a written direction”, substitute “may, by
24 legislative instrument, give ASIC a direction”.

25 **164 Subsection 64(1)**
26 Omit “The direction is not a legislative instrument.”.

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1 **165 Subsection 64(5)**

2 Repeal the subsection.

3 ***Business Names Registration (Transitional and***
4 ***Consequential Provisions) Act 2011***

5 **166 At the end of the Act**

6 Add:

7 **Schedule 3—Transitional provisions for the**
8 **Treasury Laws Amendment (Measures**
9 **for a later sitting) Act 2019**
10

11 **1 Transitional—directions by Minister**

12 A direction given under subsection 64(1) of the *Business Names*
13 *Registration Act 2011* that is in force immediately before the
14 commencement of items 163, 164 and 165 of Schedule 1 to the
15 *Treasury Laws Amendment (Measures for a later sitting) Act 2019*
16 continues in force (and may be dealt with) as if it had been given under
17 that subsection as amended by those items.

18 ***Census and Statistics Act 1905***

19 **167 Paragraph 9(1)(b)**

20 Omit “by notice in writing”, substitute “by legislative instrument”.

21 **168 Paragraph 9(1)(b)**

22 Omit “the notice”, substitute “the instrument”.

23 **169 Subsection 10(2)**

24 Omit “notice published in the *Gazette*”, substitute “notifiable
25 instrument”.

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Commonwealth Places (Mirror Taxes) Act 1998

170 Paragraph 8(5)(a)

Omit “the modifications are notified in the *Gazette*”, substitute “the instrument prescribing the modifications is registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

171 Subsection 9(4)

Repeal the subsection, substitute:

- (4) The Minister must, by notifiable instrument, publish a copy of an arrangement, variation or revocation under this section.

Export Finance and Insurance Corporation Act 1991

172 Subsection 63(5)

Repeal the subsection.

Federal Financial Relations Act 2009

173 Subsection 6(1)

After “The Minister must”, insert “, by notifiable instrument,”.

174 Subsection 6(6)

Repeal the subsection.

Financial Sector (Shareholdings) Act 1998

175 Subsection 14(1)

After “The Treasurer may”, insert “, by notifiable instrument,”.

176 After subsection 14(1)

Insert:

(1A) The instrument of approval must:

- (a) specify the percentage of the stake the Treasurer approves the applicant holding in the company (which may or may not be the percentage the applicant applied for); and
- (b) if the application is granted under paragraph (1)(a)—either:

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- 1 (i) specify the period during which the approval remains in
2 force; or
3 (ii) specify that the approval remains in force indefinitely;
4 and
5 (c) if the application is granted under paragraph (1)(b)—specify
6 that the approval remains in force for the period worked out
7 under section 15A.

8 **177 Subsection 14(2)**

9 Repeal the subsection (not including the heading), substitute:

- 10 (2) If the Treasurer grants the application, the Treasurer must give
11 written notice of the approval (including a copy of the instrument
12 of approval) to:
13 (a) the applicant; and
14 (b) the company concerned; and
15 (c) in the case of an approval granted under paragraph (1)(b), if
16 the company concerned is not the relevant licensed company
17 for the approval—the relevant licensed company for the
18 approval.

19 **178 Subsection 14(4)**

20 Repeal the subsection.

21 **179 Paragraph 15(1)(a)**

22 Omit “notice of approval”, substitute “instrument of approval”.

23 **180 Subsection 15(4)**

24 Omit “the Treasurer may grant the application”, substitute “the
25 Treasurer may, by notifiable instrument, grant the application by
26 amending the instrument of approval to specify the extended period
27 during which the approval remains in force (which may or may not be
28 the period the applicant applied for)”.

29 **181 Subsection 15(5)**

30 Repeal the subsection, substitute:

- 31 (5) If the Treasurer grants the application, the Treasurer must give
32 written notice of the extension (including a copy of the instrument
33 made under subsection (4)) to:
34 (a) the applicant; and

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1 (b) the financial sector company concerned.

2 **182 Subsection 15(7)**

3 Repeal the subsection.

4 **183 Subsection 15A(5)**

5 Omit all the words after “the Treasurer”, substitute:

6 must:

7 (a) by notifiable instrument, publish notice of the cessation of
8 the approval; and

9 (b) give written notice of the cessation to the financial sector
10 company concerned.

11 **184 Subsection 16(1)**

12 Omit “notice of approval”, substitute “instrument of approval”.

13 **185 Subsection 16(2)**

14 Omit “by written notice given to a person who holds an approval under
15 section 14”, substitute “by notifiable instrument, amend an instrument
16 of approval under section 14 to”.

17 **186 Paragraph 16(2)(a)**

18 Omit “impose”, substitute “specify”.

19 **187 Subparagraph 16(2)(b)(i)**

20 Repeal the subparagraph.

21 **188 Subparagraph 16(2)(b)(ii)**

22 Omit “notice of approval”, substitute “instrument of approval”.

23 **189 After subsection 16(2)**

24 Insert:

25 (2A) If, because of an approval under section 14, another approval is
26 taken to be in force under section 19 or 19A, the other approval is
27 subject to such conditions (if any) as:

28 (a) are specified in the instrument of approval under section 14;
29 and

EXPOSURE DRAFT

1 (b) are expressed to apply to approvals taken to be in force under
2 section 19 or 19A.

3 **190 Subsection 16(6)**

4 Repeal the subsection (not including the heading), substitute:

5 (6) If the Treasurer makes an amendment under subsection (2), the
6 Treasurer must give written notice of the amendment (including a
7 copy of the instrument made under that subsection) to:

- 8 (a) the person who holds the approval; and
9 (b) the financial sector company concerned.

10 **191 Subsection 17(3)**

11 Omit “the Treasurer may grant the application”, substitute “the
12 Treasurer may, by notifiable instrument, grant the application by
13 varying the percentage specified in the approval (which may or may not
14 be the percentage the applicant applied for)”.

15 **192 Subsection 17(4)**

16 Repeal the subsection.

17 **193 Subsection 17(6)**

18 Omit “written notice given to a person who holds an approval under
19 section 14”, substitute “notifiable instrument”.

20 **194 Subsection 17(6)**

21 Omit “the approval”, substitute “an instrument of approval under
22 subsection 14(1)”.

23 **195 Subsection 17(7)**

24 Omit “the notice of variation is given”, substitute “the instrument under
25 subsection (3) or (6) is registered on the Federal Register of Legislation
26 under the *Legislation Act 2003*”.

27 **196 Subsection 17(8)**

28 Omit “notice of variation”, substitute “instrument under subsection (3)
29 or (6)”.

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197 Subsection 17(8)

Omit “the day on which the notice is given”, substitute “the day the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

198 Subsection 17(9)

Repeal the subsection (not including the heading), substitute:

(9) If the Treasurer makes a variation under this section, the Treasurer must give written notice of the variation (including a copy of the instrument made under subsection (3) or (6)) to:

- (a) the applicant; and
- (b) the financial sector company concerned.

199 Subsection 18(1)

Omit “by written notice given to a person who holds an approval under section 14 in relation to a financial sector company, revoke the approval”, substitute “by notifiable instrument, revoke an approval that a person holds under section 14 in relation to a financial sector company”.

200 Subsection 18(2)

Omit “notice of revocation”, substitute “instrument of revocation”.

201 Subsection 18(2)

Omit “the day on which the notice is given”, substitute “the day the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

202 Subsection 18(3)

Omit “written notice given to the person”, substitute “notifiable instrument”.

203 Subsection 18(3)

Omit “The revocation takes effect on the day specified in the notice of revocation.”.

204 Subsection 18(4)

Repeal the subsection (not including the heading), substitute:

EXPOSURE DRAFT

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- 1 (4) If the Treasurer revokes an approval under this section, the
2 Treasurer must give written notice of the revocation (including a
3 copy of the instrument made under subsection (1) or (3)) to:
4 (a) the person who held the approval; and
5 (b) the financial sector company concerned.

6 *Fringe Benefits Tax Assessment Act 1986*

7 **205 Subsection 111(3)**

- 8 Omit “notice in writing in the *Gazette*”, substitute “legislative
9 instrument”.

10 *Income Tax Assessment Act 1936*

11 **206 Subsection 6(1) (definition of *Commonwealth securities*)**

- 12 Repeal the definition.

13 **207 Subsection 23AB(4)**

- 14 Repeal the subsection, substitute:

- 15 (4) Subsection 12(2) (retrospective commencement of legislative
16 instruments) of the *Legislation Act 2003* does not apply to
17 regulations made for the purposes of subsection (2) or (3) of this
18 section.

19 **208 Paragraph 82SA(5)(b)**

- 20 Omit “Commonwealth securities”, substitute “securities issued under an
21 Act”.

22 **209 Subsection 128AB(1)**

- 23 After “apply”, insert “, in the approved form,”.

24 **210 Subsection 128AB(2)**

- 25 Repeal the subsection.

26 **211 Subsection 128AE(2)**

- 27 Omit “notice published in the *Gazette*”, substitute “notifiable
28 instrument”.

EXPOSURE DRAFT

212 Subsection 128AE(2AA)

Omit “make a written determination”, substitute “determine, by notifiable instrument,”.

213 After subsection 128AE(2AC)

Insert:

(2ACA) A determination under subsection (2AA) that a company is an OBU and a declaration under subsection (2), for the purposes of paragraph (2)(f), that the company is an offshore banking unit for the purposes of this Division may be included in the same instrument.

214 Subsection 128AE(2A)

Omit “may declare, by notice published in the *Gazette*,” substitute “may, by notifiable instrument, declare”.

215 Subsection 128AE(2C)

Omit “must declare, by notice published in the *Gazette*,” substitute “must, by notifiable instrument, declare”.

216 Subsection 128AE(3)

Omit “the notice containing the declaration is published in the *Gazette*”, substitute “the declaration is registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

217 Section 130

Repeal the section, substitute:

130 Commissioner may require master or agent to make return

(1) The Commissioner may, by writing, require:

(a) the master of a particular ship to which section 129 applies, or the agent or other representative in Australia of the owner or charterer of the ship; or

(b) the master of a ship included in a class of ships to which section 129 applies, or the agent or other representative in Australia of the owner or charterer of the ship;

to make a return of the amounts so paid or payable.

EXPOSURE DRAFT

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- 1 (2) An instrument under subsection (1) that applies to the master of a
2 particular ship, or the agent or other representative in Australia of
3 the owner or charterer of a particular ship:
4 (a) must be given to the master, agent or representative; and
5 (b) is not a legislative instrument.
6 (3) Otherwise, an instrument under subsection (1) is a legislative
7 instrument.

8 **218 Paragraph 160ZZZC(a)**

9 Omit “published”, substitute “made”.

10 **219 Subsection 161(1)**

11 Omit “notice published in the *Gazette*”, substitute “legislative
12 instrument”.

13 **220 Subsection 161(1)**

14 Omit “the notice”, substitute “the instrument”.

15 **221 Subsection 161(1A)**

16 Omit “in the notice”, substitute “in the instrument”.

17 **222 Section 202A (definition of *unit trust*)**

18 Omit “, by notice published in the *Gazette*,” (wherever occurring),
19 substitute “under section 202AB”.

20 **223 At the end of Division 1 of Part VA**

21 Add:

22 **202AB Declaration that an arrangement is, or is not, a unit trust**

23 The Minister may, by legislative instrument, declare that an
24 arrangement is, or is not, a *unit trust* for the purposes of the
25 definition of that term in section 202A.

26 **224 Subsections 202B(3) and (4)**

27 Repeal the subsections.

28 **225 Subsection 202CA(3)**

29 After “The Commissioner may”, insert “, by legislative instrument,”.

EXPOSURE DRAFT

1 **226 Subsection 202CA(4)**

2 Repeal the subsection.

3 **227 Subsection 202EH(1)**

4 Omit “(1) The Commissioner may direct”, substitute “The
5 Commissioner may, by legislative instrument, direct”.

6 **228 Subsections 202EH(2) and (3)**

7 Repeal the subsections.

8 **229 Paragraph 202F(1)(f)**

9 Repeal the paragraph.

10 **230 Division 7 of Part VA**

11 Repeal the Division.

12 ***Income Tax Assessment Act 1997***

13 **231 Subsection 30-85(2)**

14 Omit “by notice in the *Gazette*”, substitute “by legislative instrument”.

15 **232 Paragraph 30-85(2)(b)**

16 Repeal the paragraph, substitute:

17 (b) is solely for the relief of people in a country that:

- 18 (i) is included in the list of official development assistance
19 recipients published from time to time by the
20 Organisation for Economic Co-operation and
21 Development’s Development Assistance Committee; or
22 (ii) is declared by the Foreign Affairs Minister to be a
23 developing country.

24 Note: In 2019, the list of official development assistance recipients was
25 available on the OECD’s website (<http://www.oecd.org>).

26 **233 Subsections 30-85(3) and (4)**

27 Repeal the subsections, substitute:

- 28 (3) A declaration made by the Minister under subsection (2) must not
29 take effect earlier than the day after it is registered on the Federal
30 Register of Legislation under the *Legislation Act 2003*.

EXPOSURE DRAFT

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- 1 (4) The Minister may, by legislative instrument, revoke a declaration
2 made by the Minister under subsection (2). The revocation must
3 not take effect earlier than the day after the instrument is registered
4 on the Federal Register of Legislation under the *Legislation Act*
5 *2003*.

6 **234 Subsections 30-86(2) and (3)**

7 Repeal the subsections, substitute:

- 8 (2) The Minister’s recognition of an event as a disaster:
9 (a) must be by notifiable instrument; and
10 (b) must specify the day (or the first day) of the event.

11 **235 Subsection 214-5(2)**

12 Repeal the subsection, substitute:

- 13 (2) The Commissioner is able to make a legislative instrument
14 requiring corporate tax entities to give a franking return for an
15 income year.

16 **236 Subsection 214-5(6)**

17 Omit “*Tax Administration Act 1953*”, substitute “*Taxation*
18 *Administration Act 1953*”.

19 **237 Section 214-15**

20 Repeal the section, substitute:

21 **214-15 Requirement to give franking return—general**

- 22 (1) The Commissioner may, by legislative instrument, require each
23 *corporate tax entity to which the instrument applies to give the
24 Commissioner a *franking return for a specified income year.

- 25 (2) An entity to which the instrument applies must comply with the
26 requirement within the time specified in the instrument.

27 Note: The Commissioner may defer the time for giving the return: see
28 section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

29 **238 At the end of subsection 820-960(1A)**

30 Add:

31 Note: For exemptions, see section 820-962.

EXPOSURE DRAFT

239 Subsections 820-960(4) and (5)

Repeal the subsections.

240 After section 820-960

Insert:

820-962 Records about Australian permanent establishments— exemptions from Australian accounting standards

General exemption

- (1) The Commissioner may, by legislative instrument, exempt, for the purposes of subsection 820-960(1A), a specified class of entities from the requirement to comply with all or part of the *accounting standards for one or more income years if the Commissioner is satisfied that it would be unreasonable for the entities in that class be required to so comply.

Note: The Commissioner's power under this subsection does not extend to the overseas or international accounting standards.

Application for specific exemption

- (2) An entity (the *applicant*) may apply to the Commissioner, in the *approved form, for an exemption from the requirement to comply with all or part of the *accounting standards for one or more income years for the purposes of subsection 820-960(1A).
- (3) The Commissioner may grant the exemption in whole or in part if the Commissioner is satisfied that it would be unreasonable for the applicant to be required to so comply.

Note: The Commissioner's power under this subsection does not extend to the overseas or international accounting standards.

- (4) The Commissioner must give the applicant written notice if the Commissioner:
- (a) grants the exemption; or
 - (b) refuses to grant the exemption.
- (5) The Commissioner is taken to have refused to grant the exemption if the Commissioner fails to give the applicant a notice under subsection (4) within 60 days after the application is made.
- (6) A notice under subsection (4) is not a legislative instrument.

EXPOSURE DRAFT

241 Section 820-965

Omit “subsection 820-960(4)”, substitute “subsection 820-962(3)”.

242 Paragraphs 820-990(1)(a) and 820-995(1)(a)

After “820-960”, insert “, 820-962”.

Insurance Acquisitions and Takeovers Act 1991**243 Section 43**

After “the Minister may”, insert “, by notifiable instrument.”.

244 Subsection 44(1)

After “purposes,” insert “by notifiable instrument.”.

245 After subsection 44(1)

Insert:

(1A) An approval of a person or persons under paragraph (1)(c):

(a) is a notifiable instrument; and

(b) may be included in the same instrument as the divestment order.

246 Subsection 44(2)

Omit “notice in writing served on the person”, substitute “notifiable instrument”.

247 Section 46

Repeal the section.

248 Section 47

Repeal the section, substitute:

47 When orders come into operation

(1) A permanent restraining order comes into operation on the day specified in the order, which must not be before the order is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

EXPOSURE DRAFT

1 (2) A divestment order comes into operation on the day specified in
2 the order, which must be at least 30 days after the order is
3 registered on the Federal Register of Legislation under the
4 *Legislation Act 2003*.

5 **249 Subsection 48(1)**

6 Omit “notice published in the *Gazette*”, substitute “notifiable
7 instrument”.

8 **250 Section 57**

9 After “the Minister may”, insert “, by notifiable instrument,”.

10 **251 Subsection 58(1)**

11 After “purposes,” insert “by notifiable instrument,”.

12 **252 Subsection 58(2)**

13 Repeal the subsection.

14 **253 Section 60**

15 Repeal the section.

16 **254 Subsections 61(1) and (2)**

17 Repeal the subsections, substitute:

18 (1) A permanent restraining order comes into operation on the day
19 specified in the order, which must not be before the order is
20 registered on the Federal Register of Legislation under the
21 *Legislation Act 2003*.

22 (2) A divestment order comes into operation on the day specified in
23 the order, which must be at least 30 days after the order is
24 registered on the Federal Register of Legislation under the
25 *Legislation Act 2003*.

26 **255 Subsection 62(1)**

27 Omit “notice published in the *Gazette*”, substitute “notifiable
28 instrument”.

EXPOSURE DRAFT

Insurance Contracts Act 1984

256 Subsection 35(3)

Omit “notified in the *Gazette*”, substitute “registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

International Tax Agreements Act 1953

257 Subsection 4A(2)

Omit “must cause to be published in the *Gazette* a notice setting out particulars of the event”, substitute “must, by notifiable instrument, publish particulars of the event”.

Payment Systems and Netting Act 1998

258 Subsection 15(1)

Omit “may declare in writing”, substitute “may, by notifiable instrument, declare”.

259 Paragraph 15(2)(a)

Omit “after the declaration is made”, substitute “after the day the declaration is registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

260 Paragraphs 15(2)(b) and (c)

Repeal the paragraphs, substitute:

(b) ceases to have effect at the end of 6 months after the day it is registered.

Payment Systems (Regulation) Act 1998

261 Subsection 9(3)

Omit “notice in writing published in the *Gazette*”, substitute “legislative instrument”.

262 Subsection 11(1)

After “The Reserve Bank may”, insert “, by notifiable instrument”.

EXPOSURE DRAFT

1 **263 Subsection 11(1)**

2 Omit “The designation is to be by notice in writing published in the
3 *Gazette*.”.

4 **264 At the end of subsection 11(2)**

5 Add:

6 Note: For variation and revocation, see subsection 33(3) of the *Acts*
7 *Interpretation Act 1901*.

8 **265 Subsection 11(3)**

9 Repeal the subsection.

10 **266 Subsection 12(1)**

11 After “The Reserve Bank may”, insert “, by legislative instrument,”.

12 **267 Subsections 12(3) and (4)**

13 Repeal the subsections.

14 **268 Paragraph 13(a)**

15 Repeal the paragraph, substitute:

16 (a) comes into force on the day specified in the instrument
17 imposing the regime under section 12, which must not be
18 earlier than the day after the instrument is registered on the
19 Federal Register of Legislation under the *Legislation Act*
20 *2003*; and

21 **269 Subsection 14(1)**

22 After “The Reserve Bank may”, insert “, by legislative instrument,”.

23 **270 Subsections 14(2), (3) and (4)**

24 Repeal the subsections.

25 **271 Subsection 14(7)**

26 Repeal the subsection, substitute:

27 (7) A variation of the access regime takes effect on the day specified in
28 the instrument, which must not be earlier than the day after the
29 instrument is registered on the Federal Register of Legislation
30 under the *Legislation Act 2003*.

EXPOSURE DRAFT

272 Subsection 15(3)

After “The Reserve Bank may”, insert “, by legislative instrument”.

273 Subsection 15(4)

Repeal the subsection.

274 Subsection 15(7)

Repeal the subsection, substitute:

- (7) The revocation of the access regime takes effect on the day specified in the instrument, which must not be earlier than the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

275 Subsection 18(1)

Omit “in writing”, substitute “by legislative instrument”.

276 Subsection 18(1) (note)

Omit “Note”, substitute “Note 1”.

277 At the end of subsection 18(1)

Add:

Note 2: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

278 Paragraph 18(2)(a)

Repeal the paragraph, substitute:

- (a) comes into force on the day specified in the determination, which must not be earlier than the day after the determination is registered on the Federal Register of Legislation under the *Legislation Act 2003*; and

279 Subsections 18(3), (4) and (5)

Repeal the subsections.

280 Subsection 23(2)

After “The Reserve Bank may”, insert “, by notifiable instrument”.

281 Subsection 23(3)

Repeal the subsection.

EXPOSURE DRAFT

1 **282 Subsection 23(4)**

2 Omit “by notice in writing given to the corporation”, substitute “by
3 notifiable instrument”.

4 **283 Paragraph 23(5)(a)**

5 Repeal the paragraph, substitute:

6 (a) comes into force on the day specified in the authority, which
7 must not be earlier than the day after the authority is
8 registered on the Federal Register of Legislation under the
9 *Legislation Act 2003*; and

10 **284 Subsection 23(6)**

11 Omit “may revoke the authority by notice in writing to the corporation”,
12 substitute “may, by notifiable instrument, revoke the authority”.

13 **285 Subsections 23(7) and (8)**

14 Repeal the subsections.

15 **286 Paragraph 25(4)(a)**

16 Omit “notice in writing given to the corporation”, substitute “notifiable
17 instrument”.

18 **287 Paragraph 25(4)(b)**

19 Omit “notice in writing published in the *Gazette*”, substitute “legislative
20 instrument”.

21 **288 Paragraph 25(5)(a)**

22 Repeal the paragraph, substitute:

23 (a) comes into force on the day specified in the instrument,
24 which must not be earlier than the day after the instrument is
25 registered on the Federal Register of Legislation under the
26 *Legislation Act 2003*; and

27 **289 Subsections 25(6), (7) and (8)**

28 Repeal the subsections.

29 **290 Section 27**

30 Omit “in writing”, substitute “by notifiable instrument”.

EXPOSURE DRAFT

1 **291 Section 28**

2 Repeal the section.

3 **292 Subsection 29(2)**

4 Omit all the words after “the Reserve Bank”, substitute “must take
5 reasonable steps to ensure that the participants in the payment system
6 concerned are informed of the action”.

7 **293 Subsection 29(3)**

8 Omit all the words after “an access regime, the Reserve Bank”,
9 substitute “must take reasonable steps to ensure that any participants in
10 the payment system concerned are informed of the revocation”.

11 **294 Section 30**

12 Repeal the section.

13 ***Petroleum Excise (Prices) Act 1987***

14 **295 Subsection 6(2)**

15 Omit “notice published in the *Gazette*”, substitute “legislative
16 instrument”.

17 ***Reserve Bank Act 1959***

18 **296 Section 6A**

19 Omit “notice published in the *Gazette*”, substitute “legislative
20 instrument”.

21 **297 Section 6A**

22 Omit “the notice” (wherever occurring), substitute “the instrument”.

23 **298 Section 6A**

24 Omit “a notice”, substitute “an instrument”.

25 **299 Section 35**

26 Omit “the Treasurer, by instrument in writing published in the *Gazette*,
27 determines”, substitute “the Treasurer determines by legislative
28 instrument”.

EXPOSURE DRAFT

Tax Agent Services Act 2009

300 Subsection 30-25(1) (note)

Omit “in the *Gazette*”, substitute “by notifiable instrument”.

301 Subsection 40-20(1) (note 2)

Omit “in the *Gazette*”, substitute “by notifiable instrument”.

302 Paragraphs 50-10(1)(e) and (2)(e)

Omit “approved by the Commissioner by notice published in the *Gazette*”, substitute “that the Commissioner has, by notifiable instrument, approved for the purposes of this paragraph”.

303 Subsection 50-10(5)

Repeal the subsection.

304 Section 60-140

Omit “must cause a notice of the following decisions to be published in the *Gazette*”, substitute “must, by notifiable instrument, publish notice of the following decisions”.

Taxation Administration Act 1953

305 Subsection 15-15(3) in Schedule 1

Repeal the subsection, substitute:

(3) A variation must be made:

(a) if it applies to a particular entity—by a written notice given to that entity; or

(b) if it applies to a class of entities—by legislative instrument.

306 Subsection 15-25(1) in Schedule 1

After “the Commissioner may”, insert “, by legislative instrument,”.

307 Subsections 15-25(3), (4) and (5) in Schedule 1

Repeal the subsections.

308 Subsection 16-153(7) in Schedule 1

Repeal the subsection, substitute:

EXPOSURE DRAFT

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- 1 (7) A variation must be made:
2 (a) if it applies to a particular entity—by a written notice given
3 to that entity; or
4 (b) if it applies to a class of entities—by legislative instrument.

5 **309 Subsection 16-180(2) in Schedule 1**

6 Repeal the subsection, substitute:

- 7 (2) An exemption must be made:
8 (a) if it applies to a particular entity—by a written notice given
9 to that entity; or
10 (b) if it applies to a class of entities—by legislative instrument.

11 **310 Paragraph 45-90(1)(b) in Schedule 1**

12 Omit “by notice published in the *Gazette*”, substitute “by legislative
13 instrument”.

14 **311 Subsection 350-10(1) in Schedule 1 (at the end of the
15 table)**

16 Add:

- 17
5 a *public ruling or *private ruling; the ruling was properly made.

18 **312 Section 357-100 in Schedule 1**

19 Repeal the section.

20 **313 Subsection 358-5(4) in Schedule 1**

21 Omit “must publish notice of the making of a *public ruling in the
22 *Gazette*”, substitute “must, by notifiable instrument, publish notice of
23 the making of a *public ruling”.

24 **314 Subsection 358-20(1) in Schedule 1**

25 After “The Commissioner may”, insert “, by notifiable instrument”.

26 **315 Subsection 358-20(1) in Schedule 1**

27 Omit “, by publishing notice of the withdrawal”.

EXPOSURE DRAFT

316 Subsection 358-20(2) in Schedule 1

Omit “the notice. That time must not be before the time the notice is published”, substitute “the instrument. That time must not be before the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

317 Subsection 358-20(4) in Schedule 1

Repeal the subsection.

318 Subsection 362-5(3) in Schedule 1

Omit “must publish notice of the making of a *public ruling in the Gazette”, substitute “must, by notifiable instrument, publish notice of the making of a *public ruling”.

319 Subsection 362-20(1) in Schedule 1

After “Science Australia must”, insert “, by notifiable instrument,”.

320 Subsection 362-20(1) in Schedule 1

Omit “, by publishing notice of the withdrawal,”.

321 Subsection 362-20(2) in Schedule 1

Omit “the notice. That time must not be before the time the notice is published”, substitute “the instrument. That time must not be before the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

322 Subsection 362-20(3) in Schedule 1

Repeal the subsection.

323 Subsection 446-5(5) in Schedule 1 (heading)

Omit “*in Gazette*”, substitute “*by notifiable instrument*”.

324 Subsection 446-5(5) in Schedule 1

Omit “the Commissioner must cause to be published in the *Gazette* a notice setting out”, substitute “the Commissioner must, by notifiable instrument, publish notice of the making of the resolution. The instrument must also set out”.

EXPOSURE DRAFT

Terrorism Insurance Act 2003

325 Subsections 6(1) and (8)

Omit “notice in the *Gazette*”, substitute “legislative instrument”.

326 Subsection 38(1)

Omit “may give written directions to the Corporation”, substitute “may, by notifiable instrument, direct the Corporation”.

327 Subsection 38(6)

Repeal the subsection.

Division 2—Application and transitional provisions

328 Transitional—general provision to preserve existing instruments

- (1) Subitem (2) applies to an instrument (however described) made under, or for the purposes of, a provision amended by an item of this Part if:
- (a) the instrument was in force immediately before the commencement of this Part; and
 - (b) the provision, as amended, provides for the same instrument, or a similar instrument, to be made as a notifiable instrument or a legislative instrument; and
 - (c) item 329 does not apply to the instrument.
- (2) The instrument continues in force (and may be dealt with) as if it had been made under, or for the purposes of, the provision as amended.

329 Transitional—other instruments

- (1) An approval under section 14 of the *Financial Sector (Shareholdings) Act 1998* and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were an approval under that section as amended by this Part.
- (2) A notice given under section 130 of the *Income Tax Assessment Act 1936* to a particular person and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were a notice under subsection 130(2) of that Act as amended by this Part.

EXPOSURE DRAFT

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- 1 (3) A declaration made under the definition of *unit trust* in section 202A of
2 the *Income Tax Assessment Act 1936* and in force immediately before
3 the commencement of this Part continues in force (and may be dealt
4 with) as if it were a declaration under section 202AB of that Act as
5 inserted by this Part.
- 6 (4) A decision made under subsection 820-960(4) of the *Income Tax*
7 *Assessment Act 1997* and in force immediately before the
8 commencement of this Part continues in force (and may be dealt with)
9 as if it were:
- 10 (a) for a decision that applies to a particular entity—an
11 exemption under subsection 820-962(3) of that Act as
12 inserted by this Part; or
- 13 (b) otherwise—an exemption under subsection 820-962(1) of
14 that Act as inserted by this Part.
- 15 (5) A variation made under section 15-15 in Schedule 1 to the *Taxation*
16 *Administration Act 1953* and in force immediately before the
17 commencement of this Part continues in force (and may be dealt with)
18 as if it were:
- 19 (a) for a variation made by written notice to a particular entity—
20 a variation made by notice under paragraph 15-15(3)(a) in
21 that Schedule as substituted by this Part; or
- 22 (b) otherwise—a variation made by legislative instrument under
23 paragraph 15-15(3)(b) in that Schedule as substituted by this
24 Part.
- 25 (6) A variation made under subsection 16-153(6) in Schedule 1 to the
26 *Taxation Administration Act 1953* and in force immediately before the
27 commencement of this Part continues in force (and may be dealt with)
28 as if it were:
- 29 (a) for a variation made by written notice to a particular entity—
30 a variation made by notice under paragraph 16-153(7)(a) in
31 that Schedule as substituted by this Part; or
- 32 (b) otherwise—a variation made by legislative instrument under
33 paragraph 16-153(7)(b) in that Schedule as substituted by this
34 Part.
- 35 (7) An exemption made under section 16-180 in Schedule 1 to the *Taxation*
36 *Administration Act 1953* and in force immediately before the
37 commencement of this Part continues in force (and may be dealt with)
38 as if it were:
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EXPOSURE DRAFT

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- 1 (a) for an exemption made by written notice to a particular
2 entity—an exemption made by notice under
3 paragraph 16-180(2)(a) in that Schedule as substituted by this
4 Part; or
5 (b) otherwise—an exemption made by legislative instrument
6 under paragraph 16-180(2)(b) in that Schedule as substituted
7 by this Part.

8 (8) Item 328 does not apply to a direction given under subsection 64(1) of
9 the *Business Names Registration Act 2011*.

10 Note: For a transitional provision for directions given under subsection 64(1) of the *Business*
11 *Names Registration Act 2011*, see item 166 of this Schedule.