

EXPOSURE DRAFT



EXPOSURE DRAFT

Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2020

David Hurley
Governor-General

By His Excellency's Command

Jane Hume [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Minister for Superannuation, Financial Services and Financial Technology
Parliamentary Secretary to the Treasurer

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

1	Name.....	1
2	Commencement.....	1
3	Authority.....	1
4	Schedules	2
Schedule 1—Amendments commencing day after registration		3
	<i>Australian Charities and Not-for-profits Commission Regulation 2013</i>	3
	<i>Commonwealth Places (Mirror Taxes) Regulations 2000</i>	3
	<i>Competition and Consumer (Industry Codes—Franchising) Regulation 2014</i>	3
	<i>Corporations Regulations 2001</i>	4
	<i>Income Tax Assessment (1936 Act) Regulation 2015</i>	10
	<i>National Consumer Credit Protection Regulations 2010</i>	10
	<i>Petroleum Resource Rent Tax Assessment Regulation 2015</i>	11
	<i>Retirement Savings Accounts Regulations 1997</i>	14
	<i>Superannuation Industry (Supervision) Regulations 1994</i>	14
	<i>Tax Agent Services Regulations 2009</i>	15
Schedule 2—Amendments with other commencements		16
	<i>Corporations Regulations 2001</i>	16
	<i>Superannuation Guarantee (Administration) Regulations 2018</i>	17

EXPOSURE DRAFT

1 Name

This instrument is the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1	The day after this instrument is registered.	
3. Schedule 2, items 1 to 11	The later of: (a) the day after this instrument is registered; and (b) the day that the <i>Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Act 2019</i> commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
4. Schedule 2, item 12	At the same time as Part 1 of Schedule # to the [<i>Minor and Technical Amendments Act</i>] commences. However, the provisions do not commence at all if that Part does not commence.	

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 *Australian Charities and Not-for-profits Commission Act 2012*;
- (b) the *Commonwealth Places (Mirror Taxes) Act 1998*;
- (c) section 51AE of the *Competition and Consumer Act 2010*;
- (d) the *Corporations Act 2001*;
- (e) the *Income Tax Assessment Act 1936*;

EXPOSURE DRAFT

- (f) the *National Consumer Credit Protection Act 2009*;
- (g) the *Petroleum Resource Rent Tax Assessment Act 1987*;
- (h) the *Retirement Savings Accounts Act 1997*;
- (i) the *Superannuation Guarantee (Administration) Act 1992*;
- (j) the *Superannuation Industry (Supervision) Act 1993*;
- (k) the *Tax Agent Services Act 2009*.

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.

EXPOSURE DRAFT

Amendments commencing day after registration **Schedule 1**

Schedule 1—Amendments commencing day after registration

Australian Charities and Not-for-profits Commission Regulation 2013

1 Section 60.1

Omit “this Division prescribes”, substitute “Subdivisions 60-B, 60-C and 60-D of this Division prescribe”.

2 After Subdivision 60-B of Division 60 of Part 2-2

Insert:

Subdivision 60-BA—Auditors

60.17 Prescribed entities undertaking audits or reviews

The following entities are prescribed for the purposes of paragraph 60-30(1)(d) of the Act:

- (a) an individual who holds office as, or is for the time being exercising the powers and performing the duties of:
 - (i) the Auditor-General; or
 - (ii) the Auditor-General for a State or Territory;
- (b) an individual to whom the Auditor-General for the Commonwealth, or for a State or Territory, delegates:
 - (i) the function of conducting an audit; or
 - (ii) the power to conduct an audit.

3 Subsection 60.30(2) (table item 4)

Repeal the item.

Commonwealth Places (Mirror Taxes) Regulations 2000

4 Regulation 4 (table item 2)

Omit “Land Tax Act 1958”.

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

5 Annexure 2 of Schedule 1 (paragraph beginning “Know your rights”)

Omit “<http://www.comlaw.gov.au>”, substitute “<http://www.legislation.gov.au>”.

6 Annexure 2 of Schedule 1 (paragraph beginning “You should also”)

Omit “<http://www.franchise.edu.au/education.html>”, substitute “<https://www.accc.gov.au/about-us/tools-resources/cca-education-programs>”.

EXPOSURE DRAFT

Schedule 1 Amendments commencing day after registration

Corporations Regulations 2001

7 Subregulation 1.0.02(1) (subparagraph (a)(ii) of the definition of medical indemnity insurance product)

Repeal the subparagraph, substitute:

- (ii) a registered health professional prescribed by regulations made under the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* for the purposes of a provision of Part 3 of that Act; and

8 At the end of subregulation 5.3A.50(2)

Add:

- ; (zq) a contract, agreement or arrangement that is for reinsurance or retrocession.

9 Paragraph 5.5.01(2)(b)

Omit “trading name”, substitute “business name”.

10 Subregulation 7.1.22AA(3) (definition of contract for difference)

After “derivative to which”, insert “all of”.

11 Subregulation 7.5A.150B(1)

Repeal the subregulation, substitute:

- (1) For paragraph 904B(2)(d) of the Act, each of the following persons or bodies may request a derivative trade repository licensee to provide it with derivative trade data that is retained in the derivative trade repository:
 - (a) the Bank of England;
 - (b) the Financial Conduct Authority of the United Kingdom;
 - (c) the Monetary Authority of Singapore.

12 Subregulation 7.5A.150B(2)

Omit “The request”, substitute “A request under subregulation (1)”.

13 Schedule 1 (after table item 4)

Insert:

4A	Subparagraph 206GAA(1)(b)(i)	Notice to demonstrate why disqualification should not occur	588
4B	Subsection 206GAA(6)	Notice of disqualification from managing corporations	589

14 In the appropriate position in Schedule 2

Insert:

Form 587

(subsection 206F(3))

EXPOSURE DRAFT

Amendments commencing day after registration **Schedule 1**

15 Schedule 2 (after Form 587)

Insert:

Form 588

(subparagraph 206GAA(1)(b)(i))

Form 588

Corporations Act 2001

Subparagraph 206GAA(1)(b)(i)

Notice to demonstrate why disqualification should not occur

IN THE MATTER of (1) _____

Notice to demonstrate why disqualification should not occur

under section 206GAA of the Corporations Act 2001.

To: (2) _____

The records of the Australian Securities and Investments Commission (ASIC) show that you are or were an officer of _____ (3) corporations that have been wound up, being _____ (4)

where money was advanced for the purposes of paying the entitlements of employees of the corporations under the Fair Entitlements Guarantee Act 2012 and:

- the Commonwealth has received a minimal return, or no return on the advance; and
- ASIC has reason to believe that the Commonwealth is unlikely to receive more than a minimal return on the advance; and
- ASIC has reason to believe that either the corporations contravened the Corporations Act 2001 or Corporations (Aboriginal and Torres Strait Islander) Act 2006 and that the person failed to take reasonable steps to prevent the

EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 1 Amendments commencing day after registration

contravention or the person contravened the Corporations Act 2001 or Corporations (Aboriginal and Torres Strait Islander) Act 2006.

In these circumstances you are required to demonstrate, in accordance with subparagraph 206GAA(1)(b)(i) of the Act, why you should not be disqualified from managing corporations.

Under subsection 206GAA(1) of the Act you may be disqualified from managing corporations for a period of up to 5 years.

In making a decision under subsection 206GAA(1) of the Act ASIC is required to give you an opportunity to be heard in relation to why you should not be disqualified from managing corporations.

AREAS OF CONCERN

ASIC has identified a number of concerns about your conduct which are described in Attachment "A".

The documents on which these concerns are based are listed in Attachment "B".

OPPORTUNITY TO BE HEARD

If you wish to demonstrate why you should not be disqualified from managing corporations you should notify ASIC within 14 days from the date of service of this notice that you require an opportunity of being heard.

EXPOSURE DRAFT

Amendments commencing day after registration **Schedule 1**

You may exercise your right to be heard by:

1. making a written submission; or
2. appearing before a person ASIC has appointed to hear the matter (the delegate) and making submissions orally and appearing before the delegate to present evidence; or
3. making submissions by telephone or video call to a person ASIC has appointed to hear the matter.

You may exercise your right by doing one of these options.

Once you have notified ASIC of your wish to demonstrate why you should not be disqualified a delegate will write to you with further details of the hearing procedure.

If you do not wish to demonstrate why you should not be disqualified, a decision will be made by a delegate on the information available.

If you wish to have access to the documents listed in Attachment "B" you should contact ASIC as soon as possible. Access to documents which are identified as "confidential" may be given subject to strict conditions of confidentiality.

Dated this _____ day of _____

Signed

(5) Delegate of the Australian Securities and Investments Commission

EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 1 Amendments commencing day after registration

Attachments

Attachment "A"

Areas of concern

Attachment "B"

List of documents upon which concerns are based

DIRECTIONS

- (1) Insert name of person subject of the notice.
- (2) Insert name of person subject of the notice.
- (3) Insert number of corporations of which the person was an officer.
- (4) Insert names and ACNs of corporations.
- (5) Insert full name of delegate signing the notice.

Form 589

(subsection 206GAA(6))

Form 589

Corporations Act 2001

Subsection 206GAA(6)

Notice of disqualification from managing corporations

IN THE MATTER of (1) _____

Notice of disqualification from managing corporations
under subsection 206GAA(6) of the Corporations Act 2001.

To: (2) _____

EXPOSURE DRAFT

Amendments commencing day after registration **Schedule 1**

ASIC has given you notice in the prescribed form requiring you to demonstrate why you should not be disqualified from managing corporations and has given you an opportunity to be heard on the question.

TAKE NOTICE THAT having regard to the Notice to Demonstrate Why Disqualification Should Not Occur dated _____ (3) issued by _____

_____ (4) and your opportunity to be heard ASIC is satisfied that your disqualification pursuant to section 206GAA of the Corporations Act 2001 is justified.

YOU ARE DISQUALIFIED from the time of service of this notice for a period of _____ (5) years from managing corporations without the leave of ASIC.

Please note the extent of the legal prohibitions on your management of corporations under section 206A of the Corporations Act 2001.

Dated this _____ day of _____ (6)

Signed

(7) Delegate of the Australian Securities and Investments Commission

DIRECTIONS

EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 1 Amendments commencing day after registration

- (1) Insert the name of person being disqualified.
- (2) Insert the name of person being disqualified.
- (3) Insert date of Notice to Demonstrate Why Disqualification Should Not Occur.
- (4) Insert name of delegate who issued Notice to Demonstrate Why Disqualification Should Not Occur.
- (5) Insert number of years disqualified.
- (6) Insert date of notice.
- (7) Insert full name of delegate signing notice.

16 Paragraph 7003(b) of Schedule 7

Repeal the paragraph.

Income Tax Assessment (1936 Act) Regulation 2015

17 Subsection 6(3) (table item 5, column 2, subparagraphs (a)(i), (iii), (iv), (v), (vii), (viii), (ix), (xiii), (xiv) and (xv))

Repeal the subparagraphs.

National Consumer Credit Protection Regulations 2010

18 Subregulation 10(5)

Omit “For paragraph 110(a)”, substitute “For the purposes of paragraph 110(1)(a)”.

19 Subregulation 13(2) (note)

Omit “110(c)”, substitute “110(1)(c)”.

20 Regulation 16

Omit “For paragraph 110(c)”, substitute “For the purposes of paragraph 110(1)(c)”.

21 Regulation 16 (note)

Omit “110(c)”, substitute “110(1)(c)”.

22 Subregulations 20(1), 21(1), 22(1) and 23(1)

Omit “For paragraph 110(a)”, substitute “For the purposes of paragraph 110(1)(a)”.

23 Subregulation 23(5) (definition of *relevant beneficiary*)

Relocate the definition to its appropriate alphabetical position, determined on a letter-by-letter basis.

24 Subregulations 23A(1), 23B(1), 23C(1) and 23D(1)

Omit “For paragraph 110(a)”, substitute “For the purposes of paragraph 110(1)(a)”.

25 Subregulation 23D(4)

Omit “For paragraph 110(c)”, substitute “For the purposes of paragraph 110(1)(c)”.

EXPOSURE DRAFT

Amendments commencing day after registration **Schedule 1**

26 Subregulation 24(1)

Omit “For paragraphs 110(b) and (c)”, substitute “For the purposes of paragraphs 110(1)(b) and (c)”.

27 Subregulation 24(10)

Omit “For paragraph 110(c)”, substitute “For the purposes of paragraph 110(1)(c)”.

28 Subregulation 25(1)

Omit “For paragraph 110(b)”, substitute “For the purposes of paragraph 110(1)(b)”.

29 Regulations 25A, 25B, 25C, 25D, 25E and 25F

Omit “For paragraph 110(c)”, substitute “For the purposes of paragraph 110(1)(c)”.

30 Subregulations 25G(1) and 25H(1)

Omit “For paragraphs 110(c)”, substitute “For the purposes of paragraphs 110(1)(c)”.

31 Subregulations 25I(1) and 25J(1)

Omit “For paragraph 110(c)”, substitute “For the purposes of paragraph 110(1)(c)”.

Petroleum Resource Rent Tax Assessment Regulation 2015

32 Section 5 (paragraph (f) of the note to the heading)

Repeal the paragraph.

33 Section 5 (definition of *assessable gas*)

Repeal the definition, substitute:

assessable gas, for calculating assessable petroleum receipts relating to sales gas, means project sales gas.

34 Section 5 (definition of *comparable uncontrolled price or CUP*)

Repeal the definition, substitute:

comparable uncontrolled price or CUP, in relation to a relevant transaction for a volume or mass of project sales gas, has the meaning given by subsection 23(1).

35 Section 5 (paragraph (b) of the definition of *downstream stage*)

Omit “subsection 8(3); and”, substitute “subsection 8(3)”.

36 Section 5 (paragraphs (c) and (d) of the definition of *downstream stage*)

Repeal the paragraphs.

37 Section 5 (definition of *taxpayer*)

Omit “or natural gas”.

38 Section 5 (definition of *taxpayer*)

Omit “19, 20 or 21”, substitute “19 or 20”.

EXPOSURE DRAFT

Schedule 1 Amendments commencing day after registration

39 Section 5 (definition of *upstream stage*)

Repeal the definition, substitute:

upstream stage, for calculating assessable petroleum receipts relating to sales gas, has the meaning given by subsection 8(1).

40 Subsections 8(4), 8(5) and 8(6)

Repeal the subsections (not including the notes).

41 Subsection 9(3)

Repeal the subsection.

42 Subsection 13(2)

Repeal the subsection, substitute:

(2) The estimates must be given to the Commissioner in the financial year before the production year.

43 Section 19

Omit “49 or” (wherever occurring).

44 Section 20

Omit “49 or” (wherever occurring).

45 Section 21

Repeal the section.

46 Subsection 22(1)

Omit “or project natural gas”.

47 Subsection 22(1)

Omit “24(1)(d), (e) or (f)”, substitute “24(1)(d) or (e)”.

48 Subsection 23(2)

Repeal the subsection.

49 Paragraphs 23(3)(a), (b) and (c)

Omit “or natural gas”.

50 Subsection 25(4) (example 3)

Repeal the example, substitute:

Example 3: This section would apply if a participant in an integrated operation, using the residual pricing method, has practical or commercial difficulties in accessing the information needed to apply that method because other participants in the operation are using one of the other methods prescribed by this instrument.

51 Section 30 (method statement, step 12)

Omit “subsection 43(1) if that subsection”, substitute “section 43 if that section”.

EXPOSURE DRAFT

Amendments commencing day after registration **Schedule 1**

52 Subsection 37(1)

Repeal the subsection, substitute:

- (1) This section applies to an included capital cost if the cost is for:
 - (a) an integrated GTL operation for which an election has been made under section 50; and
 - (b) the cost was incurred before 1 July 2012.

53 Subsections 40(2) and 41(1) (paragraph (b) of note 1)

Omit “or 51”.

54 Subsection 43(1)

Omit “(1)”.

55 Subsection 43(2)

Repeal the subsection.

56 Section 44

Omit “19, 20 or 21” (wherever occurring), substitute “19 or 20”.

57 Subsections 45(1) and 46(1)

Omit “19, 20 or 21”, substitute “19 or 20”.

58 Paragraph 47(c)

Omit “or (2)”.

59 Sections 48 and 49

Repeal the sections.

60 Paragraph 50(2)(c)

Repeal the paragraph.

61 At the end of section 50 (before the note)

Add:

- (3) If an election has been made under this section and one or more new participants are later added to the integrated GTL operation:
 - (a) the election continues in force for the participants who made it; and
 - (b) any new participant is also taken to have made the election at the time the new participant is added to the integrated GTL operation.

62 Section 51

Repeal the section.

63 At the end of Part 7

Add:

EXPOSURE DRAFT

Schedule 1 Amendments commencing day after registration

54 Application of amendments made by the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020*

- (1) The amendments made by Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020* apply in relation to:
 - (a) an amount of deductible expenditure incurred, or taken to be incurred, in the financial year starting on 1 July 2019 or any later financial year; and
 - (b) an amount of assessable receipts derived, or taken to be derived, in the financial year starting on 1 July 2019 or any later financial year.
- (2) Despite the amendment of paragraph 47(c) made by that Schedule, that paragraph continues to apply in relation to a decision under subsection 23(2) (about comparable uncontrolled prices) that relates to an assessment for a period ending before 1 July 2019.
- (3) The amendment of section 50 made by that Schedule applies in relation to elections whether made before, on or after the commencement of that Schedule.

Retirement Savings Accounts Regulations 1997

64 After subregulation 4.22B(1)

Insert:

- (1AA) For the purposes of subregulation (1), treat a permanent resident of New Zealand as being a permanent resident.

65 In the appropriate position in Part 7

Insert:

7.11 Amendments made by the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020*

The amendment made by item 64 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020* applies on and after 25 March 2020.

Superannuation Industry (Supervision) Regulations 1994

66 After subregulation 6.19B(1)

Insert:

- (1AA) For the purposes of subregulation (1), treat a permanent resident of New Zealand as being a permanent resident.

67 After regulation 8.02

Insert:

EXPOSURE DRAFT

Amendments commencing day after registration **Schedule 1**

8.02AA Accounts and statements must be prepared at least 45 days before return required to be lodged

For the purposes of subsection 35B(2) of the Act, the accounts and statements:

- (a) covered by subsection 35B(1) of the Act; and
- (b) in respect of an entity and a year of income of the entity;

must be prepared at least 45 days before the day by which section 35D of the Act requires a return to be lodged for the entity for that year.

68 Regulation 9A.06

After “Professional Accountants”, insert “(including Independence Standards)”.

69 Regulation 9A.06 (note)

After “Professional Accountants”, insert “(including Independence Standards)”.

70 In the appropriate position in Part 14

Insert:

Division 14.25—Transitional arrangements arising out of the Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020

14.26 Arrangements

- (1) The amendment made by item 66 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020* applies on and after 25 March 2020.
- (2) The amendment made by item 67 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020* applies in relation to accounts and statements in respect of an entity for:
 - (a) the first year of income of the entity that ends after the commencement of that item; and
 - (b) later years of income of the entity.

Tax Agent Services Regulations 2009

71 At the end of Division 3 of Part 1A

Add:

6B Termination of registration at request of organisation

If an organisation that is a recognised BAS agent association, recognised tax agent association or recognised tax (financial) adviser association surrenders its recognition by notice in writing to the Board under this regulation, the Board must terminate the recognition of the organisation:

- (a) on, or as soon as practicable after, the day the Board receives the notice; or
- (b) if a later day is specified in the notice—on that later day.

EXPOSURE DRAFT

Schedule 2 Amendments with other commencements

Schedule 2—Amendments with other commencements

Corporations Regulations 2001

1 Regulation 7.9.84 (definition of *base amount payment split*)

After “VIIIB”, insert “or VIIC”.

2 Regulation 7.9.84 (definition of *flag lifting agreement*)

Repeal the definition, substitute:

flag lifting agreement means a flag lifting agreement within the meaning of Part VIIIB or VIIC of the *Family Law Act 1975*.

3 Regulation 7.9.84 (definition of *member spouse*)

Repeal the definition, substitute:

member spouse, in relation to a superannuation interest that is subject to a payment split, means the person who is the member spouse within the meaning of Part VIIIB or VIIC of the *Family Law Act 1975* in relation to the interest.

4 Regulation 7.9.84 (definition of *non-member spouse*)

Repeal the definition, substitute:

non-member spouse, in relation to a superannuation interest that is subject to a payment split, means the person who is the non-member spouse within the meaning of Part VIIIB or VIIC of the *Family Law Act 1975* in relation to the interest.

5 Regulation 7.9.84 (definition of *payment split*)

Repeal the definition, substitute:

payment split means a payment split within the meaning of Part VIIIB or VIIC of the *Family Law Act 1975*.

6 Regulation 7.9.84 (definition of *percentage-only interest*)

Repeal the definition, substitute:

percentage-only interest means percentage-only interest within the meaning of Part VIIIB or VIIC of the *Family Law Act 1975*.

7 Regulation 7.9.84 (definition of *splitting order*)

Repeal the definition, substitute:

splitting order means a splitting order within the meaning of Part VIIIB or VIIC of the *Family Law Act 1975*.

8 Regulation 7.9.84 (definition of *superannuation agreement*)

Repeal the definition, substitute:

EXPOSURE DRAFT

Amendments with other commencements **Schedule 2**

superannuation agreement means a superannuation agreement within the meaning of Part VIII B or VIII C of the *Family Law Act 1975*.

9 Regulation 7.9.84 (definition of *superannuation interest*)

Repeal the definition, substitute:

superannuation interest means a superannuation interest within the meaning of Part VIII B or VIII C of the *Family Law Act 1975*.

10 Subparagraph 7.9.88(1)(d)(ii)

Omit “90MJ(1)(b)(i)”, substitute “90XJ(1)(b)(i) or 90YN(1)(b)(i) (as the case may be)”.

11 Subparagraph 7.9.88(1)(d)(iii)

Omit “90MT(1)(c)”, substitute “90XT(1)(c) or 90YY(1)(c) (as the case may be)”.

Superannuation Guarantee (Administration) Regulations 2018

12 Subsection 12A(3)

Repeal the subsection.