

EXPOSURE DRAFT



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Treasury Laws Amendment (Corporate Insolvency Reforms Consequential) Regulations 2021

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 2021

David Hurley
Governor-General

By His Excellency's Command

Michael Sukkar [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Treasurer, Minister for Housing and Minister for Homelessness, Social and
Community Housing

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1 Name

This instrument is the *Treasury Laws Amendment (Corporate Insolvency Reforms Consequential) Regulations 2021*.

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, Part 1	The day after this instrument is registered.	
3. Schedule 1, Part 2	The later of: (a) the start of the day after this instrument is registered; and (b) immediately after the commencement of Schedule 2 to the <i>Treasury Laws Amendment (2021 Measures No. 5) Act 2021</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

Note: This table relates only to the provisions of this instrument as originally made.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 *Competition and Consumer Act 2010*;
- (b) the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*;
- (c) the *Corporations Act 2001*;
- (d) the *Migration Act 1958*;
- (e) the *National Consumer Credit Protection Act 2009*;
- (f) the *Renewable Energy (Electricity) Act 2000*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments

Competition and Consumer (Industry Codes—Franchising) Regulation 2014

1 Subclause 4(2) of Schedule 1

Insert:

restructuring practitioner

2 Subclause 17(5) of Schedule 1

Omit “or liquidator”, substitute “, liquidator or restructuring practitioner”.

3 At the end of Part 6 of Schedule 1

Add:

Division 3—Treasury Laws Amendment (Corporate Insolvency Reforms Consequential) Regulations 2021

70 Application of amendment to clause 17 (disclosure of materially relevant facts)

The amendment of clause 17 made by Schedule 1 to the *Treasury Laws
Amendment (Corporate Insolvency Reforms Consequential) Regulations 2021*
applies in relation to a franchisor, or an associate of a franchisor, that becomes a
Chapter 5 body corporate on or after the commencement of that Schedule.

Competition and Consumer (Industry Codes—Oil) Regulations 2017

4 Clause 4 of Schedule 1

Insert:

restructuring practitioner has the same meaning as in the *Corporations Act
2001*.

5 Subclause 29(4) of Schedule 1

Omit “or liquidator”, substitute “, liquidator or restructuring practitioner”.

6 After Part 4 of Schedule 1

Insert:

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Schedule 1 Amendments
Part 1 Amendments

Part 5—Application, saving and transitional provisions

Division 1—Treasury Laws Amendment (Corporate Insolvency Reforms Consequentials) Regulations 2021

48 Application of amendment to clause 29 (disclosure of materially relevant facts)

The amendment of clause 29 made by Schedule 1 to the *Treasury Laws Amendment (Corporate Insolvency Reforms Consequentials) Regulations 2021* applies in relation to a supplier that becomes a Chapter 5 body corporate on or after the commencement of that Schedule.

Corporations Regulations 2001

7 Paragraphs 5.3B.02(1)(h) and (i)

Repeal the paragraphs.

8 After paragraph 5.3B.15(3)(a)

Insert:

- (aa) provide that, when performing a function or duty, or exercising a power, as restructuring practitioner for the plan, the restructuring practitioner is taken to act as agent for and on behalf of the company; and

9 Regulation 5.3B.40

Repeal the regulation.

Migration Regulations 1994

10 At the end of paragraphs 2.84(3)(k) and (4)(h)

Add:

- (viii) a restructuring practitioner for the company is appointed under Part 5.3B of the *Corporations Act 2001*;

National Consumer Credit Protection Regulations 2010

11 Subregulation 3(1)

Insert:

restructuring practitioner has the same meaning as in the Corporations Act.

12 After paragraph 20(3)(e)

Insert:

- (ea) the person engages in a credit activity while:

- (i) performing functions, or exercising powers, as a restructuring practitioner for a company or a company's restructuring plan; or
- (ii) performing functions, or exercising powers, incidental to the person's appointment as a restructuring practitioner for a company or a company's restructuring plan; or

Renewable Energy (Electricity) Regulations 2001

13 Subparagraph 3L(1)(f)(ii)

Omit "and".

14 Subparagraph 3L(1)(f)(iii)

Repeal the subparagraph.

15 At the end of subregulation 3L(1)

Add:

- (g) for an applicant that is a body corporate—whether overseas or under a foreign law:
 - (i) the body corporate is being wound up; or
 - (ii) a receiver, or a receiver and manager, has been appointed (whether or not by a court) in respect of the property of the body corporate and is acting; or
 - (iii) the body corporate is under administration; or
 - (iv) the body corporate is under restructuring or is subject to a restructuring plan; or
 - (v) the body corporate has executed a deed of company arrangement that has not yet terminated; or
 - (vi) the body corporate has entered into a compromise or arrangement with another person and the administration of which has not been concluded.

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Schedule 1 Amendments

Part 2 Contingent amendments

Part 2—Contingent amendments

Corporations (Aboriginal and Torres Strait Islander) Regulations 2017

16 After section 51

Insert:

51A Modification of Corporations Act restructuring provisions

For the purposes of paragraph 522-1(2)(b) of the Act, the Corporations Act restructuring provisions are modified as set out in the table in clause 3A of Schedule 4.

17 After clause 3 of Schedule 4

Insert:

3A Modification of Corporations Act restructuring provisions

The following table sets out modifications of Corporations Act restructuring provisions.

Corporations Act restructuring provisions

Item	Provision	Modification of provision
1	Section 9	Insert: <i>CATSI Act</i> means the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> . <i>CATSI Regulations</i> means any regulations made under the CATSI Act.
2	Subsection 453M(3)	Omit “section 1318”, substitute “section 576-1 of the CATSI Act”.
3	Subsection 453W(2)	Omit “section 1323” (wherever occurring), substitute “section 576-20 of the CATSI Act”.
4	Paragraph 453W(2)(c)	Omit “this Act”, substitute “the CATSI Act, the CATSI Regulations and any provision of this Act applied by a provision of the CATSI Act”.
5	Subsection 453W(3)	Omit “section 1323”, substitute “section 576-20 of the CATSI Act”.

18 Clause 4 of Schedule 4 (after table item 9)

Insert:

9A	Section 489F (definition of <i>triggering event</i>)	Omit “section 491” (wherever occurring), substitute “section 526-20 of the CATSI Act”.
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Amendments **Schedule 1**
Contingent amendments **Part 2**

Corporations Regulations 2001

19 Regulations 5.3B.10 and 5.3B.41

Repeal the regulations.

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