2022

The Parliament of the

Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

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| **EXPOSURE DRAFT** |

Treasury Laws Amendment (Miscellaneous and Technical Amendments) Bill 2022

No. , 2022

(Treasury)

A Bill for an Act to make miscellaneous and technical amendments of the statute law of the Commonwealth, and for related purposes

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A Bill for an Act to make miscellaneous and technical amendments of the statute law of the Commonwealth, and for related purposes

The Parliament of Australia enacts:

1 Short title

 This Act is the *Treasury Laws Amendment (Miscellaneous and Technical Amendments)* *Act 2022*.

2 Commencement

 (1) Each provision of this Act 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 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. |  |
| 2. Schedule 1, Part 1 | The day after this Act receives the Royal Assent. |  |
| 3. 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. |  |
| 4. Schedule 1, Part 3 | The first 1 January, 1 April, 1 July or 1 October to occur after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. |  |

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

 Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments commencing day after Royal Assent

Division 1—Foreign ownership register notices

Foreign Acquisitions and Takeovers Act 1975

1 Subsection 130ZI(1)

Omit “give a notice”, substitute “give a register notice”.

2 Subsection 130ZI(4)

Omit “for a notice”, substitute “for a register notice”.

3 Subsection 130ZO(3)

Omit “in relation to the notice”, substitute “in relation to the register notice”.

4 Subsection 130ZP(4)

Omit “in relation to the notice”, substitute “in relation to the register notice”.

5 Subsection 130ZR(2)

Omit “when the notice is given”, substitute “when the register notice is given”.

6 Paragraph 130ZS(2)(a)

Omit “because of a notice”, substitute “because of a register notice”.

7 Paragraph 130ZS(2)(b)

Omit “for a notice”, substitute “for a register notice”.

8 Paragraph 130ZT(2)(a)

Omit “because of a notice”, substitute “because of a register notice”.

9 Paragraph 130ZT(2)(b)

Omit “for a notice”, substitute “for a register notice”.

10 Paragraph 130ZU(1)(c)

Omit “foreign”.

Division 2—Infringement notices

Corporations Act 2001

11 Paragraph 1317DAT(5)(a)

Omit “make an arrangement for the applicant to pay the amount payable under the infringement notice by instalments”, substitute “withdraw the infringement notice”.

12 In the appropriate position

Insert:

Part 10.63—Transitional provisions relating to the Treasury Laws Amendment (Miscellaneous and Technical Amendments) Act 2022

1693 Application of amendments made by Division 2 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Act 2022*

 The amendments made by Division 2 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments)* *Act 2022* apply in relation to representations made to ASIC:

 (a) under subsection 1317DAT(1) of this Act; and

 (b) on or after the commencement of that Part;

whether the related infringement notice was given before, on or after that commencement.

Division 3—Motor vehicle service and repair information scheme adviser

Competition and Consumer Act 2010

13 Subsection 57FA(3)

Omit “be paid any remuneration or allowances”, substitute “any payment (including any remuneration or allowances) relating to this appointment”.

14 At the end of subsection 57FA(3)

Add:

Note: The person appointed could be a body corporate or an individual.

15 Application of amendments

The amendments made by this Division apply in relation to each appointment under subsection 57FA(2) of the *Competition and Consumer Act 2010* that takes effect on or after 1 July 2022.

Division 4—Fringe Benefits technical amendment

Fringe Benefits Tax Assessment Act 1986

16 Paragraphs 37(b) and (c)

Before “section 8‑1”, insert “under”.

Division 5—Disclosure of protected information

Commonwealth Registers Act 2020

17 Paragraph 17(1)(c)

After “information”, insert “is protected information that”.

Division 6—Giving TFNs under corporations legislation

Corporations (Aboriginal and Torres Strait Islander) Act 2006

18 Paragraph 308‑5(5)(a)

Omit “a written statement of”.

19 Subparagraph 308‑5(5)(b)(ii)

Omit “a written statement of”.

Corporations Act 2001

20 Paragraph 1272(5)(a)

Omit “a written statement of”.

21 Subparagraph 1272(5)(b)(ii)

Omit “a written statement of”.

Division 7—Consumers

Competition and Consumer Act 2010

22 Section 4B

Before “For the purposes of”, insert “(1)”.

23 At the end of section 4B

Add:

 (2) If it is alleged in:

 (a) any proceeding under this Act; or

 (b) any other proceeding in respect of a matter arising under this Act;

that a person was a consumer in relation to particular goods or services, it is presumed, unless the contrary is established, that the person was a consumer in relation to those goods or services.

24 Subsection 56AI(4)

Omit “Section 4B”, substitute “Subsection 4B(1)”.

Division 8—Giving notices under the Superannuation Industry (Supervision) Act 1993

Superannuation Industry (Supervision) Act 1993

25 Subsection 126A(7)

Repeal the subsection, substitute:

 (7) As soon as practicable after the Regulator gives a notice under:

 (a) subsection (6) of this section; or

 (b) subsection 344(6) (result of internal review);

the Regulator must, by notifiable instrument, publish particulars of the notice.

26 Subsection 126H(8)

Omit “cause particulars of the disqualification to which the notice relates”.

27 Paragraph 126H(8)(a)

Omit “to be given”, substitute “give particulars of the disqualification”.

28 Paragraph 126H(8)(b)

Repeal the paragraph, substitute:

 (b) by notifiable instrument, publish particulars of the disqualification.

29 Subsection 130D(7)

Omit “cause particulars of the disqualification to which the notice relates to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the disqualification”.

30 Subsection 130F(5) (heading)

Repeal the heading, substitute:

Publication

31 Subsection 130F(5)

Omit “cause a copy of the order to be published in the *Gazette* as soon as practicable after it”, substitute “, by notifiable instrument, publish a copy of the order as soon as practicable after the order”.

32 Subsection 130F(6)

Omit “cause a notice of the variation or revocation to be published in the *Gazette*”, substitute “, by notifiable instrument, give notice of the variation or revocation”.

33 Subsection 130F(7)

Omit “cause a notice of the Tribunal’s decision to be published in the *Gazette*”, substitute “, by notifiable instrument, give notice of the Tribunal’s decision”.

34 Subsection 130F(13)

Repeal the heading, substitute:

Publication

35 Subsection 130F(13)

Omit “cause particulars of the revocation to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the revocation”.

36 Subsection 131(4)

Repeal the heading, substitute:

Publication

37 Subsection 131(4)

Omit “cause particulars of the disqualification order to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the disqualification order”.

38 Subsection 131(4A)

Omit “cause particulars of the variation or revocation to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the variation or revocation”.

39 Subsection 131(4B)

Omit “cause particulars of the Tribunal’s decision to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the Tribunal’s decision”.

40 Subsection 131(10) (heading)

Repeal the heading, substitute:

Publication

41 Subsection 131(10)

Omit “cause particulars of the revocation to be published in the *Gazette*”, substitute “, by notifiable instrument, publish particulars of the revocation”.

42 Subsection 347A(10)

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

Division 9—Declarations for fringe benefits tax assessment

Fringe Benefits Tax Assessment Act 1986

43 Paragraph 61A(2)(a)

Omit “set out:”, substitute “set out the number of whole kilometres travelled by the car in providing transport by virtue of which the recipients expenditure is in respect of overseas employment holiday transport; or”.

44 Subparagraphs 61A(2)(a)(iii) and (iv)

Repeal the subparagraphs.

45 At the end of paragraph 61B(a)

Add “and”.

46 Paragraph 61B(c)

Repeal the paragraph, substitute:

 (c) the recipient gives to the employer, before the declaration date, a declaration, in a form approved by the Commissioner, purporting to set out the number of whole kilometres travelled by the car in providing transport by virtue of which the benefit is in respect of relocation transport;

47 Paragraph 61E(c)

Repeal the paragraph, substitute:

 (c) the recipient gives to the employer, before the declaration date, a declaration, in a form approved by the Commissioner, purporting to set out the number of whole kilometres travelled by the car in providing transport by virtue of which the benefit is in respect of an employment interview or selection test;

48 Paragraph 61F(c)

Repeal the paragraph, substitute:

 (c) the recipient gives to the employer, before the declaration date, a declaration, in a form approved by the Commissioner, purporting to set out the number of whole kilometres travelled by the car in providing transport by virtue of which the benefit is associated with:

 (i) a work‑related medical examination of the employee; or

 (ii) work‑related medical screening of the employee; or

 (iii) work‑related preventative health care of the employee; or

 (iv) work‑related counselling of the employee or of an associate of the employee; or

 (v) migrant language training of the employee or of an associate of the employee;

Division 10—Cross reference update

Superannuation Industry (Supervision) Act 1993

49 Subsection 6(1) (table item 24)

Repeal the item.

Division 11—Exempt core Part 3 actions

Foreign Acquisitions and Takeovers Act 1975

50 Section 4

Insert:

***exempt core Part 3 action*** means an action which would be a core Part 3 action if an exemption certificate did not relate to the action.

51 Subparagraph 98B(4)(b)(ii)

After “one or more”, insert “exempt”.

52 Section 98D

Before “core Part 3” (wherever occurring), insert “exempt”.

53 Subparagraph 98E(1)(a)(iii)

After “one or more”, insert “exempt”.

54 Subparagraph 98E(1)(b)

After “core Part 3 actions”, insert “or exempt core Part 3 actions”.

55 Paragraph 98E(1)(c)

After “core Part 3 action”, insert “or exempt core Part 3 action”.

56 Subsection 98E(2)

After “core Part 3 action” (wherever occurring), insert “or exempt core Part 3 action”.

57 Paragraph 98E(4)(a)

After “core Part 3 action”, insert “or exempt core Part 3 action”.

58 Subparagraph 101AA(1)(b)(i)

After “core Part 3 actions”, insert “or exempt core Part 3 actions”.

59 Subsection 101AA(2)

After “core Part 3 actions”, insert “or exempt core Part 3 actions”.

Division 12—Application provisions relating to financial advisers

Corporations Act 2001

60 At the end of subsection 1684D(3)

Add:

Note: The relevant provisions may apply to an existing provider before 1 January 2026 if the existing provider fails to pass the exam by the exam cut‑off day (see subsection (5)).

61 Paragraph 1684D(6)(a)

Repeal the paragraph, substitute:

 (a) they did not include a reference to the education and training standard in subsection 921B(2), as amended by Schedule 1 to the amending Act; and

62 After subsection 1684D(6)

Insert:

 (6A) If an existing provider in relation to whom the relevant provisions begin to apply under subsection (6) has not, at the start of 1 January 2026, satisfied paragraph (3)(a) or (b) (which are about qualifications), then, from 1 January 2026:

 (a) for an existing provider who is a relevant provider on 1 January 2026—the relevant provisions apply in relation to the existing provider without the modifications set out in paragraphs (6)(a) and (b); and

 (b) for an existing provider who is *not* a relevant provider on 1 January 2026—the relevant provisions apply in relation to the existing provider:

 (i) without the modifications set out in paragraphs (6)(a) and (b); and

 (ii) with the modifications set out in paragraphs (4)(a) and (b).

Note: This subsection sets out the consequences for the provider of failing to gain qualifications by 1 January 2026. These consequences differ depending on whether the provider is or is not a relevant provider on that day. If the provider is a relevant provider, they will need to meet the education and training standards. If the provider is not a relevant provider, they will need to gain qualifications but will not need to meet the work and training‑related standards.

Division 13—Renumbering

Australian Securities and Investments Commission Act 2001

63 Part 29 (the Part 29 inserted by item 7 of Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020*)

Renumber as Part 29A.

64 Section 325 (the section 325 inserted by item 7 of Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020*)

Renumber as section 326A.

Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020

65 Item 10 of Schedule 1 (note)

Omit “Part 29 of the *Australian Securities and Investments Commission Act 2001*”, substitute “item 7 of this Schedule”.

Division 14—Virtual RSE annual members’ meetings

Superannuation Industry (Supervision) Act 1993

66 Subsection 10(1)

Insert:

***virtual meeting technology*** has the same meaning as in the *Corporations Act 2001*.

67 Paragraph 29P(3)(a)

Repeal the paragraph, substitute:

 (a) set out in the notice:

 (i) if there is only one location at which to physically attend the annual members’ meeting—the date, time and place for the meeting; and

 (ii) if there are 2 or more locations at which to physically attend the annual members’ meeting—the date and time for the meeting at each location, and the main location for the meeting; and

 (iii) if virtual meeting technology is to be used in holding the annual members’ meeting—sufficient information to allow persons to participate in the meeting by means of the technology; and

 (aa) include in the notice the agenda of matters to be discussed at the annual members’ meeting; and

68 After subsection 29P(4)

Insert:

Place and time of meetings and presence at meetings

 (4A) The RSE licensee may hold the annual members’ meeting:

 (a) at one or more physical venues; or

 (b) at one or more physical venues and using virtual meeting technology; or

 (c) using virtual meeting technology only.

 (4B) The place at which the annual members’ meeting is held is taken to be:

 (a) if the meeting is held at only one physical venue (whether or not it is also held using virtual meeting technology)—that physical venue; or

 (b) if the meeting is held at more than one physical venue (whether or not it is also held using virtual meeting technology)—the main physical venue of the meeting as set out in the notice of the meeting; or

 (c) if the meeting is held using virtual meeting technology only—the registered address of, or an address for service of notices on, the registrable superannuation entity as contained in a register kept by APRA under regulations made for the purposes of subsection 353(2).

 (4C) The time at which the annual members’ meeting is held is taken to be the time at the place at which the meeting is taken to be held in accordance with subsection (4B).

 (4D) A person who attends the annual members’ meeting (whether at a physical venue or by using virtual meeting technology) is taken for all purposes to be present in person at the meeting while so attending.

69 Application of amendments

The amendments of the *Superannuation Industry (Supervision) Act 1993* made by this Division apply in relation to an annual members’ meeting of a registrable superannuation entity that is held for a year of income of the entity that ends on or after the day this Division commences.

Division 15—Repeal of redundant appropriation

Treasury Laws Amendment (North Queensland Flood Recovery) Act 2019

70 Schedule 3

Repeal the Schedule.

Division 16—CCIV technical amendments

Corporations Act 2001

71 Section 9 (definition of *listing market*)

Omit “or (1B)”, substitute “, (1B) or (1C)”.

72 After subsection 111AE(1B)

Insert:

 (1C) If:

 (a) subsection (1) does not apply to securities issued by a CCIV; and

 (b) a sub‑fund of the CCIV is, with the agreement, consent or acquiescence of the CCIV, included in the official list of a prescribed financial market; and

 (c) the market’s listing rules (according to their terms) apply to the sub‑fund in relation to a class of securities issued by the CCIV that are referable to the sub‑fund;

securities in that class that are referable to the sub‑fund are ***ED securities***, and that market is a ***listing market*** in relation to the CCIV.

Note: Subsection (1) may apply to a CCIV instead of this subsection if the CCIV, and not a sub‑fund, is included in the official list of a prescribed financial market.

73 After subsection 793C(4A)

Insert:

 (4B) For the purposes of this section, if:

 (a) subsection (3) does not apply to a CCIV; and

 (b) a sub‑fund of the CCIV is, with the agreement, consent or acquiescence of the CCIV, included in the official list of a licensed market;

the CCIV, or an associate of the CCIV, is taken to be under an obligation to comply with the operating rules of that market to the extent to which those rules purport to apply to the CCIV or associate.

Note: Subsection (3) may apply to a CCIV instead of this subsection if the CCIV, and not a sub‑fund, is included in the official list of a licensed market.

74 In the appropriate position in Chapter 10

Insert:

1694 Application of amendments made by Division 16 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Act 2022*

 (1) Subsection 111AE(1C) (as inserted by Division 16 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Act 2022*) applies in relation to a sub‑fund of a CCIV on or after the commencement of that Part (whether the sub‑fund was included in the official list of a prescribed financial market before, on or after that commencement).

 (2) Subsection 793C(4B) (as inserted by Division 16 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Act 2022*) applies in relation to a sub‑fund of a CCIV on or after the commencement of that Part (whether the sub‑fund was included in the official list of a licensed market before, on or after that commencement).

Division 17—Recognised tax advisers

Income Tax Assessment Act 1997

75 Section 995‑1 (definition of *recognised tax adviser*)

Repeal the definition, substitute:

***recognised tax adviser*** means:

 (a) a \*registered tax agent; or

 (b) a registered BAS agent (within the meaning of the *Tax Agent Services Act 2009*); or

 (c) a qualified tax relevant provider (within the meaning of Part 7.6 of the *Corporations Act 2001*); or

 (d) a legal practitioner.

76 Section 995‑1 (definition of *registered tax agent, BAS agent or tax (financial) adviser*)

Repeal the definition.

77 Application of amendments

The amendments made by this Division apply in relation to advice provided on or after 1 January 2022.

Division 18—Reference Checking and Information Sharing Protocol

Corporations Act 2001

78 Section 910A

Insert:

***credit licensee*** means a licensee within the meaning of the *National Consumer Credit Protection Act 2009*.

***mortgage broker*** has the same meaning as in the *National Consumer Credit Protection Act 2009*.

***mortgage intermediary*** has the same meaning as in the *National Consumer Credit Protection Act 2009*.

79 Paragraph 912A(1)(cc)

Omit “in relation to:”, substitute “; and”.

80 Subparagraphs 912A(1)(cc)(i) and (ii)

Repeal the subparagraphs.

81 Subsection 912A(3A)

Repeal the subsection, substitute:

Reference Checking and Information Sharing Protocol

 (3A) ASIC may, by legislative instrument, determine a protocol for sharing and requesting information about an individual in respect of whom there are reasonable grounds to suspect that:

 (a) if the individual becomes a representative of a financial services licensee (***recruiting financial services licensee***), the individual will provide personal advice to retail clients about relevant financial products; or

 (b) if the individual becomes a representative of a credit licensee (***recruiting credit licensee***), the individual will:

 (i) provide credit assistance in relation to credit contracts secured by mortgages over residential property; and

 (ii) be a mortgage broker or a director, employee or agent of a mortgage broker; or

 (c) a mortgage intermediary (***prospective mortgage intermediary***) is acting, or will act, as an intermediary in relation to a credit licensee where the individual is, or is a former, current or prospective representative of, that credit licensee, and in that capacity the individual:

 (i) provides, provided or will provide credit assistance in relation to credit contracts secured by mortgages over residential property; and

 (ii) is, was or will be a mortgage broker or a director, employee or agent of a mortgage broker.

 (3AA) The Reference Checking and Information Sharing Protocol may provide for any or all of the following to share information about the individual with the recruiting financial services licensee, the recruiting credit licensee or the prospective mortgage intermediary:

 (a) if the individual is a financial services licensee—the individual;

 (b) if the individual is a former or current representative of a financial services licensee—that licensee.

 (3AB) The Reference Checking and Information Sharing Protocol may provide, in a case covered by paragraph (3A)(a), for the recruiting financial services licensee to request information about the individual from any or all of the following:

 (a) if the individual is a financial services licensee or credit licensee—the individual;

 (b) if the individual is a former or current representative of a financial services licensee—that financial services licensee;

 (c) if the individual is a former or current representative of a credit licensee—that credit licensee;

 (d) if a mortgage intermediary has previously acted or is acting as an intermediary in relation to a credit licensee where the individual is, or is a former or current representative of, that credit licensee—that mortgage intermediary.

 (3AC) The Reference Checking and Information Sharing Protocol may also provide for keeping and retaining records of information shared, and the circumstances under which that information is shared.

82 Subsections 912A(3C) and (3D)

Repeal the subsections.

83 Subsection 912A(3E)

Omit “subsection (3D)”, substitute “paragraphs (3A)(b) and (c) and (3AB)(c) and (d)”.

84 Subsection 912A(3F)

Omit all the words after “Reference Checking and Information Sharing Protocol”.

85 In the appropriate position in Chapter 10

Insert:

1695 Transitional—Reference Checking and Information Sharing Protocol

A protocol determined under subsection 912A(3A) of the *Corporations Act 2001* in force immediately before the commencement of Division 18 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Act 2022* continues in force as if it had been determined under that subsection as substituted by that Schedule.

National Consumer Credit Protection Act 2009

86 Subsection 5(1)

Insert:

***financial services licensee*** has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

87 Paragraph 47(1)(ea)

Omit “in relation to:”, substitute “; and”.

88 Subparagraphs 47(1)(ea)(i) and (ii)

Repeal the subparagraphs.

89 Paragraph 47(1)(ha)

Omit “(within the meaning of Chapter 7 of that Act)”.

90 Subsection 47(3A)

Repeal the subsection, substitute:

Reference Checking and Information Sharing Protocol

 (3A) ASIC may, by legislative instrument, determine a protocol for sharing and requesting information about an individual in respect of whom there are reasonable grounds to suspect that:

 (a) if the individual becomes a representative of a licensee (***recruiting credit licensee***), the individual will:

 (i) provide credit assistance in relation to credit contracts secured by mortgages over residential property; and

 (ii) be a mortgage broker or a director, employee or agent of a mortgage broker; or

 (b) a mortgage intermediary (***prospective mortgage intermediary***) is acting, or will act, as an intermediary in relation to a licensee where the individual is, or is a former, current or prospective representative of, that licensee, and in that capacity the individual:

 (i) provides, provided or will provide credit assistance in relation to credit contracts secured by mortgages over residential property; and

 (ii) is, was or will be a mortgage broker or a director, employee or agent of a mortgage broker; or

 (c) if the individual becomes a representative of a financial services licensee (***recruiting financial services licensee***), the individual will provide personal advice to retail clients about relevant financial products.

 (3AA) The Reference Checking and Information Sharing Protocol may provide for any or all of the following to share information about the individual with the recruiting credit licensee, the prospective mortgage intermediary or the recruiting financial services licensee:

 (a) if the individual is a licensee—the individual;

 (b) if the individual is a former or current representative of a licensee—that licensee;

 (c) if a mortgage intermediary has previously acted or is acting as an intermediary in relation to a licensee where the individual is, or is a former or current representative of, that licensee—that mortgage intermediary;

 (3AB) The Reference Checking and Information Sharing Protocol may provide, in a case covered by paragraph (3A)(a) or (b), for the recruiting credit licensee or the prospective mortgage intermediary to request information about the individual from any or all of the following:

 (a) if the individual is a licensee or a financial services licensee—the individual;

 (b) if the individual is a former or current representative of a licensee—that licensee;

 (c) if the individual is a former or current representative of a financial services licensee—that financial services licensee;

 (d) if a mortgage intermediary has previously acted or is acting as an intermediary in relation to a licensee where the individual is, or is a former or current representative of, that licensee—that mortgage intermediary.

 (3AC) The Reference Checking and Information Sharing Protocol may provide for keeping and retaining records of information shared, and the circumstances under which that information is shared.

91 Subsections 47(3C) and (3D)

Repeal the subsections.

92 Subsection 47(3E)

Omit “subsection (3D)”, substitute “paragraphs (3A)(c) and (3AB)(c)”.

93 Subsection 47(3F)

Omit all the words after “Reference Checking and Information Sharing Protocol”.

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

94 In the appropriate position

Insert:

Schedule 21—Transitional provisions relating to Division 18 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Act 2022*

1 Transitional—Reference Checking and Information Sharing Protocol

A protocol determined under subsection 47(3A) of the *National Consumer Credit Protection Act 2009* in force immediately before the commencement of Division 18 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Act 2022* continues in force as if it had been determined under that subsection as amended by that Schedule.

Division 19—Disclosure documents for offers in a MIS

Corporations Act 2001

95 Subsection 708(13)

Repeal the subsection, substitute:

Certain offers to present holder of securities

 (13) An offer of securities for issue does not need disclosure to investors under this Part if it is an offer of fully‑paid shares in a body to one or more existing holders of shares in the body under a dividend reinvestment plan or bonus share plan.

96 Subsection 710(1) (table item 1)

Omit “, debentures or interests in a managed investment scheme”, substitute “or debentures”.

97 Subsection 710(1) (table item 1)

Omit “the shares, debentures or interests”, substitute “the shares or debentures”.

98 Paragraph 710(2)(b)

Repeal the paragraph.

99 Subparagraph 711(3)(b)(ii)

Omit “; and”, substitute “.”.

100 Paragraph 711(3)(c)

Repeal the paragraph.

101 Section 720 (table item 1)

Omit “if securities interests in a managed investment scheme made available by a body—every director of that body

if securities interests in a managed investment scheme made available by an individual—that individual”.

102 Section 720 (table item 1A)

Omit “if simple corporate bonds in a managed investment scheme made available by a body—every director of that body

if simple corporate bonds in a managed investment scheme made available by an individual—that individual”.

Part 2—Amendments commencing first day of next quarter

Division 1—Asterisking

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

103 Subsection 25‑5(3)

Omit “register”, substitute “\*register”.

104 Subsection 25‑55(3)

Omit “registration”, substitute “\*registration”.

105 Subsection 25‑57(3)

Omit “registration”, substitute “\*registration”.

106 Subsection 63‑35(2)

Omit “registration”, substitute “\*registration”.

107 Amendments of listed provisions relating to asterisking—definition of *decreasing adjustment* in section 195‑1

The items of the table in the definition of ***decreasing adjustment*** in section 195‑1 listed in the following table are amended as set out in the table.

| Amendments relating to asterisking |
| --- |
| Item | Table item | Omit | Substitute |
| 1 | Item 4AA | \*real property under the \*margin scheme | real property under the margin scheme |
| 2 | Item 4A | \*compulsory third party schemes | compulsory third party schemes |
| 3 | Item 4B | \*Decreasing adjustments under \*compulsory third party schemes | Decreasing adjustments under compulsory third party schemes |
| 4 | Item 4C | \*Decreasing adjustments under \*compulsory third party schemes | Decreasing adjustments under compulsory third party schemes |
| 5 | Item 6A | \*Decreasing adjustments for \*additional consideration | Decreasing adjustments for additional consideration |

108 Amendments of listed provisions relating to asterisking—definition of *increasing adjustment* in section 195‑1

The items of the table in the definition of ***increasing adjustment*** in section 195‑1 listed in the following table are amended as set out in the table.

| Amendments relating to asterisking |
| --- |
| Item | Table item | Omit | Substitute |
| 1 | Item 4AAA | \*real property under the \*margin scheme | real property under the margin scheme |
| 2 | Item 4AA | \*compulsory third party schemes | compulsory third party schemes |
| 3 | Item 4AB | \*Increasing adjustments under \*compulsory third party schemes | Increasing adjustments under compulsory third party schemes |
| 4 | Item 4AC | \*Increasing adjustments under \*compulsory third party schemes | Increasing adjustments under compulsory third party schemes |
| 5 | Item 4AD | \*Increasing adjustments under \*insurance policy settlement sharing arrangements | Increasing adjustments under insurance policy settlement sharing arrangements |
| 6 | Item 4AE | \*Increasing adjustments under \*nominal defendant settlement sharing arrangements | Increasing adjustments under nominal defendant settlement sharing arrangements |

Division 2—Equal representation rules

Superannuation Industry (Supervision) Act 1993

109 Sub‑subparagraph 117(5)(b)(i)(B)

Omit “consisted of equal numbers of employer representatives and member representatives”, substitute “complied with the basic equal representation rules under Part 9”.

110 Sub‑subparagraph 117(5)(b)(ii)(B)

Omit “consisted of equal numbers of employer representatives and member representatives”, substitute “complied with the basic equal representation rules under Part 9”.

111 Subsection 117(9)

Repeal the subsection.

Division 3—Registration requirements for GST

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

112 Paragraph 84‑55(2)(a)

Repeal the paragraph, substitute:

 (a) \*registered and a party to a written agreement, where:

 (i) the agreement is between the operator and at least one of the other operators of the platforms; and

 (ii) the operator is to be treated as the supplier under the agreement; or

113 Paragraphs 84‑55(2)(b) and (c)

Omit “if no such agreement has been made”, substitute “if paragraph (a) does not apply”.

114 Application of amendments

The amendment of paragraph 84‑55(2)(a) of the *A New Tax System (Goods and Services Tax) Act 1999* made by this Division applies in relation to a supply that is made on or after the commencement of this item.

Part 3—Amendments with other commencements

Income Tax Assessment Act 1997

115 Subparagraph 306‑10(c)(iii)

Omit “and”.

116 At the end of paragraph 306‑10(c)

Add:

 (iv) it is a payment under subsection 131‑80(3) or (5) in Schedule 1 to the *Taxation Administration Act 1953*; and

117 At the end of section 306‑10

Add:

Note 3: Subparagraph (c)(iv) relates to payments when an entitlement to a credit ceases for a release authority relating to an FHSS determination.

118 Subsection 307‑5(1) (at the end of the table)

Add:

|  |  |  |  |
| --- | --- | --- | --- |
| 9 | ***repayment when an entitlement to a credit ceases for a release authority relating to an FHSS determination*** | A payment relating to you under subsection 131‑80(3) or (5) in Schedule 1 to the *Taxation Administration Act 1953*. |  |

119 Paragraph 307‑120(2)(a)

Omit “or (e)”, substitute “, (e) or (f)”.

120 At the end of subsection 307‑120(2)

Add:

 ; or (f) if the benefit is a payment by the Commissioner under subsection 131‑80(3) or (5) in Schedule 1 to the *Taxation Administration Act 1953*—section 307‑143.

121 After section 307‑142

Insert:

307‑143 Components of a superannuation benefit that is a repayment when an entitlement to a credit ceases for a release authority relating to an FHSS determination

Preliminary

 (1) This section explains how to work out the \*tax free component, and the \*taxable component, of your \*superannuation benefit that:

 (a) is a repayment by the Commissioner under subsection 131‑80(3) in Schedule 1 to the *Taxation Administration Act 1953* of an amount (the ***released amount***) paid to the Commissioner in relation to you; or

 (a) is a payment by the Commissioner under subsection 131‑80(5) in Schedule 1 to the *Taxation Administration Act 1953* of an equivalent amount to an amount (the ***released amount***) paid to the Commissioner in relation to you.

Tax free component

 (2) The \*tax free component of your \*superannuation benefit is equal to the total amount that the released amount reduced the tax free components of your \*superannuation interests.

Taxable component

 (3) The \*taxable component of your \*superannuation benefit is equal to the total amount that the released amount reduced the taxable components of your \*superannuation interests.

122 Section 313‑10

Repeal the section, substitute:

313‑10 Application of this Division

 This Division applies to you for one or more amounts (the ***FHSS released amounts***) if:

 (a) those amounts are paid in response to a release authority issued under Division 131 in Schedule 1 to the *Taxation Administration Act 1953* in relation to a \*first home super saver determination made in relation to you; and

 (b) your entitlements under section 131‑65 in that Schedule to credits relating to those amounts have not ceased under subsection 131‑30(4) or 138‑13(3) in that Schedule.

123 Section 313‑15

Omit:

An amount is included in your assessable income, and you are entitled to a tax offset, if an amount is paid in response to a release authority issued in respect of you.

substitute:

An amount is included in your assessable income, and you are entitled to a tax offset, if:

 (a) an amount is paid in response to a release authority issued in respect of you; and

 (b) your entitlement to a credit relating to that amount has not ceased.

124 Paragraphs 313‑35(1)(b) and (c)

Repeal the paragraphs, substitute:

 (b) you make a valid request (the ***current request***) under section 131‑5 in Schedule 1 to the *Taxation Administration Act 1953* for a release authority in relation to that determination; and

 (ba) that current request is your first such request, or one of the following subparagraphs applies for each of your previous valid requests for such a release authority:

 (i) you have withdrawn the request;

 (ii) the Commissioner has revoked the release authority issued in relation to the request (whether or not the release authority had previously been varied);

 (iii) after one or more amendments of the request, you have withdrawn the latest of those amended requests;

 (iv) the Commissioner has revoked the release authority issued in relation to the latest of one or more amendments of the request (whether or not the release authority had previously been varied); and

 (c) you enter into a contract to purchase or construct a \*CGT asset that is a \*residential premises in Australia within the period:

 (i) beginning 14 days before the day you make the first of the valid requests referred to in paragraph (ba); and

 (ii) ending 12 months (or if extended under subsection (2), that longer period) after the day you make the current request; and

125 Paragraph 313‑35(1)(d)

Omit “valid request”, substitute “current request”.

Taxation Administration Act 1953

126 Subsection 131‑5(6) in Schedule 1

Repeal the subsection, substitute:

Most requests are irrevocable

 (6) Subject to section 131‑12 (about requests relating to FHSS determinations), a request under this section is irrevocable.

127 After section 131‑10 in Schedule 1

Insert:

131‑12 Withdrawing or amending your request for a release authority relating to a FHSS determination

 (1) You may, by notifying the Commissioner in the \*approved form, withdraw or amend your valid request made under section 131‑5 if:

 (a) your request relates to a \*first home super saver determination given to you; and

 (b) in the case of amending your request—you satisfy paragraphs 138‑10(2)(a) and (b); and

 (c) the Commissioner has not already issued a release authority in relation to your request.

 (2) Your amended request is treated as a valid request under section 131‑5 if it complies with subsection 131‑5(2) and paragraphs 131‑5(3)(a) and (c).

 (3) Withdrawing your request does not prevent you from making a later request under section 131‑5 in relation to the \*first home super saver determination.

128 Section 131‑30 in Schedule 1

Repeal the section, substitute:

131‑30 Varying or revoking a release authority

Release authority not relating to an FHSS determination

 (1) The Commissioner may decide to vary or revoke a release authority issued:

 (a) under section 131‑15; and

 (b) in relation to a determination, or assessment, mentioned in paragraph 131‑5(1)(a), (b) or (c) and given to you;

at any time before the Commissioner is given a notice under section 131‑50 relating to the release authority.

Release authority relating to an FHSS determination

 (2) For a release authority issued under section 131‑15 in relation to a \*first home super saver determination given to you, the Commissioner may decide to:

 (a) vary the release authority if:

 (i) the varied release authority would be consistent with paragraph 131‑5(3)(a); and

 (ii) you satisfy paragraphs 138‑10(2)(a) and (b); or

 (b) revoke the release authority;

at any time before the Commissioner begins treating, under Division 3 of Part IIB, any credit to which you have become entitled under section 131‑65 in relation to the release authority.

 (3) The Commissioner may make a decision under subsection (2):

 (a) on the Commissioner’s own initiative; or

 (b) on application by you to the Commissioner in the \*approved form.

 (4) If a release authority is varied or revoked under subsection (2) at a particular time, then any entitlement under section 131‑65 you had to a credit relating to the release authority ceases at that time.

 (5) The revocation of a release authority under subsection (2) does not prevent you from making a later request under section 131‑5 in relation to the same \*first home super saver determination.

Reissuing varied release authorities

 (6) If the Commissioner varies a release authority under this section at a particular time, then:

 (a) at that time, the release authority (as issued before the variation) ceases to be in force; and

 (b) the Commissioner must reissue the release authority (as varied) under section 131‑15.

Review

 (7) If you are dissatisfied with a decision under this section by the Commissioner in relation to you:

 (a) to vary or revoke a release authority; or

 (b) not to vary or revoke a release authority;

you may object against it in the manner set out in Part IVC of this Act.

129 At the end of Division 131 in Schedule 1

Add:

Repayments if your entitlement to a credit ceases for a release authority relating to an FHSS determination

131‑80 Repayments if your entitlement to a credit ceases for a release authority relating to an FHSS determination

Working out if the superannuation provider still holds a superannuation interest for you

 (1) If:

 (a) a \*superannuation provider pays an amount (the ***released amount***) to the Commissioner under section 131‑35 or 131‑40 in relation to you; and

 (b) your entitlement under section 131‑65 to a credit relating to the released amount ceases under subsection 131‑30(4) or 138‑13(3);

the Commissioner must notify the provider:

 (c) that your entitlement has ceased; and

 (d) that the provider must advise the Commissioner whether the provider still holds a \*superannuation interest for you.

 (2) The \*superannuation provider must advise the Commissioner whether the provider still holds a \*superannuation interest for you. The provider must do so:

 (a) in the \*approved form; and

 (b) within 10 \*business days after the day the provider is notified under subsection (1).

Repaying the superannuation provider if advised that the provider still holds a superannuation interest for you

 (3) The Commissioner must repay the \*superannuation provider the released amount if the provider advises the Commissioner that the provider still holds a \*superannuation interest for you.

 (4) The Commissioner must make the repayment within 60 \*business days after the day the Commissioner is so advised.

What happens if the original provider cannot be repaid

 (5) However, if:

 (a) the \*superannuation provider advises the Commissioner that the provider no longer holds a \*superannuation interest for you; or

 (b) the Commissioner is satisfied that the superannuation provider no longer exists;

the Commissioner must only pay an equivalent amount to the released amount if one of the events in the following table happens.

| When the Commissioner must pay the equivalent amount |
| --- |
| Item | If the Commissioner is satisfied that: | then the Commissioner must pay the equivalent amount to: |
| 1 | another release authority has been issued under section 131‑15:(a) to another \*superannuation provider in relation to you; and(b) in relation to a \*first home super saver determination given to you | the other \*superannuation provider. |
| 2 | (a) another \*superannuation provider holds a \*superannuation interest for you; and(b) you or your \*legal personal representative has notified the Commissioner of this in the \*approved form | the other \*superannuation provider. |
| 3 | (a) you satisfy a condition of release, with a nil cashing restriction, of benefits specified in a standard referred to in paragraph 31(2)(h) of the *Superannuation Industry (Supervision) Act 1993*; and(b) you or your \*legal personal representative has notified the Commissioner of this in the \*approved form | you or your \*legal personal representative (as applicable). |

 (6) The Commissioner must make the payment:

 (a) within 60 \*business days after the day such an event happens; and

 (b) if more than one of the events happen—in accordance with the first of the events that happen.

130 Before subsection 138‑10(1) in Schedule 1

Insert:

First home super saver determination

131 Before subsection 138‑10(2) in Schedule 1

Insert:

Requesting a first home super saver determination

132 Paragraph 138‑10(2)(c) in Schedule 1

Repeal the paragraph, substitute:

 (c) subsection (2C) applies for you.

133 After subsection 138‑10(2B) in Schedule 1

Insert:

 (2C) This subsection applies for you if:

 (a) you have not previously made a valid request for a release authority under Division 131 in relation to a \*first home super saver determination made in relation to you; or

 (b) one of the following subparagraphs applies for each of your previous valid requests for such a release authority:

 (i) you have withdrawn the request;

 (ii) the Commissioner has revoked the release authority issued in relation to the request (whether or not the release authority had previously been varied);

 (iii) after one or more amendments of the request, you have withdrawn the latest of those amended requests;

 (iv) the Commissioner has revoked the release authority issued in relation to the latest of one or more amendments of the request (whether or not the release authority had previously been varied).

Making a first home super saver determination etc.

134 Subsection 138‑10(4) in Schedule 1

Repeal the subsection.

135 After section 138‑10 in Schedule 1

Insert:

138‑12 Withdrawing or amending your request

 (1) You may, by notifying the Commissioner in the \*approved form, withdraw or amend your valid request made under section 138‑10 if:

 (a) in the case of amending your request—you satisfy paragraphs 138‑10(2)(a) to (c); and

 (b) the Commissioner has not already made a \*first home super saver determination in relation to your request.

 (2) Your amended request is treated as a valid request under section 138‑10.

 (3) Withdrawing your request does not prevent you from making a later request under section 138‑10.

138‑13 Amending or revoking a first home super saver determination

 (1) The Commissioner may decide to:

 (a) amend a \*first home super saver determination made in relation to you if you satisfy paragraphs 138‑10(2)(a) to (c); or

 (b) revoke a first home super saver determination made in relation to you;

at any time before the Commissioner begins treating, under Division 3 of Part IIB, any credit to which you have become entitled under section 131‑65 in relation to a release authority relating to the determination.

Note: Like other first home super saver determinations, an amended determination will need to comply with Subdivision 138‑B.

 (2) The Commissioner may make a decision under subsection (1):

 (a) on the Commissioner’s own initiative; or

 (b) on application by you to the Commissioner in the \*approved form.

 (3) If a \*first home super saver determination is amended or revoked under subsection (1) at a particular time, then at that time:

 (a) each of the following ceases to be valid or in force:

 (i) any request under section 131‑5 for a release authority in relation to that determination;

 (ii) any release authority issued in relation to such a request; and

 (b) any entitlement under section 131‑65 you had to a credit relating to such a request ceases.

Note: Paragraphs (a) and (b) apply to a request or release authority whether or not it has been amended or varied.

 (4) Notice of an amended determination given by the Commissioner under this section is prima facie evidence of the matters stated in the notice. For the purposes of subparagraph 131‑5(3)(c)(i), the Commissioner is treated as issuing the amended determination at the time this notice is given.

136 After paragraph 138‑15(b) in Schedule 1

Insert:

 or (c) a decision the Commissioner makes under subsection 138‑13(1):

 (i) to amend or revoke a determination; or

 (ii) not to amend or revoke a determination;

137 Subsection 355‑65(3) in Schedule 1 (after table item 10)

Insert:

|  |  |  |
| --- | --- | --- |
| 10A | a \*superannuation provider | is for the purpose of complying with section 131‑80 in this Schedule |

138 Application of amendments

The amendments made by this Part apply in relation to first home super saver determinations made, or to be made, on or after 1 July 2018.

139 Transitional—variations or revocations of release authorities before commencement

A variation of a release authority, or a revocation of a release authority, as the result of a decision made:

 (a) under section 131‑30 in Schedule 1 to the *Taxation Administration Act 1953*; and

 (b) before the commencement of this Part;

continues in force (and may be dealt with) on or after that commencement as if that decision had been made under subsection 131‑30(1) in that Schedule as amended by this Part.