

EXPOSURE DRAFT

EXPOSURE DRAFT (14/03/2023)

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Inserts for
**Treasury Laws Amendment (Measures
for Consultation) Bill 2023: Minor and
technical 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.	

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1 Schedule 1—Minor and technical amendments

2 Part 1—Amendments commencing day after Royal 3 Assent

4 Division 1—Definition of year of income in the 5 Superannuation Industry (Supervision) Act 1993

6 *Superannuation Industry (Supervision) Act 1993*

7 1 Subsection 10(1) (definition of *year of income*)

8 Repeal the definition, substitute:

9 *year of income* has the same meaning as in the *Income Tax*
10 *Assessment Act 1936*.

11 Division 2—Measures relating to the Companies 12 Auditors Disciplinary Board

13 *Australian Securities and Investments Commission Act 2001*

14 2 Subsection 5(1) (definition of *Deputy Chairperson*)

15 Repeal the definition, substitute:

16 *Deputy Chairperson* means:

- 17 (a) in relation to the Disciplinary Board—the Deputy
18 Chairperson of the Disciplinary Board; and
19 (b) in any other case—a Deputy Chairperson of ASIC.

20 3 Subsection 5(1)

21 Insert:

22 *Panel Chairperson* has the meaning given by
23 subsection 210A(3A).

24 4 Subsections 210A(3) to (5)

25 Repeal the subsections, substitute:

- 26 (3) Without limiting subsection (2), the Chairperson may constitute the
27 Panel in a particular manner to hear matters of a specified kind, or
28 matters that satisfy specified criteria.

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1 (3A) The Chairperson must, under subsection (2), constitute the Panel so
2 that one of the following members is the *Panel Chairperson* of the
3 Panel:

- 4 (a) the Chairperson;
5 (b) the Deputy Chairperson;
6 (c) another member who:
7 (i) is enrolled as a barrister, as a solicitor, as a barrister and
8 solicitor or as a legal practitioner of the High Court, of
9 any federal court or of the Supreme Court of a State or
10 Territory; and
11 (ii) has been so enrolled for a period of at least 5 years.

12 (4) The Chairperson must, under subsection (2), constitute the Panel:

- 13 (a) if the Chairperson is satisfied that it is practicable and
14 appropriate to do so—as a 5 person Panel consisting of:
15 (i) the Panel Chairperson; and
16 (ii) 2 accounting members; and
17 (iii) 2 business members; or
18 (b) otherwise—as a 3 person Panel consisting of:
19 (i) the Panel Chairperson; and
20 (ii) 1 accounting member; and
21 (iii) 1 business member.

22 **5 Subsection 216(7)**

23 Repeal the subsection, substitute:

- 24 (7) A person contravenes this subsection if:
25 (a) the person is present at a hearing of a Panel of the
26 Disciplinary Board; and
27 (b) the person is present while the hearing is taking place in
28 private; and
29 (c) a direction of the Panel under this section does not specify
30 that the person may be present while the hearing is taking
31 place in private; and
32 (d) the person is not:
33 (i) the Panel Chairperson; or
34 (ii) a member of the Panel; or
35 (iii) any other member of the Disciplinary Board approved
36 by the Panel to be present while the hearing is taking
37 place in private; or

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1 (iv) a member of the staff of the Disciplinary Board
2 approved by the Panel to be present while the hearing is
3 taking place in private; or

4 (v) a person referred to in subsection (6).

5 Note: This subsection can apply while only a part of the hearing is taking
6 place in private (see paragraph (5)(a)).

7 Penalty: 30 penalty units.

8 **6 In the appropriate position**

9 Insert:

10 **Part 38—Application provision relating to Schedule** 11 **1 to the Treasury Laws Amendment** 12 **(Measures for Consultation) Act 2023** 13

14 **340 Application—hearings held by a Panel of the Disciplinary Board**

15 Subsection 216(7), as amended by Schedule 1 to the *Treasury*
16 *Laws Amendment (Measures for Consultation) Act 2023*, applies in
17 relation to a hearing of a Panel of the Disciplinary Board that is
18 constituted on or after the commencement of that Schedule.

19 **Division 3—Claims handling and settling services**

20 *Australian Securities and Investments Commission Act 2001*

21 **7 After paragraph 12BAB(1)(ea)**

22 Insert:

23 (eb) provide a claims handling and settling service; or

24 **8 After subsection 12DB(1B)**

25 Insert:

26 *Claims handling and settling services*

27 (1C) A person must not, in trade or commerce, make a false or
28 misleading representation in connection with:

29 (a) the supply or possible supply of a claims handling and
30 settling service; or

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1 (b) the promotion by any means of the supply or use of a claims
2 handling and settling service.

3 Note: Failure to comply with this subsection is an offence (see
4 section 12GB).

5 (1D) For the purposes of applying subsection (1C) in relation to a
6 proceeding concerning a representation:

7 (a) that purports to be a testimonial by any person relating to a
8 claims handling and settling service; or

9 (b) concerning:

10 (i) a testimonial by any person; or

11 (ii) a representation that purports to be such a testimonial;
12 relating to a claims handling and settling service;

13 the representation is taken to be misleading unless evidence is
14 adduced to the contrary.

15 (1E) To avoid doubt, subsection (1D) does not:

16 (a) have the effect that, merely because such evidence to the
17 contrary is adduced, the representation is not misleading; or

18 (b) have the effect of placing on any person an onus of proving
19 that the representation is not misleading.

20 *Exceptions*

21 **9 Subsection 12DB(2)**

22 After “subsection (1)”, insert “or (1C)”.

23 **10 Before subsection 12DB(3)**

24 Insert:

25 *Offence*

26 **11 Subsection 12DB(3)**

27 After “subsection (1)”, insert “or (1C)”.

28 **12 In the appropriate position**

29 Insert:

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Part 39—Application provision relating to Schedule 1 to the Treasury Laws Amendment (Measures for Consultation) Act 2023

342 Application—claims handling and settling services

- (1) Paragraph 12BAB(1)(eb) applies in relation to providing a claims handling and settling service on or after the commencement of this section.
- (2) The amendments of section 12DB of this Act made by Division 3 of Part 1 of Schedule 1 to the *Treasury Laws Amendment (Measures for Consultation) Act 2023* apply in relation to a representation made on or after the commencement of this section.

Division 4—GST free cars

13 GST free cars

The amendments made by Division 2 of Part 2 of Schedule 3 to the *Treasury Laws Amendment (2021 Measures No. 5) Act 2021* (the **amending law**) do not apply, and are taken never to have applied, in relation to:

- (a) a disability certificate that:
 - (i) was issued before the commencement of the amending law; and
 - (ii) met the requirements of paragraph 38-510(1)(a) of the *A New Tax System (Goods and Services Tax) Act 1999*, as in force immediately before the commencement of the amending law; or
- (b) a certificate of medical eligibility that:
 - (i) was issued before the commencement of the amending law; and
 - (ii) met the requirements of paragraph 38-510(1)(a) of the *A New Tax System (Goods and Services Tax) Act 1999*, as it operated immediately before the commencement of the amending law because of the modification determined by the *Taxation Administration (Remedial Power – Certificate for GST-free supplies of Cars for Disabled People) Determination 2020*.

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1 **Division 5—Regulation of financial benchmarks**

2 *Corporations Act 2001*

3 **14 Section 760B (after table item 5A)**

4 Insert:

5 5B 7.5B regulation of financial benchmarks

6 **Division 6—Authorisations**

7 *Competition and Consumer Act 2010*

8 **15 The whole of the Act**

9 Omit every occurrence of “authorization”, substitute “authorisation”.

10 **16 The whole of the Act**

11 Omit every occurrence of “authorizations”, substitute “authorisations”.

12 **17 The whole of the Act**

13 Omit every occurrence of “authorize”, substitute “authorise”.

14 **18 The whole of the Act**

15 Omit every occurrence of “authorized”, substitute “authorised”.

16 **Division 7—Other amendments**

17 *Australian Prudential Regulation Authority Act 1998*

18 **19 Paragraph 58(4)(a)**

19 Omit “52A, 52B,”.

20 **20 Paragraph 58(4)(b)**

21 Omit “62ZOK, 38A, 38B”, substitute “38A, 38B, 62ZOK”.

22 **21 Paragraph 58(4)(c)**

23 Omit “179AK, 156A, 156B”, substitute “156A, 156B, 179AK”.

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Australian Securities and Investments Commission Act 2001

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2 **22 Paragraph 244(2)(d) (the paragraph (d) inserted by item 13**
3 **of Schedule 1 to the *Financial Sector Reform (Hayne***
4 ***Royal Commission Response—Better Advice) Act 2021)***

5 Reletter as paragraph (g).

6 **23 Subsection 285(4)**

7 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*
8 *2003*”.

9 ***Competition and Consumer Act 2010***

10 **24 Section 60A (paragraph (e) of the definition of *electricity***
11 ***retailer*)**

12 Omit “*Electricity Reform Act*”, substitute “*Electricity Reform Act*
13 *2000*”.

14 **25 Paragraph 151BU(4B)(a)**

15 Omit “publically”, substitute “publicly”.

16 **26 Subsections 151DB(2A), (2B) and (2C)**

17 Repeal the subsections.

18 ***Corporations Act 2001***

19 **27 Division 1A of Part 5.4B (the Division 1A inserted by**
20 **item 171 of Schedule 1 to the *Personal Property***
21 ***Securities (Corporations and Other Amendments) Act***
22 ***2010*)**

23 Renumber as Division 1AA.

24 **28 Subparagraph 911A(2)(en)(v)**

25 After “that could reasonably”, insert “be”.

26 **29 Paragraph 985D(1)(b)**

27 Repeal the paragraph.

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1 **30 Subsection 985D(3)**

2 Repeal the subsection.

3 **31 Subparagraph 1292(1)(a)(ia) (second occurring)**

4 Omit “(ia) failed”, substitute “(iaa) failed”.

5 **32 Paragraphs 1301(1)(a) and (b)**

6 Omit “*the*” (wherever occurring), substitute “the”.

7 **33 Subsection 1409(4)**

8 Omit “*Legislative Instruments Act 2003*”, substitute “*Legislation Act*
9 *2003*”.

10 **34 Section 1 of Part 10.33**

11 Renumber as section 1645.

12 **35 Section 2 of Part 10.33**

13 Renumber as section 1646.

14 **36 At the end of paragraphs 1678B(6)(a) and (b)**

15 Add “and”.

16 **37 Subclause 37(4) of Schedule 4 (paragraph (h) of the**
17 **definition of *unclaimed money law*)**

18 Repeal the paragraph, substitute:

19 (h) the *Companies (Unclaimed Assets and Moneys) Act 1963*
20 (NT).

21 ***Income Tax Assessment Act 1997***

22 **38 Section 976-1 (formula)**

23 Repeal the formula, substitute:

24 *Franking credit on the distribution × Applicable gross-up rate

25 ***Insurance Act 1973***

26 **39 Before paragraph 127D(a)**

27 Insert:

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1 (aa) section 62ZM;

2 **40 Paragraphs 127D(b), (c) and (f)**

3 Repeal the paragraphs.

4 ***Life Insurance Act 1995***

5 **41 Paragraphs 246C(a), (e) and (f)**

6 Repeal the paragraphs.

7 **42 After paragraph 246C(g)**

8 Insert:

9 (ga) section 179AK;

10 ***Superannuation Industry (Supervision) Act 1993***

11 **43 Paragraph 131FD(a)**

12 Repeal the paragraph.

13 **44 Application of amendments**

14 Despite the repeal of paragraph 131FD(a) of the *Superannuation*
15 *Industry (Supervision) Act 1993* by this Division, that paragraph
16 continues to apply, at and after the commencement of this item, in
17 relation to disclosures of information made before the commencement
18 of item 32 of Schedule 1 to the *Treasury Laws Amendment (Enhancing*
19 *Whistleblower Protections) Act 2019*.

20 ***Taxation Administration Act 1953***

21 **45 Subsection 12-390(4) in Schedule 1 (note 1)**

22 Omit “managed investment trust”, substitute “withholding MIT”.

23 **46 Subsection 12-390(4) in Schedule 1 (note 1)**

24 Omit “managed investment trusts” (wherever occurring), substitute
25 “withholding MITs”.

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1 **Part 2—Amendments commencing first day of next**
2 **quarter: payment relating to taxable supply**
3 **of real property**

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

5 **47 Section 33-1 (note 4)**

6 Omit “supplier”, substitute “entity liable for the GST on the supply”.

7 **48 Subsection 40-65(2) (note)**

8 Omit “supplier”, substitute “entity liable for the GST on the supply”.

9 *Taxation Administration Act 1953*

10 **49 Paragraph 18-60(1)(a) in Schedule 1**

11 Omit “made”, substitute “is liable for *GST on”.

12 **50 Application of amendments**

13 The amendments made by this Part apply in relation to supplies to
14 which subsection 14-250(2) in Schedule 1 to the *Taxation*
15 *Administration Act 1953* applies, whether those supplies were made
16 before, on or after the commencement of this item.

17 Note: Generally, subsection 14-250(2) in Schedule 1 to the *Taxation*
18 *Administration Act 1953* applies in relation to supplies for which any
19 of the consideration (other than consideration provided as a deposit)
20 was first provided on or after 1 July 2018 (see Part 3 of Schedule 5 to
21 the *Treasury Laws Amendment (2018 Measures No. 1) Act 2018*).