Treasury Laws Amendment (2019 Measures No. 2) Act 2019

No. 94, 2019

An Act to amend the law relating to taxation, competition, energy and superannuation, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (https://www.legislation.gov.au/)

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Treasury Laws Amendment (2019 Measures No. 2) Act 2019

No. 94, 2019

An Act to amend the law relating to taxation, competition, energy and superannuation, and for related purposes

[*Assented to 28 October 2019*]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2019 Measures No. 2) Act 2019*.

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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.	28 October 2019
2. Schedule 1	The day after this Act receives the Royal Assent.	29 October 2019
3. Schedule 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 January 2020
4. Schedule 3	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
5. Schedules 4 and 5	The day after this Act receives the Royal Assent.	29 October 2019

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule

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concerned, and any other item in a Schedule to this Act has effect according to its terms.

Note: The provisions of the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999* amended or inserted by this Act, and any other provisions of that instrument, may be amended or repealed by regulations made under any of the following provisions of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*:

(a) subsections 17(2AB) and (2AC);

(b) subsection 20H(2AA);

(c) subsections 20QF(5) and (6);

(d) subsections 24G(3A) and (3B);

(e) subsection 24NA(4).

(See subsection 13(5) of the *Legislation Act 2003*.)

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Schedule 1—Genuine redundancy payments and early retirement scheme payments alignment with pension age

Part 1—Genuine redundancy payments and early retirement scheme payments amendments

Income Tax Assessment Act 1997

1 Subparagraph 83-175(2)(a)(i)

Omit "he or she turned 65", substitute "the employee reached *pension age".

2 Subparagraph 83-180(2)(a)(i)

Omit "he or she turned 65", substitute "the employee reached *pension age".

3 Application

The amendments made by this Part apply to payments received by employees who are dismissed or retire on or after 1 July 2019.

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Part 2—Technical amendments

Income Tax Assessment Act 1997

4 Subsection 52-25(3) (method statement, step 1, paragraph (b))

Omit "pension age", substitute "*pension age".

5 Subsection 52-30(3) (method statement, step 1, paragraph (b))

Omit "pension age", substitute "*pension age".

6 Subsection 52-35(3) (method statement, step 1, paragraph (b))

Omit "pension age", substitute "*pension age".

7 After subsection 52-65(2)

Insert:

Note: ***Pension age*** has the meaning given by subsection 23(1) of the *Social Security Act 1991*: see subsection 995-1(1).

8 Subsection 52-65(3)

Repeal the subsection.

9 After subsection 52-105(5)

Insert:

Note: ***Pension age*** has the meaning given by subsection 23(1) of the *Social Security Act 1991*: see subsection 995-1(1).

10 Subsection 52-105(6)

Repeal the subsection.

11 Subsection 995-1(1) (definition of *pension age*)

Repeal the definition, substitute:

pension age has the meaning given by subsection 23(1) of the *Social Security Act 1991*.

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Note: In Subdivision 52-E, ***pension age*** has the meaning given by subsection 52-131(9).

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Schedule 2—Luxury car tax refund entitlements

A New Tax System (Luxury Car Tax) Act 1999

1 Subsection 18-5(3)

Repeal the subsection, substitute:

(3) The amount of the refund for a refund entitlement under subsection (2) is the lesser of:

(a) the amount of the luxury car tax described in paragraph (2)(a); and

(b) $10,000.

2 Subsection 18-10(3)

Repeal the subsection, substitute:

(3) The amount of the refund for a refund entitlement under subsection (2) is the lesser of:

(a) the amount of the luxury car tax described in paragraph (2)(a); and

(b) $10,000.

3 Application

The amendments made by this Schedule apply to refund-eligible cars supplied or imported on or after 1 July 2019.

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Schedule 3—Australian Energy Regulator

Part 1—Amendments

Competition and Consumer Act 2010

1 Subsection 4(1)

Insert:

> ***Commonwealth AER member*** means an AER member referred to in section 44AM.

2 Subsection 7(2) (note)

Repeal the note.

3 Section 8AB (heading)

Omit "**State/Territory**".

4 Subsection 8AB(1)

Omit "a State/Territory AER member", substitute "an AER member".

5 Subsection 8AB(1) (note)

Omit "A State/Territory AER member", substitute "An AER member".

6 Subsection 8AB(2)

Omit "a State/Territory AER member", substitute "an AER member".

7 Subsection 8AB(3)

Omit "State/Territory".

8 Subsection 8AB(3)

After "section", insert "44AM or".

9 Section 44AB (definition of *Commonwealth AER member*)

Repeal the definition.

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10 Paragraph 44AG(a)

Omit "a Commonwealth AER member", substitute "2 Commonwealth AER members".

11 Paragraph 44AG(b)

Omit "2", substitute "3".

12 Section 44AM (heading)

Omit "**member**", substitute "**members**".

13 Subsection 44AM(1)

Omit "instrument", substitute "instrument, on either a full-time or part-time basis".

14 At the end of subsection 44AM(1)

Add:

Note: A Commonwealth AER member is also taken to be an associate member of the Commission: see section 8AB.

15 Subsection 44AM(2)

Omit "The Commonwealth AER member", substitute "A Commonwealth AER member".

16 Subsections 44AM(3) and (4)

Repeal the subsections, substitute:

(3) A person is not eligible for appointment as a Commonwealth AER member unless the person has knowledge of, or experience in, industry, commerce, economics, law, consumer protection or public administration.

17 Section 44AN

Repeal the section.

18 Section 44AO

Repeal the section, substitute:

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44AO Acting appointment of Commonwealth AER member

(1) The Minister may, by written instrument, appoint a person to act as a Commonwealth AER member:
  (a) during a vacancy in the office of Commonwealth AER member, whether or not an appointment has previously been made to the office; or
  (b) during any period, or during all periods, when the Commonwealth AER member:
    (i) is absent from duty or from Australia; or
    (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

(2) A person is not eligible for appointment to act as a Commonwealth AER member unless the person has knowledge of, or experience in, industry, commerce, economics, law, consumer protection or public administration.

19 Subsection 44AP(3)

Omit all the words after "unless", substitute "the person has knowledge of, or experience in, industry, commerce, economics, law, consumer protection or public administration".

20 Section 44AQ

Repeal the section, substitute:

44AQ Acting appointment of State/Territory AER member

(1) The Minister may, by written instrument, appoint a person to act as a State/Territory AER member:
  (a) during a vacancy in the office of State/Territory AER member, whether or not an appointment has previously been made to the office; or
  (b) during any period, or during all periods, when the State/Territory AER member:
    (i) is absent from duty or from Australia; or
    (ii) is, for any reason, unable to perform the duties of the office.

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Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

(2) A person is not eligible for appointment to act as a State/Territory AER member unless the person has knowledge of, or experience in, industry, commerce, economics, law, consumer protection or public administration.

21 Subsection 44AR(2)

Repeal the subsection, substitute:

(2) A person is not eligible for appointment as the AER Chair unless the person is a full-time AER member.

22 After section 44AR

Insert:

44ARA AER Deputy Chair

(1) One of the AER members is to be appointed by the Governor-General as the AER Deputy Chair, by written instrument. The appointment as AER Deputy Chair may be made at the same time as the appointment as AER member, or at a later time.

(2) A person is not eligible for appointment as the AER Deputy Chair unless the person is a full-time AER member.

(3) The AER Deputy Chair holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

(4) If a person who is the AER Deputy Chair ceases to be an AER member, then the person also ceases to be the AER Deputy Chair.

Note: A person may cease to be the AER Deputy Chair without ceasing to be an AER member.

44ARB AER Deputy Chair to act as the AER Chair

The AER Deputy Chair is to act as the AER Chair:

(a) during a vacancy in the office of the AER Chair, whether or not an appointment has previously been made to the office; or

(b) during all periods when the AER Chair:

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(i) is absent from duty or from Australia; or
(ii) is, for any reason, unable to perform the duties of the office.

Note: See also subsection 33A(2) of the *Acts Interpretation Act 1901*.

23 Section 44AS

Repeal the section, substitute:

44AS Acting AER Deputy Chair

(1) The Minister may, by written instrument, appoint an AER member to act as the AER Deputy Chair:
(a) during a vacancy in the office of the AER Deputy Chair, whether or not an appointment has previously been made to the office; or
(b) during any period, or during all periods, when the AER Deputy Chair:
(i) is absent from duty or from Australia; or
(ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

(2) If a person acting as the AER Deputy Chair ceases to be an AER member, then the appointment to act as the AER Deputy Chair also ceases.

24 Subsections 44AT(1) and (2)

Omit "(other than the Commonwealth AER member)".

25 Subsection 44AT(4)

Repeal the subsection (including the note).

26 Subsections 44AU(1) and (2)

Omit "(whether or not the Commonwealth AER member)".

27 At the end of section 44AZ

Add:

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(3) A person who is the AER Deputy Chair may resign the person's appointment as AER Deputy Chair by giving the Governor-General a written resignation. The resignation does not affect the person's appointment as an AER member.

28 Subsection 44AAD(3)

Repeal the subsection, substitute:

(3) At a meeting of the AER, 3 AER members constitute a quorum. The quorum must include the AER Chair.

29 Subsection 44AAD(4)

Omit "unanimous vote", substitute "a majority of the votes".

30 After subsection 44AAD(4)

Insert:

(4A) The AER Chair has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

31 Subsection 44AAE(1)

Omit "3".

32 After Subdivision C of Division 4 of Part IIIAA

Insert:

Subdivision CA—Divisions of the AER

44AAEB Divisions of the AER—functions and powers under a law of the Commonwealth

Directions

(1) The AER Chair may, by writing, direct that all or any of the AER's functions and powers:

(a) under this Part or under regulations made under this Act; or

(b) under another law of the Commonwealth;

in relation to a matter are to be performed and exercised by a Division of the AER constituted by the AER Chair and at least 2 other AER members, as specified in the direction.

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(2) If a direction under subsection (1) is in force in relation to a matter, the Division of the AER specified in the direction may make recommendations to the AER in relation to the matter.

(3) If a direction under subsection (1) is in force in relation to a matter, the AER Chair may, by writing, at any time before the Division of the AER specified in the direction has made a determination in relation to the matter:

(a) revoke the direction; or

(b) amend the direction in relation to the membership of the Division or in any other respect.

If the membership of a Division of the AER is changed, the Division as constituted after the change may complete the determination of the matter.

The AER is taken to consist of the Division

(4) For the purposes of the determination of a matter specified in a direction given under subsection (1), the AER is taken to consist of the Division of the AER specified in the direction.

Meetings

(5) The AER Chair is not required to attend a meeting of a Division of the AER if the AER Chair does not think fit to do so.

(6) The AER Deputy Chair is not required to attend a meeting of a Division of the AER if the AER Deputy Chair does not think fit to do so.

(7) At a meeting of a Division of the AER at which neither the AER Chair nor the AER Deputy Chair is presiding, an AER member nominated for the purpose by the AER Chair is to preside.

(8) Despite section 44AAD, at a meeting of a Division of the AER, 2 AER members form a quorum. The quorum need not include the AER Chair or AER Deputy Chair.

Functions and powers of the AER

(9) A Division of the AER specified under subsection (1) may perform the functions and exercise the powers of the AER mentioned in that subsection despite the fact that another Division of the AER is

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performing those functions and exercising those powers at the same time.

44AAEC Divisions of the AER—functions and powers under a State/Territory energy law or a local energy instrument

Directions

(1) The AER Chair may, by writing, direct that all or any of the AER's functions and powers:
  (a) under a State/Territory energy law; or
  (b) under a local energy instrument;
in relation to a matter are to be performed and exercised by a Division of the AER constituted by the AER Chair and at least 2 other AER members, as specified in the direction.

(2) If a direction under subsection (1) is in force in relation to a matter, the Division of the AER specified in the direction may make recommendations to the AER in relation to the matter.

(3) If a direction under subsection (1) is in force in relation to a matter, the AER Chair may, by writing, at any time before the Division of the AER specified in the direction has made a determination in relation to the matter:
  (a) revoke the direction; or
  (b) amend the direction in relation to the membership of the Division or in any other respect.
If the membership of a Division of the AER is changed, the Division as constituted after the change may complete the determination of the matter.

The AER is taken to consist of the Division

(4) For the purposes of the determination of a matter specified in a direction given under subsection (1), the AER is taken to consist of the Division of the AER specified in the direction.

Meetings

(5) The AER Chair is not required to attend a meeting of a Division of the AER if the AER Chair does not think fit to do so.

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(6) The AER Deputy Chair is not required to attend a meeting of a Division of the AER if the AER Deputy Chair does not think fit to do so.

(7) At a meeting of a Division of the AER at which neither the AER Chair nor the AER Deputy Chair is presiding, an AER member nominated for the purpose by the AER Chair is to preside.

(8) Despite section 44AAD, at a meeting of a Division of the AER, 2 AER members form a quorum. The quorum need not include the AER Chair or AER Deputy Chair.

Functions and powers of the AER

(9) A Division of the AER specified under subsection (1) may perform the functions and exercise the powers of the AER mentioned in that subsection despite the fact that another Division of the AER is performing those functions and exercising those powers at the same time.

Application

(10) This section does not apply to a State/Territory energy law unless a provision of:
  (a) the State/Territory energy law; or
  (b) another law of the State or Territory concerned;
provides that this section extends to, and has effect for the purposes of, the State/Territory energy law.

(11) This section does not apply to a local energy instrument unless a provision of:
  (a) the local energy instrument; or
  (b) the State/Territory energy law of the State or Territory concerned; or
  (c) another law of the State or Territory concerned;
provides that this section extends to, and has effect for the purposes of, the local energy instrument.

33 Paragraph 155(1)(c)

After “Commission,”, insert “or before an associate member of the Commission who is an AER member and who is specified in the notice,”.

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Part 2—Transitional provisions

34 Continuity of appointments

(1) If a person held the office of Commonwealth AER member immediately before the commencement of this item, the amendments of section 44AM of the *Competition and Consumer Act 2010* made by this Schedule do not affect the continuity of the person's appointment.

(2) If a person held the office of State/Territory AER member immediately before the commencement of this item, the amendment of section 44AP of the *Competition and Consumer Act 2010* made by this Schedule does not affect the continuity of the person's appointment.

(3) If a person held the office of AER Chair immediately before the commencement of this item, the amendment of section 44AR of the *Competition and Consumer Act 2010* made by this Schedule does not affect the continuity of the person's appointment.

35 Acting appointments

(1) If, immediately before the commencement of this item, an appointment under section 44AO of the *Competition and Consumer Act 2010* was in force, the appointment has effect after that commencement as if it had been made by the Minister under section 44AO of that Act as amended by this Schedule.

(2) If, immediately before the commencement of this item, an appointment under section 44AQ of the *Competition and Consumer Act 2010* was in force, the appointment has effect after that commencement as if it had been made under section 44AQ of that Act as amended by this Schedule.

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Schedule 4—Consumer Data Right—Deletion requests

Competition and Consumer Act 2010

1 After section 56BA

Insert:

56BAA Rules must include requirement to delete CDR data on request from CDR consumer

Requirement to delete CDR data in response to request from CDR consumer

(1) The consumer data rules must include a requirement on an accredited data recipient of CDR data to delete all or part of the CDR data in response to a valid request by a CDR consumer for the CDR data to be deleted.

(2) However, a rule described in subsection (1) must not require deletion of all or part of the CDR Data if:

(a) the accredited data recipient is required to retain the CDR data by or under an Australian law or a court/tribunal order; or

(b) the CDR data relates to any current or anticipated:

(i) legal proceedings; or

(ii) dispute resolution proceedings;

to which the accredited data recipient is a party; or

(c) the CDR data relates to any current or anticipated:

(i) legal proceedings; or

(ii) dispute resolution proceedings;

to which the CDR consumer is a party.

Consumer data rules may include rules in relation to the requirement

(3) The consumer data rules may include the following rules in relation to the requirement:

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(a) rules about:
  (i) how the CDR consumer may make a valid request; and
  (ii) what must be included in a request for it to be valid and when a request ceases to be a valid request;
(b) rules specifying circumstances (in addition to those in subsection (2)) in which the accredited data recipient may refuse to delete the CDR data despite the requirement;
(c) rules about how an accredited data recipient is to delete the CDR data covered in a valid request;
(d) rules about how the requirement is to be complied with depending on the class of CDR data requested to be deleted;
(e) rules about how an accredited data recipient is to notify the CDR consumer of:
  (i) the deletion of the CDR data and the extent of the deletion; or
  (ii) if the CDR data is not deleted—the reasons the deletion did not occur;
(f) rules about any other matters incidental or related to the requirement (see also section 56BJ).

(4) This section applies despite any other provision of this Division.

(5) This section does not limit the consumer data rules dealing with the deletion of CDR data in circumstances other than compliance with the requirement.

2 At the end of subsection 56BC(3)

Add:

Note 3: The rules must include a requirement on an accredited data recipient to delete all or part of the CDR data in response to a valid request by a CDR consumer for the CDR data (see section 56BAA).

3 Section 56BJ

After “paragraph”, insert “56BAA(3)(f) or”.

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Schedule 5—Interest on superannuation payments made by the Commissioner of Taxation

Superannuation (Unclaimed Money and Lost Members) Act 1999

1 At the end of section 24NA

Add:

(4) If the Commissioner makes a payment to a fund under subsection (2) or regulations made for the purposes of subsection (3), the Commissioner must also pay to the fund the amount of interest (if any) worked out in accordance with the regulations.

Note: Money for payments under this section is appropriated by section 16 of the *Taxation Administration Act 1953*.

(5) Regulations made for the purposes of subsection (4) may prescribe different rates for different periods over which the interest accrues. For this purpose, ***rate*** includes a nil rate.

2 Paragraph 24NB(1)(a)

After "subsection 24NA(2)", insert ", subsection 24NA(4)".

Superannuation (Unclaimed Money and Lost Members) Regulations 1999

3 Subregulation 4E(2) (note 2)

After "20H", insert ", 20QD".

4 Paragraph 4E(3)(a)

After "20K", insert ", 20QJ".

5 After paragraph 4F(1)(b)

Insert:

(ba) subsections 20QF(5) and (6);

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6 At the end of subregulation 4F(1)

Add:

; (d) subsection 24NA(4).

7 Paragraph 4F(2)(a)

After "section 20F", insert ", 20QD".

8 Paragraph 4F(2)(b)

Omit "or 24G(2)", substitute ", 20QF(2), 24G(2), 24NA(2) or 24NA(3)".

9 Paragraph 4F(3)(a)

After "20K", insert ", 20QJ".

10 Subregulation 4F(4)

After "The interest", insert "on the unclaimed amount paid by the Commissioner under subsection 17(2), 20H(2), 20QF(2) or 24G(2) of the Act".

11 Subparagraph 4F(4)(a)(ii)

After "20F", insert ", 20QD".

12 Paragraph 4F(4)(b)

After "20H(2)", insert ", 20QF(2)".

13 After subregulation 4F(4)

Insert:

(4A) The interest on the unclaimed amount paid by the Commissioner under subsection 24NA(2) or (3) of the Act is to be worked out for the period (the ***interest period***) that:

(a) starts on the later of:

(i) 1 July 2013; and

(ii) the day when the superannuation provider was required to pay the unclaimed amount to the Commissioner under subsection 17(1), section 20QD or section 24E of the Act; and

(iii) the day when the superannuation provider was required to pay the unclaimed amount to the Commissioner in

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accordance with a notice under subsection 255-10(2) of Schedule 1 to the *Taxation Administration Act 1953*; and

(b) ends on the third day after the Commissioner last authorised the unclaimed amount to be paid under subsection 24NA(2) or (3) of the Act.

[*Minister's second reading speech made in—*
House of Representatives on 18 September 2019
Senate on 17 October 2019]

(190/19)

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