Treasury Laws Amendment (2019 Measures No. 3) Act 2020

No. 64, 2020

An Act to amend the law relating to taxation, corporations, competition, financial services, consumer credit, product grants and benefits, superannuation and legislative and other instruments, 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. 3) Act 2020

No. 64, 2020

An Act to amend the law relating to taxation, corporations, competition, financial services, consumer credit, product grants and benefits, superannuation and legislative and other instruments, and for related purposes

[*Assented to 22 June 2020*]

The Parliament of Australia enacts:

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1 Short title

This Act is the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020*.

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.	22 June 2020
2. Schedule 1	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 July 2020
3. Schedule 2	The day after this Act receives the Royal Assent.	23 June 2020
4. Schedule 3, Part 1	The day after this Act receives the Royal Assent.	23 June 2020
5. Schedule 3, Part 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 July 2020
6. Schedule 3, Part 3	The first 1 January, 1 April, 1 July or 1 October to occur after the end of the period of 60 days beginning on the day this Act receives the Royal Assent.	1 October 2020
7. Schedule 3, Part 4	1 July 2017.	1 July 2017

Note: This table relates only to the provisions of this Act as originally enacted.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.

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(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.

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Schedule 1—Testamentary trusts

Income Tax Assessment Act 1936

1 Paragraph 102AG(2)(a)

After "is assessable income", insert ", of a kind covered by subsection (2AA),".

2 After subsection 102AG(2)

Insert:

(2AA) For the purposes of paragraph (2)(a), assessable income of a trust estate is of a kind covered by this subsection if:

(a) the assessable income is derived by the trustee of the trust estate from property; and

(b) the property satisfies any of the following requirements:

(i) the property was transferred to the trustee of the trust estate to benefit the beneficiary from the estate of the deceased person concerned, as a result of the will, codicil, intestacy or order of a court mentioned in paragraph (2)(a);

(ii) the property represents accumulations of income or capital from property that satisfies the requirement in subparagraph (i);

(iii) the property represents accumulations of income or capital from property that satisfies the requirement in subparagraph (ii), or (because of a previous operation of this subparagraph) the requirement in this subparagraph.

3 Application

The amendments made by this Schedule apply in relation to assets acquired by or transferred to the trustee of a trust estate on or after 1 July 2019.

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Schedule 2—Deferring education and training standards for existing financial advisers

Corporations Act 2001

1 Subsection 1546B(1)

Omit “1 January 2024”, substitute “1 January 2026”.

2 Subsection 1546B(3)

Omit “1 January 2021”, substitute “1 January 2022”.

3 Subsection 1546B(4)

Omit “1 January 2024”, substitute “1 January 2026”.

4 Subsection 1546B(5)

Omit “1 January 2021”, substitute “1 January 2022”.

5 Subsection 1546C(2)

Omit “1 January 2024”, substitute “1 January 2026”.

6 Subsection 1546C(3)

Omit “1 January 2021”, substitute “1 January 2022”.

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Schedule 3—Miscellaneous amendments

Part 1—Amendments commencing day after Royal Assent

Australian Securities and Investments Commission Act 2001

1 Subsection 8(2) (note)

Repeal the note.

2 Paragraph 12GBCA(1)(a)

Repeal the paragraph, substitute:

(a) 5,000 penalty units; and

3 Paragraph 12GBCA(2)(a)

Repeal the paragraph, substitute:

(a) 50,000 penalty units; and

4 After paragraph 127(4)(e)

Insert:

or (f) if the information relates to a relevant provider (within the meaning of Part 7.6 of the *Corporations Act 2001*)—will enable or assist a monitoring body (within the meaning of that Part) for a compliance scheme (within the meaning of that Part) that covers the relevant provider to perform its functions or exercise its powers under that Part;

5 Part 23 (the Part 23 inserted by item 2 of Schedule 2 to the *Treasury Laws Amendment (2017 Measures No. 1) Act 2017*)

Renumber as Part 24.

6 Section 302 (the section 302 inserted by item 2 of Schedule 2 to the *Treasury Laws Amendment (2017 Measures No. 1) Act 2017*)

Renumber as section 308.

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7 Section 315 (the section 315 inserted by item 9 of Schedule 1 to the *Treasury Laws Amendment (ASIC Governance) Act 2018*)

Renumber as section 314A.

8 Part 26 (the Part 26 inserted by item 1 of Schedule 12 to the *Treasury Laws Amendment (Australian Consumer Law Review) Act 2018*)

Renumber as Part 26A.

9 In the appropriate position

Insert:

Part 30—Application provisions relating to the Treasury Laws Amendment (2019 Measures No. 3) Act 2020

327 Application—amounts of pecuniary penalties

The amendments made by items 2 and 3 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020* apply in relation to the contravention of a civil penalty provision if the conduct constituting the contravention of the provision occurred or occurs wholly on or after the commencement of Schedule 2 to the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019*.

Note: Schedule 2 to the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019* commenced on 13 March 2019.

328 Application—authorised disclosure to monitoring body

The amendment of section 127 of this Act made by item 4 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020* applies in relation to disclosures of information made on or after the commencement of that item, whether ASIC obtained the information before, on or after that commencement.

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Competition and Consumer Act 2010

10 Paragraph 8A(6)(b)

After "a matter", insert ", or a class of matters,".

11 Subsection 19(2)

Repeal the subsection, substitute:

(2) Without limiting subsection 33(3AB) of the *Acts Interpretation Act 1901*, a direction may:
  (a) specify a particular matter in relation to which the Division is to exercise the powers of the Commission; or
  (b) specify a class of matters in relation to which the Division is to exercise the powers of the Commission from time to time.

(2A) The Chairperson may vary or revoke a direction:
  (a) if the direction specifies a particular matter under paragraph (2)(a)—at any time before the Division makes a determination in relation to the matter; or
  (b) otherwise—at any time.

(2B) If a direction is varied to change the membership of the Division, the Division as constituted after the change may continue and complete the determination of any matter that the Division was dealing with before the change.

12 After subsection 19(3)

Insert:

(3A) However, a direction under subsection (1) specifying a matter, or a class of matters, in relation to which a Division is to exercise the powers of the Commission does not prevent the Commission dealing with that matter, or a matter in that class of matters, otherwise than in the Division.

13 At the end of section 19

Add:

(8) A direction given under subsection (1) is not a legislative instrument.

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14 Subsection 51ADE(2)

Omit "The Commission", substitute "A member of the Commission".

15 At the end of section 51ADE

Add:

(3) Subsection (2) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a notice under section 51ADD of this Act.

Delegation

(4) A member of the Commission may, by writing, delegate the member's powers under subsection (2) to a member of the staff of the Commission who is an SES employee or an acting SES employee.

Note 1: Section 2B of the *Acts Interpretation Act 1901* contains the definitions of ***SES employee*** and ***acting SES employee***.

Note 2: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(5) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the member.

16 Subsection 93AB(9)

After "subsection", insert "(1A) or".

17 After subsection 95ZK(3)

Insert:

(3A) A member of the Commission may vary a notice under subsection (1) to extend, or further extend, the period.

(3B) Subsection (3A) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a notice under subsection (1) of this section.

18 At the end of section 95ZK

Add:

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Delegation

(10) A member of the Commission may, by writing, delegate the member's powers under subsection (3A) to a member of the staff of the Commission who is an SES employee or an acting SES employee.

Note 1: Section 2B of the *Acts Interpretation Act 1901* contains the definitions of ***SES employee*** and ***acting SES employee***.

Note 2: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(11) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the member.

Corporations Act 2001

19 Paragraph 5.3 of the small business guide in Part 1.5

Omit "10 years", substitute "15 years".

20 Paragraph 422C(1)(c)

Repeal the paragraph, substitute:

(c) a registered liquidator (the ***new controller***):

(i) is appointed instead as the controller of that property of the corporation; or

(ii) if the corporation is a company under external administration—is appointed instead as the external administrator of the company; or

(iii) if subparagraphs (i) and (ii) do not apply and the corporation is a company under external administration—is the external administrator of the company.

21 Subsection 422C(2)

Repeal the subsection, substitute:

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Transfer of books to new controller

(2) The former controller must transfer to the new controller possession or control of any books relating to the control of the property that are in the former controller's possession or control.

(2A) The transfer must be made:

(a) if the new controller is appointed instead of the former controller—within 5 business days after the new controller is appointed; or

(b) otherwise—within 5 business days after the former controller ceases to act.

22 Subsection 445HA(1)

Omit "The notice must be in the prescribed form.".

23 Subsection 445HA(2)

Omit "The notice must be in the prescribed form.", substitute "The notice must be lodged with ASIC and must be in the prescribed form (if any).".

24 Section 760B (after table item 10)

Insert:

10A	7.10A	authorisation and regulation of an external dispute resolution scheme for financial complaints
		additional provisions relating to superannuation complaints

25 Subsection 890C(3)

Before "any", insert "all or".

26 Paragraphs 1053(4)(a), (b) and (c)

Omit "self-managed superannuation fund", substitute "self managed superannuation fund".

27 Subsection 1101J(1)

Before "any", insert "all or".

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28 Subsection 1345A(1)

Omit "such of the Minister's functions and powers under this Act as are prescribed", substitute "all or any of the Minister's functions and powers under this Act that are prescribed by the regulations for the purposes of this subsection".

29 After subsection 1345A(1)

Insert:

(1AA) If:

(a) under subsection (1), the Minister delegates to an officer of the Department all of the Minister's functions and powers that are prescribed for the purposes of that subsection; and

(b) the regulations are amended to prescribe one or more additional functions or powers for the purposes of that subsection; and

(c) the delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the delegation is taken to include the additional functions or powers.

30 In the appropriate position in Chapter 10

Insert:

Part 10.41—Transitional provisions relating to the Treasury Laws Amendment (2019 Measures No. 3) Act 2020

1668 Transitional—delegations

(1) The amendments of sections 890C, 1101J and 1345A made by items 25, 27, 28 and 29 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020* do not affect a delegation in effect for the purposes of any of those sections immediately before the commencement of those items.

(2) Despite the amendment of subsection 1345A(1) made by item 28 of that Schedule, regulations in force for the purposes of that

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subsection immediately before the commencement of that item continue in force, on and after that commencement, for the purposes of that subsection.

31 Paragraph 90-26(4)(c) of Schedule 2

After "Court under", insert "subsection 90-23(6) or".

International Monetary Agreements Act 1947

32 Section 3 (note to the definition of *IMF loan agreement 2016*)

Repeal the note, substitute:

Note: The Loan Agreement is in Australian Treaty Series 2017 No. 41 ([2017] ATS 41) and could in 2019 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

33 Section 3 (at the end of the definition of *New Arrangements to Borrow*)

Add:

Note: The decision referred to in paragraph (d) is in Australian Treaty Series 2017 No. 42 ([2017] ATS 42) and could in 2019 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

National Consumer Credit Protection Act 2009

34 Paragraphs 100(6)(a) and (b)

Repeal the paragraphs, substitute:

(a) if the credit service licensee is a body corporate to which section 323D of the *Corporations Act 2001* applies—a financial year of the body corporate (within the meaning of that section); and

(b) in any other case—a year ending on 30 June.

35 Paragraph 151(d)

Omit "section 130", substitute "section 153".

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36 Paragraph 263(d)

Omit "to a contravention", substitute "to an alleged or suspected contravention".

37 Subsection 50(8) of the *National Credit Code* (definition of *relevant limit*)

Omit "the *Bankruptcy Regulations 1966* for the purposes of subparagraph 116(2)(c)(i) of the *Bankruptcy Act 1966*", substitute "regulations made under the *Bankruptcy Act 1966* for the purposes of subparagraph 116(2)(c)(i) of that Act".

38 Paragraph 150(1)(b) of the *National Credit Code*

After "is included", insert "or required to be included".

39 After subsection 150(3) of the *National Credit Code*

Insert:

(3A) Subsection (3) does not apply if the credit would, if provided as advertised, be provided under a small amount credit contract.

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

40 Subsection 2(1) (table item 4)

Repeal the item.

41 Subsection 6(4)

Repeal the subsection, substitute:

(4) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply to regulations made under this section.

42 Paragraph 6(5)(a)

Repeal the paragraph, substitute:

(a) regulations are expressed to commence on a date (the ***registration date***) before the regulations are registered under the *Legislation Act 2003*; and

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43 Subitem 41(6) of Schedule 2

Omit "*Legislative Instruments Act 2003*", substitute "*Legislation Act 2003*".

44 Subitem 43(2) of Schedule 2

Omit "one-fourtieth", substitute "one-fortieth".

45 Schedule 3

Repeal the Schedule.

46 In the appropriate position

Insert:

Schedule 11—Application provisions for the Treasury Laws Amendment (2019 Measures No. 3) Act 2020

1 Application—exercise of information-gathering powers

The amendment made by item 36 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020* applies on and after the commencement of that item in relation to a contravention that is alleged or suspected to have occurred before, on or after that commencement.

Product Grants and Benefits Administration Act 2000

47 Subparagraph 9(3A)(b)(i)

Before "recycling", insert "oil".

48 After paragraph 9(3A)(b)

Insert:

(ba) except in relation to registration for entitlement only to product stewardship (oil) benefits under subsection 9(3) of the *Product Stewardship (Oil) Act 2000*—satisfy the following conditions:

(i) you comply with relevant Commonwealth, State or Territory legislation relating to oil recycling operations or enterprises;

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(ii) the Commissioner has not been informed by a Department, agency or authority of the Commonwealth, a State or a Territory that is responsible for the administration of any such legislation that you do not comply with the legislation; and

49 Application—registration for grants and benefits

(1) The amendments made by items 47 and 48 apply in relation to applications made under section 9 of the *Product Grants and Benefits Administration Act 2000* on or after the commencement of this Part.

(2) Regulations made for the purposes of paragraph 9(3A)(b) of that Act and in force immediately before the commencement of this Part continue to apply in relation to applications made under section 9 of that Act before the commencement of this Part.

Superannuation Industry (Supervision) Act 1993

50 After section 16

Insert:

17 Persons involved in a contravention

For a contravention that is not an offence, a person is ***involved*** in the contravention if, and only if, the person:

(a) has aided, abetted, counselled or procured the contravention; or

(b) has induced, whether by threats or promises or otherwise, the contravention; or

(c) has been in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the contravention; or

(d) has conspired with others to effect the contravention.

51 Application—persons involved in a contravention

The amendment made by item 50 applies in relation to contraventions happening on or after the commencement of this Part.

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52 Paragraph 99G(1)(b)

Repeal the paragraph, substitute:

(b) a member of the fund:

(i) holds the product on the last day of a year of income of the fund and, on that day, has an account balance with the fund that relates to the product that is less than $6,000; or

(ii) holds the product on one or more days during a year of income of the fund and, on the last of those days, has an account balance with the fund that relates to the product that is less than $6,000.

53 Section 194

After "this Act", insert "that is not an offence".

Superannuation (Unclaimed Money and Lost Members) Act 1999

54 Subsections 16(1A), (2) and (2A)

Repeal the subsections, substitute:

(2) The statement is not required to contain information relevant to unclaimed money that ceases to be unclaimed money during the period that:

(a) begins from the unclaimed money day; and

(b) ends immediately before the day on which the statement is given to the Commissioner.

(2A) If, at the end of the unclaimed money day:

(a) there is no unclaimed money, the statement must say so; or

(b) there is only unclaimed money that ceases to be unclaimed money during the period mentioned in subsection (2), the statement must say so.

Note: If the fund is a regulated superannuation fund that has fewer than 5 members, see subsection (2B).

(2B) Subsection (1) does not apply if, at the end of the unclaimed money day:

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(a) the fund is a regulated superannuation fund that has fewer than 5 members; and
(b) either:
(i) there is no unclaimed money; or
(ii) there is only unclaimed money that ceases to be unclaimed money during the period mentioned in subsection (2).

55 Subparagraph 20QA(1)(a)(viii)

Omit "68AAA(7)", substitute "68AAA(2), (7)".

56 Application—unclaimed money days

The amendment of subparagraph 20QA(1)(a)(viii) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* made by item 55 applies in relation to unclaimed money days that occur on or after 30 June 2019.

57 Subparagraphs 20QA(1A)(b)(iv) and (v)

Repeal the subparagraphs, substitute:

(iv) the member, by written notice given to the superannuation provider, made an election that the account was not an inactive low-balance account.

58 Application—inactive low-balance accounts

A declaration given to the Commissioner in relation to an account under subparagraph 20QA(1A)(b)(iv) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* and in effect immediately before the commencement of this item continues in effect and may be dealt with, on and after that commencement, as if it were an election in relation to the account under that subparagraph as amended by item 57 of this Schedule.

59 Subsections 20QB(2), (3) and (4)

Repeal the subsections, substitute:

(2) The statement is not required to contain information relevant to inactive low-balance accounts that cease to be inactive low-balance accounts during the period that:
(a) begins from the unclaimed money day; and

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(b) ends immediately before the day on which the statement is given to the Commissioner.

(3) If, at the end of the unclaimed money day:
(a) there are no balances held in inactive low-balance accounts, the statement must say so; or
(b) the only inactive low-balance accounts that hold balances cease to be inactive low-balance accounts during the period mentioned in subsection (2), the statement must say so.

Note: If the fund is a regulated superannuation fund that has fewer than 5 members, see subsection (4).

(4) This section does not apply if, at the end of the unclaimed money day:
(a) the fund is a regulated superannuation fund that has fewer than 5 members; and
(b) either:
(i) there are no balances held in inactive low-balance accounts; or
(ii) the only inactive low-balance accounts that hold balances cease to be inactive low-balance accounts during the period mentioned in subsection (2).

60 Subsections 24C(2), (3) and (4)

Repeal the subsections, substitute:

(2) The statement is not required to contain information relevant to lost member accounts that cease to be lost member accounts during the period that:
(a) begins from the unclaimed money day; and
(b) ends immediately before the day on which the statement is given to the Commissioner.

(3) If, at the end of the unclaimed money day:
(a) there are no lost member accounts, the statement must say so; or
(b) there are only lost member accounts that cease to be lost member accounts during the period mentioned in subsection (2), the statement must say so.

Note: If the fund is a regulated superannuation fund that has fewer than 5 members, see subsection (4).

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(4) This section does not apply if, at the end of the unclaimed money day:
  (a) the fund is a regulated superannuation fund that has fewer than 5 members; and
  (b) either:
    (i) there are no lost member accounts; or
    (ii) there are only lost member accounts that cease to be lost member accounts during the period mentioned in subsection (2).

Treasury Laws Amendment (2018 Measures No. 4) Act 2019

61 Subsection 2(1) (table item 4)

Repeal the item, substitute:

4. Schedule 3, Part 2	The later of: (a) immediately after the commencement of Part 1 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020*; and (b) immediately after the commencement of Schedule 7 to the *Treasury Laws Amendment (2019 Tax Integrity and Other Measures No. 1) Act 2019*. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.

Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019

62 Subitem 38(2) of Schedule 3

Omit "paragraph 20QA(1)(a) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, as inserted by item 8", substitute "paragraphs 20QA(1)(a) and (b) and subsection (1A) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, as inserted by item 30".

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Part 2—Amendments commencing first day of the next quarter

Fringe Benefits Tax Assessment Act 1986

63 Paragraph 7(7)(a)

Omit "a taxi", substitute "a car used for taxi travel (other than a limousine)".

64 Subparagraph 8(2)(a)(i)

Omit "taxi,".

65 After subparagraph 8(2)(a)(i)

Insert:

(ia) used for taxi travel, designed to carry a load of less than 1 tonne, and not a limousine; or

66 Subparagraph 47(6)(aa)(i)

Omit "a taxi", substitute "a vehicle used for taxi travel (other than a limousine)".

67 Subsections 58Z(1) and (2)

After "taxi travel", insert "(otherwise than by limousine)".

68 Subsection 136(1) (paragraph (p) of the definition of *fringe benefit*)

Repeal the paragraph, substitute:

(p) a payment made, or liability incurred, to a person to the extent that the payment or liability is non-assessable non-exempt income (within the meaning of the *Income Tax Assessment Act 1997*) of the person because of subsection 26-35(4) of that Act; or

69 Subsection 136(1) (definition of *taxi*)

Repeal the definition.

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70 Subsection 136(1)

Insert:

> ***taxi travel*** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999*.

71 Application—fringe benefits tax

(1) The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by items 63, 64, 65, 66, 67, 69 and 70 apply, and are taken to have applied, to the FBT year starting on 1 April 2019 and to later FBT years.

(2) The amendment of paragraph (p) of the definition of ***fringe benefit*** in subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986* made by item 68 applies, and is taken to have applied, to the FBT year starting on 1 April 2014 and to later FBT years.

Income Tax Assessment Act 1997

72 Subsection 30-45(2) (table item 4.2.10)

Omit "the Royal Society for the Prevention of Cruelty to Animals Western Australia (Incorporated)", substitute "the Royal Society for the Prevention of Cruelty to Animals, Western Australia".

73 Application—welfare and rights recipients

The amendment made by item 72 applies in relation to gifts or contributions made on or after 24 July 2018.

74 Subsection 30-248(5)

Omit "section 30-249A, 30-249B or 30-249C", substitute "section 30-249A or 30-249B".

75 Subsection 30-248(5) (note)

Omit "Sections 30-249A, 30-249B and 30-249C", substitute "Sections 30-249A and 30-249B".

76 Section 30-249C

Repeal the section.

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77 Subparagraph 70-10(2)(b)(i)

Omit "*complying superannuation fund, a *complying approved deposit fund or a *pooled superannuation trust", substitute "*complying superannuation entity".

78 Section 109-60 (table item 12)

Omit "complying superannuation fund, complying approved deposit fund or pooled superannuation trust", substitute "a complying superannuation entity".

79 Section 112-97 (table item 14)

Omit "complying superannuation fund, complying approved deposit fund or pooled superannuation trust", substitute "a complying superannuation entity".

80 Paragraph 166-230(3)(d)

After "the same proportion", insert ", or a reasonably equivalent proportion,".

81 At the end of section 166-230

Add:

Acquisition of tested company by new interposed entity

(5) If:

(a) a new entity (the ***new interposed entity***) that is a company acquires all the *shares in the tested company; and

(b) assuming that the time immediately before the acquisition had been an *ownership test time, section 166-225 would have applied the tests to the tested company as if there were a single notional entity as described in subsection 166-225(2) in respect of some or all of the *voting stakes, *dividend stakes or *capital stakes in the tested company; and

(c) the new interposed entity has the same classes of shares as the tested company; and

(d) the shares are not *redeemable shares; and

(e) each entity that held a proportion of the voting stakes, dividend stakes or capital stakes in the tested company immediately before the acquisition (disregarding

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section 166-225) holds the same proportion, or a reasonably equivalent proportion, of that kind of stake in the new interposed entity immediately after the acquisition;

then, at all times that the single notional entity mentioned in paragraph (b) held or is taken to have held a stake in the tested company, the new interposed entity is taken to have held that stake.

(6) Except for the purposes of determining whether a time is an alteration time (within the meaning of section 165-115L), section 166-272 (which is about the same shares or interests) is to be disregarded when applying subsection (5) of this section.

82 At the end of section 166-270

Add:

Acquisition of tested company by new interposed entity—minimum control of voting power

(3) If:

(a) the *ownership test time is after the start of the *test period; and

(b) at the start of the test period, a single notional entity mentioned in section 166-225 had voting power in a company (disregarding subsection 166-230(5)); and

(c) under subsection 166-230(5), a new interposed entity is taken to have held that voting power at the start of the test period; and

(d) at the ownership test time, the voting power in the company held indirectly by stakeholders covered by subsection 166-230(1) is greater than the voting power that the single notional entity had at the start of the test period;

then the stakeholders referred to in paragraph (d) are, collectively, taken to have indirect voting power in the company at the ownership test time only to the extent that the single notional entity had it at the start of the test period.

Acquisition of tested company by new interposed entity—minimum percentage of rights to dividends and capital

(4) If:

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(a) the *ownership test time is after the start of the *test period; and

(b) at the start of the test period, a single notional entity mentioned in section 166-225 had a percentage of rights to the *dividends or distributions of capital of a company (disregarding subsection 166-230(5)); and

(c) under subsection 166-230(5), a new interposed entity is taken to have had those rights at the start of the test period; and

(d) the percentage that stakeholders covered by subsection 166-230(1) have rights to indirectly at the ownership test time is greater than the percentage (the ***lower percentage***) of the dividends or distributions of capital of the company that the single notional entity had rights to at the start of the test period;

then the stakeholders referred to in paragraph (d) are, collectively, taken to have indirect rights to the lower percentage of the dividends or distributions of capital at the ownership test time.

83 Application—acquisition of tested company by interposed entity

(1) The amendment made by item 81 applies to an acquisition referred to in subsection 166-230(3) or (5) of the *Income Tax Assessment Act 1997* that occurs, or occurred, on or after 1 July 2018.

(2) The amendment made by item 82 applies to an acquisition referred to in subsection 166-230(5) of the *Income Tax Assessment Act 1997* that occurs, or occurred, on or after 1 July 2018.

84 Paragraph 207-45(d)

Repeal the paragraph (not including the note), substitute:

(d) the trustee of a *complying superannuation entity, a *non-complying superannuation fund or a *non-complying approved deposit fund in relation to that income year.

85 Subparagraphs 210-70(1)(b)(i) to (iii)

Repeal the subparagraphs, substitute:

(i) the trustee of an entity that is a *complying superannuation entity in relation to the income year in

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which the distribution is made and is not a *self managed superannuation fund; or

86 Subparagraph 210-170(1)(b)(ii)

Repeal the subparagraph, substitute:

(ii) a trustee (other than the trustee of a *complying superannuation entity, a *non-complying superannuation fund or a *non-complying approved deposit fund); and

87 Paragraphs 210-170(2)(a) to (c)

Repeal the paragraphs, substitute:

(a) the trustee of an entity that is a *complying superannuation entity in relation to the income year in which the *distribution is made and is not a *self managed superannuation fund;

88 Paragraph 230-460(11)(b)

Repeal the paragraph, substitute:

(b) a right or obligation arising from an interest in:
  (i) a *complying superannuation entity; or
  (ii) a *non-complying superannuation fund or *non-complying approved deposit fund; or
  (iii) an *RSA.

89 Subparagraph 292-102(1)(d)(ii)

Omit “had you held the old interest”, substitute “had you *acquired the old interest on or after 20 September 1985 and held it”.

90 Paragraph 292-102(3)(b)

After “already covered under this section”, insert “, in relation to the disposal of the old interest or any related spousal interest to the old interest,”.

91 Application—downsizer contributions

The amendments made by items 89 and 90 apply in relation to a disposal of an ownership interest in a dwelling if the contract for the disposal is or was entered into on or after 1 July 2018.

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92 After subsection 292-102(3)

Insert:

Market value substitution rule

(3A) In working out *capital proceeds for the purposes of paragraph (1)(b) or (3)(b), disregard section 116-30 to the extent that it has the effect of increasing those capital proceeds.

93 Application—capital proceeds for downsizer contributions

The amendment made by item 92 applies in relation to a disposal of an ownership interest in a dwelling if the contract for the disposal is entered into on or after the day this Act receives the Royal Assent.

94 Subsection 295-10(1) (method statement, steps 4 and 5)

Repeal the steps, substitute:

Step 4.	For a *complying superannuation entity, work out the *low tax component and *non-arm's length component of the entity's taxable income.
Step 5.	Apply the applicable rates as set out in the *Income Tax Rates Act 1986* to: (a) if step 4 applies to the entity—the components worked out under that step; or (b) otherwise—the entity's taxable income.

95 Subsection 295-25(1)

Omit "*complying superannuation fund, *complying approved deposit fund or *pooled superannuation trust", substitute "*complying superannuation entity".

96 Subsection 295-85(1)

Repeal the subsection, substitute:

(1) The modifications in subsection (2) apply if a *CGT event happens involving a *CGT asset that was owned by a *complying superannuation entity just before the time of the event.

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97 Subsection 295-90(1)

Repeal the subsection, substitute:

(1) This section applies to the trustee of a *complying superannuation entity.

98 Section 295-105

Omit "*complying superannuation fund, *complying approved deposit fund or *pooled superannuation trust", substitute "*complying superannuation entity".

99 Section 295-105 (note)

Omit "These entities will not be subject to any tax liability when they dispose", substitute "The entity will not be subject to any tax liability when it disposes".

100 Paragraph 295-173(a)

Omit "*complying superannuation fund, a *complying approved deposit fund or a *pooled superannuation trust", substitute "*complying superannuation entity".

101 Subsection 295-545(1)

Repeal the subsection, substitute:

(1) The taxable income of a *complying superannuation entity is split into a *non-arm's length component and a *low tax component.

Note: A concessional rate applies to the low tax component, while the non-arm's length component is taxed at the highest marginal rate. The rates are set out in the *Income Tax Rates Act 1986*.

102 Subsection 295-550(1)

Omit "*complying superannuation fund, a *complying approved deposit fund or a *pooled superannuation trust", substitute "*complying superannuation entity".

103 Subsection 295-555(1) (note)

Omit "complying superannuation funds, complying approved deposit funds and pooled superannuation trusts", substitute "complying superannuation entities".

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104 Subparagraph 328-430(1)(d)(ii)

After "income year", insert ", or would be satisfied in that income year if paragraph 152-10(1AA)(b) were disregarded".

105 Application—small business roll-over

The amendment made by item 104 applies to:

(a) the transfer of a depreciating asset if the balancing adjustment event arising from the transfer occurs or occurred on or after 1 July 2016; or

(b) the transfer of trading stock or a revenue asset if the transfer occurs or occurred on or after 1 July 2016; or

(c) the transfer of a CGT asset (other than a depreciating asset, trading stock or a revenue asset) if the CGT event arising from the transfer occurs or occurred on or after 1 July 2016.

106 Section 705-55

Omit "705-50", substitute "705-47".

107 Subsection 705-75(1A) (heading)

Repeal the heading, substitute:

Reduction for future deduction

108 Subsection 705-75(1A)

Omit "This section", substitute "Subsection (1)".

109 Subsection 705-75(1) (heading)

Repeal the heading.

110 Application—liabilities of joining entity

The amendments made by items 107, 108 and 109 apply in relation to an entity that becomes a subsidiary member of a consolidated group or MEC group if the arrangement under which the entity becomes a subsidiary member of the group commences on or after 1 July 2016.

Note: For the commencement of these arrangements, see Part 8 of Schedule 1 to the *Treasury Laws Amendment (Income Tax Consolidation Integrity) Act 2018*.

111 Paragraph 716-440(1)(e)

Omit "subsection (2)", substitute "subsection (3)".

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112 Section 727-125

Repeal the section, substitute:

727-125 No consequences if losing entity is a complying superannuation entity etc.

An *indirect value shift has no consequences under this Division if the *losing entity is one of the following in relation to the income year in which the indirect value shift happens:

(a) a *complying superannuation entity;

(b) a *non-complying superannuation fund;

(c) a *non-complying approved deposit fund.

113 Section 768-10

Omit "a foreign resident", substitute "not a Part X Australian resident (within the meaning of Part X of the *Income Tax Assessment Act 1936*)".

114 Application—foreign equity distributions

The amendment made by item 113 applies to distributions or non-share dividends made on or after the commencement of Schedule 2 to the *Tax and Superannuation Laws Amendment (2014 Measures No. 4) Act 2014*.

Note: Schedule 2 to the *Tax and Superannuation Laws Amendment (2014 Measures No. 4) Act 2014* commenced on 17 October 2014.

115 Paragraph 815-135(2)(a)

Omit "subject to paragraph (aa),".

116 Paragraph 815-135(2)(a)

Omit "22 July 2010", substitute "19 May 2017".

117 Paragraph 815-135(2)(aa)

Repeal the paragraph.

118 Subsection 815-135(3)

Omit "or (aa)".

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119 Application—guidance for identifying arm's length conditions

The amendments made by items 115, 116, 117 and 118 apply:

(a) in respect of tax other than withholding tax—in relation to income years starting on or after 1 July 2017; and

(b) in respect of withholding tax—in relation to income derived, or taken to be derived, in income years starting on or after 1 July 2017.

120 Subsection 995-1(1) (paragraph (a) of the definition of *complying superannuation life insurance policy*)

Repeal the paragraph, substitute:

(a) is held by the trustee of a *complying superannuation entity; or

121 Subsection 995-1(1) (definition of *Employment Secretary*)

Omit "administered by the Minister administering the *Fair Work (State Referral and Consequential and Other Amendments) Act 2009*", substitute "responsible for employment policy".

122 Subsection 995-1(1)

Insert:

foreign service of document request has the meaning given by section 263-60 in Schedule 1 to the *Taxation Administration Act 1953*.

Income Tax (Transitional Provisions) Act 1997

123 Section 40-830

Renumber as section 40-840.

Taxation Administration Act 1953

124 Subsection 8AAZLGB(4) (note)

Omit "and subsection 14ZW(4)".

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125 After paragraph 12-395(3)(ab) in Schedule 1

Insert:

(ac) must specify the extent (if any) to which the payment is, or is attributable to, an amount that would be non-concessional MIT income if the following provisions were disregarded:

(i) subsection 12-437(5);

(ii) sections 12-440, 12-447, 12-449 and 12-451; and

126 After paragraph 12-395(6)(ab) in Schedule 1

Insert:

(ac) must specify the extent (if any) to which the payment is, or is attributable to, an amount that would be non-concessional MIT income if the following provisions were disregarded:

(i) subsection 12-437(5);

(ii) sections 12-440, 12-447, 12-449 and 12-451; and

127 Application—non-concessional MIT income

The amendments made by items 125 and 126 apply in relation to notices given under paragraph 12-395(2)(a) or (5)(a) in Schedule 1 to the *Taxation Administration Act 1953*, or details made available under paragraph 12-395(2)(b) or (5)(b) of that Schedule, on or after the day after this Act receives the Royal Assent.

128 Subdivision 255-C in Schedule 1 (heading)

Repeal the heading, substitute:

Subdivision 255-C—Service of documents if person absent from Australia or cannot be found

129 Section 255-35 in Schedule 1

Omit “procedural and evidentiary matters relating to proceedings to recover an amount of a tax-related liability”, substitute “the service of documents on people who are absent from Australia or cannot be found”.

130 Subsection 255-40(3) in Schedule 1

Repeal the subsection, substitute:

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(3) If the Commissioner, after making reasonable inquiries, is satisfied that the person has an address in a foreign country, a constituent part of a foreign country or a foreign territory (an ***overseas address***), the Commissioner may, without the court's leave, serve the document on the person at that overseas address in accordance with an agreement between Australia and:
  (a) a foreign country or a constituent part of a foreign country; or
  (b) a foreign territory;
that deals with the service of documents on tax matters.

131 Sections 255-45, 255-50 and 255-55 in Schedule 1

Repeal the sections.

132 Division 263 in Schedule 1 (heading)

Omit "**collection of foreign tax debts**", substitute "**the administration of foreign tax laws**".

133 Paragraph 263-10(a) in Schedule 1

Repeal the paragraph, substitute:
  (a) in accordance with an agreement (the ***international agreement***) between Australia and:
    (i) a foreign country or a constituent part of a foreign country; or
    (ii) a foreign territory; and

134 At the end of Division 263 in Schedule 1

Add:

Subdivision 263-B—Service of documents in Australia on behalf of foreign revenue authorities

Guide to Subdivision 263-B

263-55 What this Subdivision is about

This Subdivision can be activated if there is in force an agreement between Australia and a foreign country or foreign territory that deals with service of documents on tax matters.

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> If a foreign government agency asks the Commissioner to serve a document relating to foreign taxes on an entity in Australia in accordance with the agreement, the Commissioner may serve the document in the same way as a similar document under an Australian taxation law may be served.

Table of sections

Operative provisions

263-60 Meaning of *foreign service of document request*
263-65 Service of document subject to foreign service of document request

Operative provisions

263-60 Meaning of *foreign service of document request*

A ***foreign service of document request*** is a request made to the Commissioner:

(a) in accordance with an agreement (the ***international agreement***) between Australia and:
  (i) a foreign country or a constituent part of a foreign country; or
  (ii) a foreign territory;
  that deals with service of documents on tax matters; and
(b) by a *foreign government agency; and
(c) for the service of one or more documents on an entity in Australia in relation to taxes imposed otherwise than by an *Australian law.

263-65 Service of document subject to foreign service of document request

(1) If a *foreign service of document request is made to the Commissioner, the Commissioner may serve a document covered by the request in the same way that a similar document under a *taxation law may be served.

(2) The Commissioner must also serve a translation of the document into English, or a summary of the document in English, if:
  (a) the document is in a language other than English; and

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(b) the Commissioner is satisfied that the entity being served would not understand the language of the document.

(3) Before serving a translation of the document into English, or a summary of the document in English, the Commissioner must be satisfied that the translation or summary is accurate.

135 Subparagraph 284-90(1A)(a)(iii) in Schedule 1

Omit "period; and", substitute "period; or".

136 At the end of paragraph 284-90(1A)(a) in Schedule 1

Add:

(iv) you were a *subsidiary member of a *consolidated group or a *MEC group for one or more income years, and the Commissioner has made an assessment of the income tax of another entity that was a *member of the group for one or more of those income years; and

137 Paragraph 284-90(1B)(a) in Schedule 1

Repeal the paragraph, substitute:

(a) the Commissioner makes an assessment of:

(i) your income tax for the income year that includes your trigger day; or

(ii) if you were a *subsidiary member of a *consolidated group or a *MEC group for the income year that includes your trigger day—the income tax, for that income year, of another *member of that group; and

138 Subparagraph 286-80(4A)(b)(iii) in Schedule 1

Omit "period; and", substitute "period; or".

139 At the end of paragraph 286-80(4A)(b) in Schedule 1

Add:

(iv) the entity was a *subsidiary member of a *consolidated group or a *MEC group for one or more income years, and the Commissioner has made an assessment of the income tax of another entity that was a *member of the group for one or more of those income years; and

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140 Paragraph 286-80(4B)(a) in Schedule 1

Repeal the paragraph, substitute:

(a) the Commissioner makes an assessment of:

(i) the entity's income tax for the income year that includes that day; or

(ii) if the entity was a *subsidiary member of a *consolidated group or a *MEC group for the income year that includes that day—the income tax, for that income year, of another *member of that group; and

141 Application—penalty amounts for members of groups

(1) The amendments made by items 135, 136 and 137 apply in relation to trigger days (within the meaning of paragraph 284-90(1A)(a) in Schedule 1 to the *Taxation Administration Act 1953*) that occur on or after the start of the day on which the Bill that became this Act was introduced into the House of Representatives.

(2) The amendments made by items 138, 139 and 140 apply in relation to a failure to give a return, notice or other document as mentioned in paragraph 286-80(4A)(a) in Schedule 1 to the *Taxation Administration Act 1953* if the return, notice or document was due on or after the start of the day on which the Bill that became this Act was introduced into the House of Representatives.

142 At the end of section 350-1 in Schedule 1

Add:

> This Division also deals with procedural and evidentiary matters relating to proceedings to recover an amount of a tax-related liability.

143 After section 350-10 in Schedule 1

Insert:

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350-12 Prima facie evidence—particulars stated in evidentiary certificate

(1) Without limiting subsection 350-10(3), the particulars that may be stated in a certificate under that subsection include the matters in subsections (2) and (3) of this section.

(2) The certificate may state:

(a) that a person named in the certificate has a *tax-related liability; or

(b) that an *assessment relating to a tax-related liability has been made, or is taken to have been made, under a *taxation law; or

(c) that notice of an assessment, or any other notice required to be served on a person in respect of an amount of a tax-related liability, was, or is taken to have been, served on the person under a *taxation law; or

(d) that the particulars of a notice covered by paragraph (c) are as stated in the certificate; or

(e) that a sum specified in the certificate is, as at the date specified in the certificate, a debt due and payable by a person to the Commonwealth.

(3) The certificate may state:

(a) that a *foreign revenue claim for an amount specified in the certificate has been made by the competent authority under the relevant international agreement; or

(b) that the relevant requirements of the relevant international agreement have been complied with in relation to the foreign revenue claim; or

(c) that the claim was registered under Division 263 on the date specified in the certificate; or

(d) that, as at the date of the certificate, the Commissioner has or has not received advice from the competent authority under the relevant international agreement about the reduction or discharge of an amount to be recovered under the claim; or

(e) that the particulars of any reduction or discharge of an amount to be recovered under the claim are as specified in the certificate.

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144 At the end of Division 350 in Schedule 1

Add:

350-20 Certain statements or averments in proceedings to recover tax-related liabilities

(1) In a proceeding to recover an amount of a *tax-related liability, a statement or averment about a matter in the plaintiff's complaint, claim or declaration is prima facie evidence of the matter.

(2) This section applies even if the matter is a mixed question of law and fact. However, the statement or averment is prima facie evidence of the fact only.

(3) This section applies even if evidence is given in support or rebuttal of the matter or of any other matter.

(4) Any evidence given in support or rebuttal of the matter stated or averred must be considered on its merits. This section does not increase or diminish the credibility or probative value of the evidence.

(5) This section does not lessen or affect any onus of proof otherwise falling on a defendant.

350-25 Evidence by affidavit in proceedings to recover tax-related liabilities

In a proceeding to recover an amount of a *tax-related liability:

(a) a person may give evidence by affidavit; and

(b) the court may require the person to attend before it:

(i) to be cross-examined on that evidence; or

(ii) to give other evidence relating to the proceedings.

145 Subsection 355-65(2) in Schedule 1 (table item 4)

Repeal the item, substitute:

4	the *Student Assistance Secretary	is for the purpose of administering any *Commonwealth law relating to pensions, allowances or benefits.
4A	the Secretary of the Department	is for the purpose of administering

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	administered by the Minister administering the *Fair Entitlements Guarantee Act 2012*	the *Fair Entitlements Guarantee Act 2012*.
4B	the *Employment Secretary	is for the purpose of administering any *Commonwealth law relating to pensions, allowances or benefits, other than the *Fair Entitlements Guarantee Act 2012*.

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Part 3—Amendments relating to instruments

Division 1—Amendments

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

146 Subsection 79-100(1)

Omit all the words after "third party scheme for a *financial year", substitute:

is:

(a) if paragraph (b) does not apply—the same fraction as the average input tax credit fraction for the scheme for the preceding financial year; or

(b) if, under subsection (3), the Minister determines the average input tax credit fraction for the scheme for the financial year—that fraction.

Note: The average input tax credit fraction for financial years beginning on or before 1 July 2006 was worked out under this section as in force before the commencement of item 146 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020*.

147 Subsection 79-100(2)

Repeal the subsection.

148 Subsection 79-100(3) (heading)

Repeal the heading, substitute:

Minister to use statistical information to determine whether average input tax credit fraction is to be varied

149 Paragraph 79-100(3)(e)

Omit "subparagraph (1)(c)(i)", substitute "paragraph (1)(a)".

150 Paragraph 79-100(3)(e)

Omit "in writing", substitute "by legislative instrument".

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151 Subsection 79-100(6)

Repeal the subsection.

152 Subsection 131-60(1) (method statement, step 3)

Omit "notice published in the *Gazette*", substitute "instrument made".

153 Subparagraph 151-45(1)(a)(i)

Omit "notice published in the *Gazette*", substitute "instrument made".

154 Paragraph 162-60(1)(a)

Omit "notice published in the *Gazette*", substitute "instrument made".

Australian Prudential Regulation Authority Act 1998

155 Subsection 12(1)

Omit "may give APRA a written direction", substitute "may, by legislative instrument, give APRA a direction".

156 Subsection 12(5)

Repeal the subsection.

Banking Act 1959

157 Section 6A

Omit "notice published in the *Gazette*", substitute "legislative instrument".

158 Section 6A

Omit "the notice" (wherever occurring), substitute "the instrument".

159 Section 6A

Omit "a notice", substitute "an instrument".

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Business Names Registration Act 2011

160 Subsection 64(1)

Omit "may give ASIC a written direction", substitute "may, by legislative instrument, give ASIC a direction".

161 Subsection 64(1)

Omit "The direction is not a legislative instrument.".

162 Subsection 64(5)

Repeal the subsection.

Business Names Registration (Transitional and Consequential Provisions) Act 2011

163 At the end of the Act

Add:

Schedule 3—Transitional provisions for the Treasury Laws Amendment (2019 Measures No. 3) Act 2020

1 Transitional—directions by Minister

A direction given under subsection 64(1) of the *Business Names Registration Act 2011* that is in force immediately before the commencement of items 160, 161 and 162 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020* continues in force (and may be dealt with) as if it had been given under that subsection as amended by those items.

Census and Statistics Act 1905

164 Paragraph 9(1)(b)

Omit "by notice in writing", substitute "by legislative instrument".

165 Paragraph 9(1)(b)

Omit "the notice", substitute "the instrument".

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166 Subsection 10(2)

Omit "notice published in the *Gazette*", substitute "notifiable instrument".

Commonwealth Places (Mirror Taxes) Act 1998

167 Paragraph 8(5)(a)

Omit "the modifications are notified in the *Gazette*", substitute "the instrument prescribing the modifications is registered on the Federal Register of Legislation under the *Legislation Act 2003*".

168 Subsection 9(4)

Repeal the subsection, substitute:

(4) The Minister must, by notifiable instrument, publish a copy of an arrangement, variation or revocation under this section.

Export Finance and Insurance Corporation Act 1991

169 Subsection 63(5)

Repeal the subsection.

Federal Financial Relations Act 2009

170 Subsection 6(1)

After "The Minister must", insert ", by notifiable instrument,".

171 Subsection 6(6)

Repeal the subsection.

Financial Sector (Shareholdings) Act 1998

172 Subsection 14(1)

After "The Treasurer may", insert ", by notifiable instrument,".

173 After subsection 14(1)

Insert:

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(1A) The instrument of approval must:

(a) specify the percentage of the stake the Treasurer approves the applicant holding in the company (which may or may not be the percentage the applicant applied for); and

(b) if the application is granted under paragraph (1)(a)—either:

(i) specify the period during which the approval remains in force; or

(ii) specify that the approval remains in force indefinitely; and

(c) if the application is granted under paragraph (1)(b)—specify that the approval remains in force for the period worked out under section 15A.

174 Subsection 14(2)

Repeal the subsection (not including the heading), substitute:

(2) If the Treasurer grants the application, the Treasurer must give written notice of the approval (including a copy of the instrument of approval) to:

(a) the applicant; and

(b) the company concerned; and

(c) in the case of an approval granted under paragraph (1)(b), if the company concerned is not the relevant licensed company for the approval—the relevant licensed company for the approval.

175 Subsection 14(4)

Repeal the subsection.

176 Paragraph 15(1)(a)

Omit “notice of approval”, substitute “instrument of approval”.

177 Subsection 15(4)

Omit “the Treasurer may grant the application”, substitute “the Treasurer may, by notifiable instrument, grant the application by amending the instrument of approval to specify the extended period during which the approval remains in force (which may or may not be the period the applicant applied for)”.

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178 Subsection 15(5)

Repeal the subsection, substitute:

(5) If the Treasurer grants the application, the Treasurer must give written notice of the extension (including a copy of the instrument made under subsection (4)) to:
  (a) the applicant; and
  (b) the financial sector company concerned.

179 Subsection 15(7)

Repeal the subsection.

180 Subsection 15A(5)

Omit all the words after "the Treasurer", substitute:

must:
  (a) by notifiable instrument, publish notice of the cessation of the approval; and
  (b) give written notice of the cessation to the financial sector company concerned.

181 Subsection 16(1)

Omit "notice of approval", substitute "instrument of approval".

182 Subsection 16(2)

Omit "by written notice given to a person who holds an approval under section 14", substitute "by notifiable instrument, amend an instrument of approval under section 14 to".

183 Paragraph 16(2)(a)

Omit "impose", substitute "specify".

184 Subparagraph 16(2)(b)(i)

Repeal the subparagraph.

185 Subparagraph 16(2)(b)(ii)

Omit "notice of approval", substitute "instrument of approval".

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186 After subsection 16(2)

Insert:

(2A) If, because of an approval under section 14, another approval is taken to be in force under section 19 or 19A, the other approval is subject to such conditions (if any) as:

(a) are specified in the instrument of approval under section 14; and

(b) are expressed to apply to approvals taken to be in force under section 19 or 19A.

187 Subsection 16(6)

Repeal the subsection (not including the heading), substitute:

(6) If the Treasurer makes an amendment under subsection (2), the Treasurer must give written notice of the amendment (including a copy of the instrument made under that subsection) to:

(a) the person who holds the approval; and

(b) the financial sector company concerned.

188 Subsection 17(3)

Omit "the Treasurer may grant the application", substitute "the Treasurer may, by notifiable instrument, grant the application by varying the percentage specified in the approval (which may or may not be the percentage the applicant applied for)".

189 Subsection 17(4)

Repeal the subsection.

190 Subsection 17(6)

Omit "written notice given to a person who holds an approval under section 14", substitute "notifiable instrument".

191 Subsection 17(6)

Omit "the approval", substitute "an instrument of approval under subsection 14(1)".

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192 Subsection 17(7)

Omit "the notice of variation is given", substitute "the instrument under subsection (3) or (6) is registered on the Federal Register of Legislation under the *Legislation Act 2003*".

193 Subsection 17(8)

Omit "notice of variation", substitute "instrument under subsection (3) or (6)".

194 Subsection 17(8)

Omit "the day on which the notice is given", substitute "the day the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*".

195 Subsection 17(9)

Repeal the subsection (not including the heading), substitute:

(9) If the Treasurer makes a variation under this section, the Treasurer must give written notice of the variation (including a copy of the instrument made under subsection (3) or (6)) to:
  (a) the applicant; and
  (b) the financial sector company concerned.

196 Subsection 18(1)

Omit "by written notice given to a person who holds an approval under section 14 in relation to a financial sector company, revoke the approval", substitute "by notifiable instrument, revoke an approval that a person holds under section 14 in relation to a financial sector company".

197 Subsection 18(2)

Omit "notice of revocation", substitute "instrument of revocation".

198 Subsection 18(2)

Omit "the day on which the notice is given", substitute "the day the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*".

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199 Subsection 18(3)

Omit "written notice given to the person", substitute "notifiable instrument".

200 Subsection 18(3)

Omit "The revocation takes effect on the day specified in the notice of revocation.".

201 Subsection 18(4)

Repeal the subsection (not including the heading), substitute:

(4) If the Treasurer revokes an approval under this section, the Treasurer must give written notice of the revocation (including a copy of the instrument made under subsection (1) or (3)) to:
  (a) the person who held the approval; and
  (b) the financial sector company concerned.

Fringe Benefits Tax Assessment Act 1986

202 Subsection 111(3)

Omit "notice in writing in the *Gazette*", substitute "legislative instrument".

Income Tax Assessment Act 1936

203 Subsection 6(1) (definition of *Commonwealth securities*)

Repeal the definition.

204 Subsection 23AB(4)

Repeal the subsection, substitute:

(4) Subsection 12(2) (retrospective commencement of legislative instruments) of the *Legislation Act 2003* does not apply to regulations made for the purposes of subsection (2) or (3) of this section.

205 Paragraph 82SA(5)(b)

Omit "Commonwealth securities", substitute "securities issued under an Act".

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206 Subsection 128AB(1)

After “apply”, insert “, in the approved form,”.

207 Subsection 128AB(2)

Repeal the subsection.

208 Subsection 128AE(2)

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

209 Subsection 128AE(2AA)

Omit “make a written determination”, substitute “determine, by notifiable instrument,”.

210 After subsection 128AE(2AC)

Insert:

(2ACA) A determination under subsection (2AA) that a company is an OBU and a declaration under subsection (2), for the purposes of paragraph (2)(f), that the company is an offshore banking unit for the purposes of this Division may be included in the same instrument.

211 Subsection 128AE(2A)

Omit “may declare, by notice published in the *Gazette*,”, substitute “may, by notifiable instrument, declare”.

212 Subsection 128AE(2C)

Omit “must declare, by notice published in the *Gazette*,”, substitute “must, by notifiable instrument, declare”.

213 Subsection 128AE(3)

Omit “the notice containing the declaration is published in the *Gazette*”, substitute “the declaration is registered on the Federal Register of Legislation under the *Legislation Act 2003*”.

214 Section 130

Repeal the section, substitute:

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130 Commissioner may require master or agent to make return

(1) The Commissioner may, by writing, require:
  (a) the master of a particular ship to which section 129 applies, or the agent or other representative in Australia of the owner or charterer of the ship; or
  (b) the master of a ship included in a class of ships to which section 129 applies, or the agent or other representative in Australia of the owner or charterer of the ship;

to make a return of the amounts so paid or payable.

(2) An instrument under paragraph (1)(a):
  (a) must be given to the master, agent or representative; and
  (b) is not a legislative instrument.

(3) An instrument under paragraph (1)(b) is a legislative instrument.

215 Paragraph 160ZZZC(a)

Omit "published", substitute "made".

216 Subsection 161(1)

Omit "notice published in the *Gazette*", substitute "legislative instrument".

217 Subsection 161(1)

Omit "the notice", substitute "the instrument".

218 Subsection 161(1A)

Omit "in the notice", substitute "in the instrument".

219 Section 202A (definition of *unit trust*)

Omit ", by notice published in the *Gazette*," (wherever occurring), substitute "under section 202AB".

220 At the end of Division 1 of Part VA

Add:

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202AB Declaration that an arrangement is, or is not, a unit trust

The Minister may, by legislative instrument, declare that an arrangement is, or is not, a ***unit trust*** for the purposes of the definition of that term in section 202A.

221 Subsections 202B(3) and (4)

Repeal the subsections.

222 Subsection 202CA(3)

After "The Commissioner may", insert ", by legislative instrument,".

223 Subsection 202CA(4)

Repeal the subsection.

224 Subsection 202EH(1)

Omit "(1) The Commissioner may direct", substitute "The Commissioner may, by legislative instrument, direct".

225 Subsections 202EH(2) and (3)

Repeal the subsections.

226 Paragraph 202F(1)(f)

Repeal the paragraph.

227 Division 7 of Part VA

Repeal the Division.

Income Tax Assessment Act 1997

228 Subsection 30-85(2)

Omit "by notice in the *Gazette*", substitute "by legislative instrument".

229 Paragraph 30-85(2)(b)

Repeal the paragraph, substitute:

(b) is solely for the relief of people in a country that:

(i) is included in the list of official development assistance recipients published from time to time by the

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Organisation for Economic Co-operation and Development's Development Assistance Committee; or

(ii) is declared by the Foreign Affairs Minister to be a developing country.

Note: In 2019, the list of official development assistance recipients was available on the OECD's website (http://www.oecd.org).

230 Subsections 30-85(3) and (4)

Repeal the subsections, substitute:

(3) A declaration made by the Minister under subsection (2) must not take effect earlier than the day after it is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

(4) The Minister may, by legislative instrument, revoke a declaration made by the Minister under subsection (2). The revocation must not take effect earlier than the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

231 Subsections 30-86(2) and (3)

Repeal the subsections, substitute:

(2) The Minister's recognition of an event as a disaster:

(a) must be by notifiable instrument; and

(b) must specify the day (or the first day) of the event.

232 Subsection 214-5(2)

Repeal the subsection, substitute:

(2) The Commissioner is able to make a legislative instrument requiring corporate tax entities to give a franking return for an income year.

233 Subsection 214-5(6)

Omit "*Tax Administration Act 1953*", substitute "*Taxation Administration Act 1953*".

234 Section 214-15

Repeal the section, substitute:

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214-15 Requirement to give franking return—general

(1) The Commissioner may, by legislative instrument, require each *corporate tax entity to which the instrument applies to give the Commissioner a *franking return for a specified income year.

(2) An entity to which the instrument applies must comply with the requirement within the time specified in the instrument.

Note: The Commissioner may defer the time for giving the return: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

235 At the end of subsection 820-960(1A)

Add:

Note: For exemptions, see section 820-962.

236 Subsections 820-960(4) and (5)

Repeal the subsections.

237 After section 820-960

Insert:

820-962 Records about Australian permanent establishments—exemptions from Australian accounting standards

General exemption

(1) The Commissioner may, by legislative instrument, exempt, for the purposes of subsection 820-960(1A), a specified class of entities from the requirement to comply with all or part of the *accounting standards for one or more income years if the Commissioner is satisfied that it would be unreasonable for the entities in that class be required to so comply.

Note: The Commissioner's power under this subsection does not extend to the overseas or international accounting standards.

Application for specific exemption

(2) An entity (the ***applicant***) may apply to the Commissioner, in the *approved form, for an exemption from the requirement to comply with all or part of the *accounting standards for one or more income years for the purposes of subsection 820-960(1A).

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(3) The Commissioner may grant the exemption in whole or in part if the Commissioner is satisfied that it would be unreasonable for the applicant to be required to so comply.

Note: The Commissioner's power under this subsection does not extend to the overseas or international accounting standards.

(4) The Commissioner must give the applicant written notice if the Commissioner:
  (a) grants the exemption; or
  (b) refuses to grant the exemption.

(5) The Commissioner is taken to have refused to grant the exemption if the Commissioner fails to give the applicant a notice under subsection (4) within 60 days after the application is made.

(6) A notice under subsection (4) is not a legislative instrument.

238 Section 820-965

Omit "subsection 820-960(4)", substitute "subsection 820-962(3)".

239 Paragraphs 820-990(1)(a) and 820-995(1)(a)

After "820-960", insert ", 820-962".

Insurance Acquisitions and Takeovers Act 1991

240 Section 43

After "the Minister may", insert ", by notifiable instrument,".

241 Subsection 44(1)

After "purposes," insert "by notifiable instrument,".

242 After subsection 44(1)

Insert:

(1A) An approval of a person or persons under paragraph (1)(c):
  (a) is a notifiable instrument; and
  (b) may be included in the same instrument as the divestment order.

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243 Subsection 44(2)

Omit "notice in writing served on the person", substitute "notifiable instrument".

244 Section 46

Repeal the section.

245 Section 47

Repeal the section, substitute:

47 When orders come into operation

(1) A permanent restraining order comes into operation on the day specified in the order, which must not be before the order is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

(2) A divestment order comes into operation on the day specified in the order, which must be at least 30 days after the order is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

246 Subsection 48(1)

Omit "notice published in the *Gazette*", substitute "notifiable instrument".

247 Section 57

After "the Minister may", insert ", by notifiable instrument,".

248 Subsection 58(1)

After "purposes," insert "by notifiable instrument,".

249 Subsection 58(2)

Repeal the subsection.

250 Section 60

Repeal the section.

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251 Subsections 61(1) and (2)

Repeal the subsections, substitute:

(1) A permanent restraining order comes into operation on the day specified in the order, which must not be before the order is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

(2) A divestment order comes into operation on the day specified in the order, which must be at least 30 days after the order is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

252 Subsection 62(1)

Omit "notice published in the *Gazette*", substitute "notifiable instrument".

Insurance Contracts Act 1984

253 Subsection 35(3)

Omit "notified in the *Gazette*", substitute "registered on the Federal Register of Legislation under the *Legislation Act 2003*".

International Tax Agreements Act 1953

254 Subsection 4A(2)

Omit "must cause to be published in the *Gazette* a notice setting out particulars of the event", substitute "must, by notifiable instrument, publish particulars of the event".

Payment Systems and Netting Act 1998

255 Subsection 15(1)

Omit "may declare in writing", substitute "may, by notifiable instrument, declare".

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256 Paragraph 15(2)(a)

Omit "after the declaration is made", substitute "after the day the declaration is registered on the Federal Register of Legislation under the *Legislation Act 2003*".

257 Paragraphs 15(2)(b) and (c)

Repeal the paragraphs, substitute:

(b) ceases to have effect at the end of 6 months after the day it is registered.

Payment Systems (Regulation) Act 1998

258 Subsection 9(3)

Omit "notice in writing published in the *Gazette*", substitute "legislative instrument".

259 Subsection 11(1)

After "The Reserve Bank may", insert ", by notifiable instrument,".

260 Subsection 11(1)

Omit "The designation is to be by notice in writing published in the *Gazette*.".

261 At the end of subsection 11(2)

Add:

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

262 Subsection 11(3)

Repeal the subsection.

263 Subsection 12(1)

After "The Reserve Bank may", insert ", by legislative instrument,".

264 Subsections 12(3) and (4)

Repeal the subsections.

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265 Paragraph 13(a)

Repeal the paragraph, substitute:

(a) comes into force on the day specified in the instrument imposing the regime under section 12, which must not be earlier than the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*; and

266 Subsection 14(1)

After "The Reserve Bank may", insert ", by legislative instrument,".

267 Subsections 14(2), (3) and (4)

Repeal the subsections.

268 Subsection 14(7)

Repeal the subsection, substitute:

(7) A variation of the access regime takes effect on the day specified in the instrument, which must not be earlier than the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

269 Subsection 15(3)

After "The Reserve Bank may", insert ", by legislative instrument,".

270 Subsection 15(4)

Repeal the subsection.

271 Subsection 15(7)

Repeal the subsection, substitute:

(7) The revocation of the access regime takes effect on the day specified in the instrument, which must not be earlier than the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*.

272 Subsection 18(1)

Omit "in writing", substitute "by legislative instrument".

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273 Subsection 18(1) (note)

Omit "Note", substitute "Note 1".

274 At the end of subsection 18(1)

Add:

Note 2: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

275 Paragraph 18(2)(a)

Repeal the paragraph, substitute:

(a) comes into force on the day specified in the determination, which must not be earlier than the day after the determination is registered on the Federal Register of Legislation under the *Legislation Act 2003*; and

276 Subsections 18(3), (4) and (5)

Repeal the subsections.

277 Subsection 23(2)

After "The Reserve Bank may", insert ", by notifiable instrument,".

278 Subsection 23(3)

Repeal the subsection.

279 Subsection 23(4)

Omit "by notice in writing given to the corporation", substitute "by notifiable instrument".

280 Paragraph 23(5)(a)

Repeal the paragraph, substitute:

(a) comes into force on the day specified in the authority, which must not be earlier than the day after the authority is registered on the Federal Register of Legislation under the *Legislation Act 2003*; and

281 Subsection 23(6)

Omit "may revoke the authority by notice in writing to the corporation", substitute "may, by notifiable instrument, revoke the authority".

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282 Subsections 23(7) and (8)

Repeal the subsections.

283 Paragraph 25(4)(a)

Omit "notice in writing given to the corporation", substitute "notifiable instrument".

284 Paragraph 25(4)(b)

Omit "notice in writing published in the *Gazette*", substitute "legislative instrument".

285 Paragraph 25(5)(a)

Repeal the paragraph, substitute:

(a) comes into force on the day specified in the instrument, which must not be earlier than the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*; and

286 Subsections 25(6), (7) and (8)

Repeal the subsections.

287 Section 27

Omit "in writing", substitute "by notifiable instrument".

288 Section 28

Repeal the section.

289 Subsection 29(2)

Omit all the words after "the Reserve Bank", substitute "must take reasonable steps to ensure that the participants in the payment system concerned are informed of the action".

290 Subsection 29(3)

Omit all the words after "an access regime, the Reserve Bank", substitute "must take reasonable steps to ensure that any participants in the payment system concerned are informed of the revocation".

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291 Section 30

Repeal the section.

Petroleum Excise (Prices) Act 1987

292 Subsection 6(2)

Omit "notice published in the *Gazette*", substitute "legislative instrument".

Reserve Bank Act 1959

293 Section 6A

Omit "notice published in the *Gazette*", substitute "legislative instrument".

294 Section 6A

Omit "the notice" (wherever occurring), substitute "the instrument".

295 Section 6A

Omit "a notice", substitute "an instrument".

296 Section 35

Omit "the Treasurer, by instrument in writing published in the *Gazette*, determines", substitute "the Treasurer determines by legislative instrument".

Tax Agent Services Act 2009

297 Subsection 30-25(1) (note)

Omit "in the *Gazette*", substitute "by notifiable instrument".

298 Subsection 40-20(1) (note 2)

Omit "in the *Gazette*", substitute "by notifiable instrument".

299 Paragraphs 50-10(1)(e) and (2)(e)

Omit "approved by the Commissioner by notice published in the *Gazette*", substitute "that the Commissioner has, by notifiable instrument, approved for the purposes of this paragraph".

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300 Subsection 50-10(5)

Repeal the subsection.

301 Section 60-140

Omit "must cause a notice of the following decisions to be published in the *Gazette*", substitute "must, by notifiable instrument, publish notice of the following decisions".

Taxation Administration Act 1953

302 Subsection 15-15(3) in Schedule 1

Repeal the subsection, substitute:

(3) A variation must be made:
- (a) if it applies to a particular entity—by a written notice given to that entity; or
- (b) if it applies to a class of entities—by legislative instrument.

303 Subsection 15-25(1) in Schedule 1

After "the Commissioner may", insert ", by legislative instrument,".

304 Subsections 15-25(3), (4) and (5) in Schedule 1

Repeal the subsections.

305 Subsection 16-153(7) in Schedule 1

Repeal the subsection, substitute:

(7) A variation must be made:
- (a) if it applies to a particular entity—by a written notice given to that entity; or
- (b) if it applies to a class of entities—by legislative instrument.

306 Subsection 16-180(2) in Schedule 1

Repeal the subsection, substitute:

(2) An exemption must be made:
- (a) if it applies to a particular entity—by a written notice given to that entity; or
- (b) if it applies to a class of entities—by legislative instrument.

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307 Paragraph 45-90(1)(b) in Schedule 1

Omit "by notice published in the *Gazette*", substitute "by legislative instrument".

308 Subsection 350-10(1) in Schedule 1 (at the end of the table)

Add:

5	a *public ruling or *private ruling;	the ruling was properly made.

309 Section 357-100 in Schedule 1

Repeal the section.

310 Subsection 358-5(4) in Schedule 1

Omit "must publish notice of the making of a *public ruling in the *Gazette*", substitute "must, by notifiable instrument, publish notice of the making of a *public ruling".

311 Subsection 358-20(1) in Schedule 1

After "The Commissioner may", insert ", by notifiable instrument,".

312 Subsection 358-20(1) in Schedule 1

Omit ", by publishing notice of the withdrawal".

313 Subsection 358-20(2) in Schedule 1

Omit "the notice. That time must not be before the time the notice is published", substitute "the instrument. That time must not be before the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*".

314 Subsection 358-20(4) in Schedule 1

Repeal the subsection.

315 Subsection 362-5(3) in Schedule 1

Omit "must publish notice of the making of a *public ruling in the Gazette", substitute "must, by notifiable instrument, publish notice of the making of a *public ruling".

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316 Subsection 362-20(1) in Schedule 1

After "Science Australia must", insert ", by notifiable instrument,".

317 Subsection 362-20(1) in Schedule 1

Omit ", by publishing notice of the withdrawal,".

318 Subsection 362-20(2) in Schedule 1

Omit "the notice. That time must not be before the time the notice is published", substitute "the instrument. That time must not be before the day after the instrument is registered on the Federal Register of Legislation under the *Legislation Act 2003*".

319 Subsection 362-20(3) in Schedule 1

Repeal the subsection.

320 Subsection 446-5(5) in Schedule 1 (heading)

Omit "*in Gazette*", substitute "*by notifiable instrument*".

321 Subsection 446-5(5) in Schedule 1

Omit "the Commissioner must cause to be published in the *Gazette* a notice setting out", substitute "the Commissioner must, by notifiable instrument, publish notice of the making of the resolution. The instrument must also set out".

Terrorism Insurance Act 2003

322 Subsections 6(1) and (8)

Omit "notice in the *Gazette*", substitute "legislative instrument".

323 Subsection 38(1)

Omit "may give written directions to the Corporation", substitute "may, by notifiable instrument, direct the Corporation".

324 Subsection 38(6)

Repeal the subsection.

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Division 2—Application and transitional provisions

325 Transitional—general provision to preserve existing instruments

(1) Subitem (2) applies to an instrument (however described) made under, or for the purposes of, a provision amended by an item of this Part if:

(a) the instrument was in force immediately before the commencement of this Part; and

(b) the provision, as amended, provides for the same instrument, or a similar instrument, to be made as a notifiable instrument or a legislative instrument; and

(c) item 326 does not apply to the instrument.

(2) The instrument continues in force (and may be dealt with) as if it had been made under, or for the purposes of, the provision as amended.

326 Transitional—other instruments

(1) An approval under section 14 of the *Financial Sector (Shareholdings) Act 1998* and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were an approval under that section as amended by this Part.

(2) A notice given under section 130 of the *Income Tax Assessment Act 1936* to a particular person and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were a notice under subsection 130(2) of that Act as amended by this Part.

(3) A declaration made under the definition of ***unit trust*** in section 202A of the *Income Tax Assessment Act 1936* and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were a declaration under section 202AB of that Act as inserted by this Part.

(4) A decision made under subsection 820-960(4) of the *Income Tax Assessment Act 1997* and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were:

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(a) for a decision that applies to a particular entity—an exemption under subsection 820-962(3) of that Act as inserted by this Part; or

(b) otherwise—an exemption under subsection 820-962(1) of that Act as inserted by this Part.

(5) A variation made under section 15-15 in Schedule 1 to the *Taxation Administration Act 1953* and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were:

(a) for a variation made by written notice to a particular entity—a variation made by notice under paragraph 15-15(3)(a) in that Schedule as substituted by this Part; or

(b) otherwise—a variation made by legislative instrument under paragraph 15-15(3)(b) in that Schedule as substituted by this Part.

(6) A variation made under subsection 16-153(6) in Schedule 1 to the *Taxation Administration Act 1953* and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were:

(a) for a variation made by written notice to a particular entity—a variation made by notice under paragraph 16-153(7)(a) in that Schedule as substituted by this Part; or

(b) otherwise—a variation made by legislative instrument under paragraph 16-153(7)(b) in that Schedule as substituted by this Part.

(7) An exemption made under section 16-180 in Schedule 1 to the *Taxation Administration Act 1953* and in force immediately before the commencement of this Part continues in force (and may be dealt with) as if it were:

(a) for an exemption made by written notice to a particular entity—an exemption made by notice under paragraph 16-180(2)(a) in that Schedule as substituted by this Part; or

(b) otherwise—an exemption made by legislative instrument under paragraph 16-180(2)(b) in that Schedule as substituted by this Part.

(8) Item 325 does not apply to a direction given under subsection 64(1) of the *Business Names Registration Act 2011*.

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Note: For a transitional provision for directions given under subsection 64(1) of the *Business Names Registration Act 2011*, see item 163 of this Schedule.

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Part 4—Superannuation

Income Tax Assessment Act 1997

327 Subsection 294-145(1)

Repeal the subsection, substitute:

Debit for commutation

(1) Item 1 of the table in subsection 294-80(1) applies in relation to a *capped defined benefit income stream as if the reference in column 2 of that item to the amount of the *superannuation lump sum were a reference to:

(a) in a case where the commutation mentioned in column 1 of that item is a commutation in full—the *debit value, just before the commutation takes place, of the *superannuation interest that supports the capped defined benefit income stream; or

(b) in a case where that commutation is a commutation in part:

(i) if the capped defined benefit income stream is, or was at any time, covered by item 1 or 2 of the table in subsection 294-130(1)—the debit value mentioned in paragraph (a), multiplied by the fraction mentioned in subsection (1A); or

(ii) if the capped defined benefit income stream is, or was at any time, covered by any of items 3 to 7 of the table in subsection 294-130(1)—the amount mentioned in subsection (1B).

(1A) For the purposes of subparagraph (1)(b)(i), the fraction is:

$$1 - \frac{\text{SV just after commutation}}{\text{SV just before commutation}}$$

where:

SV just after commutation means the *special value, just after the commutation takes place, of the *superannuation interest that supports the *capped defined benefit income stream.

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SV just before commutation means the *special value, just before the commutation takes place, of the *superannuation interest that supports the *capped defined benefit income stream.

(1B) For the purposes of subparagraph (1)(b)(ii), the amount is the lesser of the following:

(a) the *debit value mentioned in paragraph (1)(a);

(b) the amount (disregarding this section) of the *superannuation lump sum you received because of the commutation (as mentioned in item 1 of the table in subsection 294-80(1)).

328 Subsection 294-145(6)

Repeal the subsection, substitute:

(6) The ***debit value***, at a particular time, of a *superannuation interest that supports an income stream that is, or was at any time, a *capped defined benefit income stream covered by any of items 3 to 7 of the table in subsection 294-130(1) is:

(a) the amount of the *transfer balance credit that arose in your *transfer balance account in respect of the income stream; less

(b) the sum of the following:

(i) the amount of any *transfer balance debits (apart from debits arising under item 4 of the table in subsection 294-80(1)) that have arisen in your transfer balance account in respect of the income stream before that time;

(ii) if item 1 of the table in subsection 294-80(1) applies in relation to the income stream because the income stream is commuted—the amount worked out under subsection (6A).

(6A) The amount is the sum of the following:

(a) the total amount of *superannuation income stream benefits that you were entitled to receive from the income stream before the start of the financial year in which the commutation takes place;

(b) if regulation 1.07B of the *Superannuation Industry (Supervision) Regulations 1994* applies to the income stream—the greater of the following:

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(i) the minimum amount under subregulation 1.07B(4) of those regulations for the income stream for that financial year;

(ii) the total amount of superannuation income stream benefits that you received from the income stream in that financial year (other than superannuation income stream benefits that you were entitled to receive from the income stream before the start of that financial year);

(c) if regulation 1.07C of the *Superannuation Industry (Supervision) Regulations 1994* applies to the income stream—the greater of the following:

(i) the minimum amount under subregulation 1.07C(3) of those regulations for the income stream for that financial year;

(ii) the total amount of superannuation income stream benefits that you received from the income stream in that financial year (other than superannuation income stream benefits that you were entitled to receive from the income stream before the start of that financial year);

(d) if regulation 1.08 of the *Retirement Savings Accounts Regulations 1997* applies to the income stream—the greater of the following:

(i) the minimum amount under regulation 1.08 of those regulations for the income stream for that financial year;

(ii) the total amount of superannuation income stream benefits that you received from the income stream in that financial year (other than superannuation income stream benefits that you were entitled to receive from the income stream before the start of that financial year).

329 Subsection 295-190(1) (table item 2, column headed "Includes:", paragraph (a))

After "fund", insert "(other than an element untaxed in the fund under subsection 307-290(4))".

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330 Application

The amendments made by Part 4 of this Schedule apply on or after 1 July 2017.

[*Minister's second reading speech made in—*
House of Representatives on 5 December 2019
Senate on 12 February 2020]

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