



Treasury Laws Amendment (2020 Measures No. 6) Act 2020

No. 141, 2020

**An Act to amend the law relating to taxation,
competition and charities, to make various minor
and technical amendments of the statute law in the
Treasury portfolio, to repeal certain obsolete Acts,
and for related purposes**

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

Contents

1	Short title.....	2
2	Commencement.....	2
3	Schedules.....	5
Schedule 1—Temporary full expensing of depreciating assets and other amendments		6
Part 1—Main amendments		6
<i>Income Tax Assessment Act 1997</i>		6
<i>Income Tax (Transitional Provisions) Act 1997</i>		6
Part 2—Technical amendments		13
<i>Income Tax (Transitional Provisions) Act 1997</i>		13
Schedule 2—Amendments of the consumer data right		14
Part 1—Initial amendments		14
<i>Competition and Consumer Act 2010</i>		14
Part 2—Later amendments		20
<i>Competition and Consumer Act 2010</i>		20
Schedule 3—Incentivising charities to join the National Redress Scheme		27
<i>Australian Charities and Not-for-profits Commission Act 2012</i>		27
Schedule 4—Minor and technical amendments		29
Part 1—Amendments commencing day after Royal Assent		29
Division 1—Amendments		29
<i>Australian Charities and Not-for-profits Commission Act 2012</i>		29
<i>Australian Securities and Investments Commission Act 2001</i>		29
<i>Business Names Registration Act 2011</i>		30
<i>Commonwealth Grants Commission Act 1973</i>		31
<i>Competition and Consumer Act 2010</i>		33
<i>Corporations Act 2001</i>		35
<i>Life Insurance Act 1995</i>		37
<i>National Consumer Credit Protection Act 2009</i>		38

<i>National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009</i>	38
<i>Superannuation Guarantee (Administration) Act 1992</i>	38
<i>Superannuation Industry (Supervision) Act 1993</i>	39
<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>	42
<i>Taxation Administration Act 1953</i>	42
Division 2—Repeals of Acts	43
<i>Bills of Exchange Act 1971</i>	43
<i>Census and Statistics Act 1920</i>	43
<i>Census and Statistics Act 1930</i>	43
<i>Commonwealth Grants Commission Act 1976</i>	43
<i>Commonwealth Inscribed Stock Act 1913</i>	43
<i>Excise Act 1962</i>	43
<i>Income Tax Assessment Act (No. 2) 1969</i>	43
<i>Income Tax (International Agreements) Act 1960</i>	43
<i>International Finance Corporation Act 1961</i>	43
<i>International Finance Corporation Act 1963</i>	43
<i>International Finance Corporation Act 1966</i>	43
<i>Sales Tax Assessment Act (No. 1A) 1930</i>	44
<i>Sales Tax (Exemptions and Classifications) Act 1960</i>	44
<i>States Grants (Coal Mining Industry Long Service Leave) Act 1961</i>	44
<i>States Grants (Coal Mining Industry Long Service Leave) Act 1968</i>	44
<i>States Grants (Petroleum Products) Act 1969</i>	44
<i>States Grants (Petroleum Products) Act (No. 2) 1965</i>	44
<i>Trade Practices Act 1975</i>	44
Part 2—Amendments commencing first day of first quarter after Royal Assent	45
<i>Income Tax Assessment Act 1997</i>	45
<i>Tax Agent Services Act 2009</i>	50
Part 3—Amendments with other commencements	54
<i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>	54
<i>Corporations Act 2001</i>	54

<i>Income Tax Assessment Act 1936</i>	56
<i>Superannuation Industry (Supervision) Act 1993</i>	57
<i>Taxation Administration Act 1953</i>	58
Part 4—Application of amendments	60



Treasury Laws Amendment (2020 Measures No. 6) Act 2020

No. 141, 2020

**An Act to amend the law relating to taxation,
competition and charities, to make various minor
and technical amendments of the statute law in the
Treasury portfolio, to repeal certain obsolete Acts,
and for related purposes**

[Assented to 17 December 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2020 Measures No. 6) 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.	17 December 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 January 2021
3. Schedule 2, Part 1	The day after this Act receives the Royal Assent.	18 December 2020
4. Schedule 2, Part 2	The later of: (a) the day after this Act receives the Royal Assent; and (b) 28 February 2021.	28 February 2021 (paragraph (b) applies)
5. Schedule 3	The day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent.	17 March 2021
6. Schedule 4, Part 1	The day after this Act receives the Royal Assent.	18 December 2020
7. Schedule 4, 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 January 2021
8. Schedule 4, items 112 and 113	The later of: (a) the day after this Act receives the Royal	

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
	Assent; and (b) immediately after the commencement of Schedule 2 to the <i>Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020</i> .	
9. Schedule 4, item 114	The later of: (a) the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 381 of Schedule 1 to the <i>Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020</i> .	
10. Schedule 4, items 115 to 120	The later of: (a) the day after this Act receives the Royal Assent; and (b) the day items 1 to 1258 of Schedule 1 to the <i>Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020</i> commence.	
11. Schedule 4, item 121	The later of: (a) the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019</i> .	5 April 2021 (paragraph (b) applies)
12. Schedule 4, item 122	The later of: (a) the day after this Act receives the Royal Assent; and (b) immediately after the commencement of the <i>Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Act 2020</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b)	

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
	does not occur.	
13. Schedule 4, items 123, 124, 125 and 126	The later of: (a) the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 2 to the <i>Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020</i> .	
14. Schedule 4, items 127 to 143	The later of: (a) the day after this Act receives the Royal Assent; and (b) the day items 1 to 1258 of Schedule 1 to the <i>Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020</i> commence.	
15. Schedule 4, item 144	The later of: (a) immediately after the provisions covered by table item 10 commence; and (b) the day Part 1 of Schedule 3 to the <i>Foreign Investment Reform (Protecting Australia's National Security) Act 2020</i> commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
16. Schedule 4, Part 4	The day after this Act receives the Royal Assent.	18 December 2020

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

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

3 Schedules

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

Schedule 1—Temporary full expensing of depreciating assets and other amendments

Part 1—Main amendments

Income Tax Assessment Act 1997

1 Paragraphs 160-15(1)(a), (b) and (c)

After “how much” (wherever occurring), insert “(expressed as a specified amount)”.

Income Tax (Transitional Provisions) Act 1997

2 At the end of subsection 40-120(1)

Add:
; and (d) you have not made a choice under section 40-137 in relation to the income year.

3 At the end of Subdivision 40-BA

Add:

40-137 Choice to not apply this Subdivision to an asset

- (1) You may choose that the decline in value of a particular depreciating asset for an income year, and subsequent income years, is not to be worked out under this Subdivision.
- (2) The choice must be in the approved form.
- (3) The choice cannot be revoked.
- (4) You must give the choice to the Commissioner by the day you lodge your income tax return for the first income year to which the choice relates.

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

4 After section 40-155

Insert:

40-157 Corporate tax entities with income under \$5 billion

- (1) This section covers you for an income year if:
 - (a) you are a corporate tax entity at any time in the income year;
and
 - (b) any of the following amounts is less than \$5 billion:
 - (i) the sum of your ordinary income (if any) and statutory income (if any) for the 2018-19 income year;
 - (ii) if the 2019-20 income year ends on or before 6 October 2020—the sum of your ordinary income (if any) and statutory income (if any) for the 2019-20 income year;
and
 - (c) the sum of the amounts worked out under subsection (3) for the 2016-17, 2017-18 and 2018-19 income years exceeds \$100 million.
- (2) For the purposes of paragraph (1)(b), disregard non-assessable non-exempt income.
- (3) The amount under this subsection for an income year is worked out as follows:
 - (a) firstly, identify each depreciating asset (other than an intangible asset) that:
 - (i) you hold at any time in the income year; and
 - (ii) you started to use, or have installed ready for use, for a taxable purpose in the income year;
 - (b) next, work out the cost of each of those assets (including any amounts included in the second element of the asset's cost at a time that is in the income year);
 - (c) finally, work out the total of those costs.
- (4) For the purposes of subsection (3), disregard an asset if, at the time you first used the asset, or had it installed ready for use, for a taxable purpose:
 - (a) it was not reasonable to conclude that you would use the asset principally in Australia for the principal purpose of carrying on a business; or

- (b) it was reasonable to conclude that the asset would never be located in Australia.

5 Paragraph 40-160(1)(d)

Repeal the paragraph, substitute:

- (d) you are covered for the current year by any of the following:
 - (i) section 40-155 (about businesses with turnover under \$5 billion);
 - (ii) section 40-157 (about corporate tax entities with income under \$5 billion); and

6 At the end of subsection 40-160(1)

Add:

- ; and (f) you have not made a choice under section 40-190 in relation to the current year.

7 Subsection 40-160(2)

Repeal the subsection, substitute:

Exclusions

- (2) However, this section does not apply if:
 - (a) where section 40-155 covers you for the current year (regardless whether section 40-157 also covers you for the current year)—an exclusion applies to you and the asset for the current year under section 40-165 (about exclusions for businesses with turnover of \$50 million or more); or
 - (b) where section 40-157 covers you for the current year (but section 40-155 does not):
 - (i) an exclusion applies to you and the asset for the current year under section 40-165; or
 - (ii) an exclusion applies to you and the asset for the current year under section 40-167 (about exclusions for corporate tax entities with income under \$5 billion).

8 Section 40-165 (heading)

Repeal the heading, substitute:

40-165 Exclusions—entities covered by section 40-155 or 40-157

9 Paragraph 40-165(1)(a)

Before “section 40-155 would not cover you”, insert “where paragraph 40-160(2)(a) applies—”.

10 After section 40-165

Insert:

40-167 Exclusions—entities covered by section 40-157

- (1) For the purposes of subsections 40-160(2) and 40-170(1A), an exclusion applies to you and an asset for an income year if any of the exclusions in this section applies in relation to the asset.

Exclusion—intangible assets

- (2) This exclusion applies in relation to the asset if the asset is an intangible asset.

Exclusion—assets previously held by associates

- (3) This exclusion applies in relation to the asset if it had been previously held by an associate of yours.

Exclusion—assets available for use by associates or foreign residents

- (4) This exclusion applies in relation to the asset if the asset is available for use, at any time in the income year, by any of the following:
 - (a) an associate of yours;
 - (b) an entity that is a foreign resident.

11 Paragraph 40-170(1)(c)

Repeal the paragraph, substitute:

- (c) you are covered for the current year by any of the following:
 - (i) section 40-155 (about businesses with turnover under \$5 billion);

- (ii) section 40-157 (about corporate tax entities with income under \$5 billion); and

12 After subsection 40-170(1)

Insert:

Exclusions

- (1A) However, this section does not apply if:
 - (a) section 40-157 covers you for the current year (but section 40-155 does not); and
 - (b) an exclusion applies to you and the asset for the current year under section 40-167 (about exclusions for corporate tax entities with income under \$5 billion).

13 At the end of subsection 40-170(1)

Add:

- ; and (f) you have not made a choice under section 40-190 in relation to the current year.

14 At the end of Subdivision 40-BB

Add:

40-185 Balancing adjustment for assets not used or located in Australia

- (1) This section applies if the decline in value for a depreciating asset for an income year is worked out under this Subdivision, and at a time (the *balancing adjustment time*) in a later income year:
 - (a) either:
 - (i) it becomes not reasonable to conclude that you will use the asset principally in Australia for the principal purpose of carrying on a business; or
 - (ii) it becomes reasonable to conclude that the asset will never be located in Australia; and
 - (b) none of the requirements in paragraphs 40-295(1)(a), (b) or (c) of the *Income Tax Assessment Act 1997* are satisfied in relation to the asset.

Balancing adjustment event and termination value

- (2) For the purposes of Subdivision 40-D of the *Income Tax Assessment Act 1997* assume that, at the balancing adjustment time, you stop using the asset, or having it installed ready for use, for any purpose and you expect never to use it, or have it installed ready for use, again.

Cost resulting from balancing adjustment event

- (3) For the purposes of section 40-180 of the *Income Tax Assessment Act 1997* assume that the reference in item 3 of the table in subsection 40-180(2) of that Act to “because you stop using it for any purpose expecting never to use it again” were instead a reference to “because of section 40-185 of the *Income Tax (Transitional Provisions) Act 1997*”.

Subdivision does not apply for income year after balancing adjustment event

- (4) If a balancing adjustment event happens to a depreciating asset you hold because of this section, this Subdivision cannot apply to work out the decline in value of the asset for a later income year.

40-190 Choice to not apply this Subdivision to an asset for an income year

- (1) You may choose that the decline in value of a particular depreciating asset for an income year is not to be worked out under this Subdivision.
- (2) The choice must be in the approved form.
- (3) The choice cannot be revoked.
- (4) You must give the choice to the Commissioner by the day you lodge your income tax return for the income year to which the choice relates.

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

15 Application

To avoid doubt, section 40-185 of the *Income Tax (Transitional Provisions) Act 1997* (as inserted by this Schedule) can apply even if the balancing adjustment time mentioned in that section occurs before the commencement of this Schedule.

Part 2—Technical amendments

Income Tax (Transitional Provisions) Act 1997

16 Subsection 328-181(5) (heading)

Repeal the heading, substitute:

Low pool value

Schedule 2—Amendments of the consumer data right

Part 1—Initial amendments

Competition and Consumer Act 2010

1 Paragraph 56AC(2)(c)

Omit “beginning to hold the designated information”, substitute “holding the designated information”.

2 Paragraph 56AJ(1)(b)

Repeal the paragraph, substitute:

- (b) the CDR data is held by (or on behalf of) the person on or after the earliest holding day specified in the designation instrument; and
- (ba) in the case of the CDR data beginning to be held by (or on behalf of) the person before that earliest holding day, the CDR data:
 - (i) is of continuing use and relevance; and
 - (ii) is not about the provision before that earliest holding day of a product or service by (or on behalf of) the person; and

3 Subsection 56AJ(1) (note 2)

Repeal the note, substitute:

- Note 2: For a product or service that the person began providing before the earliest holding day and continued providing after that day:
- (a) subparagraph (ba)(ii) means the person will not be the data holder of CDR data about the person’s provision of the product or service before that day; but
 - (b) the person will be the data holder of CDR data about the person’s provision of the product or service on or after that day.

4 Subsection 56AM(4)

Omit “if it is not chargeable CDR data.”, substitute:

if:

- (a) the consumer data rules require it to be disclosed; and
- (b) it is not chargeable CDR data.

5 At the end of section 56AR

Add:

- (5) If the CDR provisions so apply to an entity covered by subsection (1):
 - (a) as a data holder of CDR data, the entity is conferred such functions as are necessary to enable the entity to operate as a data holder in accordance with the CDR provisions; or
 - (b) as a designated gateway for CDR data, the entity is conferred such functions as are necessary to enable the entity to operate as a designated gateway in accordance with the CDR provisions.

6 At the end of Division 1 of Part IVD

Add:

Subdivision F—Application to acts done by or in relation to agents etc. of CDR entities

56AU Acts done by or in relation to agents etc. of CDR entities

Conduct of agents etc. of a CDR entity attributable to the CDR entity

- (1) For the purposes of this Part and the consumer data rules, each of the following provisions applies to a CDR entity who is not a body corporate in a corresponding way to the way that provision applies to a CDR entity who is a body corporate:
 - (a) section 84 of this Act;
 - (b) section 97 of the Regulatory Powers Act (to the extent that it applies in relation to a provision of this Part).

Acts done in relation to an agent of a CDR entity taken to be done in relation to the CDR entity

- (2) For the purposes of this Part and the consumer data rules, if an act is done by a person in relation to another person (the **agent**) who:

Schedule 2 Amendments of the consumer data right
Part 1 Initial amendments

- (a) is acting on behalf of a CDR entity; and
 - (b) is so acting within the agent's actual or apparent authority;
- the act is taken to have also been done in relation to the CDR entity.

Definitions

- (3) In this section:

CDR entity means any of the following:

- (a) a data holder of CDR data;
- (b) an accredited person;
- (c) a designated gateway for CDR data.

7 At the end of paragraph 56BD(1)(b)

Add:

- ; or (iv) a data holder of the CDR data by a designated gateway for the CDR data; or
- (v) a person acting on behalf a person referred to in subparagraph (ii), (iii) or (iv).

8 After paragraph 56BJ(i)

Insert:

- (ia) rules requiring agents of any of the following entities (a **CDR entity**):
 - (i) a data holder of CDR data;
 - (ii) an accredited person;
 - (iii) a designated gateway for CDR data;to do or not to do specified things when acting on behalf of the CDR entity and within the agent's actual or apparent authority;

9 Section 56EA

Omit:

The privacy safeguards apply mainly to accredited data recipients, but also to data holders and designated gateways, in relation to their handling of the CDR data.

substitute:

<p>The privacy safeguards apply mainly to accredited persons, but also to data holders and designated gateways, in relation to their handling or future handling of the CDR data.</p>

10 After paragraph 56EC(4)(a)

Insert:

- (aa) if section 56ED, 56EE, 56EF or 56EG applies to an accredited person in relation to CDR data—the corresponding Australian Privacy Principle does not apply to the accredited person in relation to the CDR data; and

11 Subsection 56EC(5)

Omit “paragraphs (4)(b) to (d)”, substitute “paragraphs (4)(aa) to (d)”.

12 Before paragraph 56EC(5)(a)

Insert:

- (aa) an accredited person who does not become an accredited data recipient of the CDR data; or

13 Paragraph 56ED(1)(b)

Before “an accredited data recipient”, insert “an accredited person who is or who may become”.

14 Subsection 56ED(5)

After “If the CDR entity is”, insert “an accredited person who is or who may become”.

15 Paragraph 56ED(5)(a)

Before “held by”, insert “that is or may become”.

16 Paragraph 56ED(5)(a)

After “is held”, insert “or is to be held”.

17 Subsection 56EE(1)

Repeal the subsection, substitute:

(1) A person who is:

- (a) an accredited data recipient of CDR data; or
- (b) an accredited person who may become an accredited data recipient of CDR data;

must give each CDR consumer for that CDR data the option of using a pseudonym, or not identifying themselves, when dealing with the person in relation to that CDR data.

Note: The CDR participant from whom the person acquired (or may acquire) the CDR data may be subject to a similar obligation under Australian Privacy Principle 2.

18 Section 56EH

Omit “If a person collects CDR data in accordance with section 56EF, the person must:”, substitute “If an accredited data recipient of CDR data collected the CDR data in accordance with section 56EF, the accredited data recipient must:”.

19 Paragraph 56EN(4)(b)

After “requests”, insert “, in accordance with the consumer data rules,”.

20 Subsection 56EN(4)

After “request by disclosing the corrected CDR data”, insert “, in accordance with the consumer data rules,”.

21 After subsection 56EN(4)

Insert:

- (4A) Subsection (4) does not apply in the circumstances specified in the consumer data rules.

22 After subsection 56ER(1)

Insert:

- (1A) The Information Commissioner may assess whether an accredited person who may become an accredited data recipient of CDR data is complying with:
 - (a) section 56ED (about privacy safeguard 1); or
 - (b) the consumer data rules to the extent that those rules relate to that section.

23 Subsections 56ER(2) and (3)

Omit “the assessment”, substitute “an assessment under subsection (1) or (1A)”.

24 Paragraph 56ET(3)(a)

Omit “or designated gateway”, substitute “, designated gateway or accredited person”.

25 Subsection 56ET(3)

Omit “act of practice”, substitute “act or practice”.

26 After paragraph 56ET(4)(b)

Insert:

or (c) an accredited person who may become an accredited data recipient of CDR data;

27 Subparagraph 56ET(5)(b)(ii)

Omit “respondent; and”, substitute “respondent; or”.

28 At the end of paragraph 56ET(5)(b)

Add:

(iii) in the case of a complaint about an act or practice of an accredited person who may become an accredited data recipient of CDR data—the accredited person is the respondent; and

29 At the end of paragraph 56ET(5)(d)

Add:

(iii) a paragraph that states that an act or practice of an accredited person who may become an accredited data recipient of CDR data has breached a privacy safeguard; and

Part 2—Later amendments

Competition and Consumer Act 2010

30 Subsection 56AD(2)

Repeal the subsection, substitute:

- (2) Before making an instrument under subsection 56AC(2), the Minister must:
 - (a) be satisfied that the Secretary of the Department has complied with section 56AE in relation to the making of the instrument; and
 - (b) wait at least 60 days after the day the Secretary publishes the report relating to the making of the instrument (see section 56AE).

31 Section 56AE

Repeal the section, substitute:

56AE Secretary must arrange for analysis, consultation and report about an instrument proposing to designate a sector

- (1) The Secretary of the Department complies with this section in relation to the making of an instrument under subsection 56AC(2) if the Secretary arranges for all of the following:
 - (a) an analysis of the matters in paragraphs 56AD(1)(a) to (e) in relation to the instrument;
 - (b) public consultation about those matters in relation to the instrument:
 - (i) for at least 28 days; and
 - (ii) in one or more ways that includes making information available on the Department's website and inviting the public to comment;
 - (c) consultation with each of the following about those matters in relation to the instrument:
 - (i) the Commission;
 - (ii) the Information Commissioner;

- (iii) the person or body (if any) that the Secretary believes to be the primary regulator of the sector that the instrument would designate;
- (iv) any person or body prescribed by the regulations;
- (d) the preparation of a report for the Minister about that analysis and consultation.

(2) The Secretary must publish the report on the Department's website.

56AEA Commission must analyse an instrument proposing to designate a sector

When the Commission is consulted under subparagraph 56AE(1)(c)(i), the Commission must analyse the matters in paragraphs 56AD(1)(a) to (e) in relation to the instrument.

32 Section 56AG

Repeal the section.

33 Section 56AH

Omit "56AE, 56AF or 56AG", substitute "56AE, 56AEA or 56AF".

34 Section 56BA (heading)

Omit "Commission", substitute "Minister".

35 Subsection 56BA(1)

Omit "Commission", substitute "Minister".

36 Subdivision C of Division 2 of Part IVD

Repeal the Subdivision, substitute:

Subdivision C—Process for making consumer data rules etc.

56BP Minister's tasks before making the rules

Before making consumer data rules under subsection 56BA(1), the Minister must:

- (a) consider the kinds of matters referred to in paragraphs 56AD(1)(a) and (b) in relation to the making of the rules; and
- (b) be satisfied that the Secretary of the Department has complied with section 56BQ in relation to the making of the rules; and
- (c) wait at least 60 days after the day public consultation begins under paragraph 56BQ(b) about the making of the rules.

56BQ Secretary must arrange for consultation and report before the rules are made

The Secretary of the Department complies with this section in relation to the making of consumer data rules if the Secretary arranges for all of the following:

- (a) an analysis of the kinds of matters referred to in paragraphs 56AD(1)(a) and (b) in relation to the making of the rules;
- (b) public consultation about the making of the rules:
 - (i) for at least 28 days; and
 - (ii) in one or more ways that includes making information available on the Department's website and inviting the public to comment;
- (c) consultation with each of the following about the making of the rules:
 - (i) the Commission;
 - (ii) the Information Commissioner;
 - (iii) the person or body (if any) that the Secretary believes to be the primary regulator of the sector;
 - (iv) any person or body prescribed by the regulations;
- (d) the preparation of a report for the Minister about that analysis and consultation.

56BR Commission and Information Commissioner must analyse the proposed rules

When consulted under paragraph 56BQ(c), the Commission and the Information Commissioner must each analyse the kinds of matters referred to in paragraphs 56AD(1)(a) and (b) in relation to the making of the rules.

56BS Emergency rules: public consultation not required etc.

- (1) The Minister may make consumer data rules under subsection 56BA(1):
- (a) without complying with paragraph 56BP(b) or (c); but
 - (b) after consulting the Commission and Information Commissioner;
- if the Minister believes (whether or not that belief is reasonable) that it is necessary to do so in order to avoid a risk of serious harm to:
- (c) the efficiency, integrity or stability of any aspect of the Australian economy; or
 - (d) the interests of consumers.

Note: The Minister still needs to comply with paragraph 56BP(a).

- (2) However, a failure to comply with paragraph (1)(b) of this section does not invalidate consumer data rules made as described in subsection (1).

Note: Such rules may have a limited life (see section 56BT).

56BT Emergency rules: consequences if made

If:

- (a) the Minister makes consumer data rules as described in subsection 56BS(1) (the *emergency rules*); and
 - (b) the emergency rules are made without consulting either the Commission or the Information Commissioner, or both;
- the emergency rules cease to be in force 6 months after the day they are made.

Note: If the emergency rules vary other consumer data rules, this section causes only the emergency rules to cease to be in force.

56BTA Other matters

A failure to comply with section 56BP, 56BQ or 56BR does not invalidate consumer data rules made under subsection 56BA(1).

37 Section 56DA (heading)

Omit “**Commission**”, substitute “**Minister**”.

38 Subsections 56DA(1) and (2)

Omit “Commission”, substitute “Minister”.

39 Subsection 56DA(3)

Omit “Commission” (wherever occurring), substitute “Minister”.

40 Subsection 56DA(4)

Omit “Commission must consult the Information Commissioner about the scheme”, substitute “Minister must arrange for the Information Commissioner to be consulted about the scheme”.

41 Paragraph 56GA(1)(b)

Repeal the paragraph, substitute:

- (b) to consult with or advise any of the following about any matter relevant to the operation of this Part (or the operation of instruments made under this Part):
 - (i) the Minister;
 - (ii) the Secretary of the Department;
 - (iii) the Commission;
 - (iv) the Data Standards Chair.

42 After section 56GA

Insert:

56GAA Delegation by Secretary

- (1) The Secretary of the Department may, in writing, delegate all or any of the Secretary’s functions or powers under this Part to an SES employee, or an acting SES employee, in the Department.

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

- (2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Secretary.

56GAB Concurrent operation of State and Territory laws

The CDR provisions are not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with the CDR provisions.

43 After subsection 157AA(2)

Insert:

Disclosure to the Secretary

- (2A) The Commission or a Commission official may disclose to:
- (a) the Secretary of the Department; or
 - (b) any employee of the Department or consultant assisting the Secretary in performing the Secretary's functions, or exercising the Secretary's powers, relating to Part IVD; any information that the Commission obtains under this Act, or the consumer data rules, that is relevant or likely to be relevant to the functions or powers referred to in paragraph (b).
- Note: The *Privacy Act 1988* also contains provisions relevant to the use and disclosure of information.
- (2B) The Secretary or a person mentioned in paragraph (2A)(b) must only use the information:
- (a) for a purpose connected with the performance of the functions, or the exercise of the powers, referred to in paragraph (2A)(b); and
 - (b) in accordance with any conditions imposed under subsection (4).

44 Subsection 157AA(4)

Omit "(1) or (3)", substitute "(1), (2A) or (3)".

45 Application, saving and transitional provisions

Consultation underway for designating a sector

- (1) Despite the amendments of Part IVD of the *Competition and Consumer Act 2010* made by this Part, Part IVD of that Act continues to apply, in relation to consultation by the Minister:

- (a) starting before the commencement of this Part; and
- (b) under subsection 56AD(2) of that Act (as in force immediately before that commencement);

as if those amendments had not been made.

Existing rules taken to be have been made by the Minister

- (2) Despite the amendments of Part IVD of the *Competition and Consumer Act 2010* made by this Part, rules made by the Commission that are in force under subsection 56BA(1) of that Act immediately before the commencement of this Part:

- (a) continue in force; and
- (b) may be dealt with;

on and after that commencement as if they had been made by the Minister under that subsection as amended by this Part.

Consultation underway for making consumer data rules

- (3) If:

- (a) at a time (the *consultation start time*) before the commencement of this Part, the Commission begins consulting the public under paragraph 56BQ(1)(a) of the *Competition and Consumer Act 2010* (as in force at that time) about the making of consumer data rules; and
- (b) immediately before the commencement of this Part, the rules that were the subject of that consultation have yet to be made;

then, on and after that commencement, Subdivision C of Division 2 of Part IVD of that Act applies to that consultation as if the Secretary had arranged for it to begin under paragraph 56BQ(b) of that Act (as amended by this Part) at the consultation start time.

Schedule 3—Incentivising charities to join the National Redress Scheme

Australian Charities and Not-for-profits Commission Act 2012

1 At the end of section 205-35

Add:

- (6) An entity is also not a *basic religious charity* at a time if:
- (a) either:
 - (i) an application for redress is made under section 19 of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* that identifies the entity as being involved in the abuse of a person; or
 - (ii) an application for redress is made and information is given in response to a request under section 24 or 25 of that Act that identifies the entity as being involved in the abuse of a person; and
 - (b) the application for redress has not been withdrawn under section 22 of that Act; and
 - (c) the entity is not a participating non-government institution (within the meaning of that Act) on a particular day (the *relevant day*).
- However, if an entity becomes a participating non-government institution after the relevant day, this subsection does not apply to the entity at any time during which the entity is a participating non-government institution.
- (7) For the purposes of subsection (6), it does not matter whether the application is valid.
- (8) For the purposes of paragraph (6)(c), the relevant day is:
- (a) for applications made before 1 January 2021—the later of the following days:
 - (i) the day this section commences;
 - (ii) if, on the day this section commences, the 6 month period beginning on the day the application was made

- has not ended, the day after the end of that 6 month period; or
- (b) in any other case—the latest of the following days:
- (i) if a request is made under section 24 or 25 of that Act in relation to the application and information is given in response to the request, the day after the end of the 6 month period that begins on the day that the information is given;
 - (ii) if a request is made under section 24 or 25 of that Act in relation to the application and information is not given in response to the request, the day after the end of the 6 month period that begins on the day the application is made;
 - (iii) if a request is not made under section 24 or 25 of that Act in relation to the application, the day after the end of the 6 month period that begins on the day the application is made;
 - (iv) the day prescribed by the regulations.

Schedule 4—Minor and technical amendments

Part 1—Amendments commencing day after Royal Assent

Division 1—Amendments

Australian Charities and Not-for-profits Commission Act 2012

1 At the end of section 60-65

Add:

Note: Section 175-35 provides for an administrative penalty for failing to give the Commissioner a statement required by this Act within the required time.

Australian Securities and Investments Commission Act 2001

2 Subsection 12(1)

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

3 Subsection 12(5)

Repeal the subsection.

4 In the appropriate position

Insert:

Part 33—Transitional provision relating to the Treasury Laws Amendment (2020 Measures No. 6) Act 2020

331 Transitional—directions by Minister

A direction given under subsection 12(1) of this Act that is in force immediately before the commencement of Part 1 of Schedule 4 to the *Treasury Laws Amendment (2020 Measures No. 6) Act 2020* continues in force (and may be dealt with) as if it had been given under that subsection as amended by that Part.

Business Names Registration Act 2011

5 Section 88

Repeal the section.

6 Paragraph 1(a) of Schedule 1

Omit “*Co-operatives Act 1992*”, substitute “*Co-operatives (Adoption of National Law) Act 2012*”.

7 Paragraph 2(a) of Schedule 1

Omit “*Co-operatives Act 1996*”, substitute “*Co-operatives National Law Application Act 2013*”.

8 Paragraph 5(a) of Schedule 1

Repeal the paragraph, substitute:

- (a) the register of co-operatives established under the *Co-operatives National Law (South Australia) Act 2013* of South Australia;

9 Paragraph 6(a) of Schedule 1

Omit “*Cooperatives Act 1999*”, substitute “*Co-operatives National Law (Tasmania) Act 2015*”.

10 Paragraph 7(a) of Schedule 1

Repeal the paragraph, substitute:

- (a) the register of co-operatives established under the *Co-operatives National Law (ACT) Act 2017* of the Australian Capital Territory;

11 Paragraph 8(a) of Schedule 1

Omit “*Co-operatives Act*”, substitute “*Co-operatives (National Uniform Legislation) Act 2015*”.

Commonwealth Grants Commission Act 1973

12 Subsection 5(2)

Omit “the Northern Territory” (second and third occurring), substitute “that Territory”.

13 Subsection 8(3)

Omit “his or her”, substitute “the member’s”.

14 Subsection 8(6A)

Omit “his or her”, substitute “the Chairperson’s”.

15 Subsection 8(6A) and section 9

Omit “he or she shall”, substitute “the Chairperson is to”.

16 Subsection 9A(1)

Omit “he or she shall”, substitute “the member is to”.

17 Subsection 11(1)

Repeal the subsection, substitute:

- (1) A member may resign the member’s appointment by giving the Governor-General a written resignation.
- (1A) The resignation takes effect on the day it is received by the Governor-General or, if a later day is specified in the resignation, on that later day.

18 Subsection 12(7)

Omit “his or her”, substitute “the member’s”.

19 Subsection 12(7)

Omit “he or she”, substitute “the member”.

20 Paragraph 13(1)(c)

Omit “his or her”, substitute “the Chairperson’s”.

21 Paragraph 13(2)(c)

Omit “his or her”, substitute “the part-time member’s”.

22 Subsections 14(5) and 15(1)

Omit “he or she”, substitute “the Chairperson”.

23 Section 16AA (heading)

Omit “**Inquiries relating**”, substitute “**Assistance**”.

24 Subsection 19(1)

Omit “may, by writing under his or her hand, determine”, substitute “may determine in writing”.

25 Subsection 19(2)

Omit “he or she may, by writing under his or her hand”, substitute “the Chairperson may, in writing”.

26 After subsection 19(2)

Insert:

(2A) A determination made under subsection (1) is not a legislative instrument.

27 Subsection 23(1)

Omit “him or her”, substitute “the person”.

28 Section 24

Omit “he or she”, substitute “the person”.

29 Subsection 25(3)

Omit “him or her as he or she”, substitute “the Minister as the Minister”.

Competition and Consumer Act 2010

30 Section 4B

Repeal the section, substitute:

4B Consumers

For the purposes of this Act, unless the contrary intention appears, a person is taken to have acquired particular goods or services as a **consumer** if the person would be taken to have acquired the goods or services as a consumer under section 3 of the Australian Consumer Law.

31 Subsection 56A(4)

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

32 Subsection 90(8)

Omit “to the extent that”, substitute “if”.

33 Paragraph 154G(1)(d)

After “accessible by doing so”, insert “(including evidential material not held at the premises)”.

34 Subsection 154V(3) (heading)

Omit “*Affect*”, substitute “*Effect*”.

Note: This item fixes a grammatical error.

35 Section 260 of Schedule 2

Before “A failure”, insert “(1)”.

36 At the end of section 260 of Schedule 2

Add:

- (2) A failure to comply with a guarantee referred to in section 259(1)(b) that applies to a supply of goods is also a **major failure** if:

- (a) the failure is one of 2 or more failures to comply with a guarantee referred to in section 259(1)(b) that apply to the supply; and
- (b) the goods would not have been acquired by a reasonable consumer fully acquainted with the nature and extent of those failures, taken as a whole.

Note: The multiple failures do not need to relate to the same guarantee.

- (3) Subsection (2) applies regardless of whether the consumer has taken action under section 259 in relation to any of the failures.

37 Section 268 of Schedule 2

Before “A failure”, insert “(1)”.

38 At the end of section 268 of Schedule 2

Add:

- (2) A failure to comply with a guarantee referred to in section 267(1)(b) that applies to a supply of services is also a *major failure* if:
 - (a) the failure is one of 2 or more failures to comply with a guarantee referred to in section 267(1)(b) that apply to the supply; and
 - (b) the services would not have been acquired by a reasonable consumer fully acquainted with the nature and extent of those failures, taken as a whole.

Note: The multiple failures do not need to relate to the same guarantee.

- (3) Subsection (2) applies regardless of whether the consumer has taken action under section 267 in relation to any of the failures.

39 In the appropriate position in Chapter 6 of Schedule 2

Insert:

Part 6—Application and transitional provisions relating to the Treasury Laws Amendment (2020 Measures No. 6) Act 2020

303 Application of amendments relating to multiple non-major consumer guarantee failures

- (1) The amendments made by Part 1 of Schedule 4 to the *Treasury Laws Amendment (2020 Measures No. 6) Act 2020* apply in relation to goods supplied under a contract entered into on or after the day that that Part commences.
- (2) The amendments made by Part 1 of Schedule 4 to the *Treasury Laws Amendment (2020 Measures No. 6) Act 2020* apply in relation to a services supplied under a contract entered into on or after the day that that Part commences.

Corporations Act 2001

40 Section 9

Insert:

ASIC delegate has the same meaning as in the ASIC Act.

41 Section 9 (definition of *Commission delegate*)

Repeal the definition.

42 Section 9 (paragraph (c) of the definition of *professional investor*)

Repeal the paragraph, substitute:

- (c) the person is a registered entity within the meaning of the *Financial Sector (Collection of Data) Act 2001*;

43 Section 106

Omit “a Commission”, substitute “an ASIC”.

44 Section 106

Omit “the Commission”, substitute “the ASIC”.

45 Paragraph 761EA(10)(b)

Omit “for the purposes of the *Legislative Instruments Act 2003*”.

Note: This item removes an incorrect and redundant citation of a short title of an Act.

46 Subsection 850B(2)

Omit “earlier than the day after the last day on which the regulations may be disallowed under Part 5 of the *Legislative Instruments Act 2003*”, substitute “before the first day those regulations are no longer liable to be disallowed, or to be taken to have been disallowed, under section 42 of the *Legislation Act 2003*”.

Note: This item fixes an incorrect cross-reference and an incorrect citation of a short title of an Act.

47 Paragraph 985M(6)(b)

Omit “for the purposes of the *Legislative Instruments Act 2003*”.

Note: This item removes an incorrect and redundant citation of a short title of an Act.

48 Subsection 1017BB(5AA) (heading)

Repeal the heading.

Note: This item and item 49 relocate a subsection heading to its appropriate position.

49 Before subsection 1017BB(6)

Insert:

Definitions

Note: This item and item 48 relocate a subsection heading to its appropriate position.

50 Paragraph 1315(1)(b)

Omit “a Commission”, substitute “an ASIC”.

51 Subsection 1317E(3) (table item dealing with subsection 588GAB(2))

Omit “Subsection”, substitute “subsection”.

Note: This item changes the capitalisation of the first word in a table item, for consistency with current drafting practice in that table.

52 Subsection 1317E(3) (table item dealing with subsection 588GAC(2))

Omit “Subsection”, substitute “subsection”.

Note: This item changes the capitalisation of the first word in a table item, for consistency with current drafting practice in that table.

53 Subsection 1317E(3) (table item dealing with subsection 1317AAE(1))

Omit “Subsection”, substitute “subsection”.

Note: This item changes the capitalisation of the first word in a table item, for consistency with current drafting practice in that table.

54 Subsection 1317E(3) (table item dealing with subsections 1317AC(1), (2) and (3))

Omit “Subsections”, substitute “subsections”.

Note: This item changes the capitalisation of the first word in a table item, for consistency with current drafting practice in that table.

55 At the end of paragraphs 32(1)(a) to (j) of Schedule 4

Add “;”.

Note: This item adds semi-colons at the end of paragraphs, for consistency with current drafting practice.

Life Insurance Act 1995

56 Paragraph 200(2)(b)

After “endorsed”, insert “(including by electronic means)”.

57 Paragraphs 211(1)(b) and 212(1)(b)

Omit “\$50,000”, substitute “\$100,000”.

58 Subsection 213(7)

Omit “\$25,000”, substitute “\$50,000”.

National Consumer Credit Protection Act 2009

59 Paragraph 167(3)(d)

Omit “court in foreign country”, substitute “court in a foreign country”.

Note: This item fixes a grammatical error.

60 Subsections 194(3), (4) and (5) of the *National Credit Code* (headings)

Omit “etc”, substitute “etc.”.

Note: This item fixes a spelling error.

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

61 Subitem 4(2) of Schedule 8

Omit “National Consumer and Credit Protection Act 2009”, substitute “*National Consumer Credit Protection Act 2009*”.

Note: This item fixes an incorrect citation of a short title of an Act.

Superannuation Guarantee (Administration) Act 1992

62 Subsection 23(12)

Repeal the subsection, substitute:

Reduction of ordinary time earnings base if amount excluded from employee’s salary or wages

(12) If:

- (a) because of section 27 or 28, an amount of an employee’s salary or wages is not taken into account for the purpose of making a calculation under section 19; and
- (b) a portion of that amount (which could be all of it) is included in the employee’s ordinary time earnings base for the quarter in respect of the employer;

for the purposes of this section, the employee’s ordinary time earnings base for the quarter in respect of the employer is taken to be reduced by an amount equal to that portion.

63 Subsection 26(1)

Omit “excluded salary or wages are paid by an employer to an employee”, substitute “the only salary or wages paid by an employer to an employee are excluded salary or wages”.

64 Subsection 27(2)

Repeal the subsection, substitute:

(2) If:

(a) an employer pays an employee salary or wages in a calendar month; and

(b) the portion of those salary or wages that is not covered by subsection (1) is less than \$450;

that portion of those salary or wages is not to be taken into account for the purpose of making a calculation, in relation to the employer and the employee, under section 19.

Superannuation Industry (Supervision) Act 1993

65 Subsection 10(1)

Insert:

lifecycle exception has the meaning given by subsection 29TC(2).

66 Paragraph 29TC(1)(c)

Omit “(see subsection (2))”.

67 Paragraph 29VA(9)(b)

Omit “an age cohort identified in the governing rules in relation to the MySuper product for the purposes of this subsection”, substitute “a subclass of the members of the fund who hold the MySuper product to whom gains and losses from different classes of asset of the fund may be streamed in accordance with a lifecycle exception”.

68 Paragraph 29VA(9)(c)

Repeal the paragraph.

69 Paragraph 29VA(9)(d)

Repeal the paragraph, substitute:

- (d) the investment fees for each such subclass reflect a fair and reasonable attribution of the investment costs of the fund between all such subclasses.

70 After subsection 68AAA(2)

Insert:

(2A) A member's election:

(a) that:

- (i) is given under subsection (2); or
- (ii) because of a previous application of this subsection, is taken to have been given under subsection (2);

to the trustee of a regulated superannuation fund (the *original fund*); and

(b) that is in force immediately before the transfer of the benefits of the member from the original fund to another regulated superannuation fund (the *successor fund*);

continues in force (and may be dealt with) as if it had been given under subsection (2) to the trustee of the successor fund, if:

(c) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits; and

(d) before the transfer, the trustee of the successor fund had agreed with the trustee of the original fund that the successor fund will confer such equivalent rights on the member.

71 After subsection 68AAB(3)

Insert:

(3A) A member's election:

(a) that:

- (i) is given under subsection (2); or
- (ii) because of a previous application of this subsection, is taken to have been given under subsection (2);

to the trustee of a regulated superannuation fund (the *original fund*); and

- (b) that is in force immediately before the transfer of the benefits of the member from the original fund to another regulated superannuation fund (the *successor fund*);
continues in force (and may be dealt with) as if it had been given under subsection (2) to the trustee of the successor fund, if:
 - (c) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits; and
 - (d) before the transfer, the trustee of the successor fund had agreed with the trustee of the original fund that the successor fund will confer such equivalent rights on the member.

72 After subsection 68AAC(3)

Insert:

(3A) A member's election:

- (a) that:
 - (i) is given under subsection (2); or
 - (ii) because of a previous application of this subsection, is taken to have been given under subsection (2);
to the trustee of a regulated superannuation fund (the *original fund*); and
- (b) that is in force immediately before the transfer of the benefits of the member from the original fund to another regulated superannuation fund (the *successor fund*);
continues in force (and may be dealt with) as if it had been given under subsection (2) to the trustee of the successor fund, if:
 - (c) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits; and
 - (d) before the transfer, the trustee of the successor fund had agreed with the trustee of the original fund that the successor fund will confer such equivalent rights on the member.

73 Subsection 105(3) (paragraph (a) of the definition of member or beneficiary report)

Omit "*Superannuation (Excluded Funds) Taxation Act 1987*", substitute "*Superannuation (Self Managed Superannuation Funds) Taxation Act 1987*".

***Superannuation (Unclaimed Money and Lost Members) Act
1999***

74 Subparagraph 20QA(1)(a)(ix)

Omit “68AAB(5)”, substitute “68AAB(2), (5)”.

75 At the end of paragraph 20QA(1)(a)

Add:

- (x) no benefit that despite section 68AAC of the SIS Act could, because of the application of subsection 68AAC(2) of that Act, be provided to, or in respect of, the member under the product by taking out or maintaining insurance is provided in that way; and

Taxation Administration Act 1953

76 Subsection 14ZL(1)

Omit “of regulations”, substitute “a legislative instrument”.

77 Subparagraph 284-75(4)(b)(iii) in Schedule 1

Omit “by you”, substitute “to you”.

78 Paragraph 396-115(1)(a) in Schedule 1

After “Entity”, insert “(other than a *self managed superannuation fund or a *small superannuation fund)”.

79 After paragraph 396-115(3)(a) in Schedule 1

Insert:

- (aa) a *self managed superannuation fund account;
- (ab) a *small superannuation fund account;

80 Paragraph 396-130(1)(d) in Schedule 1

Repeal the paragraph, substitute:

- (d) one or more of the following:
 - (ia) the Reporting Financial Institution;
 - (ib) the Account Holder (within the meaning of the CRS);

- (ic) an intermediary of the Reporting Financial Institution or the Account Holder;
 - (id) any other entity;
- undertook a transaction, or entered into an *arrangement:
- (i) for the purpose of causing the account not to be such a Reportable Account; or
 - (ii) for 2 or more purposes of which that purpose is the dominant purpose.

Division 2—Repeals of Acts

81 Repeals of Acts

Repeal the following Acts:

Bills of Exchange Act 1971

Census and Statistics Act 1920

Census and Statistics Act 1930

Commonwealth Grants Commission Act 1976

Commonwealth Inscribed Stock Act 1913

Excise Act 1962

Income Tax Assessment Act (No. 2) 1969

Income Tax (International Agreements) Act 1960

International Finance Corporation Act 1961

International Finance Corporation Act 1963

International Finance Corporation Act 1966

Sales Tax Assessment Act (No. 1A) 1930

Sales Tax (Exemptions and Classifications) Act 1960

***States Grants (Coal Mining Industry Long Service Leave)
Act 1961***

***States Grants (Coal Mining Industry Long Service Leave)
Act 1968***

States Grants (Petroleum Products) Act 1969

States Grants (Petroleum Products) Act (No. 2) 1965

Trade Practices Act 1975

Part 2—Amendments commencing first day of first quarter after Royal Assent

Income Tax Assessment Act 1997

82 Section 40-10 (table item 1.5, column headed “Major topic”)

Omit:

- *fodder storage assets* over 3 income years; or substitute:
- *fodder storage assets* immediately; or

83 After subsection 116-30(2B)

Insert:

(2C) Subsection (2) does not apply if:

- (a) you are a *complying superannuation fund, a *complying approved deposit fund or a *pooled superannuation trust; and
- (b) the *capital proceeds from the *CGT event exceed the *market value of the *CGT asset; and
- (c) assuming the capital proceeds were your *statutory income, the proceeds would be *non-arm’s length income.

84 Section 118-320

Before “A *capital gain”, insert “(1)”.

85 At the end of section 118-320

Add:

- (2) However, subsection (1) does not apply to a *capital gain if the capital gain would, if it were an amount of *ordinary income or *statutory income received by the *complying superannuation fund, be *non-arm’s length income.

86 Paragraphs 230-365(a) and (d)

Omit “highly”.

87 Section 295-495 (at the end of the table)

Add:

- | | | |
|---|---------------|--|
| 6 | CSF | An amount payable to a person under an income stream |
| | N-CSF | because of the person's temporary inability to engage in |
| | *RSA provider | *gainful employment |

88 Subdivision 295-J (heading)

Omit "4 years", substitute "5 years".

89 Subsection 295-675(1)

After "income year", insert "of the provider".

90 At the end of subsection 295-675(1)

Add:

Note: In certain circumstances the superannuation provider or RSA provider can get a refund of the tax offset under Division 67.

91 Subsection 295-675(2)

Repeal the subsection (including the note), substitute:

- (2) An amount of tax counts towards the offset for the provider for the current year if subsection (3), (4) or (5) applies for the provider and the tax.

Superannuation providers and RSA providers—main case

- (3) This subsection applies for the provider and the tax if:
- (a) the tax was payable by the provider in one of the most recent 3 income years of the provider ending before the current year; and
 - (b) the tax was payable on an amount of *no-TFN contributions income of the fund or *RSA provider; and
 - (c) the amount of no-TFN contributions income was a contribution made to the fund or provider to provide *superannuation benefits for an individual who, in the current

year, has *quoted (for superannuation purposes) the individual's *tax file number to the provider for the first time.

Superannuation providers of successor funds

- (4) This subsection applies for the provider (the **current provider**) and the tax if:
- (a) the tax was payable on an amount of *no-TFN contributions income that:
 - (i) was no-TFN contributions income of another *superannuation fund (the **previous fund**); and
 - (ii) was a contribution made to the previous fund to provide *superannuation benefits for an individual; and
 - (b) the tax was so payable by the *superannuation provider (the **previous provider**) of the previous fund; and
 - (c) the tax was so payable in:
 - (i) one of the most recent 3 income years of the previous provider ending before the current year; or
 - (ii) an income year of the previous provider ending or starting in the current year; and
 - (d) the current provider is the superannuation provider of a *successor fund in relation to the individual and the previous fund; and
 - (e) the individual:
 - (i) never *quoted (for superannuation purposes) the individual's *tax file number to the previous provider; but
 - (ii) has, in the current year, done so to the current provider for the first time.

RSA providers of successor funds

- (5) This subsection applies for the provider (the **current provider**) and the tax if:
- (a) the tax was payable on an amount of *no-TFN contributions income that:
 - (i) was no-TFN contributions income of another *RSA provider (the **previous provider**); and

Schedule 4 Minor and technical amendments

Part 2 Amendments commencing first day of first quarter after Royal Assent

- (ii) was a contribution made to the previous provider to provide *superannuation benefits for an individual; and
- (b) the tax was so payable by the previous provider; and
- (c) the tax was so payable in:
 - (i) one of the most recent 3 income years of the previous provider ending before the current year; or
 - (ii) an income year of the previous provider ending or starting in the current year; and
- (d) the current provider is the *superannuation provider of a *successor fund in relation to the individual and an *RSA of the previous provider; and
- (e) the individual:
 - (i) never *quoted (for superannuation purposes) the individual's *tax file number to the previous provider but
 - (ii) has, in the current year, done so to the current provider for the first time.

92 Subsection 307-5(1) (table item 5, column 2)

Omit “or subsection 24G(2) or (3A)”, substitute “or subsection 24G(2) or (3A) or 24NA(2), (3) or (4)”.

93 Paragraph 307-120(2)(e)

Omit “or 24G(2), (3A) or (3B)”, substitute “, 24G(2), (3A) or (3B) or 24NA(2), (3) or (4)”.

94 Subsection 307-142(1)

Omit “or 24G(2), (3A) or (3B)”, substitute “, 24G(2), (3A) or (3B) or 24NA(2), (3) or (4)”.

95 Subsection 307-142(2) (method statement, step 1, at the end of the note)

Add:

A payment under subsection 24NA(2) or (3) of that Act may be attributable to more than one unclaimed amount.

96 Subsection 307-142(3B)

Omit “or 24G(3A) or (3B)”, substitute “, 24G(3A) or (3B) or 24NA(4)”.

97 Subsection 307-300(1)

Omit “or 24G(2)”, substitute “, 24G(2) or 24NA(2) or (3)”.

98 Subsection 307-300(2) (method statement, step 1, at the end of the note)

Add:

A payment under subsection 24NA(2) or (3) of that Act may be attributable to more than one unclaimed amount.

99 After section 376-245

Insert:

376-247 Delegation by Arts Minister

- (1) The *Arts Minister may, in writing, delegate all or any of the Arts Minister’s powers under the provisions mentioned in subsection (2) to:
 - (a) the *Arts Secretary; or
 - (b) an SES employee, or acting SES employee, in the Department administered by the Arts Minister.
- (2) For the purposes of subsection (1), the provisions are as follows:
 - (a) section 376-20 (issue of certificate for location offset);
 - (b) section 376-30 (determination of qualifying Australian production expenditure for location offset);
 - (c) section 376-45 (issue of certificate for PDV offset);
 - (d) section 376-50 (determination of qualifying Australian production expenditure for PDV offset);
 - (e) section 376-235 (notice of refusal to issue certificate for location offset or PDV offset);
 - (f) section 376-245 (revocation of certificate for location offset or PDV offset).
- (3) In exercising powers under a delegation, the delegate must comply with any directions of the Arts Minister.

100 After paragraph 820-935(3)(a)

Insert:

- (aa) the United Kingdom;

101 Paragraph 830-15(5)(a)

Omit “485AA(1)”, substitute “485AA(2)”.

Tax Agent Services Act 2009

102 Paragraphs 20-5(1)(c) and (d)

Repeal the paragraphs, substitute:

- (c) in the case of registration which is not a renewal—the individual maintains, or will be able to maintain, professional indemnity insurance that meets the Board’s requirements; and
- (d) in the case of a renewal of registration—the individual:
 - (i) maintains, at the time of applying for registration, professional indemnity insurance that meets the Board’s requirements; and
 - (ii) has completed continuing professional education that meets the Board’s requirements.

103 Paragraph 20-5(2)(d)

Repeal the paragraph, substitute:

- (d) in the case of registration which is not a renewal—the partnership maintains, or will be able to maintain, professional indemnity insurance that meets the Board’s requirements; and
- (e) in the case of a renewal of registration—the partnership maintains, at the time of applying for registration, professional indemnity insurance that meets the Board’s requirements.

104 Paragraph 20-5(3)(e)

Repeal the paragraph, substitute:

- (e) in the case of registration which is not a renewal—the company maintains, or will be able to maintain, professional

indemnity insurance that meets the Board's requirements;
and

- (f) in the case of a renewal of registration—the company maintains, at the time of applying for registration, professional indemnity insurance that meets the Board's requirements.

105 Paragraph 20-50(1)(a)

After “30 days”, insert “, but not more than 90 days,”.

106 Paragraph 20-50(1)(b)

Omit “shorter”, substitute “other”.

107 Subsection 20-50(2)

Repeal the subsection, substitute:

- (2) Your registration is taken to continue until your application is decided, or you withdraw your application, whichever happens first.

108 Section 30-35

Omit “business or email address” (wherever occurring), substitute “address for service of notices”.

109 Paragraphs 40-5(3)(b), 40-10(2A)(b) and 40-15(2A)(b)

Repeal the paragraphs, substitute:

- (b) either:
- (i) the Board considers that, due to a current investigation or the outcome of an investigation, it would be inappropriate to terminate your registration; or
 - (ii) the Board, within 30 days after receiving your surrender notice, decides to investigate you and considers that it would be inappropriate to terminate your registration.

110 Paragraph 70-10(d)

Omit “a shorter”, substitute “another”.

111 At the end of Division 70

Add:

Subdivision 70-F—Address for service of notices

Table of sections

70-60	Address for service of notices
70-65	How documents may be given

70-60 Address for service of notices

- (1) An entity's address for service of notices by the Board for the purposes of this Act is:
 - (a) a physical address in Australia; or
 - (b) a postal address in Australia; or
 - (c) an electronic address;that the entity has given the Board as the entity's address for service for the purposes of this Act.
- (2) If an entity has given the Board more than one address for service for the purposes of subsection (1), the entity's address for service is such of those addresses as the Board considers reasonable in the circumstances.
- (3) If an entity has not given the Board an address for service, the entity's address for service is the address that the Board reasonably believes to be the entity's address for service for the purposes of this Act.

70-65 How documents may be given

- (1) For the purposes of this Act, a document (however described) may be given to an entity:
 - (a) in the manner specified in section 28A of the *Acts Interpretation Act 1901*; or
 - (b) if the entity's address for service is an electronic address—by sending it to that address; or
 - (c) if the entity is a company and a liquidator of the company has been appointed—by leaving it at, or posting it to, the address

of the liquidator's office in the most recent notice of that address lodged with *ASIC; or

- (d) if the entity is a company and an administrator of the company has been appointed—by leaving it at, or posting it to, the address of the administrator in the most recent notice of that address lodged with ASIC.
- (2) Despite section 29 of the *Acts Interpretation Act 1901*, a document posted under subsection (1) of this section is taken to be given at the time the Board posts it.
 - (3) This Subdivision has effect despite paragraphs 9(1)(d) and (2)(d) of the *Electronic Transactions Act 1999*.

Part 3—Amendments with other commencements

Corporations (Aboriginal and Torres Strait Islander) Act 2006

112 After subsection 308-5(1)

Insert:

- (1A) The Commonwealth Registrar may make a request of the person under subsection (5) for the purposes of satisfying the Commonwealth Registrar that the person’s identity has been established.

113 At the end of section 308-5

Add:

- (5) The Commonwealth Registrar may request, but not compel, the person:
- (a) if the person has a tax file number—to give the Commonwealth Registrar a written statement of the person’s tax file number; or
 - (b) if the person does not have a tax file number:
 - (i) to apply to the Commissioner of Taxation for a tax file number; and
 - (ii) to give the Commonwealth Registrar a written statement of the person’s tax file number after the Commissioner of Taxation has issued it.

Corporations Act 2001

114 Section 106 (heading)

Before “delegates”, insert “ASIC”.

115 Subsection 163(4)

Omit “be in the prescribed form”, substitute “meet any requirements of the data standards”.

116 Subsection 346A(1A)

Repeal the subsection.

117 Paragraph 446A(5)(a)

After “lodge”, insert “with the Registrar”.

118 At the end of section 446A

Add:

- (8) A lodgement under paragraph (5)(a) must meet any requirements of the data standards.

119 Paragraph 491(2)(a)

Omit “ASIC, in the prescribed form,”, substitute “the Registrar”.

120 At the end of section 491

Add:

- (3) A lodgement under paragraph (2)(a) must meet any requirements of the data standards.

121 Paragraph 994F(5)(b)

Omit “days. after”, substitute “days, after”.

122 Paragraph 1053A(d)

Omit “section 90MZB”, substitute “section 90XZB or 90YZR”.

123 After subsection 1272(1)

Insert:

- (1A) The Registrar may make a request of the person under subsection (5) for the purposes of satisfying the Registrar that the person’s identity has been established.

124 At the end of section 1272

Add:

- (5) The Registrar may request, but not compel, the person:

- (a) if the person has a tax file number—to give the Registrar a written statement of the person’s tax file number; or
- (b) if the person does not have a tax file number:
 - (i) to apply to the Commissioner of Taxation for a tax file number; and
 - (ii) to give the Registrar a written statement of the person’s tax file number after the Commissioner of Taxation has issued it.

125 Subsection 1653(4)

Omit “paragraph 1272C(2)(b)”, substitute “subparagraph 1272C(2)(a)(ii)”.

Income Tax Assessment Act 1936

126 At the end of Division 8 of Part VA

Add:

204 Disclosure of tax file numbers to certain registrars

- (1) If:
 - (a) the Commissioner is appointed as the Commonwealth Registrar (within the meaning of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*); and
 - (b) no other person or body is appointed as that registrar;the Commissioner may disclose the tax file number of a person to that registrar if the disclosure is made for the purposes of facilitating the administration of Part 6-7A of that Act.
- (2) If:
 - (a) the Commissioner is appointed as the Registrar (within the meaning of the *Corporations Act 2001*); and
 - (b) no other person or body is appointed as that registrar;the Commissioner may disclose the tax file number of a person to that registrar if the disclosure is made for the purposes of facilitating the administration of Part 9.1A of that Act.
- (3) To avoid doubt, subsection (1) or (2) applies to the disclosure of the person’s tax file number whether or not that registrar has

requested the person, or the Commissioner, to give the tax file number to that registrar.

Superannuation Industry (Supervision) Act 1993

127 Subsection 126A(7)

After “given”, insert “by the Regulator”.

128 Subsection 344(1)

After “of the Regulator”, insert “or the Registrar”.

129 Subsection 344(1)

Omit “request the Regulator”, substitute “request the decision maker”.

130 Subsection 344(2)

Omit “Regulator” (wherever occurring), substitute “decision maker”.

131 After subsection 344(2)

Insert:

(2A) If the Registrar is the decision maker, the request must meet any requirements of the data standards.

132 Subsection 344(4) (heading)

Omit “*Regulator*”, substitute “*Decision maker*”.

133 Subsections 344(4) and (5)

Omit “Regulator” (wherever occurring), substitute “decision maker”.

134 Subsection 344(6) (heading)

Omit “*Regulator’s*”, substitute “*Decision maker’s*”.

135 Subsection 344(6)

Omit “Regulator” (wherever occurring), substitute “decision maker”.

136 Subsection 344(7) (heading)

After “*Taxation*”, insert “*if Regulator is decision maker*”.

137 Subsection 344(7)

After “If the Regulator”, insert “is the decision maker and the Regulator”.

138 Subsection 344(8) (heading)

Omit “*of Regulator’s decisions*”.

139 Subsection 344(8)

Omit “of the Regulator”.

140 Paragraphs 345(1)(a) and (b)

After “Regulator”, insert “or the Registrar, as the case may be,”.

141 Subsection 345(2)

After “Regulator”, insert “or the Registrar”.

Taxation Administration Act 1953

142 Section 269-50 in Schedule 1

Omit “*ASIC”, substitute “the *Registrar”.

143 After section 355-65 in Schedule 1

Insert:

355-67 Exception—disclosure to registrars

- (1) Section 355-25 does not apply if:
- (a) the entity is a *taxation officer; and
 - (b) the Commissioner is appointed as a registrar specified in subsection (2); and
 - (c) no other person or body is appointed as that registrar; and
 - (d) the record or the disclosure is made for the purposes of the performance of that registrar’s functions, or the exercise of that registrar’s powers.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

- (2) The following registrars are specified:

- (a) the *Registrar;
- (b) the Registrar (within the meaning of the *Business Names Registration Act 2011*);
- (c) the Registrar (within the meaning of the *Corporations Act 2001*);
- (e) the Registrar (within the meaning of the *National Consumer Credit Protection Act 2009*).

144 After paragraph 355-67(2)(c) in Schedule 1

Insert:

- (d) the Registrar (within the meaning of the *Foreign Acquisitions and Takeovers Act 1975*);

Part 4—Application of amendments

145 Application of Part 1 amendments

- (1) The amendment of section 200 of the *Life Insurance Act 1995* made by Part 1 of this Schedule applies in relation to a policy issued before, on or after the commencement of that Part.
- (2) The amendments of subsection 29VA(9) of the *Superannuation Industry (Supervision) Act 1993* made by Part 1 of this Schedule apply in relation to a fee in relation to a MySuper product during a period that begins on or after the commencement of that Part.
- (3) The amendments of paragraph 20QA(1)(a) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* made by Part 1 of this Schedule apply in relation to unclaimed money days that occur on or after 1 April 2020.

146 Application of Part 2 amendments

- (1) The amendment of section 116-30 of the *Income Tax Assessment Act 1997* made by Part 2 of this Schedule applies to income years starting on or after the day this Act receives the Royal Assent.
- (2) The amendments of section 118-320 of the *Income Tax Assessment Act 1997* made by Part 2 of this Schedule apply to income years starting on or after the day this Act receives the Royal Assent.
- (3) The amendments of paragraphs 230-365(a) and (d) of the *Income Tax Assessment Act 1997* made by Part 2 of this Schedule apply for the purposes of determining whether the requirement of section 230-365 of that Act is met in relation to a hedging financial arrangement on or after 1 January 2021 (regardless of whether an entity started to have the hedging financial arrangement before, on or after that day).
- (4) The amendment of section 295-495 of the *Income Tax Assessment Act 1997* made by Part 2 of this Schedule applies in relation to the 2007-08 income year and later income years.
- (5) The amendments of section 295-675 of the *Income Tax Assessment Act 1997* made by Part 2 of this Schedule apply in relation to a tax offset for the 2020-21 income year and later income years.

- (6) The amendment of subsections 307-5(1), 307-120(2), 307-142(1) and (2), 307-142(3B) and 307-300(1) and (2) of the *Income Tax Assessment Act 1997* made by Part 2 of this Schedule apply in relation to payments made by the Commissioner on or after 13 March 2019.
 - (7) The amendment of subsection 820-935(3) of the *Income Tax Assessment Act 1997* made by Part 2 of this Schedule applies in relation to financial statements prepared before, at or after the commencement of that Part.
 - (8) The amendments of the *Tax Agent Services Act 2009* made by Part 2 of this Schedule apply to an application for renewal of registration whether made before, on or after the commencement of that Part.
-

[*Minister's second reading speech made in—
House of Representatives on 2 December 2020
Senate on 9 December 2020*]

(156/20)
