Treasury Laws Amendment (2021 Measures No. 5) Act 2021

No. 127, 2021

An Act to amend the law relating to taxation, deal with consequential and transitional matters arising from the enactment of the *Corporations Amendment (Corporate Insolvency Reforms) Act 2020*, make miscellaneous and technical amendments of the law in the Treasury portfolio, 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 (2021 Measures No. 5) Act 2021

No. 127, 2021

An Act to amend the law relating to taxation, deal with consequential and transitional matters arising from the enactment of the *Corporations Amendment (Corporate Insolvency Reforms) Act 2020*, make miscellaneous and technical amendments of the law in the Treasury portfolio, and for related purposes

[*Assented to 7 December 2021*]

The Parliament of Australia enacts:

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1 Short title

This Act is the *Treasury Laws Amendment (2021 Measures No. 5) Act 2021*.

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.	7 December 2021
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 2022
3. Schedule 2	The day after this Act receives the Royal Assent.	8 December 2021
4. Schedule 3, Part 1	The day after this Act receives the Royal Assent.	8 December 2021
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 January 2022
6. Schedule 3, Part 3, Division 1	The later of: (a) the first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent; and (b) 1 January 2022.	1 January 2022
7. Schedule 3, Part 3, Division 2	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of	

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Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
	Part 1 of Schedule 2 to the *Treasury Laws Amendment (2020 Measures No. 5) Act 2020*.	
8. Schedule 3, Part 3, Division 3	Immediately after the commencement of section 2 of the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020*.	22 June 2020
9. Schedule 3, Part 3, Division 4	Immediately after the commencement of section 2 of the *Treasury Laws Amendment (2020 Measures No. 6) Act 2020*.	17 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.

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Schedule 1—Australian Screen Production Incentive Reforms

Income Tax Assessment Act 1997

1 Paragraph 376-2(3)(a)

Repeal the paragraph, substitute:

(a) the amount of the producer offset is:

(i) if the film is a feature film that was produced for commercial exhibition to the public in cinemas—40% of the company's qualifying Australian production expenditure on the film; and

(ii) otherwise—30% of the company's qualifying Australian production expenditure on the film; and

3 Paragraph 376-55(2)(a)

Omit "not a series or a season of a series", substitute "not covered by paragraph (b) or (c)".

4 Paragraphs 376-55(2)(b) and (c)

After "series", insert "other than a drama series".

5 Paragraphs 376-60(a) and (b)

Repeal the paragraphs, substitute:

(a) if the *film is a *feature film that was produced for commercial exhibition to the public in cinemas—40%; or

(b) otherwise—30%;

7 Subparagraph 376-65(5)(a)(iii)

Before "the series", insert "in the case of a series other than a drama series—".

8 Subparagraph 376-65(5)(b)(iii)

Before "the series", insert "in the case of a series other than a drama series—".

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24 Paragraph 376-170(4)(c)

Omit "for a series or a season of a series", substitute "for a series other than a drama series, or a season of a series other than a drama series".

26 Subsection 995-1(1) (definition of *feature film*)

Repeal the definition, substitute:

> ***feature film*** includes a *film that is an animated feature film, but does not include a film that is not *feature-length.

27 Subsection 995-1(1)

Insert:

> ***feature-length***: a *film is ***feature-length*** if:
>
> (a) if the film is a large format film—the film is at least 45 minutes in duration; and
>
> (b) otherwise—the film is more than 60 minutes in duration.

28 Application of amendments

The amendments made by this Schedule apply in respect of the tax offset under section 376-55 (the producer offset) to films commencing principal photography on or after 1 July 2021.

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Schedule 2—Consequential and transitional matters arising from corporate insolvency reforms

Australian Securities and Investments Commission Act 2001

1 Section 15

After "Corporations Act", insert "or regulation 5.5.05 of the *Corporations Regulations 2001*".

2 In the appropriate position

Insert:

Part 36—Application provision relating to the Treasury Laws Amendment (2021 Measures No. 5) Act 2021

336 Application—reports of liquidators

The amendment of section 15 of this Act made by Schedule 2 to the *Treasury Laws Amendment (2021 Measures No. 5) Act 2021* applies in relation to reports lodged before, on or after the commencement of that Schedule.

Banking Act 1959

3 Subsection 5(1) (paragraph (c) of the definition of *external administrator*)

Omit "manager;", substitute "manager.".

4 Subsection 5(1) (paragraph (d) of the definition of *external administrator*)

Repeal the paragraph.

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Corporations (Aboriginal and Torres Strait Islander) Act 2006

5 After paragraph 120-1(1)(f)

Insert:

(fa) if a restructuring practitioner for the corporation has been appointed—leaving it at, or posting it to, the address of the restructuring practitioner in the most recent notice of that address lodged with the Registrar; or

6 After subparagraph 386-60(3)(a)(i)

Insert:

(ia) appointing a restructuring practitioner for the Aboriginal and Torres Strait Islander corporation; or

7 Subsection 421-1(4) (subparagraph (b)(iii) of the definition of *exempt document*)

After "Corporations Act", insert "and regulation 5.5.05 of the *Corporations Regulations 2001*".

8 Section 482-1 (paragraph beginning "There are basically")

Omit "4 ways", substitute "5 ways".

9 Section 482-1

After:

> (c) An administrator for the corporation may be appointed under Part 5.3A of the Corporations Act (as applied by Part 11-4 of this Act).

insert:

> (ca) A restructuring practitioner for the corporation may be appointed under Part 5.3B of the Corporations Act (as applied by Part 11-4A of this Act).

10 Paragraph 487-1(3)(b)

Repeal the paragraph, substitute:

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(b) may make a determination under subsection (1) even if the corporation is:

(i) being administered under Part 5.3A of the Corporations Act (as applied by section 521-1 of this Act); or

(ii) under restructuring under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act).

11 After subsection 496-10(2)

Insert:

(2A) Subsection (1) does not apply to the extent to which the person is performing or exercising, or purporting to perform or exercise, a function or power as restructuring practitioner for a restructuring plan made by the corporation under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act).

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

12 After subsection 496-15(3)

Insert:

(3A) Subsection (2) does not apply to a transaction or dealing affecting property of the corporation if:

(a) the corporation has made a restructuring plan under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act) that has not terminated; and

(b) the restructuring plan specifies how the property is to be dealt with; and

(c) the transaction or dealing complies with the terms of the restructuring plan.

13 Subsection 496-15(6) (note)

Repeal the note, substitute:

Note: This means that a receiver, or an administrator appointed under Part 5.3A of the Corporations Act (as applied by section 521-1 of this Act), cannot enter into any transactions or dealings without the consent of the special administrator or an order of the Court.

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14 After Part 11-4

Insert:

Part 11-4A—Restructuring of an Aboriginal and Torres Strait Islander corporation

Division 522—Restructuring of an Aboriginal and Torres Strait Islander corporation

522-1 Applying Corporations Act restructuring provisions to Aboriginal and Torres Strait Islander corporations

(1) The Corporations Act restructuring provisions apply to an Aboriginal and Torres Strait Islander corporation as if the following substitutions were made:

Substitutions to be made		
Item	**For a reference to ...**	**substitute a reference to ...**
1	a company	an Aboriginal and Torres Strait Islander corporation
2	ASIC	the Registrar
3	a deed of company arrangement	a deed of corporation arrangement

(2) The Corporations Act restructuring provisions apply to an Aboriginal and Torres Strait Islander corporation:
  (a) only to the extent to which they are capable of applying to an Aboriginal and Torres Strait Islander corporation; and
  (b) with the modifications specified in the regulations.

(3) Regulations made for the purposes of paragraph (2)(b) must not:
  (a) increase, or have the effect of increasing, the maximum penalty for any offence; or
  (b) widen, or have the effect of widening, the scope of any offence.

(4) In this Act:

Corporations Act restructuring provisions means:

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(a) Part 5.3B of, and Schedule 2 to, the Corporations Act; and
(b) the other provisions of that Act (including Parts 1.2, 5.8, 5.9 and 9.4 and Schedule 3 but not including Parts 1.1, 1.1A and 9.4A) to the extent to which they relate to the operation of Part 5.3B of, and Schedule 2 to, that Act; and
(c) the regulations and rules made under that Act for the purposes of Part 5.3B of, and Schedule 2 to, that Act and the provisions referred to in paragraph (b).

522-2 Corporations Act restructuring practitioner cannot be appointed if special administrator appointed

(1) A restructuring practitioner for an Aboriginal and Torres Strait Islander corporation cannot be appointed under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act) if:
(a) the corporation is under special administration under Part 11-2; or
(b) the Registrar:
(i) has given the corporation a notice under subsection 487-10(1); and
(ii) has not given the corporation a notice under subsection 487-10(5).

(2) Paragraph (1)(b) does not apply if the Registrar has consented in writing to the appointment of the restructuring practitioner under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act).

(3) A consent under subsection (2) to the appointment of a restructuring practitioner is not a legislative instrument.

522-3 Effect of appointment of special administrator—Aboriginal and Torres Strait Islander corporation under restructuring

If:
(a) a restructuring practitioner for an Aboriginal and Torres Strait Islander corporation is appointed under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act); and

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(b) while that appointment continues, a special administrator for the corporation is appointed under Part 11-2; and

(c) at the time the special administrator is appointed, the corporation has not made a restructuring plan;

the restructuring of the corporation under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act) ends on the day on which the special administrator is appointed.

522-4 Effect of appointment of special administrator—Aboriginal and Torres Strait Islander corporation subject to restructuring plan

(1) This section applies if:

(a) an Aboriginal and Torres Strait Islander corporation makes a restructuring plan under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act); and

(b) before the plan terminates, a special administrator for the corporation is appointed under Part 11-2.

(2) The Court may order that the restructuring plan is to terminate.

(3) The order may be made on the application of:

(a) the Registrar; or

(b) the special administrator for the corporation; or

(c) any other interested person.

(4) The order may be made subject to conditions.

Effect of termination of restructuring plan

(5) If the Court orders that the restructuring plan is to terminate, any admissible debt or claim that has not been dealt with in accordance with the restructuring plan is taken to be due and payable on the business day after the day on which the termination occurs.

(6) In this section:

admissible debt or claim has the same meaning as in the *Corporations Regulations 2001*.

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15 After paragraph 576-10(1)(d)

Insert:

(da) a restructuring practitioner for an Aboriginal and Torres Strait Islander corporation; or

(db) a restructuring practitioner for a restructuring plan made by an Aboriginal and Torres Strait Islander corporation; or

16 After subparagraph 683-1(3)(d)(iii)

Insert:

(iiia) a person appointed as a restructuring practitioner for the corporation, or for a restructuring plan made by the corporation, under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act); or

17 Section 700-1 (after subparagraph (j)(iv) of the definition of *affairs*)

Insert:

(iva) the body is under restructuring; or

(ivb) a restructuring plan made by the body has not yet terminated; or

18 Section 700-1 (after subparagraph (k)(v) of the definition of *affairs*)

Insert:

(va) such a restructuring practitioner for the body; or

(vb) a restructuring practitioner for such a restructuring plan; or

19 Section 700-1

Insert:

Corporations Act restructuring provisions has the meaning given by subsection 522-1(4).

20 Section 700-1 (paragraph (a) of the definition of *examinable affairs*)

After “administration”, insert “, restructuring”.

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21 Section 700-1 (after paragraph (c) of the definition of *remuneration*)

Insert:

(ca) a restructuring practitioner for the corporation;

(cb) a restructuring practitioner for a restructuring plan made by the corporation;

22 Section 700-1

Insert:

restructuring plan:

(a) in relation to an Aboriginal and Torres Strait Islander corporation—means a plan executed by the corporation under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act), or such a plan as varied and in force from time to time; or

(b) in relation to a body corporate other than an Aboriginal and Torres Strait Islander corporation—means a plan executed by the body corporate under Part 5.3B of the Corporations Act, or such a plan as varied and in force from time to time.

restructuring practitioner:

(a) in relation to an Aboriginal and Torres Strait Islander corporation but not in relation to a restructuring plan:

(i) means a small business restructuring practitioner for the corporation appointed under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act); and

(ii) if 2 or more persons are appointed under that Part as small business restructuring practitioners for the corporation—has a meaning affected by paragraph 456M(2)(b) of that Act as so applied; or

(b) in relation to a restructuring plan made by an Aboriginal and Torres Strait Islander corporation:

(i) means a small business restructuring practitioner for the plan appointed under Part 5.3B of the Corporations Act (as applied by section 522-1 of this Act); and

(ii) if 2 or more persons are appointed under that Part as small business restructuring practitioners for the plan—

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has a meaning affected by paragraph 456N(2)(b) of that Act as so applied; or

(c) in relation to a body corporate (other than an Aboriginal and Torres Strait Islander corporation) but not in relation to a restructuring plan:

(i) means a small business restructuring practitioner for the body or entity appointed under Part 5.3B of the Corporations Act; and

(ii) if 2 or more persons are appointed under that Part as small business restructuring practitioners for the body or entity—has a meaning affected by paragraph 456M(2)(b) of the Corporations Act; or

(d) in relation to a restructuring plan made by a body corporate (other than an Aboriginal and Torres Strait Islander corporation):

(i) means a small business restructuring practitioner for the plan appointed under Part 5.3B of the Corporations Act; and

(ii) if 2 or more persons are appointed under that Part as small business restructuring practitioners for the plan—has a meaning affected by paragraph 456N(2)(b) of the Corporations Act.

23 Application—effect of appointment of special administrator

Section 522-4 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, as inserted by this Schedule, applies in relation to a restructuring plan made on or after the commencement of this Schedule.

Corporations Act 2001

24 Section 91 (table item 15)

Repeal the item.

25 After paragraph 105B(2)(b)

Insert:

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(ba) if the originator has a principal place of business in Australia and neither paragraph (a) nor (b) applies—the address of the originator's principal place of business in Australia; and

26 After paragraph 105B(3)(b)

Insert:

(ba) if the addressee has a principal place of business in Australia and neither paragraph (a) nor (b) applies—the address of the addressee's principal place of business in Australia; and

27 Before paragraph 453B(2)(a)

Insert:

(aa) the company is, or is a related body corporate of, a body regulated by APRA (within the meaning of the *Australian Prudential Regulation Authority Act 1998*); or

28 Subsection 453D(1)

After "a restructuring practitioner", insert "for a company".

29 At the end of Subdivision C of Division 4 of Part 5.3B

Add:

456LA Restructuring practitioner has qualified privilege

A person who is or has been the restructuring practitioner for a company or a company's restructuring plan has qualified privilege in respect of a statement that the person has made, whether orally or in writing, in the course of performing or exercising any of the person's functions and powers as restructuring practitioner for the company or the plan.

456LB Protection of persons dealing with restructuring practitioner

(1) Sections 128 and 129 apply in relation to a company that is under restructuring as if:

(a) a reference in those sections to the company, or to an officer of the company, included a reference to the restructuring practitioner for the company; and

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(b) a reference in those sections to an assumption referred to in section 129 included a reference to an assumption that the restructuring practitioner is:

(i) acting within the restructuring practitioner's functions and powers as restructuring practitioner; and

(ii) in particular, is complying with this Act.

(2) Sections 128 and 129 apply in relation to a company that has made a restructuring plan as if:

(a) a reference in those sections to the company, or to an officer of the company, included a reference to the restructuring practitioner for the plan; and

(b) a reference in those sections to an assumption referred to in section 129 included a reference to an assumption that the restructuring practitioner is:

(i) acting within the restructuring practitioner's functions and powers as restructuring practitioner; and

(ii) in particular, is complying with this Act.

(3) The effect that sections 128 and 129 have because of subsections (1) and (2) of this section is additional to, and does not prejudice, the effect that sections 128 and 129 otherwise have in relation to a company that is under restructuring or that has made a restructuring plan.

30 Before paragraph 500A(2)(a)

Insert:

(aa) the company is, or is a related body corporate of, a body regulated by APRA (within the meaning of the *Australian Prudential Regulation Authority Act 1998*); or

31 Paragraph 500AA(1)(g)

Repeal the paragraph, substitute:

(g) if the company is required by a taxation law (within the meaning of the *Income Tax Assessment Act 1997*) to give a return, notice, statement, application or other document before the day the liquidator is appointed—the company has substantially complied with that requirement.

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32 At the end of subsection 506(1A)

Add:

; and (c) in the case of a simplified liquidation process—a reference in those subsections to a resolution of the creditors were a reference to a resolution passed by the creditors without a meeting in the circumstances prescribed under paragraph 75-40(5)(b) of Schedule 2.

33 After paragraph 652C(2)(d)

Insert:

(da) a restructuring practitioner for the target, or for a subsidiary, is appointed under section 453B;

(db) the target or a subsidiary makes a restructuring plan under Division 3 of Part 5.3B;

34 Subparagraph 1274(2)(a)(iv)

After "or 533", insert ", or regulation 5.5.05 of the *Corporations Regulations 2001*".

35 In the appropriate position in Chapter 10

Insert:

Part 10.59—Application provisions relating to the Treasury Laws Amendment (2021 Measures No. 5) Act 2021

1686 Definitions

In this Part:

amending Schedule means Schedule 2 to the *Treasury Laws Amendment (2021 Measures No. 5) Act 2021*.

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1686A Qualified privilege for restructuring practitioners

Section 456LA, as inserted by the amending Schedule, applies in relation to a statement made before, on or after the commencement of that Schedule.

1686B Protection of persons dealing with restructuring practitioner

Section 456LB, as inserted by the amending Schedule, applies in relation to a company that is under restructuring, or a company that makes a restructuring plan, before, on or after the commencement of that Schedule.

1686C Eligibility criteria for simplified liquidation

The amendment of paragraph 500AA(1)(g) by the amending Schedule applies to a company if a triggering event occurs in relation to the company before, on or after the commencement of that Schedule.

1686D Powers and duties of liquidator

The amendment of subsection 506(1A) by the amending Schedule applies in relation to a liquidator appointed before, on or after the commencement of that Schedule.

1686E Withdrawal of market bids

The amendment of subsection 652C(2) by the amending Schedule applies in relation to restructuring practitioners appointed, or restructuring plans made, before, on or after the commencement of that Schedule.

Crimes (Taxation Offences) Act 1980

36 Subsection 3(1) (paragraph (a) of the definition of *trustee*)

Before “guardian”, insert “restructuring practitioner (within the meaning of the *Corporations Act 2001*),”.

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Customs Act 1901

37 After paragraph 67EB(4)(d)

Insert:

(e) whether the company is under restructuring within the meaning of that Act; and

(ea) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; and

38 After paragraph 67H(3)(d)

Insert:

(e) whether the company is under restructuring within the meaning of that Act; and

(ea) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; and

39 After paragraph 77K(3)(e)

Insert:

(f) whether the company is under restructuring within the meaning of that Act; and

(fa) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; and

40 At the end of paragraph 77N(2)(c)

Add:

; or (v) a small business restructuring practitioner for the company is appointed under section 453B of that Act; or

(vi) the company makes a restructuring plan under Division 3 of Part 5.3B of that Act;

41 After paragraph 81(3)(cb)

Insert:

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(d) whether the company is under restructuring within the meaning of that Act; or

(da) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; or

42 After subparagraph 82(1)(ba)(iv)

Insert:

(iva) a small business restructuring practitioner for the company is appointed under section 453B of that Act;

(ivb) the company makes a restructuring plan under Division 3 of Part 5.3B of that Act;

43 At the end of subsection 102BA(2)

Add:

; and (e) whether the company is under restructuring within the meaning of that Act; and

(f) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated.

44 After paragraph 183CC(4A)(cb)

Insert:

(d) whether the company is under restructuring within the meaning of that Act;

(da) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated;

45 After subparagraph 183CG(1)(c)(iii)

Insert:

(iiia) a small business restructuring practitioner for the company is appointed under section 453B of that Act; or

(iiib) the company makes a restructuring plan under Division 3 of Part 5.3B of that Act; or

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Education Services for Overseas Students Act 2000

46 Section 5 (paragraph (e) of the definition of *relevant individual*)

Omit "or liquidator", substitute ", liquidator or restructuring practitioner (within the meaning of the *Corporations Act 2001*)".

Excise Act 1901

47 Paragraph 39C(f)

Omit "Law", substitute "Act".

48 After paragraph 39C(f)

Insert:

(fa) whether the company is under restructuring within the meaning of that Act; and

(fb) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; and

49 After subparagraph 39D(1)(f)(v)

Insert:

(va) a small business restructuring practitioner for the company is appointed under section 453B of that Act;

(vb) the company makes a restructuring plan under Division 3 of Part 5.3B of that Act;

Export Control Act 2020

50 After subparagraph 146(1)(c)(i)

Insert:

(ia) begins restructuring (within the meaning of section 453A of that Act); or

51 After subparagraph 186(1)(c)(i)

Insert:

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(ia) begins restructuring (within the meaning of section 453A of that Act); or

52 After subparagraph 219(1)(c)(i)

Insert:

(ia) begins restructuring (within the meaning of section 453A of that Act); or

Fair Entitlements Guarantee Act 2012

53 Section 5 (after paragraph (b) of the definition of *insolvency practitioner*)

Insert:

(ba) a restructuring practitioner for the employer appointed under that Act; or

54 Section 5 (paragraph (b) of the definition of *wages entitlement period*)

After "insolvency practitioner", insert "(other than a restructuring practitioner within the meaning of the *Corporations Act 2001*)".

55 Application of amendments

The amendments to the *Fair Entitlements Guarantee Act 2012* made by this Schedule apply in relation to an employer that appoints a restructuring practitioner (within the meaning of the *Corporations Act 2001*) before, on or after the commencement of this Schedule.

Income Tax Assessment Act 1997

56 Paragraph 175-100(b)

Omit "when the administration begins", substitute "when the company becomes an entity mentioned in subparagraph (a)(i) or (ii)".

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Insurance Act 1973

57 Subsection 3(1) (paragraph (c) of the definition of *external administrator*)

Omit “manager;”, substitute “manager.”.

58 Subsection 3(1) (paragraph (d) of the definition of *external administrator*)

Repeal the paragraph.

Life Insurance Act 1995

59 Dictionary (paragraph (c) of the definition of *external administrator*)

Omit “manager;”, substitute “manager.”.

60 Dictionary (paragraph (d) of the definition of *external administrator*)

Repeal the paragraph.

Superannuation Industry (Supervision) Act 1993

61 After paragraph 120(2)(c)

Insert:

(ca) a restructuring practitioner (within the meaning of the *Corporations Act 2001*) has been appointed in respect of the body; or

Tax Agent Services Act 2009

62 Subsection 90-1(1)

Insert:

external administration: a person goes into external administration if the person becomes a Chapter 5 body corporate (within the meaning of the *Corporations Act 2001*).

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Schedule 3—Miscellaneous and technical amendments

Part 1—Amendments commencing day after Royal Assent

Division 1—New Zealand auditors

Corporations Act 2001

1 Subsections 324BB(5) and 1280(4)

After “Australia”, insert “or New Zealand”.

2 Subparagraph 1292(1)(a)(ii)

After “Australia”, insert “or New Zealand”.

Division 2—Country by country reporting

Income Tax Assessment Act 1997

3 Subparagraph 815-355(3)(a)(ii)

Omit “were”, substitute “are”.

4 Subparagraph 815-355(3)(a)(ii)

Omit “previous”.

5 Application of amendments

The amendments made by this Division apply in relation to income years or other periods starting on or after 1 July 2020.

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Division 3—Recovery of overpayments

Superannuation (Unclaimed Money and Lost Members) Act 1999

6 After section 24NA

Insert:

24NAA Commissioner may recover overpayment

(1) This section applies if:
  (a) the Commissioner makes a payment in respect of a person under, or purportedly under, this Part; and
  (b) the amount paid exceeds the amount (if any) properly payable under this Part in respect of the person.

(2) The Commissioner may recover all or part of the excess from a person (the ***debtor***) described in subsection (3) as a debt due by the debtor to the Commonwealth if the conditions specified in subsection (4) are met.

(3) The persons from whom the Commissioner may recover are as follows:
  (a) the superannuation provider for the fund to which the payment was made;
  (b) if the payment, or an amount wholly or partly attributable to that payment, was transferred to another fund—the superannuation provider for that other fund.

(4) The conditions for recovery are that:
  (a) the Commissioner gave the debtor written notice, as prescribed by the regulations, of the proposed recovery and the amount to be recovered; and
  (b) at least 28 days have passed since the notice was given; and
  (c) the amount recovered is not more than the amount specified in the notice.

(5) Despite subsections (2) and (3), if the Commissioner gives a notice described in paragraph (4)(a) to a superannuation provider for a fund, and the fund does not hold an amount attributable to the

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payment, the Commissioner cannot recover from the superannuation provider.

(6) The Commissioner may revoke a notice described in paragraph (4)(a).

(7) The total of the amounts recovered from different debtors in relation to the same excess must not be more than the excess.

(8) A notice described in paragraph (4)(a) is not a legislative instrument.

7 Application of amendments

The amendment made by this Division applies in relation to the recovery of overpayments on or after the commencement of this Division, whether the overpayment occurred before, on or after that commencement.

Division 4—Consumer protections

Australian Securities and Investments Commission Act 2001

8 Subparagraphs 12DE(1)(b)(iii) and (2A)(b)(iii)

Omit "sale or grant, or the possible sale or grant,", substitute "supply or possible supply".

9 After subsection 12DE(3)

Insert:

(3A) Subparagraph (1)(b)(iii) or (2A)(b)(iii) applies whether or not an offer is made before or after the financial product consists of, or includes, an interest in land.

10 Subsection 12DN(4) (heading)

Omit "*sale etc.*", substitute "*supply etc.*".

11 Subsection 12DN(4)

Omit "sale or grant, or possible sale or grant,", substitute "supply, or the possible supply,".

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12 Subsection 12DN(4)

Omit “sale or grant” (third occurring), substitute “supply”.

13 Paragraph 12DN(4)(a)

Omit “sold or granted”, substitute “supplied”.

14 Paragraphs 12DN(4)(b) and (c)

Omit “sells or grants”, substitute “supplies”.

15 After subsection 12DN(4)

Insert:

(4A) Subsection (4) applies whether or not a matter is published before or after the financial product consists of, or includes, an interest in land.

Division 5—Civil penalties

Australian Securities and Investments Commission Act 2001

16 Paragraph 12GXB(1)(h)

Omit “on which”, substitute “after”.

17 Subsection 12GXC(3)

Omit “later”, substitute “latest”.

18 Subsection 12GXC(5)

Omit “earlier”, substitute “latest”.

19 Subsection 12GXC(6)

Omit “later”, substitute “latest”.

Corporations Act 2001

20 Paragraph 1317DAP(1)(h)

Omit “on which”, substitute “after”.

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21 Subsection 1317DAQ(3)

Omit “later”, substitute “latest”.

22 Subsection 1317DAQ(5)

Omit “earlier”, substitute “latest”.

23 Subsection 1317DAQ(6)

Omit “later”, substitute “latest”.

Insurance Contracts Act 1984

24 Paragraph 75Y(1)(h)

Omit “on which”, substitute “after”.

25 Subsection 75Z(3)

Omit “later”, substitute “latest”.

26 Subsection 75Z(5)

Omit “earlier”, substitute “latest”.

27 Subsection 75Z(6)

Omit “later”, substitute “latest”.

National Consumer Credit Protection Act 2009

28 Paragraph 288L(1)(h)

Omit “on which”, substitute “after”.

29 Subsection 288M(3)

Omit “later”, substitute “latest”.

30 Subsection 288M(5)

Omit “earlier”, substitute “latest”.

31 Subsection 288M(6)

Omit “later”, substitute “latest”.

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Division 6—Loss carry back choice

Income Tax Assessment Act 1936

32 Subsection 170(10AA) (after table item 165)

Insert:

168	Subsection 160-16(1)	Change of a loss carry back choice

Income Tax Assessment Act 1997

33 After section 160-15

Insert:

160-16 Changing a loss carry back choice

(1) An entity may change a *loss carry back choice for the 2020-21 or 2021-22 income year by notice, in the *approved form, given to the Commissioner.

(2) The notice to change a *loss carry back choice for an income year must be given to the Commissioner within the limited amendment period (within the meaning of section 170 of the *Income Tax Assessment Act 1936*) for an assessment for that income year.

(3) To avoid doubt, the change takes effect from the day the entity made the original *loss carry back choice under section 160-15.

Division 7—Franking account balance

Income Tax Assessment Act 1997

34 Subsection 205-15(1) (after table item 4)

Insert:

4A	a *franking debit arises under item 2 or 2A of the table in subsection 205-30(1) because the entity receives a *tax offset	the difference (if any) between: (a) the amount of the franking debit; and (b) the amount the franking debit	on the day on which the amount of the excess is paid

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	refund; and the entity's tax offset refund is subsequently reduced and the entity is liable to pay to the Commonwealth the amount of the excess mentioned in subsection 172A(2) of the *Income Tax Assessment Act 1936*; and the entity pays the amount of the excess	would have been if the tax offset refund were reduced by the amount of the excess	

35 Subsection 219-15(2) (after table item 6)

Insert:

6A	a *franking debit arises under item 2 or 3 of the table in subsection 219-30(2) because the company receives a *tax offset refund; and the company's tax offset refund is subsequently reduced and the company is liable to pay to the Commonwealth the amount of the excess mentioned in subsection 172A(2) of the *Income Tax Assessment Act 1936*; and the company pays the amount of the excess	the difference (if any) between: (a) the amount of the franking debit; and (b) the amount the franking debit would have been if the tax offset refund were reduced by the amount of the excess	on the day on which the amount of the excess is paid

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Division 8—Protected information

Foreign Acquisitions and Takeovers Act 1975

36 Section 130

Repeal the section, substitute:

130 No requirement to provide protected information

A person (whether within or outside Australia) must not, except for the purposes of this Act, be required to disclose, or produce a document containing, protected information to:

(a) a court; or

(b) a tribunal, authority or person having power to require the production of documents or the answering of questions.

Division 9—Extension of decision period

Foreign Acquisitions and Takeovers Act 1975

37 Paragraph 61(1)(b)

Repeal the paragraph, substitute:

(b) if, before the end of the period (including the period as extended under this paragraph), the person requests in writing the Treasurer to extend the period—the period as so extended;

(c) if, before the end of the period (including the period as extended under this paragraph or paragraph (b)), the Treasurer extends the period under section 61A—the period as so extended.

38 After section 61

Insert:

61A Treasurer may extend period by up to 90 days

(1) Before the end of a period mentioned in subsection 61(1), the Treasurer may, by notice in writing given to the person mentioned

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in that subsection, extend (or further extend) the period. The Treasurer may do so more than once.

(2) The total number of days by which the Treasurer may extend a period by notices given under this section must not exceed 90 days.

(3) The notice:
  (a) must include the reasons for the decision; and
  (b) may be given to the person at an address (including an electronic address) specified in the application by the person as the address for service of notices relating to the application.

(4) The Treasurer is not required to observe any requirements of the natural justice hearing rule in making a decision under subsection (1).

39 Application of amendments

The amendment of section 61 of the *Foreign Acquisitions and Takeovers Act 1975*, made by this Division, and section 61A of that Act, as inserted by this Division, apply in relation to an application for an exemption certificate made on or after the commencement of this Division.

Division 10—Temporary full expensing

Income Tax (Transitional Provisions) Act 1997

40 At the end of section 40-157

Add:

(5) For the purposes of paragraph (3)(b), to work out the cost of a depreciating asset that is capital works (see section 43-20 of the *Income Tax Assessment Act 1997*):
  (a) disregard section 40-45 of that Act and work out the cost of the capital works using Subdivision 40-C of that Act; and
  (b) disregard section 40-215 of that Act.

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41 Application of amendments

The amendment made by this Division applies for working out the amounts under subsection 40-157(3) of the *Income Tax (Transitional Provisions) Act 1997* for the 2016-17, 2017-18 and 2018-19 income years.

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Part 2—Amendments commencing the first 1 January, 1 April, 1 July or 1 October to occur after Royal Assent

Division 1—Repeal of redundant provisions

Income Tax Assessment Act 1997

42 Subsections 293-115(6) and (7) and 293-145(2) and (2A)

Repeal the subsections.

Taxation Administration Act 1953

43 Subsections 133-130(3) and (4) in Schedule 1

Repeal the subsections.

Division 2—GST free cars

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

44 Paragraph 38-510(1)(a)

Repeal the paragraph, substitute:

(a) has a current certificate of medical eligibility issued by a *medical practitioner, in the *approved form, certifying that the individual has lost the use of one or more limbs to such an extent that the individual is unable to use public transport; and

45 Section 195-1 (definition of *officer*)

Omit “, except in section 38-510,”.

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A New Tax System (Luxury Car Tax) Act 1999

46 Section 27-1 (paragraph (b) of the definition of *disabled person*)

Omit "disability certificate", substitute "certificate of medical eligibility".

Division 3—Agents of covered entities

Taxation Administration Act 1953

47 At the end of subsection 355-25(2) in Schedule 1

Add:

; or (h) the covered entity is the registered tax agent or BAS agent of another covered entity mentioned in paragraph (c), (d) or (e) in relation to the relevant primary entity mentioned in those paragraphs; or

(i) the covered entity is a legal practitioner representing another covered entity mentioned in paragraph (c), (d) or (e) in relation to the affairs of the relevant primary entity mentioned in those paragraphs relating to one or more taxation laws.

48 Application of amendments

The amendment made by this Division applies in relation to the making of a record or the disclosure of information occurring on or after the commencement of this Division, whether the information was acquired before, on or after that commencement.

Division 4—Deductible gift recipient

Income Tax Assessment Act 1997

49 Subsection 30-55(2) (table item 6.2.9, column headed "Fund, authority or institution")

Omit "the Nature Foundation SA Incorporated", substitute "Nature Foundation Limited".

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50 Section 30-315 (table item 77A)

Omit "Nature Foundation SA Incorporated", substitute "Nature Foundation Limited".

51 Application of amendments

The amendments made by this Division apply in relation to gifts or contributions made on or after 12 December 2019.

Division 5—Expired deductible gift recipients

Income Tax Assessment Act 1997

52 Subsection 30-25(2) (table items 2.2.34 and 2.2.38)

Repeal the items.

53 Subsection 30-40(2) (table item 3.2.11)

Repeal the item.

54 Subsection 30-50(2) (table items 5.2.26, 5.2.28, 5.2.29, 5.2.30, 5.2.32 and 5.2.33)

Repeal the items.

55 Subsection 30-80(2) (table items 9.2.2, 9.2.9, 9.2.13, 9.2.17, 9.2.19 and 9.2.22)

Repeal the items.

56 Section 30-105 (table items 13.2.8, 13.2.14A, 13.2.17 and 13.2.18)

Repeal the items.

57 Section 30-315 (table items 2AAC, 2ACA, 24B, 27AA and 28ABA)

Repeal the items.

58 Section 30-315 (table item 30AA, column headed "Provision")

Omit "items 5.2.26 and", substitute "item".

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59 Section 30-315 (table items 44AAAA, 52A, 70AA, 72AA, 73AA, 81A, 94, 110, 112AF, 124A, 127A and 127B)

Repeal the items.

Division 6—Deductible gift recipient

Income Tax Assessment Act 1997

60 Subsection 30-100(2) (table item 12.2.2, column headed "Fund, authority or institution")

Omit "Australian Business Arts Foundation Ltd.", substitute "Creative Partnerships Australia Ltd".

61 Section 30-315 (table item 17AA)

Repeal the item.

62 Section 30-315 (after table item 40A)

Insert:

40AA	Creative Partnerships Australia Ltd	item 12.2.2

63 Application of amendments

The amendments made by this Division apply in relation to gifts or contributions made on or after 5 October 2020.

Division 7—Minor amendment

Taxation Administration Act 1953

64 Subsection 12-439(4) in Schedule 1

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

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Division 8—Finance leases

Income Tax Assessment Act 1997

65 Subsection 705-25(5) (note 2)

Omit "finance".

66 Section 705-56 (heading)

Omit "**finance**".

67 Subsection 705-56(1)

Repeal the subsection, substitute:

Application of this section

(1) This section applies if, just before the joining time, the joining entity is the lessor or lessee under a lease of a *depreciating asset (the ***underlying asset***) to which Division 40 applies.

68 Subsection 711-45(2A) (heading)

Omit "*finance*".

69 Application of amendments

The amendments of the *Income Tax Assessment Act 1997* made by this Division apply in relation to an entity that becomes, on or after 1 January 2019, a subsidiary member of a consolidated group or a subsidiary member of a MEC group.

Division 9—Low pool value

Income Tax (Transitional Provisions) Act 1997

70 Subsection 328-180(6) (heading)

Repeal the heading, substitute:

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Low pool value

Division 10—Refund of excess low balance fees

Income Tax Assessment Act 1997

71 At the end of subsection 291-25(2)

Add:

; and (e) it is *not* an amount mentioned in subsection 99G(6) of the *Superannuation Industry (Supervision) Act 1993* that is refunded in accordance with that subsection.

72 Application of amendment

The amendment made by this Division applies in relation to the amount of your concessional contributions for the 2021-22 financial year and later financial years.

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Part 3—Other amendments

Division 1—Delegation

Life Insurance Act 1995

73 After subsection 216(14A)

Insert:

(14B) The Treasurer may, in writing, delegate any of the Treasurer's functions or powers under this section to:

(a) a non-corporate Commonwealth entity for which the Treasurer is the responsible Minister; or

(b) a member, or staff member, of such an entity.

74 Subsection 216(15)

Insert:

non-corporate Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

responsible Minister has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Division 2—KiwiSaver scheme

Superannuation (Unclaimed Money and Lost Members) Act 1999

75 Section 7

Omit:

> If the Commissioner is satisfied he or she has received a payment under this Act for such a member, the Commissioner must pay the amount he or she has received (and interest, in some cases) to the member, to a fund identified by the member or, if the member has

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died, to the member's death beneficiaries or legal personal representative.

substitute:

If the Commissioner is satisfied the Commissioner has received a payment under this Act for such a member, the Commissioner must pay the amount received (and interest, in some cases) to:

(a) the member; or

(b) a fund identified by the member; or

(c) a KiwiSaver scheme provider identified by the member; or

(d) if the member has died—the member's death beneficiaries or legal personal representative.

76 Section 7

Omit:

Superannuation of eligible rollover fund members

Superannuation providers who are trustees of eligible rollover funds must, by 30 June 2021 and 31 January 2022, give the Commissioner of Taxation details relating to accounts of those funds.

Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Payments must be made by 30 June 2021 (for accounts that had balances of less than $6,000 on 1 June 2021) and 31 January 2022 (for all other accounts).

Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:

(a) to a fund identified by the person; or

(b) if the person has reached eligibility age or the amount is less than $200—to the person; or

(c) if the person has died—to the person's death beneficiaries or legal personal representative.

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substitute:

> *Superannuation of eligible rollover fund members*
>
> Superannuation providers who are trustees of eligible rollover funds must, by 30 June 2021 and 31 January 2022, give the Commissioner of Taxation details relating to accounts of those funds.
>
> Superannuation providers must pay to the Commissioner of Taxation the value of any such accounts. Payments must be made by 30 June 2021 (for accounts that had balances of less than $6,000 on 1 June 2021) and 31 January 2022 (for all other accounts).
>
> Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:
>
> (a) to a fund identified by the person; or
>
> (b) to a KiwiSaver scheme provider identified by the person; or
>
> (c) if the person has reached eligibility age or the amount is less than $200—to the person; or
>
> (d) if the person has died—to the person's death beneficiaries or legal personal representative.

77 Section 7

Omit:

> *Voluntary payments by superannuation providers*
>
> A superannuation provider may pay to the Commissioner of Taxation any amount it holds on behalf of a member, former member or non-member spouse if it reasonably believes paying the amount to the Commissioner is in the best interests of the member, former member or non-member spouse.
>
> Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:

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(a) to a fund identified by the person; or
(b) if the person has reached eligibility age or the amount is less than $200—to the person; or
(c) if the person has died—to the person's death beneficiaries or legal personal representative.

substitute:

Voluntary payments by superannuation providers

A superannuation provider may pay to the Commissioner of Taxation any amount it holds on behalf of a member, former member or non-member spouse if it reasonably believes paying the amount to the Commissioner is in the best interests of the member, former member or non-member spouse.

Later, the Commissioner must, if satisfied that it is possible to do so, pay an amount the Commissioner has received in respect of a person:
(a) to a fund identified by the person; or
(b) to a KiwiSaver scheme provider identified by the person; or
(c) if the person has reached eligibility age or the amount is less than $200—to the person; or
(d) if the person has died—to the person's death beneficiaries or legal personal representative.

78 Section 8

Insert:

New Zealand eligibility age means the age specified in subsection 7(1) of the *New Zealand Superannuation and Retirement Income Act 2001* of New Zealand as amended from time to time.

New Zealand-sourced amount has the meaning given by the regulations mentioned in section 312-5 of the *Income Tax Assessment Act 1997*.

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self managed superannuation fund has the meaning given by section 17A of the SIS Act.

79 After subsection 17(2)

Insert:

(2AAA) Despite paragraph (2)(a), the Commissioner must not pay the unclaimed money to a single fund if the unclaimed money includes a New Zealand-sourced amount and either:

(a) the fund is a self managed superannuation fund; or

(b) the superannuation provider for the fund has not notified the Commissioner, in the approved form, that the fund accepts New Zealand-sourced amounts.

80 After subsection 17(2AA)

Insert:

(2AAB) Despite paragraph (2)(d), the Commissioner must not pay the unclaimed money to the person if the unclaimed money includes a New Zealand-sourced amount and the person has not reached the New Zealand eligibility age.

81 After subsection 20H(2)

Insert:

(2AAA) Despite paragraph (2)(b), the Commissioner must not pay the excess to a single fund if the excess includes a New Zealand-sourced amount and either:

(a) the fund is a self managed superannuation fund; or

(b) the superannuation provider for the fund has not notified the Commissioner, in the approved form, that the fund accepts New Zealand-sourced amounts.

82 After subsection 20QF(2)

Insert:

(2A) Despite paragraph (2)(a), the Commissioner must not pay the amount to a single fund if the amount includes a New Zealand-sourced amount and either:

(a) the fund is a self managed superannuation fund; or

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(b) the superannuation provider for the fund has not notified the Commissioner, in the approved form, that the fund accepts New Zealand-sourced amounts.

83 Subparagraph 20QF(3)(b)(i)

After "age", insert "and, if the amount includes a New Zealand-sourced amount, the New Zealand eligibility age".

84 After subsection 21E(2)

Insert:

(2A) Despite paragraph (2)(a), the Commissioner must not pay the amount to a single fund if the amount includes a New Zealand-sourced amount and either:

(a) the fund is a self managed superannuation fund; or

(b) the superannuation provider for the fund has not notified the Commissioner, in the approved form, that the fund accepts New Zealand-sourced amounts.

85 Subparagraph 21E(3)(b)(i)

After "age", insert "and, if the amount includes a New Zealand-sourced amount, the New Zealand eligibility age".

86 After paragraph 22B(2)(a)

Insert:

(aa) to a single KiwiSaver scheme provider if:

(i) the person has not died; and

(ii) the person directs the Commissioner to pay to the KiwiSaver scheme provider; and

(iii) the matters (if any) prescribed by the regulations are satisfied; or

87 After subsection 22B(2)

Insert:

(2A) Despite paragraph (2)(a), the Commissioner must not pay the amount to a single fund if the amount includes a New Zealand-sourced amount and either:

(a) the fund is a self managed superannuation fund; or

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(b) the superannuation provider for the fund has not notified the Commissioner, in the approved form, that the fund accepts New Zealand-sourced amounts.

88 Paragraph 22B(3)(a)

Omit "subparagraph (2)(a)(ii) does", substitute "subparagraphs (2)(a)(ii) and (aa)(ii) do".

89 Subparagraph 22B(3)(b)(i)

After "age", insert "and, if the amount includes a New Zealand-sourced amount, the New Zealand eligibility age".

90 Paragraph 22B(5)(a)

After "a fund,", insert "a KiwiSaver scheme provider,".

91 Paragraph 22B(5)(b)

After "(2)(a),", insert "(aa),".

92 Subsection 22B(5)

After "the fund,", insert "KiwiSaver scheme provider,".

93 Paragraph 22E(1)(a)

After "this Part", insert "(other than a payment to a KiwiSaver scheme provider)".

94 Paragraph 22F(1)(a)

Omit "subsection 22B(2) or (5)", substitute "paragraph 22B(2)(a) or subsection 22B(5)".

95 After subsection 24G(2)

Insert:

(2AA) Despite paragraph (2)(a), the Commissioner must not pay the amount to a single fund if the amount includes a New Zealand-sourced amount and either:

(a) the fund is a self managed superannuation fund; or

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(b) the superannuation provider for the fund has not notified the Commissioner, in the approved form, that the fund accepts New Zealand-sourced amounts.

96 Subparagraph 24G(2A)(b)(i)

After "age", insert "and, if the amount includes a New Zealand-sourced amount, the New Zealand eligibility age".

97 At the end of subsection 24NA(2)

Add:

; and (f) in the case that the amount includes a New Zealand-sourced amount—either:

(i) the fund is not self managed superannuation fund; or

(ii) the superannuation provider for the fund has notified the Commissioner, in the approved form, that the fund accepts New Zealand-sourced amounts.

98 After section 49

Insert:

49AA Money paid to Commissioner that is a New Zealand-sourced amount

The Commissioner must administer any money paid to the Commissioner under this Act in a way that allows any New Zealand-sourced amount to be identified separately.

99 Application of amendments

(1) Section 49AA of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* inserted by this Division applies in relation to money paid to the Commissioner under that Act on or after the commencement of this Division.

(2) The amendments of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* made by this Division (other than the amendment mentioned in subitem 1) apply in relation to payments of amounts made by the Commissioner on or after the commencement of this Division, regardless of when the amounts were received by the Commissioner.

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Division 3—Amendments of the Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020

Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020

100 Subsection 2(1) (table item 4)

Repeal the item, substitute:

4. Schedule 1, item 1261	The day after the *Treasury Laws Amendment (2021 Measures No. 5) Act 2021* receives the Royal Assent.

101 Item 359 of Schedule 1

Repeal the item, substitute:

359 In the appropriate position

Insert:

Schedule 4—Transitional provisions relating to the Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020

1 Definitions

In this Schedule:

amending item means an item of Part 2 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020* that amends a provision of the Business Names Registration Act or this Act.

commencement day, for an amending item, means the day the amending item commences.

Note: Amendments of provisions of the Business Names Registration Act or this Act made by an amending item apply on and after the commencement day for the amending item.

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2 Liability for damages

Section 78 of the Business Names Registration Act, as in force immediately before the commencement day for amending item 322, continues to apply, on and after that day, in relation to an act done or omitted to be done:

(a) before that day by ASIC or a person mentioned in paragraphs (c) to (e) of that section; or

(b) on and after that day by ASIC, or a person mentioned in paragraphs (c) to (e) of that section, in accordance with item 4 of this Schedule.

3 Notice nominating or withdrawing nomination of principal contact

A notice that:

(a) nominates, or withdraws the nomination of, a person as the principal contact in relation to an entity under section 82, 84, 86 or 87 of the Business Names Registration Act; and

(b) is lodged with ASIC before the day that section is amended by an amending item;

continues in force (and may be dealt with) on and after that day as if the notice had been lodged with the Registrar.

4 Things started but not finished by ASIC

If:

(a) before the commencement day for an amending item that amends a provision of the Business Names Registration Act or Schedule 1 to this Act, ASIC started doing a thing under the provision as in force immediately before that day; and

(b) immediately before that day, ASIC had not finished doing that thing;

(c) on and after that day, that thing falls within the powers or functions of the Registrar;

then, on and after that day:

(d) ASIC may finish doing the thing as if the thing were being done by the Registrar in the performance or exercise of the Registrar's functions or powers; or

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(e) if ASIC does not finish doing the thing under paragraph (c)—the Registrar may finish doing the thing in the performance or exercise of the Registrar's functions or powers.

102 Item 1261 of Schedule 1 (note)

Repeal the note.

103 Item 1315 of Schedule 1

Repeal the item, substitute:

1315 In the appropriate position in Chapter 10

Insert:

Part 10.35—Transitional provisions relating to Schedule 1 to the Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020

1650 Definitions

In this Part:

amending item means an item of Part 2 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020* that amends a provision of this Act.

commencement day, for an amending item, means the day the amending item commences.

Note: Amendments of provisions of this Act made by an amending item apply on and after the commencement day for the amending item.

1651 Things started but not finished by ASIC

If:

(a) before the commencement day for an amending item that amends a provision of this Act, ASIC started doing a thing under the provision as in force immediately before that day; and

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(b) immediately before that day, ASIC had not finished doing that thing; and

(c) on and after that day, that thing falls within the powers or functions of the Registrar;

then, on and after that day:

(d) ASIC may finish doing the thing as if the thing were being done by the Registrar in the performance or exercise of the Registrar's functions or powers; or

(e) if ASIC does not finish doing the thing under paragraph (d)—the Registrar may finish doing the thing in the performance or exercise of the Registrar's functions or powers.

1652 Register of Liquidators

The Registrar must include in the record maintained under section 15-1 of Schedule 2 details contained, immediately before the commencement day for amending item 1317, in the Register of Liquidators formerly established and maintained under section 15-1 of Schedule 2 as in force immediately before that day.

104 Item 1414 of Schedule 1

Repeal the item, substitute:

1414 In the appropriate position

Insert:

Schedule 7—Application and transitional provisions for the Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020

1 Definitions

In this Schedule:

amending item means an item of Part 2 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020* that amends a provision of the National Credit Act.

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commencement day, for an amending item, means the day the amending item commences.

Note: Amendments of provisions of the National Credit Act made by an amending item apply on and after the commencement day for the amending item.

2 Things started but not finished by ASIC

If:

(a) before the commencement day for an amending item that amends a provision of the National Credit Act, ASIC started doing a thing under the provision as in force immediately before that day; and

(b) immediately before that day, ASIC had not finished doing that thing; and

(c) on and after that day, that thing falls within the powers or functions of the Registrar;

then, on and after that day:

(d) ASIC may finish doing the thing as if the thing were being done by the Registrar in the performance or exercise of the Registrar's functions or powers; or

(e) if ASIC does not finish doing the thing under paragraph (d)—the Registrar may finish doing the thing in the performance or exercise of the Registrar's functions or powers.

105 Items 1465 and 1466 of Schedule 1

Repeal the items, substitute:

1465 Definitions

In this Schedule:

commencement day, for an item of this Schedule that amends a provision of the *Superannuation Industry (Supervision) Act 1993*, means the day that item commences.

Note: Amendments of the *Superannuation Industry (Supervision) Act 1993* made by an item of this Schedule apply on and after the commencement day for that item.

106 Paragraph 1467(a) of Schedule 1

Repeal the paragraph, substitute:

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(a) before the commencement day for an item of this Schedule that amends a provision of the *Superannuation Industry (Supervision) Act 1993*, ASIC started doing a thing under the provision as in force immediately before that day; and

Division 4—Amendments of the Treasury Laws Amendment (2020 Measures No. 6) Act 2020

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

107 Subsection 2(1) (table item 10)

Repeal the item, substitute:

10. Schedule 4, items 115 to 120	A day or days to be fixed by Proclamation. However, if any of the provisions do not commence before 1 July 2024, they commence on that day.	

108 Subsection 2(1) (table items 14 and 15)

Repeal the items, substitute:

14. Schedule 4, items 127 to 142	A day or days to be fixed by Proclamation. However, if any of the provisions do not commence before 1 July 2024, they commence on that day.	
15. Schedule 4, items 143 and 144	4 April 2021.	4 April 2021

[*Minister's second reading speech made in—*
House of Representatives on 24 June 2021
Senate on 11 August 2021]

(82/21)

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