





## **Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018**

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I, the Honourable Paul de Jersey AC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 06 December 2018

Paul de Jersey AC  
Administrator of the Government of the Commonwealth of Australia

By His Excellency's Command

Stuart Robert  
Assistant Treasurer

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# Contents

1	Name.....	1
2	Commencement .....	1
3	Authority.....	1
4	Schedules.....	2
<b>Schedule 1—Amendments</b>		<b>3</b>
Part 1—Amendments commencing 1 July 2017		3
<i>Income Tax Assessment Regulations 1997</i>		3
Part 2—Amendments commencing 1 November 2018		4
<i>Income Tax Assessment Regulations 1997</i>		4
Part 3—Amendments commencing the day after registration		5
Division 1—Superannuation income stream benefits		5
<i>Income Tax Assessment Regulations 1997</i>		5
Division 2—Miscellaneous amendments		7
<i>Competition and Consumer Regulations 2010</i>		7
<i>Corporations Regulations 2001</i>		7
Part 4—Amendments commencing the first 1 January, 1 April, 1 July or 1 October to occur after registration		10
<i>A New Tax System (Australian Business Number) Regulations 1999</i>		10
<i>Income Tax Assessment Regulations 1997</i>		10
Part 5—Other amendments		11
<i>Superannuation Industry (Supervision) (Transitional Provisions) Regulations 1993</i>		11



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## 1 Name

This instrument is the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018*.

## 2 Commencement

- (1) Each provision of this instrument 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 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	8 December 2018
2. Schedule 1, Part 1	1 July 2017.	1 July 2017
3. Schedule 1, Part 2	1 November 2018.	1 November 2018
4. Schedule 1, Part 3	The day after this instrument is registered.	8 December 2018
5. Schedule 1, Part 4	The first 1 January, 1 April, 1 July or 1 October to occur after the day this instrument is registered.	1 January 2019
6. Schedule 1, Part 5	The later of: (a) the day after this instrument is registered; and (b) the day on which item 100 of Schedule 5 to the <i>Treasury Laws Amendment (2018 Measures No. 6) Act 2018</i> commences.  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

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

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

## 3 Authority

This instrument is made under the following:

- (a) the *A New Tax System (Australian Business Number) Act 1999*;
- (b) the *Competition and Consumer Act 2010*;
- (c) the *Corporations Act 2001*;
- (d) the *Income Tax Assessment Act 1997*;
- (e) the *Superannuation Industry (Supervision) Act 1993*.

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## 4 Schedules

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

## **Schedule 1—Amendments**

### **Part 1—Amendments commencing 1 July 2017**

#### *Income Tax Assessment Regulations 1997*

##### **1 Regulation 393-15**

Before “For paragraph 393-40(3A)(b) of the Act”, insert “(1)”.

##### **2 Paragraph 393-15(a)**

Repeal the paragraph, substitute:

- (a) recovery assistance has been provided as a Category C measure, in the form of a recovery grant for a primary producer, in accordance with a determination mentioned in subregulation (2); and

##### **3 At the end of regulation 393-15**

Add:

- (2) For the purposes of paragraph (1)(a), the determinations are the following:
  - (a) Natural Disaster Relief and Recovery Arrangements Determination 2012 Version 2.0, determined by the Minister for Justice on 29 October 2015;
  - (b) Natural Disaster Relief and Recovery Arrangements Determination 2017, determined by the Minister for Justice and Minister Assisting the Prime Minister for Counter-Terrorism on 1 June 2017.

## **Part 2—Amendments commencing 1 November 2018**

### ***Income Tax Assessment Regulations 1997***

#### **4 At the end of subregulation 393-15(2)**

Add:

- ; (c) Disaster Recovery Funding Arrangements 2018, determined by the Minister for Law Enforcement and Cyber Security on 5 June 2018.

## **Part 3—Amendments commencing the day after registration**

### **Division 1—Superannuation income stream benefits**

#### *Income Tax Assessment Regulations 1997*

#### **5 Before Subdivision 307-C**

Insert:

#### **Subdivision 307-B—Superannuation lump sums and superannuation income stream benefits**

##### **307-70.01 Superannuation income stream benefits**

- (1) For the purposes of subsection 307-70(1) of the Act (definition of *superannuation income stream benefit*), all superannuation benefits are specified, apart from a superannuation benefit covered by subregulation (2).
- (2) A superannuation benefit is covered by this subregulation if:
  - (a) the superannuation benefit was paid:
    - (i) on or after 1 July 2007; and
    - (ii) before 1 July 2017; and
  - (b) the superannuation benefit was paid from a superannuation interest that supported a superannuation income stream; and
  - (c) the superannuation income stream met the requirement in paragraph 995-1.03(a) (as in force before the commencement of Schedule 6 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017*) when the superannuation benefit was paid; and
  - (d) the person to whom the superannuation benefit was paid made an election in relation to that payment under paragraph 995-1.03(b) (as in force before the commencement of that Schedule).

#### **6 At the end of Division 910**

Add:

##### **910-1.10 Transitional arrangements arising out of the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018***

- (1) The amendment made by item 5 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018* applies on and after 1 July 2007.
- (2) The amendments made by items 7 and 8 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2018* apply in relation to the 2012-13 income year and later income years.

#### **7 Subregulation 995-1.01(1) (at the end of the definition of *superannuation income stream*)**

Add:

- ; or (d) for the purposes of sections 295-385, 295-390, 295-395, 320-246 and 320-247 of the Act—one or more rights (whether contingent or not), to the extent that they are covered by subregulation (3).

## 8 Subregulations 995-1.01(2), (3) and (4)

Repeal the subregulations, substitute:

- (2) Subregulation (3) applies if:
- (a) immediately before the death of a person (the *deceased*), a superannuation interest was supporting a superannuation income stream payable to the deceased; and
  - (b) the superannuation income stream did not automatically revert to another person on the death of the deceased; and
  - (c) one or more other persons each have a right (whether contingent or not) to be paid an amount that will be a superannuation benefit from the superannuation interest; and
  - (d) each such right arises on the death of the deceased, and ceases to exist immediately after the payment of the amount mentioned in paragraph (c).
- (3) For the purposes of paragraph (d) of the definition of *superannuation income stream* in subregulation (1), this subregulation covers each such right, to the extent that the value of the superannuation interest has not increased (other than through investment earnings) on or after the deceased's death.
- (4) Subregulations (4A) and (4B) apply if:
- (a) immediately before the death of a person (the *deceased*), a superannuation interest was supporting a superannuation income stream payable to the deceased; and
  - (b) the superannuation income stream did not automatically revert to another person on the death of the deceased; and
  - (c) one or more persons each have a right (whether contingent or not) to commence a new superannuation income stream using an amount applied from the superannuation interest; and
  - (d) each such right arises on the death of the deceased, and ceases to exist at the time the relevant new superannuation income stream commences (disregarding paragraph (4A)(a)); and
  - (e) each of the new income streams is of a kind mentioned in paragraph (a) of the definition of *superannuation income stream* in subregulation (1).
- (4A) For the purposes of sections 295-385, 295-390, 295-395, 320-246 and 320-247 of the Act, in applying paragraph (a) of the definition of *superannuation income stream* in subregulation (1):
- (a) treat each new superannuation income stream mentioned in paragraph (4)(c) as commencing on the death of the deceased; and
  - (b) during the period:
    - (i) starting on the death of the deceased; and
    - (ii) ending at the time the new superannuation income stream commences (disregarding paragraph (a));take account of the value of the superannuation interest only to the extent that the value has not increased (other than through investment earnings) on or after the deceased's death.

- (4B) For the purposes of subregulations (2) and (3), disregard a right mentioned in paragraph (4)(c).

## **Division 2—Miscellaneous amendments**

### ***Competition and Consumer Regulations 2010***

#### **9 At the end of Part 6**

Add:

#### **92B Enforcement of the Australian Consumer Law—identity card for inspectors**

For paragraph 133A(2)(a) of the Act, an identity card must contain the following information:

- (a) a recent photograph of the inspector to whom the card was issued;
- (b) the name of the inspector;
- (c) the date of issue of the card;
- (d) the Commission corporate logo and the Australian coat of arms;
- (e) the following text:

“The person whose name and photograph appear on this card is an inspector of the Commission who:

- (a) has been appointed by the Chairperson of the Commission as an Inspector pursuant to section 133 of the *Competition and Consumer Act 2010*; and
- (b) has been issued with this identity card by the Chairperson of the Commission pursuant to section 133A of the *Competition and Consumer Act 2010*.”.

### ***Corporations Regulations 2001***

#### **10 At the end of Part 7.6**

Add:

#### **7.6.07A Modification of section 923C**

For paragraph 926B(1)(c) of the Act, Part 7.6 of the Act applies as if subsections 923C(1) to (10) of the Act were modified to read as follows:

- “(1) An individual contravenes this subsection if:
- (a) the individual carries on a financial services business or provides a financial service (whether or not on behalf of another person); and
  - (b) the individual assumes or uses, in this jurisdiction, a restricted word or expression in relation to the service; and
  - (c) any of the following apply:
    - (i) the individual is not a relevant provider;
    - (ii) the individual is a provisional relevant provider;
    - (iii) the individual is a limited-service time-sharing adviser.

Note 1: For the meanings of *restricted word or expression* and *assume or use*, see subsections (8) and (9) of this section.

Note 2: A contravention of this subsection is an offence (see subsection 1311(1)).

- (2) A person contravenes this subsection if:

## Schedule 1 Amendments

### Part 3 Amendments commencing the day after registration

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- (a) the person carries on a financial services business or provides a financial service; and
- (b) an individual provides a financial service on behalf of the person; and
- (c) the person assumes or uses, in this jurisdiction, a restricted word or expression in relation to the service; and
- (d) any of the following apply:
  - (i) the individual is not a relevant provider;
  - (ii) the individual is a provisional relevant provider;
  - (iii) the individual is a limited-service time-sharing adviser.

Note 1: For the meanings of *restricted word or expression* and *assume or use*, see subsections (8) and (9) of this section.

Note 2: A contravention of this subsection is an offence (see subsection 1311(1)).

#### *Advice to wholesale clients*

- (3) It is not a contravention of subsection (1) for an individual to assume or use a restricted word or expression if:
  - (a) the individual provides advice to wholesale clients; and
  - (b) the individual assumes or uses the restricted word or expression only in relation to that advice.

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

- (4) It is not a contravention of subsection (2) for a person to assume or use a restricted word or expression if:
  - (a) another person (the *adviser*) provides a financial service on behalf of the person; and
  - (b) the adviser provides advice to wholesale clients; and
  - (c) the person assumes or uses the restricted word or expression only in relation to that advice.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4). See subsection 13.3(3) of the *Criminal Code*.

#### *Advice as employee or director*

- (5) It is not a contravention of subsection (1) for an individual to assume or use a restricted word or expression if:
  - (a) the individual is an employee or director of a body; and
  - (b) the individual provides advice to the body; and
  - (c) the individual assumes or uses the restricted word or expression only in relation to that advice.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

- (6) It is not a contravention of subsection (2) for a person to assume or use a restricted word or expression if:
  - (a) another person (the *adviser*) is an employee or director of a body; and
  - (b) the adviser provides advice to the body; and
  - (c) the person assumes or uses the restricted word or expression only in relation to that advice.

Note: A defendant bears an evidential burden in relation to the matters in subsection (6). See subsection 13.3(3) of the *Criminal Code*.

*Continuing contravention*

- (7) If a person assumes or uses a word or expression in circumstances that give rise to the person committing an offence under subsection (1) or (2), the person commits the offence in respect of:
- (a) the first day on which the offence is committed; and
  - (b) each subsequent day (if any) on which the circumstances that gave rise to the person committing the offence continue (including the day of conviction for any such offence or any later day).

*References to restricted word or expression*

- (8) In this section:
- (a) a reference to a restricted word or expression is a reference to:
    - (i) the expression ***financial adviser*** or ***financial planner***; or
    - (ii) any other word or expression specified in the regulations as a restricted word or expression for the purposes of this section; or
    - (iii) any other word or expression (whether or not in English) that is of like import to a word or expression covered by any of the previous subparagraphs; and
  - (b) a reference to a restricted word or expression being assumed or used includes a reference to the restricted word or expression being assumed or used:
    - (i) as part of another word or expression; or
    - (ii) in combination with other words, letters or other symbols.
- (9) However, a reference in this section to a restricted word or expression does not include a reference to a word or expression mentioned in paragraph (8)(a) if:
- (a) the word or expression mentioned in that paragraph is assumed or used in relation to a provisional relevant provider; and
  - (b) the word or expression is assumed or used as part of a word or expression specified by the standards body for the purposes of subparagraph 921U(2)(a)(v).

*Contravention does not affect compensation arrangements*

- (10) To avoid doubt, this section does not affect the obligation of a financial services licensee to have arrangements in place under section 912B.

Note: Section 912B requires financial services licensees to have in place compensation arrangements if the licensee provides financial services to retail clients.”.

## **11 Paragraph 7.8.08(17)(a)**

Omit “a insurance financial services licensee”, substitute “an insurance financial services licensee”.

**Part 4—Amendments commencing the first 1 January, 1 April, 1 July or 1 October to occur after registration**

*A New Tax System (Australian Business Number) Regulations 1999*

**12 Section 3 (definition of entity)**

Omit “section 37”, substitute “section 41”.

**13 At the end of paragraph 6(c)**

Add “(within the meaning of section 252 of the *Income Tax Assessment Act 1936*)”.

*Income Tax Assessment Regulations 1997*

**14 Regulation 61-220.02 (at the end of the heading)**

Add “if requested”.

**15 Subregulation 61-220.02(1)**

Repeal the subregulation, substitute:

- (1) If, during a financial year, a PHIIB insured during an earlier financial year under a complying health insurance policy by a private health insurer requests a statement about that policy for that earlier year, the private health insurer must provide a statement in accordance with this regulation.

- (1A) The statement must be in the approved form, and provided to the PHIIB within 14 days after the day the request is given.

Note: For *approved form*, see section 995-1 of the Act.

**16 Paragraphs 61-220.02(2)(b) and (c)**

Omit “the financial year”, substitute “the earlier financial year”.

**17 Subregulation 393-15(1)**

Omit “For paragraph 393-40(3A)(b) of the Act”, substitute “For paragraphs 393-40(3A)(a) and (b) of the Act”.

## **Part 5—Other amendments**

### ***Superannuation Industry (Supervision) (Transitional Provisions) Regulations 1993***

#### **18 The whole of the instrument**

Repeal the instrument.