



Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Regulations 2019

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 March 2019

Peter Cosgrove
Governor-General

By His Excellency's Command

Josh Frydenberg
Treasurer

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	2
Schedule 1—Amendments		3
Part 1—Amendment of the Corporations Regulations 2001		3
<i>Corporations Regulations 2001</i>		3
Part 2—Amendment of the National Consumer Credit Protection Regulations 2010		9
Division 1—Main amendments		9
<i>National Consumer Credit Protection Regulations 2010</i>		9
Division 2—Amendments of penalties under civil penalty provisions		12
<i>National Consumer Credit Protection Regulations 2010</i>		12
Division 3—Application provisions		12
<i>National Consumer Credit Protection Regulations 2010</i>		12
Part 3—Amendment of the Insurance Contracts Regulations 2017		13
<i>Insurance Contracts Regulations 2017</i>		13
Part 4—Other consequential amendments		14
<i>Corporations (Aboriginal and Torres Strait Islander) Regulations 2017</i>		14
<i>Fair Work (Registered Organisations) Regulations 2009</i>		14
Schedule 2—Contingent amendments		15
<i>National Consumer Credit Protection Regulations 2010</i>		15

1 Name

This instrument is the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Regulations 2019*.

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.	26 March 2019
2. Schedule 1	The later of: (a) the day after this instrument is registered; and (b) immediately after the commencement of Schedules 1 to 4 of the <i>Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	26 March 2019 (paragraph (a) applies)
3. Schedule 2	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of the <i>National Consumer Credit Protection Amendment (Mandatory Comprehensive Credit Reporting) Regulations 2019</i> . 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 *Corporations Act 2001*;
(b) the *Insurance Contracts Act 1984*;

(c) the *National Consumer Credit Protection Act 2009*.

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—Amendment of the Corporations Regulations 2001

Corporations Regulations 2001

1 Subregulation 5D.2.01(2) (penalty)

Repeal the penalty, substitute:

Penalty: 500 penalty units.

2 After subregulation 5D.2.01(2)

Insert:

- (2A) A person commits an offence if the person is involved in a contravention of subregulation (1) by a licensed trustee company.

Penalty:

- (a) for an individual—50 penalty units; and
(b) for a body corporate—500 penalty units.

3 Subregulations 5D.2.05(1) and (2) (penalty)

Repeal the penalty, substitute:

Penalty: 500 penalty units.

4 At the end of regulation 5D.2.05

Add:

- (3) A person commits an offence if the person is involved in a contravention of subregulation (1) or (2) by a licensed trustee company.

Penalty:

- (a) for an individual—50 penalty units; and
(b) for a body corporate—500 penalty units.

5 Subregulations 5D.2.06(3), (4), (5), (7), (8) and (11) (penalty)

Repeal the penalty, substitute:

Penalty: 500 penalty units.

6 At the end of regulation 5D.2.06

Add:

Offence for involvement in contravention

- (12) A person commits an offence if the person is involved in a contravention of subregulation (3), (4), (5), (7), (8) or (11) by a licensed trustee company.

Penalty:

- (a) for an individual—50 penalty units; and

(b) for a body corporate—500 penalty units.

7 Subregulation 5D.2.07(1) (penalty)

Repeal the penalty, substitute:

Penalty: 500 penalty units.

8 At the end of regulation 5D.2.07

Add:

- (3) A person commits an offence if the person is involved in a contravention of subregulation (1) by a licensed trustee company.

Penalty:

- (a) for an individual—50 penalty units; and
(b) for a body corporate—500 penalty units.

9 Subregulations 5D.2.08(2), (3), (4), and (6) (penalty)

Repeal the penalty, substitute:

Penalty: 500 penalty units.

10 At the end of regulation 5D.2.08

Add:

Offence for involvement in contravention

- (8) A person commits an offence if the person is involved in a contravention of subregulation (2), (3), (4), or (6) by a licensed trustee company.

Penalty:

- (a) for an individual—50 penalty units; and
(b) for a body corporate—500 penalty units.

11 Paragraphs 7.2.06(b) and 7.2.07(j)

Omit “subparagraph 792A(c)(i)”, substitute “subparagraph 792A(1)(c)(i)”.

12 Paragraph 7.2.16(1)(b)

Omit “paragraph 792A(a)”, substitute “paragraph 792A(1)(a)”.

13 Paragraph 7.2.16(3)(b)

Omit “subparagraph 792A(c)(i)”, substitute “subparagraph 792A(1)(c)(i)”.

14 Subregulation 7.2A.07(1) (note)

Repeal the note, substitute:

Note: See subsection 798K(2) of the Act for the maximum penalty payable.

15 Paragraphs 7.3.04(b) and 7.3.05(i)

Omit “subparagraph 821A(c)(i)”, substitute “subparagraph 821A(1)(c)(i)”.

16 Subregulation 7.6.01AB(3) (penalty)

Repeal the penalty, substitute:

Penalty:

- (a) for an individual—50 penalty units; and
- (b) for a body corporate—500 penalty units.

17 Subregulations 7.6.08D(3) and (4) (penalty)

Repeal the penalty, substitute:

Penalty:

- (a) for an individual—20 penalty units; and
- (b) for a body corporate—200 penalty units.

18 Subregulations 7.6.08E(3) and (4) (penalty)

Repeal the penalty, substitute:

Penalty:

- (a) for an individual—20 penalty units; and
- (b) for a body corporate—200 penalty units.

19 Subregulation 7.7.10AF(1) (cell at table item 4, column 2)

Repeal the cell, substitute:

paragraph 952E(2)(a)

20 Subregulation 7.7.10AG(1) (cell at table item 2, column 2)

Repeal the cell, substitute:

paragraph 952E(2)(a)

21 Subregulations 7.7.20A(1) and (2) (note)

Repeal the note.

22 Subregulation 7.8.02(1)

Omit “paragraph 981C(a)”, substitute “paragraph 981C(1)(a)”.

23 Subregulation 7.8.02(1A)

Omit “paragraph 981C(a)”, substitute “paragraph 981C(1)(a)”.

24 Subregulation 7.8.02(2)

Omit “paragraph 981C(a)”, substitute “paragraph 981C(1)(a)”.

25 Subregulation 7.8.02(6)

Omit “paragraph 981C(b)”, substitute “paragraph 981C(1)(b)”.

26 Subregulation 7.8.02(7)

Omit “paragraph 981C(c)”, substitute “paragraph 981C(1)(c)”.

27 Subregulation 7.8.02(8)

Omit “paragraph 981C(d)”, substitute “paragraph 981C(1)(d)”.

28 Subregulation 7.8.05(4)

Omit “paragraph 981C(c)”, substitute “paragraph 981C(1)(c)”.

29 Subregulation 7.8.05G(1) (note)

Repeal the note, substitute:

Note: See subsection 981N(2) of the Act for the maximum penalty payable.

30 Subregulation 7.8.08(18) (penalty)

Repeal the penalty, substitute:

Penalty:

- (a) for an individual—20 penalty units; and
- (b) for a body corporate—200 penalty units.

31 Subregulation 7.9.07CA(2) (note)

Repeal the note.

32 Subregulation 7.9.13(2) (penalty)

Repeal the penalty, substitute:

Penalty:

- (a) for an individual—50 penalty units; and
- (b) for a body corporate—500 penalty units.

33 Regulation 7.9.14B (subsection 1019C(5) (penalty) of the Corporations Act 2001)

Repeal the penalty, substitute:

Penalty:

- (a) for an individual—50 penalty units; and
- (b) for a body corporate—500 penalty units.

34 Part 9.4

Repeal the Part.

35 After Part 9.4A

Insert:

Part 9.4AB—Infringement notices

9.4AB.01 Prescribed offences (Act s 1317DAN)

- (1) This regulation is made for the purposes of paragraph 1317DAN(c) of the Act.
- (2) An alleged offence based on any of the following provisions of the Act is subject to an infringement notice:
 - (a) subsections 792B(1), (2), (3), (4) and (5);
 - (b) subsections 821B(1), (2), (3) and (4);
 - (c) subsections 912D(1B) and (2);

(d) subsection 1351(2).

9.4AB.02 Prescribed civil penalty provisions (Act s 1317DAN)

- (1) This regulation is made for the purposes of paragraph 1317DAN(d) of the Act.
- (2) The following civil penalty provisions of the Act are subject to an infringement notice:
 - (a) subsections 188(1) and (2);
 - (b) subsection 941A(3);
 - (c) subsections 941B(4);
 - (d) subsection 946A(4);
 - (e) section 962P;
 - (f) subsection 962S(1);
 - (g) subsections 963E(1) and (2);
 - (h) subsection 963G(1);
 - (i) section 963J;
 - (j) section 963K;
 - (k) subsection 964A(1);
 - (l) subsections 964D(1) and (2);
 - (m) subsection 964E(1);
 - (n) subsection 985E(1);
 - (o) section 985L;
 - (p) subsection 1012A(5);
 - (q) subsection 1012B(6);
 - (r) subsection 1012C(11);
 - (s) subsection 1017BA(4B).

36 After Part 9.7

Insert:

Part 9.10—Fees imposed by the Corporations (Fees) Act 2001 and the Corporations (Review Fees) Act 2003

9.10.01 Penalty for failure to pay review fee on time—prescribed penalty (Act s 1364)

- (1) This regulation is made for the purposes of paragraph 1364(2)(n) of the Act.
- (2) The penalty for the failure to pay a review fee is:
 - (a) if payment is received within 1 month after the due date—\$65; and
 - (b) if payment is not received within 1 month after the due date—\$270.

Note: The date on which a service fee is due and payable is worked out under subsection 1351(3) of the Act.

- (3) In this regulation:

review fee means a fee imposed by section 5 of the *Corporations (Review Fees) Act 2003*.

37 Subregulation 10.2.50(4) (penalty)

Repeal the penalty, substitute:

Penalty:

- (a) for an individual—50 penalty units; and
- (b) for a body corporate—500 penalty units.

38 In the appropriate position in Chapter 10

Insert:

**Part 10.31—Application provisions relating to the Treasury
Laws Amendment (Strengthening Corporate and
Financial Sector Penalties) Regulations 2019**

10.31.01 Application—offences

The amendments made by items 1 to 10, items 16 to 18 and items 30, 32, 33 and 37 of Schedule 1 to the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Regulations 2019* apply in relation to the commission of an offence if the conduct constituting the commission of the offence occurs wholly on or after the commencement of that Schedule.

39 Schedule 1 (table item 155)

Repeal the item.

40 Schedule 2 (Form 910)

Repeal the form.

Part 2—Amendment of the National Consumer Credit Protection Regulations 2010

Division 1—Main amendments

National Consumer Credit Protection Regulations 2010

41 Part 6-2

Repeal the Part, substitute:

Part 6-2—Infringement notices

37 Prescribed offences

- (1) This regulation is made for the purposes of paragraph 288K(1)(b) of the Act.
- (2) The following provisions of the Act are subject to an infringement notice:
 - (a) subsection 30(3);
 - (b) subsection 31(2);
 - (c) subsection 32(2);
 - (d) subsection 51(3);
 - (e) subsection 70(2);
 - (f) subsection 73(6);
 - (g) subsection 88(3);
 - (h) subsection 95(4);
 - (i) subsection 98(4);
 - (j) subsection 99(4);
 - (k) subsection 100(5);
 - (l) subsection 122(2);
 - (m) subsection 123(6);
 - (n) subsection 124(6);
 - (o) subsection 124A(2);
 - (p) subsection 124B(2);
 - (q) subsection 133(6);
 - (r) subsection 133AC(3);
 - (s) subsection 133AD(3);
 - (t) subsection 133AE(3);
 - (u) subsection 133BC(2);
 - (v) subsection 133BD(2);
 - (w) subsection 133BH(4);
 - (x) subsection 133BJ(2);
 - (y) subsection 133CA(2);
 - (z) subsection 133CB(2);
 - (za) subsection 133CC(2);
 - (zb) subsection 133DB(2);

- (zc) subsection 133DC(3);
- (zd) subsection 133DD(3);
- (ze) subsection 145(2);
- (zf) subsection 146(6);
- (zg) subsection 147(6);
- (zh) subsection 156(6);
- (zi) subsection 229(2);
- (zj) subsections 32A(1) and (2) of the Code.

38 Prescribed civil penalty provisions

- (1) This regulation is made for the purposes of paragraph 288K(1)(c) of the Act.
- (2) The following civil penalty provisions of the Act are subject to an infringement notice:
 - (a) subsections 114(1), (4), (5) and (6);
 - (b) subsections 115(1) and (2);
 - (c) subsection 117(1);
 - (d) subsection 118(1);
 - (e) subsection 119(1);
 - (f) subsection 121(1);
 - (g) section 128;
 - (h) subsection 130(1);
 - (i) subsection 131(1);
 - (j) subsections 133DE(1) and (2);
 - (k) subsections 137(1), (4), (5) and (6);
 - (l) subsections 138(1) and (2);
 - (m) subsection 140(1);
 - (n) subsection 141(1);
 - (o) subsection 142(1);
 - (p) subsection 144(1);
 - (q) section 151;
 - (r) subsection 153(1);
 - (s) subsection 154(2);
 - (t) subsection 160B(1);
 - (u) subsection 160C(1);
 - (v) subsections 160E(2) and (3);
 - (w) subsection 39B(1) of the Code;
 - (x) subsection 72(4) of the Code;
 - (y) subsection 177B(4) of the Code.

39 Prescribed key requirements

- (1) This regulation is made for the purposes of paragraph 288K(1)(d) of the Act.
- (2) The following provisions of the Act, to the extent that they relate to key requirements (within the meaning of the Code), are subject to an infringement notice:

- (a) subsections 17(3), (4), (5), (6), (8), (9), (11), (15) and (15A) of the Code;
- (b) subsection 23(1) of the Code;
- (c) subsection 32AA(2) of the Code;
- (d) subsection 34(6) of the Code;
- (e) subsection 35(1) of the Code.

42 Schedule 1 (Form 3)

Repeal the form.

43 Item 2.27 of Schedule 2 (subsection 52(4) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 6 months imprisonment.

44 Item 2.27 of Schedule 2 (subsection 52(5) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 20 penalty units.

45 Item 2.39 of Schedule 2 (subsection 74(3) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 6 months imprisonment.

46 Item 2.39 of Schedule 2 (subsection 74(4) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 20 penalty units.

47 Item 2.39 of Schedule 2 (subsection 75(2) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 6 months imprisonment.

48 Item 2.39 of Schedule 2 (subsection 75(3) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 20 penalty units.

49 Item 2.39 of Schedule 2 (subsection 75B(2) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 6 months imprisonment.

50 Item 2.39 of Schedule 2 (subsection 75B(3) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 20 penalty units.

51 Item 2.39 of Schedule 2 (subsection 76(2) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 6 months imprisonment.

52 Item 2.39 of Schedule 2 (subsection 76(3) (penalty))

Repeal the penalty, substitute:

Criminal penalty: 20 penalty units.

Division 2—Amendments of penalties under civil penalty provisions

National Consumer Credit Protection Regulations 2010

53 The whole of the instrument (including the Schedules)

Omit (wherever occurring):

Civil penalty: 2,000 penalty units.

substitute:

Civil penalty: 5,000 penalty units.

Division 3—Application provisions

National Consumer Credit Protection Regulations 2010

54 In the appropriate position in Part 6-3

Insert:

49F Application—offences

The amendments made by items 43 to 52 of Schedule 1 to the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Regulations 2019* apply in relation to the commission of an offence if the conduct constituting the commission of the offence occurs wholly on or after the commencement of that Schedule.

49G Application—civil penalty provisions

The amendments made by item 53 of Schedule 1 to the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Regulations 2019* apply in relation to the contravention of a civil penalty provision if the conduct constituting the contravention of the provision occurs wholly on or after the commencement of that Schedule.

Part 3—Amendment of the Insurance Contracts Regulations 2017

Insurance Contracts Regulations 2017

55 After Part 4

Insert:

Part 4A—Miscellaneous

39A Infringement notices—prescribed offences

- (1) This section is made for the purposes of paragraph 75X(a) of the Act.
- (2) Subsection 33C(5) of the Act is subject to an infringement notice.

Part 4—Other consequential amendments

Corporations (Aboriginal and Torres Strait Islander) Regulations 2017

56 Paragraph 30(b)

Omit “penalties referred to in items 116CA to 116GC in Schedule 3 to the Corporations Act”, substitute “penalties referred to in items dealing with subsection 324CA(1) to section 324CK in Schedule 3 to the Corporations Act”.

Fair Work (Registered Organisations) Regulations 2009

57 Subsection 3(1) (paragraph (b) of the definition of *designated offence*)

Repeal the paragraph, substitute:

- (b) an offence that is subject to an infringement notice under section 1317DAN of the *Corporations Act 2001*; or

Schedule 2—Contingent amendments

National Consumer Credit Protection Regulations 2010

1 After paragraph 37(2)(za)

Insert:

- (zaa) subsection 133CX(1);
- (zab) subsection 133CY(1);
- (zac) section 133CZ;
- (zad) section 133CZB;
- (zae) section 133CZE;
- (zaf) subsection 133CZG(7);
- (zag) subsection 133CZH(3);
- (zah) subsection 133CZI(3);