





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

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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

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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—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
<b>Schedule 2—Contingent amendments</b>		<b>15</b>
<i>National Consumer Credit Protection Regulations 2010</i>		15



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## 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*;

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(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);