



Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 12 December 2019

David Hurley
Governor-General

By His Excellency's Command

Michael Sukkar
Assistant Treasurer

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1 Name

This instrument is the *Treasury Laws Amendment (Miscellaneous Amendments) 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.	18 December 2019
2. Schedule 1, Part 1	The day after this instrument is registered.	18 December 2019
3. Schedule 1, Part 2	The later of: (a) the day after this instrument is registered; and (b) immediately after the commencement of item 48 of Schedule 3 to the <i>Treasury Laws Amendment (2019 Measures No. 3) Act 2020</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
4. Schedules 2, 3 and 4	The day after this instrument is registered.	18 December 2019
5. Schedule 5, Part 1	The day after this instrument is registered.	18 December 2019
6. Schedule 5, Part 2	Immediately after the commencement of the provisions covered by table item 5.	18 December 2019
7. Schedule 5, Parts 3, 4 and 5	The day after this instrument is registered.	18 December 2019

Note: This table relates only to the provisions of this instrument as originally made.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 *Australian Securities and Investments Commission Act 2001*;
- (b) the *Corporations Act 2001*;
- (c) the *Financial Sector (Transfer and Restructure) Act 1999*;
- (d) the *Income Tax Assessment Act 1997*;
- (e) the *National Consumer Credit Protection Act 2009*;

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- (f) the *Product Grants and Benefits Administration Act 2000*;
 - (g) the *Superannuation Industry (Supervision) Act 1993*;
 - (h) the *Taxation Administration Act 1953*;
 - (i) the *Terrorism Insurance Act 2003*.

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—Miscellaneous amendments

Part 1—Main amendments

Australian Securities and Investments Commission Regulations 2001

1 Part 1 (note before Part 1)

Repeal the note.

Note: This item repeals a redundant note.

Corporations Regulations 2001

2 Regulation 7.1.06B

Repeal the regulation.

3 Subregulation 7.1.17(3) (paragraph (i) of the definition of *relative*)

Omit “defacto”, substitute “de facto”.

Note: This item fixes a spelling error.

4 After paragraph 7.1.22(1)(b)

Insert:

; and (c) to which regulation 7.1.22AA does not apply.

5 After regulation 7.1.22

Insert:

7.1.22AA Retail clients and wholesale clients: contract for difference

- (1) This regulation makes arrangements about the value of a derivative that:
 - (a) is a contract for difference; and
 - (b) is provided by a person who carries on a business of issuing contracts for difference to other persons (*holders*).
- (2) Paragraph 761G(7)(a) of the Act does not apply to the derivative.
- (3) In this regulation:

contract for difference means a derivative to which the following apply:

- (a) the value of the derivative, or the amount of consideration to be provided under the derivative, is ultimately determined, derived from or varies by reference to (wholly or in part) the change, between the acquisition and termination of the derivative, in the amount or value of an underlying specified under the terms of the derivative;

Note 1: For example, a derivative under which, at termination, the amount of consideration payable depends (wholly or in part) on the change in the level of a stock market index over the term of the derivative.

Note 2: There may be other factors that affect the value of the derivative. For example, fees and costs.

- (b) the derivative is not able to be traded on a licensed market;
- (c) the derivative:

- (i) does not terminate on a fixed date; or
- (ii) if the derivative terminates on a fixed date—it is a derivative of a kind that are typically terminated before the fixed date;

Note 1: For example, the derivative may have a fixed termination date if the underlying has a fixed termination date.

Note 2: This means that options, futures, swaps and forward rate agreements will generally not be contracts for difference.

- (d) the holder has the right to terminate the derivative;

Note: The terms of the derivative may provide for its termination in other circumstances. For example, on the occurrence of an event of default or on the issuer (other than the holder) exercising a right to terminate the derivative.

- (e) on termination, the obligations of the parties are settled in cash or by set-off between the parties.

terminate, in relation to a derivative, includes the derivative being closed out.

underlying, in relation to a derivative, means any thing (of any nature whatsoever and whether or not deliverable) other than the derivative, including, for example, one or more of the following:

- (a) an asset;
- (b) a rate (including an interest rate or exchange rate);
- (c) an index;
- (d) a commodity.

6 Subregulation 7.6.01B(7) (paragraph (b) of the definition of associate)

Omit “defacto”, substitute “de facto”.

Note: This item fixes a spelling error.

7 Subregulation 7.6.04(3) (definition of *limited financial services*)

Omit “self-managed superannuation” (wherever occurring), substitute “self managed superannuation”.

8 Subregulation 7.6.04(3) (note 1 to the definition of *limited financial services*)

Omit “*self-managed superannuation fund*”, substitute “*self managed superannuation fund*”.

9 Subregulation 7.6.04(3) (note 3 to the definition of *limited financial services*)

Omit “self-managed superannuation” (wherever occurring), substitute “self managed superannuation”.

10 Subregulation 7.8.12A(2) (definition of *limited financial service* in subsection 989B(4) of the *Corporations Act 2001*)

Omit “self-managed superannuation” (wherever occurring), substitute “self managed superannuation”.

11 Subregulation 7.8.12A(2) (note 1 to the definition of *limited financial service* in subsection 989B(4) of the *Corporations Act 2001*)

Omit “*self-managed superannuation fund*”, substitute “*self managed superannuation fund*”.

12 Subregulation 7.8.12A(2) (note 2 to the definition of *limited financial service* in subsection 989B(4) of the *Corporations Act 2001*)

Omit “self-managed superannuation” (wherever occurring), substitute “self managed superannuation”.

13 Subregulation 7.8.14B(3) (definition of *limited financial services* in subsection 990B(9) of the *Corporations Act 2001*)

Omit “self-managed superannuation” (wherever occurring), substitute “self managed superannuation”.

14 Subregulation 7.8.14B(3) (note 1 to the definition of *limited financial services* in subsection 990B(9) of the *Corporations Act 2001*)

Omit “*self-managed superannuation fund*”, substitute “*self managed superannuation fund*”.

15 Subregulation 7.8.14B(3) (note 2 to the definition of *limited financial services* in subsection 990B(9) of the *Corporations Act 2001*)

Omit “self-managed superannuation” (wherever occurring), substitute “self managed superannuation”.

16 Subregulation 7.9.01(1) (definition of *net amount of Government co-contribution received*)

Omit “self-managed superannuation fund”, substitute “self managed superannuation fund”.

17 Subparagraph 7.9.04(1)(a)(iv)

Omit “self-managed superannuation fund”, substitute “self managed superannuation fund”.

18 Subparagraph 7.9.16J(a)(i)

Omit “self-managed superannuation funds”, substitute “self managed superannuation funds”.

19 Regulation 7.9.19

Omit “self-managed superannuation fund”, substitute “self managed superannuation fund”.

20 Subregulation 7.9.61AA(1)

Omit “*self-managed superannuation fund*”, substitute “*self managed superannuation fund*”.

21 Paragraph 7.9.75(1)(e)

Omit “self-managed superannuation fund”, substitute “self managed superannuation fund”.

22 Part 3 of Schedule 6 (before table item 6301)

Insert:

6301A Aboriginal and Torres Strait Islander Corporation

23 Part 3 of Schedule 6 (after table item 6314)

Insert:

6315 Indigenous Corporation

24 Part 3 of Schedule 6 (after table item 6319)

Insert:

6319A Torres Strait Islander and Aboriginal Corporation

Financial Sector (Transfer and Restructure) Regulations 2018

25 Paragraph 8(b) (subsection 13A(1) of the *Financial Sector (Shareholdings) Act 1998*)

Omit “15%”, substitute “20%”.

Income Tax Assessment Regulations 1997

26 Regulation 51-5.01

Repeal the regulation, substitute:

51-5.01 Defence allowances

- (1) For the purposes of items 1.1 and 1.2 of section 51-5 of the Act, the following allowances are prescribed:
- (a) separation allowance paid on or after 28 June 2007 under the 2006 allowances determination;
 - (b) an allowance specified in an item of the following table and either:
 - (i) paid on or after 12 September 2013 under the specified provision of the 2013 allowances determination; or
 - (ii) paid on or after 1 July 2016 under the specified provision of the conditions determination.

Prescribed allowances		
Item	Column 1 Allowance	Column 2 Provision
1	Separation allowance	Division B.3 of the 2013 allowances determination
2	Disturbance allowance	Division 1 of Part 1 of Chapter 6 of the conditions determination
3	Rent allowance paid to a member without dependants or to a member with dependants (unaccompanied)	Division 1 of Part 8 of Chapter 7 of the conditions determination
4	Education assistance	Part 4 of Chapter 8 of the conditions determination
5	Transfer allowance	Division 3 of Part 3 of Chapter 14 of the conditions determination
6	Reimbursement of education costs for a child educated at the location of a member’s long-term posting overseas	Part 6 of Chapter 15 of the conditions determination

Prescribed allowances		
Item	Column 1 Allowance	Column 2 Provision
7	Reimbursement of education costs for a child educated in Australia while the member is on a long-term posting overseas	Division 5 of Part 6 of Chapter 15 of the conditions determination
8	Deployment allowance	Division 1 of Part 7 of Chapter 17 of the conditions determination

(2) In this regulation:

2006 allowances determination means *DFRT Determination No. 21 of 2006, Separation Allowance*, made under section 58H of the *Defence Act 1903*.

2013 allowances determination means *DFRT Determination No. 11 of 2013, ADF Allowances*, made under section 58H of the *Defence Act 1903*.

conditions determination means *Defence Determination 2016/19, Conditions of service*, made under section 58B of the *Defence Act 1903*.

National Consumer Credit Protection Regulations 2010

27 Regulation 86 (table, heading to column headed “and the direct debit default notice is given ...”)

Omit “direct debit”.

28 Subregulation 99(2)

Omit “or comparison rate schedule”.

Taxation Administration Regulations 2017

29 Section 8

Before “For the purposes”, insert “(1)”.

30 At the end of section 8

Add:

(2) For the purposes of subsection 8G(2) of the Act, a copy of an order under subsection 8G(1) of the Act is served on a person in the prescribed manner if it is served in accordance with an arrangement made under subsection (3).

(3) If:

(a) the Commissioner, after making reasonable inquiries, is satisfied that:

(i) the person is absent from Australia and does not have any agent in Australia on whom the document can be served; or

(ii) the person cannot be found; and

(b) the Commissioner, after making reasonable inquiries, is satisfied that the person has an address in a foreign country, a constituent part of a foreign country or a foreign territory (an *overseas address*);

the Commissioner may make an arrangement with the proper officer of the court for the Commissioner to serve the copy on the person at that overseas address in accordance with an agreement between Australia and:

- (c) a foreign country or a constituent part of a foreign country; or
- (d) a foreign territory;

that deals with the service of documents on tax matters.

31 After section 18

Insert:

18A Service in accordance with international agreement

- (1) This section applies if the Commissioner proposes to serve a document on a person for the purposes of the taxation laws, and:
 - (a) either:
 - (i) the person has not given the Commissioner a preferred address for service; or
 - (ii) the Commissioner is satisfied that none of the person's preferred addresses for service is effective; and
 - (b) the Commissioner, after making reasonable inquiries, is satisfied that:
 - (i) the person is absent from Australia and does not have any agent in Australia on whom the document can be served; or
 - (ii) the person cannot be found; and
 - (c) the Commissioner, after making reasonable inquiries, is satisfied that the person has an address in a foreign country, a constituent part of a foreign country or a foreign territory (an *overseas address*).
- (2) The Commissioner may serve the document on the person at the overseas address in accordance with an agreement between Australia and:
 - (a) a foreign country or a constituent part of a foreign country; or
 - (b) a foreign territory;that deals with the service of documents on tax matters.
- (3) This section does not affect the operation of any other law of the Commonwealth, or any law of a State or Territory, that deals with the service of documents.

Note: For an example of another law that deals with the service of documents, see sections 28A and 29 of the *Acts Interpretation Act 1901*.

Terrorism Insurance Regulations 2003

32 Section 3

Insert:

high-value multiple building contract means a contract of insurance that provides cover (whether or not the cover is restricted) for destruction or damage to 2 or more buildings, if the total sum-insured value of the buildings is \$50 million or more.

33 After regulation 10

Insert:

11 Application of amendments made by the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019*

The amendments of this instrument made by items 32, 34, 35 and 36 of Schedule 1 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* apply on and after the commencement of those items in relation to contracts of insurance made before, at or after that commencement.

34 Paragraph 2(a) of Schedule 1

After “mainly residential building”, insert “(unless the contract is also a high-value multiple building contract)”.

35 Paragraph 2(b) of Schedule 1

After “mainly residential building”, insert “(unless the contract is also a high-value multiple building contract)”.

36 Paragraph 2(d) of Schedule 1

Omit “unless the personal property is part of the contents of a residential part of a mixed use or high value building.”, substitute:

unless:

- (iii) the personal property is part of the contents of a residential part of a mixed use or high value building; or
- (iv) the contract is also a high-value multiple building contract.

Part 2—Repeals

Product Grants and Benefits Administration Regulations 2019

37 The whole of the instrument

Repeal the instrument.

Schedule 2—Exempt special purpose funding entities

National Consumer Credit Protection Regulations 2010

1 Subparagraphs 20(11)(b)(i) and (ii)

Omit “licensee or a registered person”, substitute “licensee, a registered person or an exempt special purpose funding entity”.

2 Paragraph 20(11)(d)

Omit “licensee or registered person”, substitute “licensee, registered person or exempt special purpose funding entity”.

3 Paragraph 21(3)(d)

Repeal the paragraph, substitute:

- (d) the person is authorised in writing by the licensee, registered person or exempt special purpose funding entity to engage in the activity mentioned in paragraph (a).

4 Subparagraph 24(6)(b)(ii)

Omit “licensee or registered person”, substitute “licensee, registered person or exempt special purpose funding entity”.

5 Sub-subparagraph 24(6)(d)(i)(A)

Omit “licensee or registered person”, substitute “licensee, registered person or exempt special purpose funding entity”.

6 Subparagraph 24(6)(d)(ii)

Omit “licensee or registered person”, substitute “licensee, registered person or exempt special purpose funding entity”.

7 Subparagraph 24(7)(b)(ii)

Omit “licensee or registered person”, substitute “licensee, registered person or exempt special purpose funding entity”.

8 Sub-subparagraph 24(7)(d)(i)(A)

Omit “licensee or registered person”, substitute “licensee, registered person or exempt special purpose funding entity”.

9 Subparagraph 24(7)(d)(ii)

Omit “licensee or registered person”, substitute “licensee, registered person or exempt special purpose funding entity”.

10 Subparagraphs 24(8)(a)(i) and (ii)

Omit “licensee or a registered person”, substitute “licensee, a registered person or an exempt special purpose funding entity”.

11 Paragraph 24(8)(b)

Omit “licensee or a registered person”, substitute “licensee, a registered person or an exempt special purpose funding entity”.

Schedule 3—Credit card contracts

National Consumer Credit Protection Regulations 2010

1 Regulation 28LB (at the end of the heading)

Add “for standard home loans”.

2 After regulation 28LB

Insert:

28LBA Key Facts Sheets for credit card contracts

- (1) For the purposes of section 133BB of the Act, Schedule 6 sets out:
 - (a) the Key Facts Sheet for a credit card contract; and
 - (b) requirements for how the information in a Key Facts Sheet is to be prepared.
- (2) A Key Facts Sheet is taken to comply with Schedule 6 if:
 - (a) it does not refer to a term or condition that is, or may, only be available to a particular class of consumer; and
 - (b) the term or condition does not cause the consumers in that class to be worse off than they would be under the terms and conditions described in the Key Facts Sheet.

Example: A licensee makes a special promotional offer to customers who have a home loan with the licensee. The terms and conditions of the credit card contract under the offer are more advantageous than the terms and conditions of the credit card contract as described in the Key Facts Sheet.

It would be difficult to provide a new Key Facts Sheet for each promotional offer of this kind.

28LBB Application forms in electronic form

For the purposes of subsection 133BC(1) of the Act, if a licensee:

- (a) makes available, in an electronic form, an application form that can be used to apply for a credit card contract; and
- (b) includes, as part of the electronic form, a hyperlink to a Key Facts Sheet for the contract;

the application form is taken to include a Key Facts Sheet for the contract.

Example: A licensee may provide an application form as an online document, in an email, or as an attachment to an email.

Note: Subsection 133BC(1) of the Act requires the Key Facts Sheet to contain up-to-date information.

28LBC Circumstances in which application form may include out-of-date Key Facts Sheet

- (1) For the purposes of subsection 133BC(3) of the Act, a circumstance in which a licensee may make available an application form that includes a Key Facts Sheet containing information that has ceased to be up-to-date is that the information ceased to be up-to-date no more than 3 months before the day on which the licensee makes the application form available.

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- (2) If the licensee makes the application form available by means that are under the licensee's control, the period for which the licensee may make the application form available is 3 months after the day on which the information ceased to be up-to-date.
 - (3) For the purposes of subsection 133BC(3) of the Act, a circumstance in which a licensee may make available an application form that includes a Key Facts Sheet containing information that has ceased to be up-to-date is that:
 - (a) the application form forms part of an advertisement in a publication published by a third party who is authorised to act for the licensee; and
 - (b) the licensee approved the application form for publication by the third party; and
 - (c) the information in the Key Facts Sheet was up to date when the licensee approved the application form for publication; and
 - (d) the expected date of publication of the advertisement was less than 30 days after the licensee approved the application form for publication.

28LBD Circumstances in which up-to-date information can be provided otherwise than in Key Facts Sheet

For the purposes of subparagraph 133BD(1)(b)(ii) of the Act, a requirement for the provision of up-to-date information to a consumer if a Key Facts Sheet contains information that has ceased to be up-to-date is that the licensee provides the up-to-date information no later than the time at which the licensee provides the consumer with the credit card to which the Key Facts Sheet related.

28LBE Meaning of *credit limit increase invitation*

- (1) For the purposes of subsection 133BE(6) of the Act, a communication is covered by the definition of *credit limit increase invitation* in subsection 133BE(5) of the Act if it:
 - (a) includes a proposed credit limit that is higher than the consumer's existing credit limit; or
 - (b) suggests that a higher credit limit may benefit the consumer.
- (2) For the purposes of subsection 133BE(6) of the Act, a communication is not covered by the definition of *credit limit increase invitation* in subsection 133BE(5) of the Act if it only provides generic information about credit limits that is applicable to each consumer who is a party to a credit card contract with the licensee.

Note: Subsection 133BE(6) of the Act provides that the regulations may make provisions that apply to determining whether a communication is covered by the definition of *credit limit increase invitation* in subsection 133BE(5) of the Act.

28LBF Licensee to notify consumer of use of credit card in excess of credit limit

- (1) For the purposes of subsection 133BH(1) of the Act, if a consumer who is the debtor under a credit card contract has used a card in excess of the credit limit for the contract, the licensee who is the credit provider under the contract must take reasonable steps to notify the consumer of that matter, not later than 2 business days after becoming aware of the use of the card in excess of the limit.
- (2) However, if:

- (a) the consumer pays the amount by which the credit limit has been exceeded within 2 business days after the day on which the balance under the credit card contract first exceeds the credit limit; and
 - (b) the licensee has not already notified the consumer when the amount is paid; the licensee is not required to notify the consumer.
- (3) The licensee is only required to notify the consumer once during a statement period.
- (4) The licensee must include in the notification information about exceeding the credit limit that is sufficient to lead a reasonable consumer to check the balance under the consumer's credit card contract.

28LBG Fees charges and higher rates of interest

For the purposes of paragraph 133BI(1)(c) of the Act, if a licensee provides a form to allow a consumer to consent to have fees, charges or a higher rate of interest charged on a credit card that is used in a way mentioned in subsection 133BI(1) of the Act, the licensee must ensure that the invitation to give consent:

- (a) allows the consumer to withdraw the consent; and
- (b) discloses any fee charged in relation to the consumer's consent; and
- (c) discloses the fee, charge or higher rate of interest that will be charged on the credit card if it is used in the way mentioned in subsection 133BI(1) of the Act; and
- (d) explains that the fee may increase at any time, in accordance with the terms of the credit card contract; and
- (e) explains that fees, charges or a higher rate of interest may be charged on the credit card for the amount by which the balance under the credit card contract exceeds the credit limit; and
- (f) explains that fees, charges or a higher rate of interest are likely to be charged on the credit card for the statement period in which the credit card was used in a way mentioned in subsection 133BI(1) of the Act.

28LBH Records of elections and withdrawals to be kept

- (1) For the purposes of subsection 133BJ(1) of the Act, if a consumer in relation to a credit card contract has:
- (a) given a consent covering the imposition of fees or charges, or a higher rate of interest, in relation to the contract; or
 - (b) withdrawn a consent of that kind;
- the licensee in relation to the contract must keep a record stating that a consent or withdrawal is current and showing the date on which the consent was given or withdrawn.

Note: The consent is described in detail in section 133BI of the Act.

- (2) The licensee must keep the record for the period during which the consent or withdrawal is in effect.

28LBI Agreement to apply payment against particular amount owed

For the purposes of subsection 133BP(5) of the Act, a licensee that proposes to agree to a request by a consumer to apply certain payments made under the credit

card contract against a particular amount must, before agreeing to the request, advise the consumer that the consumer:

- (a) may be liable to pay an amount or rate of interest under the agreement that is greater than the consumer would be liable to pay under section 133BQ of the Act; and
- (b) may withdraw the request at a later time.

3 Schedule 5 (heading)

Repeal the heading, substitute:

Schedule 5—Key Facts Sheets for standard home loans

Note: See regulation 28LB.

4 Schedule 6 (note to Schedule heading)

Repeal the note, substitute:

Note: See regulation 28LBA.

Schedule 4—Small amount credit contracts

National Consumer Credit Protection Regulations 2010

1 Regulation 28XXA

Re-number as regulation 28LCA.

2 Regulation 28XXB

Re-number as regulation 28LCB.

3 Regulation 28XXC

Re-number as regulation 28LCC.

4 Subregulation 28XXC(1) (paragraph 124BA(1)(c) of the *National Consumer Credit Protection Act 2009*)

Omit “regulation 28XXA or 28XXB”, substitute “regulation 28LCA or 28LCB”.

5 Regulation 28XXD

Re-number as regulation 28LCD.

6 Subregulation 28XXD(1) (paragraph 133CBA(1)(c) of the *National Consumer Credit Protection Act 2009*)

Omit “regulation 28XXA or 28XXB”, substitute “regulation 28LCA or 28LCB”.

7 Regulation 28XXE

Re-number as regulation 28LCE.

8 Regulation 28XXF

Re-number as regulation 28LCF.

9 Part 7-11 (heading)

Omit “—reliance on State and Territory Consumer Credit Codes”.

10 Before regulation 112

Insert:

Division 1—Reliance on State and Territory Consumer Credit Codes

11 After regulation 112

Insert:

Division 2—Transitional provisions for the Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019

113 Compliance with subregulation 28LCE(2) and Schedule 10

If a statement is in the form that was set out in Schedule 10 immediately before the commencement of Schedule 4 to the *Treasury Laws Amendment*

(Miscellaneous Amendments) Regulations 2019 (the **amending schedule**), the statement is taken to be in the form set out in Schedule 10 immediately after the commencement of the amending schedule.

12 Schedule 7 (note to Schedule heading)

Repeal the note, substitute:

Note: See subparagraph 28LCA(1)(c)(i).

13 Schedule 8 (note to Schedule heading)

Repeal the note, substitute:

Note: See paragraph 28LCB(b).

14 Schedule 9 (note to Schedule heading)

Repeal the note, substitute:

Note: See subparagraph 28LCB(d)(i).

15 Schedule 10 (note to Schedule heading)

Repeal the note, substitute:

Note: See subregulation 28LCE(2).

16 Schedule 10

Omit “**Regulation 28XXC**”, substitute “**Regulation 28LCE**”.

Schedule 5—Superannuation

Part 1—Transfer balance account credits and debits

Income Tax Assessment Regulations 1997

1 Before Subdivision 294-D

Insert:

Subdivision 294-B—Transfer balance account

294-25.01 Credit in transfer balance account—payment of consideration for interest supporting deferred superannuation income stream

- (1) For the purposes of item 5 of the table in subsection 294-25(1) of the Act, a transfer balance credit arises under this regulation in your transfer balance account if:
 - (a) you are the retirement phase recipient of a superannuation income stream; and
 - (b) the superannuation income stream is a deferred superannuation income stream; and
 - (c) after you start to be the retirement phase recipient of the superannuation income stream, you pay an amount of consideration for the superannuation interest that supports the superannuation income stream.
- (2) The amount of the credit is the amount of the consideration.
- (3) The credit arises at the time you pay the consideration.

Subdivision 294-C—Transfer balance debits

294-80.01 Debit in transfer balance account—reduction in amount of superannuation income stream benefit

- (1) For the purposes of item 8 of the table in subsection 294-80(1) of the Act, a transfer balance debit arises under this regulation in your transfer balance account if:
 - (a) you are the retirement phase recipient of a superannuation income stream; and
 - (b) the superannuation income stream is a capped defined benefit income stream that:
 - (i) is covered by item 1 or 2 of the table in subsection 294-130(1) of the Act; or
 - (ii) is prescribed by regulation 294-130.01 (but is not a superannuation income stream to which subregulation 294-130.01(3B) applies); and
 - (c) you are entitled to receive a superannuation income stream benefit (the *earlier benefit*) from the superannuation income stream at a time (the *earlier time*); and
 - (d) the amount of the next superannuation income stream benefit (the *later benefit*) that you are entitled to receive from the superannuation income stream falls short of the amount of the earlier benefit; and

- (e) that shortfall is not attributable to any of the following:
 - (i) circumstances that cause a transfer balance debit to arise in your transfer balance account (other than because of this regulation);
 - (ii) a CPI adjustment in the amount of superannuation income stream benefits that you are entitled to receive from the superannuation income stream.
- (2) The amount of the debit is:
 - (a) the special value, just before the earlier time, of the superannuation interest that supports the superannuation income stream; less
 - (b) the special value, just before the time (the *later time*) at which you are entitled to receive the later benefit, of that superannuation interest.
- (3) The debit arises at the later time.

Part 2—Innovative income streams

Income Tax Assessment Regulations 1997

2 At the end of Subdivision 294-C

Add:

294-80.02 Debit in transfer balance account—reduction in amount of superannuation income stream benefit

- (1) For the purposes of item 8 of the table in subsection 294-80(1) of the Act, a transfer balance debit arises under this regulation in your transfer balance account if:
 - (a) you are or were a retirement phase recipient of a deferred superannuation income stream to which subregulation 307-205.02C(1) applies (see subregulation 307-205.02C(3)) supported by a superannuation interest; and
 - (b) but for regulation 294-80.03, a transfer balance debit would arise at a time under item 5 or 6 of the table in subsection 294-80(1) of the Act in your transfer balance account because of the superannuation income stream.
- (2) The amount of the debit is the total amount of the superannuation benefits that would be payable if you voluntarily caused the superannuation interest to cease at that time.
- (3) The debit arises at that time.

294-80.03 Debit in transfer balance account—certain items of table in subsection 294-80(1) of the Act do not apply to certain superannuation income streams

For the purposes of subsection 294-80(3) of the Act, items 5 and 6 of the table in subsection 294-80(1) of the Act do not apply to deferred superannuation income streams to which subregulation 307-205.02C(1) applies (see subregulation 307-205.02C(3)).

Part 3—Successor fund transfers

Income Tax Assessment Regulations 1997

3 Subregulation 294-130.01(1)

Omit “(3)”, substitute “(3), (3A), (3B)”.

4 After subregulation 294-130.01(3)

Insert:

- (3A) This subregulation applies to a superannuation income stream if:
- (a) it is covered by item 2 of the table in subsection 294-130(1) of the Act; and
 - (b) it starts to be in the retirement phase on or after 1 July 2017; and
 - (c) it arises as a direct result of the payment of an involuntary roll-over superannuation benefit to a successor fund.
- (3B) This subregulation applies to a superannuation income stream if:
- (a) it is covered by any of items 3 to 7 of the table in subsection 294-130(1) of the Act; and
 - (b) it starts to be in the retirement phase on or after 1 July 2017; and
 - (c) it arises as a direct result of the payment of an involuntary roll-over superannuation benefit to a successor fund.

5 Regulation 294-135.01

Before “For the purposes of”, insert “(1)”.

6 At the end of regulation 294-135.01

Add:

- (2) Subregulation (1) does not apply to a superannuation interest covered by subregulation (3).
- (3) This subregulation covers a superannuation interest that supports an income stream that is, or was at any time, a superannuation income stream prescribed by regulation 294-130.01 to which subregulation 294-130.01(3B) applies.
- (4) For the purposes of subsection 294-135(4) of the Act, the *special value*, at a particular time, of a superannuation interest covered by subregulation (3) is the amount worked out in respect of that time under subsection 294-135(3) of the Act.
- (5) For the purposes of subregulation (4), treat the reference in subsection 294-135(3) of the Act to a capped defined benefit income stream covered by any of items 3 to 7 of the table in subsection 294-130(1) as instead being a reference to the income stream mentioned in subregulation (3).

7 Regulation 294-145.01

Before “For the purposes of”, insert “(1)”.

8 At the end of regulation 294-145.01

Add:

Schedule 5 Superannuation
Part 3 Successor fund transfers

- (2) Subregulation (1) does not apply to a superannuation interest covered by subregulation (3).
- (3) This subregulation covers a superannuation interest that supports an income stream that is, or was at any time, a superannuation income stream prescribed by regulation 294-130.01 to which subregulation 294-130.01(3B) applies.
- (4) For the purposes of subsection 294-145(7) of the Act, the *debit value*, at a particular time, of a superannuation interest covered by subregulation (3) is the amount worked out in respect of that time under subsection 294-145(6) of the Act.
- (5) For the purposes of subregulation (4), treat the reference in subsection 294-145(6) of the Act to a capped defined benefit income stream covered by any of items 3 to 7 of the table in subsection 294-130(1) as instead being a reference to the income stream mentioned in subregulation (3).

Part 4—Life expectancy period

Superannuation Industry (Supervision) Regulations 1994

9 Subregulation 1.03(1) (definition of *life expectancy period*)

Repeal the definition, substitute:

life expectancy period, for a benefit supported by a superannuation interest (within the meaning of the 1997 Tax Act), means the number of days in the complete expectation of life (as worked out using the prescribed Life Tables) on the retirement phase start day for the benefit of:

- (a) if the primary beneficiary of the benefit is alive on the retirement phase start day for the benefit—the primary beneficiary; or
- (b) otherwise—the person (if any) to whom the benefit was transferred because of the primary beneficiary's death, if at the time of that death the person was eligible under paragraph 6.21(2)(b) to be paid a benefit.

Part 5—Application

Income Tax Assessment Regulations 1997

10 In the appropriate position in Division 910

Insert:

910-1.12 Transitional arrangements arising out of the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019*

- (1) Subject to subregulation (2), the amendments made by Parts 1 and 3 of Schedule 5 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* apply on and after 1 July 2017.
- (2) Regulation 294-25.01, as inserted by item 1 of Schedule 5 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019*, applies on and after the commencement of that item.
- (3) The amendment made by Part 2 of Schedule 5 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* applies on and after the commencement of that Part.

Superannuation Industry (Supervision) Regulations 1994

11 In the appropriate position in Part 14

Insert:

Division 14.21—Transitional arrangements arising out of the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019*

14.21 Arrangements

The amendment made by Part 4 of Schedule 5 to the *Treasury Laws Amendment (Miscellaneous Amendments) Regulations 2019* applies on and after 1 July 2017.