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Volume 1: sections 1–93H

Volume 2: sections 94–346
Endnotes

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Australian Securities and Investments Commission Act 2001* that shows the text of the law as amended and in force on 14 October 2024 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 4—ASIC's business

Division 1—General

94 Arrangement of ASIC's business

Subject to sections 10A and 12, ASIC may give directions about the arrangement of ASIC's business.

95 ASIC to establish offices

- (1) For the purpose of performing its functions and exercising its powers under the corporations legislation, ASIC:
 - (a) must establish a regional office in each referring State, the Australian Capital Territory and the Northern Territory; and
 - (b) may establish a regional office in a State that is not in this jurisdiction; and
 - (c) may establish such other offices as it thinks fit.
- (2) In deciding on the number and location of its offices, ASIC must seek to ensure that:
 - (a) for the purposes of the corporations legislation (other than the excluded provisions)—it serves adequately the needs of business communities in the States and Territories in this jurisdiction; and
 - (b) for the purposes of Division 2 of Part 2—it serves adequately the needs of business communities throughout Australia.

96 Regional Commissioners

For each regional office established under subsection 95(1) there is to be a different Regional Commissioner, employed by ASIC under section 120, who must manage the office.

Division 2—Divisions of ASIC

97 ASIC may establish Division

- (1) ASIC may direct in writing that a Division of ASIC consisting of at least 2 specified members is to, either generally or as otherwise provided by the direction, perform or exercise specified functions or powers of ASIC.
- (2) A direction under this section that is in force and does not specify the Chairperson as a member of the Division must specify such a member as the Division's chairperson.

98 Effect of direction establishing Division

- (1) Where a direction under section 97 is in force, this section has effect for the purposes of the performance or exercise by the Division, in accordance with the direction, of functions or powers of ASIC.
- (2) ASIC is taken to consist of the Division.
- (3) If the Chairperson is not a member of the Division, the member whom the direction specifies as the Division's chairperson is taken to be the Chairperson.
- (4) A meeting of the Division is taken to be a meeting of ASIC, but 2 members of the Division form a quorum at a meeting of the Division.

99 ASIC may reconstitute Division

Where a direction under section 97 is in force, ASIC may at any time revoke the direction or amend it in relation to the Division's membership or in any other respect.

100 Effect of reconstituting Division

- (1) This section has effect where, as at the time when a direction is amended under section 99 so as to change a Division's membership, the Division as constituted before the change has, in relation to a particular matter, begun but not yet completed the performance of functions, or the exercise of powers, in accordance with the direction as in force before the amendment.
- (2) The Division as constituted after the change may, in relation to that matter, perform functions, and exercise powers, in accordance with the direction as in force after the amendment.

101 Multiple Divisions

A Division of ASIC may perform functions, or exercise powers, of ASIC even though another such Division is performing such functions, or exercising such powers, at the same time.

Division 3—Delegation by ASIC

102 Delegation

- (1) ASIC may, by writing under its common seal, delegate to a person all or any of its functions and powers.
- (2) ASIC must not, without the Minister's approval, delegate a function or power to a person other than:
 - (a) a member; or
 - (b) a staff member; or
 - (c) a person who, by virtue of the regulations, is a prescribed person in relation to the delegation; or
 - (d) a person appointed by the Chair of APRA under section 45 of the *Australian Prudential Regulation Authority Act 1998*; or
 - (e) a member of the staff of the Australian Competition and Consumer Commission referred to in subsection 27(1) of the *Competition and Consumer Act 2010*; or
 - (f) a Financial Services and Credit Panel.
- (2A) ASIC must not delegate a function or power to an APRA staff member within the meaning of the *Australian Prudential Regulation Authority Act 1998*, unless the Chief Executive Officer of APRA has agreed to the delegation in writing.
- (2B) ASIC must not delegate a function or power to:
 - (a) a person referred to in paragraph (2)(e); or
 - (b) a person engaged under section 27A of the *Competition and Consumer Act 2010*;unless the Chairperson of the Australian Competition and Consumer Commission has agreed to the delegation in writing.
- (2C) ASIC must not delegate a function or power under section 12GLC, or under Subdivision GB or GC of Division 2 of Part 2 of this Act or under Part 7.9A of the *Corporations Act 2001* or Part 6-7A of the *National Consumer Credit Protection Act 2009*, to a person other than:

Section 102

- (a) a member of ASIC; or
- (b) a senior staff member.

Note: Senior staff members are identified in determinations under section 122A.

- (2D) ASIC must not delegate a function or power under:
- (a) Part 7.9A of the *Corporations Act 2001*; or
 - (b) Part 6-7A of the *National Consumer Credit Protection Act 2009*;

that has been delegated to it under that Act by the Minister.

- (3) In subsections (1) and (2):

person includes a body.

- (4) In exercising its power under subsection (1), ASIC must seek to ensure that:

- (a) the persons who make decisions affecting a particular business community are located as close to that community as practicable; and
- (b) for the purposes of the corporations legislation (other than the excluded provisions)—members of business communities in the States and Territories in this jurisdiction have prompt and convenient access to decision-making and to ASIC's facilities; and
- (c) for the purposes of Division 2 of Part 2—members of business communities throughout Australia have prompt and convenient access to decision-making and to ASIC's facilities.

- (5) In the performance of a function, or the exercise of a power, delegated under this section, the delegate is subject to ASIC's directions.

- (6) Where a function or power conferred on ASIC by or under a law (including this Act) and delegated under this section is performed or exercised by the delegate, it is, for the purposes of that law and this Act, taken to have been performed or exercised by ASIC.

Division 4—Meetings of ASIC

103 Times and places of meetings

- (1) ASIC must hold the meetings that are necessary for the efficient performance and exercise of its functions and powers.
- (2) Meetings are to be held at the times and places that the Chairperson determines.
- (3) The Chairperson must convene a meeting if requested in writing by 2 or more members.

105 Quorum

At a meeting:

- (a) if ASIC consists of 3 or 4 members—2 members; or
 - (b) in any other case—3 members;
- form a quorum.

106 Who is to preside at meetings

- (1) The Chairperson must preside at all meetings at which he or she is present.
- (2) In the absence of the Chairperson from a meeting:
 - (a) if there are 2 Deputy Chairpersons available to preside at the meeting—the Chairperson may nominate one of them to preside at the meeting; or
 - (b) if there is only one Deputy Chairperson available to preside at the meeting—that Deputy Chairperson is to preside at the meeting.
- (3) If neither the Chairperson nor any Deputy Chairperson is present at a meeting, the members present must elect one of their number to preside.

107 Voting at meetings

- (1) A question arising at a meeting is to be determined by a majority of the votes of the members present and voting.
- (2) The person presiding at a meeting has:
 - (a) a deliberative vote; and
 - (b) if necessary, also a casting vote.

107A Conduct of meetings

- (1) ASIC may regulate proceedings at its meetings as it considers appropriate.
- (2) However, proceedings at a meeting must not be inconsistent with this Division.

Note 1: Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which members may participate in meetings.

Note 2: Requirements relating to disclosure of interests are contained in Division 1 of Part 7 of this Act.

107B ASIC resolutions without meetings

A resolution is taken to have been passed at a meeting if:

- (a) ASIC has determined:
 - (i) that resolutions may be passed in accordance with this section; and
 - (ii) the method of indicating agreement with a resolution passed in accordance with this section; and
- (b) without meeting, a majority of the members indicate agreement with the resolution in accordance with the method determined by ASIC; and
- (c) that majority would have constituted a quorum at a meeting; and
- (d) all members were informed of the proposed resolution, or reasonable efforts were made to inform all members of the proposed resolution.

Part 5—ASIC's members

Division 1—Terms and conditions

108 Term of office as member

- (1) Subject to this Act, a person appointed as a member holds office for such term of at most 5 years as is specified in the instrument of appointment, but is eligible for re-appointment.

109 Term of office as Chairperson or Deputy Chairperson

- (1) Subject to this Act, a member appointed as Chairperson, or as a Deputy Chairperson, holds office as such until:
 - (a) in any case—the end of his or her current term as a member;
or
 - (b) in any case—he or she otherwise stops being a member; or
 - (c) in the case of a member appointed as a Deputy Chairperson—he or she is appointed as Chairperson;whichever happens first.
- (2) A person is not ineligible to be appointed under section 10 merely because he or she has been so appointed before.

110 Resignation

A person may resign as a member, as Chairperson, or as a Deputy Chairperson, by writing signed and delivered to the Governor-General.

111 Termination of appointment

- (1) The Governor-General may terminate a member's appointment because of misbehaviour, or the physical or mental incapacity, of the member or if the member:

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- (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or assigns remuneration or property for their benefit; or
 - (b) is a full-time member and engages without the Minister's consent in paid employment outside the duties of the member's office; or
 - (c) is a full-time member and is absent from duty, except on leave of absence, for 14 consecutive days, or for 28 days in any period of 12 months; or
 - (d) is a part-time member and is absent, except on leave granted in accordance with subsection 113(2), from 3 consecutive meetings of ASIC; or
 - (e) without reasonable excuse, contravenes section 123 or 125; or
 - (f) without reasonable excuse, contravenes section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.
- (2) The Governor-General may, with the consent of a full-time member who is:
- (a) an eligible employee; or
 - (b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or
 - (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;
- retire the member from office on the ground of incapacity.
- (3) In spite of anything contained in this section, a member who:
- (a) is an eligible employee; and
 - (b) has not reached his or her maximum retiring age (within the meaning of the *Superannuation Act 1976*);
- is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless CSC has given a certificate under section 54C of that Act.

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- (4) In spite of anything contained in this section, a member who:
- (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and
 - (b) is under 60 years of age;
- is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless CSC has given a certificate under section 13 of that Act.
- (5) In spite of anything contained in this section, a member who:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless CSC has given an approval and certificate under section 43 of that Act.

112 Remuneration and allowances etc.

- (1) A member must be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, a member must be paid such remuneration as the Minister determines in writing.
- (2) A member must be paid such allowances, and, subject to subsection (3), provided with such other benefits, as the Minister determines in writing.
- (3) The benefits in respect of which the Minister may make a determination under subsection (2) are such benefits (including benefits by way of financial or other assistance in connection with housing, transport, insurance, long service leave and superannuation) as, in the Minister's opinion, are necessary or desirable to assist a member in, or place the member in a position that may facilitate, the performance of his or her functions.
- (4) ASIC may reimburse a member for any loss or expenditure incurred by the member because of, or in the course of, the performance of his or her functions.

- (5) This section has effect subject to the *Remuneration Tribunal Act 1973*.

113 Leave of absence

- (1) A full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may:
- (a) grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines; and
 - (b) grant a part-time member leave of absence from a meeting of ASIC.

114 Superannuation arrangements

- (1) The Minister may make a written determination about the provision of superannuation benefits for or in relation to a specified full-time member who, when the determination is made, is not an eligible employee or a member of the superannuation scheme established by deed under the *Superannuation Act 1990*.
- (2) The Minister may, by writing, vary or revoke a determination made under subsection (1), even if it has been varied at least once before.
- (3) The Minister must not make a determination under subsection (1), or vary or revoke a determination so made, except in accordance with arrangements approved by the Minister under the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.
- (4) Superannuation benefits may be provided in accordance with a determination under subsection (1) as that determination is in force when the benefits are provided.

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115 Other terms and conditions

A member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as the Minister determines in writing.

Division 2—Acting appointments

116 Acting members

- (1) The Minister may:
- (a) appoint a person to act as a full-time member during any period when there are less than 8 persons who are members or are acting as members in accordance with this paragraph or paragraph (b); or
 - (b) appoint a person to act as a part-time member during any period when there are less than 8 persons who are members or are acting as members in accordance with this paragraph or paragraph (a) and there are at least 3 persons who are full-time members or are acting as members in accordance with paragraph (a); or
 - (c) appoint a person to act as a full-time member or as a part-time member during any period when a full-time member (other than the Chairperson or a Deputy Chairperson) or a part-time member, as the case may be, is absent from office, is acting as a Deputy Chairperson in accordance with section 118 or, in the case of a part-time member, is, for any reason, unable to perform the functions of his or her office.
- (2) Except so far as the contrary intention appears, a reference in this Act to a member of ASIC includes a reference to a person who is acting as a member under subsection (1).

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

117 Acting Chairperson

The Minister may appoint a member to act as Chairperson:

- (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or

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- (b) during any period, or during all periods, when the Chairperson is absent from office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

118 Acting Deputy Chairperson

The Minister may appoint a member to act as a Deputy Chairperson:

- (a) during a period when there are fewer than 2 persons holding the office of Deputy Chairperson; or
(b) during a period when a Deputy Chairperson is absent from office or is acting as Chairperson.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

119 Limitation on appointments to act during vacancy

A person appointed under section 116, 117 or 118 to act during a vacancy must not continue for more than 12 months to act during the vacancy.

Division 3—Delegation by members

119A Delegation by members

- (1) A member may, in writing, delegate to a person all or any of his or her functions and powers.
- (2) A member must not, without the Minister's approval, delegate a function or power to a person other than:
 - (a) a staff member; or
 - (b) a person who, by virtue of the regulations, is a prescribed person in relation to the delegation; or
 - (c) if the member is the Chairperson or a Deputy Chairperson and the function or power is a function or power of the member as Chairperson or Deputy Chairperson—another member or a senior staff member.
- (3) In the performance of a function, or the exercise of a power, delegated under this section, the delegate is subject to the member's directions.

Part 6—ASIC's staff

120 Staff

- (1) The Chairperson may, on behalf of ASIC, employ under written agreements such permanent, temporary or casual staff as the Chairperson considers necessary for the performance or exercise of any of ASIC's functions or powers.
- (2) The terms and conditions of employment (including as to remuneration) are to be determined by the Chairperson.

121 Consultants etc.

- (1) The Chairperson may, on behalf of ASIC, engage, under written agreements, as consultants to, or to perform services for, ASIC in connection with the performance or exercise of any of its functions or powers, persons having suitable qualifications and experience.
- (2) The terms and conditions of engagement of persons engaged under subsection (1) are such as the Chairperson determines from time to time.

122 Staff seconded to ASIC

In addition to the other staff members, officers and employees of Agencies (within the meaning of the *Public Service Act 1999*), and of authorities of the Commonwealth, whose services are made available to ASIC in connection with the performance or exercise of any of its functions or powers are to assist ASIC.

122A Senior staff member determination

- (1) The Chairperson may, by written instrument, make a determination identifying which staff members are senior staff members.

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- (2) A determination under subsection (1) may identify a staff member who holds or acts in a specified position as a senior staff member.
- (3) A determination under subsection (1) is a legislative instrument.

Part 6A—Giving information etc. to APRA

122B APRA may request information or documents

- (1) APRA may request ASIC to give it any of the following:
 - (a) specified information or documents covered by section 122D;
 - (b) information or documents covered by section 122D of a specified kind.
- (2) The request must be in writing.
- (3) APRA may, in writing, amend or withdraw the request.

122C ASIC must comply with request

- (1) If APRA gives ASIC a request under section 122B, ASIC must comply with the request as soon as practicable.
- (2) ASIC need not notify any person (other than APRA) that it plans to comply with subsection (1), or has complied with that subsection.
- (3) Despite subsection (1), ASIC need not comply with the request if:
 - (a) the Chairperson makes a determination under subsection (4); and
 - (b) the Chairperson gives a copy of the determination to APRA.
- (4) The Chairperson may determine, in writing, that ASIC need not comply with the request if the Chairperson considers that complying with the request would compromise the proper functioning of ASIC.
- (5) The Chairperson's power to make a determination under subsection (4) may only be exercised by the Chairperson personally.

- (6) If the Chairperson makes a determination under subsection (4), the Chairperson must give the following to the Financial Regulator Assessment Authority as soon as practicable:
- (a) a copy of the determination;
 - (b) a written statement of the reasons why the Chairperson made the determination.

122D Information and documents covered by request

- (1) This section covers information or documents if:
- (a) in the case of information—the information was given or produced (whether or not voluntarily) to ASIC in writing by another person (including a person advising ASIC); and
 - (b) in the case of documents—the documents were given or produced (whether or not voluntarily) to ASIC by another person (including a person advising ASIC); and
 - (c) APRA considers the information or documents to be relevant to the exercise or performance of its functions or powers.
- (2) Without limiting the scope of subsection (1), this section also covers information in writing or documents that:
- (a) are required or permitted to be created by law as a record (however described); and
 - (b) are created in accordance with that law.
- Example: Notes of an examination recorded in writing in accordance with subsection 58(1) of the *Insurance Act 1973*.
- (3) Without limiting the scope of subsection (1), and despite subsection (4), this section also covers information in writing or documents of a kind specified in the regulations.
- (4) Despite subsections (1) and (2), this section does not cover any of the following kinds of information or documents:
- (a) information or documents concerning the internal administrative functioning of ASIC;

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- (b) information or documents that discloses matter in respect of which ASIC or any other person has claimed legal professional privilege;
 - (c) information or documents of a kind specified in the regulations.
- (5) Despite subsection (1), (2), and (3), this section does not cover information or documents communicated to a member or a staff member in accordance with paragraph 68(p) of the *Telecommunications (Interception and Access) Act 1979*.

122E Notifying APRA of reasonable belief of material breach of APRA provisions

- (1) Subsection (2) applies if ASIC has a reasonable belief that a material breach of a legislative provision of which APRA has the general administration may have occurred, or may be occurring.
- (2) ASIC must notify APRA of that reasonable belief as soon as practicable.

Part 7—Preventing conflicts of interest and misuse of information

Division 1—Disclosure of interests

123 Members to disclose certain interests to Minister

- (1) A member must, in accordance with this section, disclose to the Minister:
 - (a) any direct or indirect pecuniary interest that the member has or acquires in:
 - (i) a body corporate carrying on business in Australia; or
 - (ii) a business in Australia; and
 - (b) any direct or indirect pecuniary interest that the member has or acquires in interests (including financial products) regulated by ASIC; and
 - (c) any agreement, understanding or expectation that the member will:
 - (i) resume a previous business relationship (whether or not that relationship existed immediately before the member's appointment); or
 - (ii) enter into a new business relationship; when the member ceases to be a member; and
 - (d) any severance arrangement or ongoing financial arrangement that takes account of an agreement, understanding or expectation that must be disclosed under paragraph (c).
- (2) For the purpose of paragraph (1)(b), interests are regulated by ASIC if ASIC has a function or power in relation to any aspect of the acquisition, holding, disposal or provision of the interests, or of interests of that kind.
- (3) In disclosing an indirect pecuniary interest in financial products, the member must identify the particular products.

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- (4) Paragraphs (1)(c) and (d) apply to agreements or understandings entered into, or expectations arising, before or after the member's appointment.
- (5) Paragraph (1)(c) does not require a member to disclose an expectation to enter into a new business relationship unless the member can identify the other party, or one or more other parties, to the relationship. Disclosure is required whether or not the field of business or legal nature of the relationship has been determined.
- (6) A disclosure under this section must be made in writing.

125 Notification of interests to ASIC

- (1) This section has effect where a person, in the course of:
 - (a) performing functions or services as a staff member, otherwise than because the person is:
 - (i) a person employed under section 120; or
 - (ii) an officer or employee of an Agency, within the meaning of the *Public Service Act 1999*, whose services are made available under section 122; or
 - (b) performing a function, or exercising a power, as an ASIC delegate; or
 - (c) performing functions or services by way of assisting an ASIC delegate;is required to consider a matter in which the person has a direct or indirect pecuniary or other interest that could involve a conflict with the proper performance or exercise by the person of those functions, services or powers.
- (2) The person must forthwith give to ASIC a written notice:
 - (a) stating that he or she is required to consider the matter and has an interest in it; and
 - (b) setting out particulars of the interest.
- (3) The person must not intentionally or recklessly fail to do whatever is necessary to avoid the conflict referred to in subsection (1).

Penalty: 1 year imprisonment.

126 Defence

It is a defence to a prosecution of a person for a contravention of section 125 if it is established that when the person was required to consider the matter he or she was not aware of a fact or thing whose existence obliged him or her to comply with that section in relation to the matter.

126A Chairperson to ensure adequate disclosure of interest requirements for ASIC staff members

The Chairperson must take reasonable steps to ensure that there are, where appropriate, adequate disclosure of interest requirements applying to staff members.

126B ASIC Code of Conduct

- (1) The Chairperson must determine, in writing, the ASIC Code of Conduct.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

- (2) The ASIC Code of Conduct applies to ASIC members and staff members employed under section 120.
- (3) To avoid doubt, a determination under subsection (1) is not a legislative instrument.

126C ASIC Values

- (1) The Chairperson must determine, in writing, the ASIC Values.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

- (2) The Chairperson must uphold and promote the ASIC Values.

Part 7 Preventing conflicts of interest and misuse of information

Division 1 Disclosure of interests

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- (3) ASIC members (other than the Chairperson) and staff members employed under section 120 must uphold the ASIC Values.
- (4) To avoid doubt, a determination under subsection (1) is not a legislative instrument.

Division 2—Confidentiality

127 Confidentiality

- (1) ASIC must take all reasonable measures to protect from unauthorised use or disclosure information:
- (a) given to it in confidence in or in connection with the performance of its functions or the exercise of its powers under the corporations legislation (other than the excluded provisions); or
 - (b) that is protected information.

Note: Information given to ASIC under Part 7.5A of the Corporations Act may be taken, for the purpose of this section, to be given in confidence in connection with the performance of ASIC's functions under that Act: see subsections 903A(5) and (6), and 906A(3) and (4), of the Corporations Act.

- (1A) Disclosing summaries of information or statistics derived from information is authorised use and disclosure of the information provided that information relating to any particular person cannot be found out from those summaries or statistics.
- (2) For the purposes of subsection (1), the disclosure of information as required or permitted by a law of the Commonwealth or a prescribed law of a State or Territory is taken to be authorised use and disclosure of the information.
- (2A) Disclosing information to one of the following is authorised use and disclosure of the information:
- (a) the Minister;
 - (b) the Secretary of the Department for the purpose of advising the Minister, or an officer authorised for that purpose;
 - (ba) the Financial Regulator Assessment Authority;
 - (c) APRA;
 - (ca) a Financial Services and Credit Panel;
 - (cb) the Tax Practitioners Board;
 - (d) the Reserve Bank of Australia;

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- (daa) a statutory manager of a body corporate;
 - (da) the Australian Competition and Consumer Commission;
 - (e) the Clean Energy Regulator;
 - (f) the Climate Change Authority;
 - (g) the Commissioner of Taxation;
 - (h) a Registrar appointed under any of the following:
 - (i) section 6 of the *Commonwealth Registers Act 2020*;
 - (ii) section 1270 of the *Corporations Act 2001*;
 - (iii) section 212A of the *National Consumer Credit Protection Act 2009*;
 - (iv) section 62A of the *Business Names Registration Act 2011*.
- (2B) Disclosing information to a Royal Commission (within the meaning of the *Royal Commissions Act 1902*) is authorised use and disclosure of the information.
- (2C) The Chairperson may impose conditions to be complied with in relation to information disclosed under subsection (2B).
- (2D) If the Chairperson is satisfied that:
- (a) information is obtained by ASIC in circumstances described in subsection (2E); and
 - (b) the information is:
 - (i) about how an audit of a company, registered scheme, registrable superannuation entity or disclosing entity was conducted by an Australian auditor; or
 - (ii) about the company's, scheme's or entity's compliance with the requirements in Chapter 2M of the *Corporations Act* to prepare financial statements and reports, or with the continuous disclosure requirements of sections 674, 674A, 675 and 675A of the *Corporations Act*; and
 - (c) the information should be disclosed to the company, to the responsible entity of the registered scheme, to the RSE licensee for the registrable superannuation entity, or to the

disclosing entity, in order to assist the company, scheme or entity to properly manage its affairs;

the disclosure of the information, by a person (the **authorised person**) whom the Chairperson authorises for the purpose, is taken to be authorised use and disclosure of the information if the information is disclosed to the directors, the audit committee, or a senior manager, of the company, responsible entity, RSE licensee or disclosing entity.

- (2E) For the purposes of paragraph (2D)(a), the circumstances are that the information is obtained by ASIC while exercising its powers or functions:
- (a) in relation to audit-related matters (**Corporations Act audit requirements**) under Chapter 2M, Chapter 5C, Part 7.8, Part 9.2 or Part 9.2A of the Corporations Act or under other provisions of that Act that relate to that Chapter or that Part; or
 - (b) for the purposes of ascertaining compliance with Corporations Act audit requirements; or
 - (c) in relation to:
 - (i) an alleged or suspected contravention of Corporations Act audit requirements; or
 - (ii) an alleged or suspected contravention of a law of the Commonwealth, or of a State or Territory in this jurisdiction, being a contravention that relates to an audit matter and that either concerns the management or affairs of a body corporate or involves fraud or dishonesty and relates to a body corporate; or
 - (d) for the purposes of an investigation under Division 1 of Part 3 of this Act relating to a contravention referred to in paragraph (c).
- (2F) The authorised person must not disclose information about how an audit of a company, registered scheme, registrable superannuation entity or disclosing entity was conducted by an Australian auditor unless, at least 7 days before disclosing the information, the authorised person notifies the Australian auditor of the proposed disclosure.

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- (2G) If the authorised person discloses information only to a senior manager of the company, responsible entity, RSE licensee or disclosing entity, the authorised person must, as soon as possible after making the disclosure, provide a copy of the disclosure to the directors and audit committee of the company, responsible entity, RSE licensee or disclosing entity.
- (3) For the purposes of subsection (1), the disclosure of information by a person for the purposes of:
- (a) performing the person's functions as:
 - (i) a member, staff member or ASIC delegate; or
 - (ii) a person who is acting as a member or staff member or who is authorised to perform or exercise a function or power of, or on behalf of, ASIC; or
 - (b) the performance of functions or services by the person by way of assisting an ASIC delegate;
- is taken to be authorised use and disclosure of the information.
- (3AA) For the purposes of subsection (1), the disclosure of information by a person to enable or assist the performance of functions, or exercise of powers, by a home regulator or a host regulator for a passport fund under the Memorandum of Cooperation is authorised use and disclosure of the information.
- (3A) Using or disclosing information in accordance with the consent of the person who provided the information is authorised use and disclosure of the information.
- (4) Where the Chairperson is satisfied that particular information:
- (a) will enable or assist an agency, being the Takeovers Panel, the Disciplinary Board, the FRC, the Review Board or any other agency within the meaning of the *Freedom of Information Act 1982*, to perform or exercise any of the agency's functions or powers; or
 - (aa) will enable or assist:
 - (i) the operator of the AFCA scheme; or
 - (ia) the CSLR operator; or
 - (ii) the Australian Financial Institutions Commission;

- to perform any of its functions or powers; or
- (ab) will enable or assist an officer of the Commonwealth Attorney-General's Department who is in the office known as the Office of Law Enforcement Co-ordination to perform any of his or her functions or powers; or
 - (b) will enable or assist the government, or an agency, of a State or Territory to perform a function or exercise a power; or
 - (c) will enable or assist a government, or an agency, of a foreign country to perform a function, or exercise a power, conferred by a law in force in that foreign country; or
 - (ca) will enable or assist a foreign body, although not an agency of a foreign country, to perform a regulatory function, or to exercise a related power, conferred on the body by or under a law in force in that foreign country; or
 - (cb) will enable or assist an international business regulator to perform its functions or exercise its powers; or
 - (d) will enable or assist:
 - (i) a prescribed professional disciplinary body to perform one of its functions; or
 - (ii) another prescribed body to perform a prescribed function in relation to registered liquidators; or
 - (e) will enable or assist a committee convened under Part 2 of Schedule 2 to the Corporations Act to perform its functions under the corporations legislation;

the disclosure of the information to the agency, government, officer, body or committee by a person whom the Chairperson authorises for the purpose is taken to be authorised use and disclosure of the information.

- (4A) The Chairperson may impose conditions to be complied with in relation to information disclosed under subsection (4).
- (4B) The disclosure of information to a body corporate specified in regulations under subsection (4C) (including a body corporate that is a foreign company) is authorised use and disclosure of the information if:

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- (a) the Chairperson is satisfied that the information will enable or assist the body corporate to monitor compliance with, enforce, or perform functions or exercise powers under:
 - (i) the Corporations Act; or
 - (iaa) the business law of a State that is not in this jurisdiction; or
 - (ia) a foreign business law; or
 - (ii) the operating rules of the body corporate; and
 - (b) the disclosure is by a person authorised by the Chairperson for the purpose.
- (4C) The regulations may specify a body corporate for the purposes of subsection (4B) if, and only if, the body corporate:
- (a) conducts, or is involved in the supervision of, a financial market; or
 - (b) is a body corporate that holds an Australian CS facility licence; or
 - (c) is a body corporate that holds an Australian derivative trade repository licence or that operates a prescribed derivative trade repository.
- (4D) The Chairperson may impose conditions to be complied with by a body corporate and its officers, employees and agents in relation to information disclosed to the body corporate under subsection (4B).
- (4E) A person must not intentionally or recklessly fail to comply with a condition imposed under subsection (4D).

Penalty: 2 years imprisonment.

- (4EA) If ASIC discloses information to a disciplinary body under subparagraph (4)(d)(i), the body or a member of the body:
- (a) must not disclose the information to any other person; and
 - (b) must not use the information for any purpose other than for deciding whether or not to take disciplinary or other action or for taking that action.

Penalty: 2 years imprisonment.

- (4EB) If ASIC discloses information to a prescribed body under subparagraph (4)(d)(ii), the body or a member of the body:
- (a) must not disclose the information to any other person; and
 - (b) must not use the information for any purpose other than the performance of the prescribed functions in relation to registered liquidators.

Penalty: 2 years imprisonment.

- (4F) If information is disclosed to a body corporate under subsection (4B), the body corporate, or an officer, employee or agent of the body corporate, must not intentionally or recklessly:
- (a) disclose the information to a person who is not an officer, employee or agent of the body corporate; or
 - (b) use the information.

Penalty: 2 years imprisonment.

- (4FA) Subsection (4F) does not apply to the extent that:
- (a) the person has the written consent of the Chairperson; or
 - (b) the information is used for the purpose of monitoring compliance with, enforcing, or performing functions or exercising powers under:
 - (i) the Corporations Act; or
 - (ii) the business law of a State that is not in this jurisdiction; or
 - (iii) a foreign business law; or
 - (iv) the operating rules (if any), of the body corporate.

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

- (5) The Chairperson may delegate all or any of his or her functions and powers under subsection (2C), (4), (4A), (4B), (4D) or (4FA) to a member or staff member.
- (5A) Regulations made for the purpose of this section may specify uses of information and disclosures of information that are authorised uses and authorised disclosures for the purposes of this section.

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- (6) Nothing in any of subsections (1A), (2), (2A), (2B), (2C), (3), (4), (4B) and (5) limits:
- (a) anything else in any of those subsections; or
 - (b) what may otherwise constitute, for the purposes of subsection (1), authorised use or disclosure of information.
- (7) A person (the **officer**) commits an offence if:
- (a) the officer is or has been:
 - (i) a member of ASIC; or
 - (ii) a staff member; or
 - (iii) a Commonwealth officer within the meaning of the *Crimes Act 1914*; and
 - (b) the officer intentionally or recklessly, and directly or indirectly:
 - (i) discloses information to any person or to a court; or
 - (ii) produces a document to any person or to a court; and
 - (c) if subparagraph (b)(i) applies—the information is protected information disclosed to, or obtained by, ASIC for the purposes of a function (a **FAR-related function**) conferred on ASIC by:
 - (i) the *Financial Accountability Regime Act 2023*; or
 - (ii) the *Financial Accountability Regime (Consequential Amendments) Act 2023*; and
 - (d) if subparagraph (b)(ii) applies—the document:
 - (i) is protected information and was given or produced to ASIC for the purposes of a FAR-related function; or
 - (ii) contains protected information disclosed to, or obtained by, ASIC for the purposes of a FAR-related function; and
 - (e) the officer acquired the information, or has or had access to the document, as the case may be, in the course of the officer's duties as a member of ASIC, a staff member or a Commonwealth officer within the meaning of the *Crimes Act 1914*.

Penalty: Imprisonment for 2 years.

- (7A) Subsection (7) does not apply if the disclosure or production constitutes authorised disclosure of the protected information for the purposes of subsection (1).

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

- (8) A document is an exempt document for the purposes of section 38 of the *Freedom of Information Act 1982* if the document:
- (a) is protected information and was given or produced to ASIC;
or
 - (b) contains protected information disclosed to, or obtained by, ASIC;
- for the purposes of a function conferred on ASIC by:
- (c) the *Financial Accountability Regime Act 2023*; or
 - (d) the *Financial Accountability Regime (Consequential Amendments) Act 2023*.

- (9) In this section:

Income Tax Assessment Act means the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

protected information means information disclosed or obtained, or a document given or produced, (whether before or after the commencement of this section), for the purposes of a function in section 12A and relating to the affairs of:

- (a) a body or person regulated by ASIC; or
- (b) a body corporate (including a body corporate that has ceased to exist) that has at any time been, or is, related (within the meaning of the *Corporations Act*) to a body regulated by ASIC; or
- (c) a person who has been, is, or proposes to be, a customer of a body or person regulated by ASIC;

other than information that has already been lawfully made available to the public from other sources.

registrable superannuation entity has the same meaning as in Chapter 2M of the *Corporations Act 2001*.

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RSA Act means the *Retirement Savings Accounts Act 1997*.

SIS Act means the *Superannuation Industry (Supervision) Act 1993*.

Part 8—Finance and reporting requirements

Division 2—Reporting requirements

136 Annual reports

Content of annual report

- (1) The report prepared by the Chairperson and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include the following:
 - (a) information about the exercise during the period of ASIC's powers under Part 15 of the *Retirement Savings Accounts Act 1997* and under Part 29 of the *Superannuation Industry (Supervision) Act 1993*;
 - (b) information about ASIC's monitoring and promotion of market integrity and consumer protection in relation to:
 - (i) the Australian financial system; and
 - (ii) the provision of financial services;
 - (c) in relation to ASIC's functions under subsection 11(14), in relation to each agreement or arrangement entered into by ASIC under that subsection, information about the activities that ASIC has undertaken during the period in accordance with that agreement or arrangement;
 - (ca) information about the activities that ASIC has undertaken during the period in exercise of its powers, and performance of its functions, under Chapter 5 of, or Schedule 2 to, the *Corporations Act* and any provisions of that Act that relate to that Chapter or Schedule;
 - (cb) information about any instances during the period where ASIC failed to consult as required by section 1023F of the *Corporations Act 2001* or section 301F of the *National Consumer Credit Protection Act 2009*;
 - (d) information about the operation of the *Business Names Registration Act 2011* including:

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- (i) details of the level of access to the Business Names Register using the internet and other facilities; and
 - (ii) the timeliness with which ASIC carries out its duties, functions and powers under the Act; and
 - (iii) the cost of registration of a business name under the Act;
- (da) information about the following:
- (i) the activities (if any) that have been undertaken by each Financial Services and Credit Panel during the period;
 - (ii) the exams (if any) that have been administered by ASIC under subsection 921B(3) of the Corporations Act during the period;
 - (iii) the warnings (if any) and reprimands (if any) given by ASIC to relevant providers under section 921S of the Corporations Act during the period;
 - (iv) if, during the period, ASIC decided not to follow a recommendation in a notice given to ASIC under subsection 921Q(1) of the Corporations Act (recommendations to ASIC in relation to restricted civil penalty provisions)—the recommendation and the reasons why ASIC decided not to follow it;
- (db) information about investigations (including joint investigations) conducted by ASIC under Division 1 of Part 4 of Chapter 3 of the *Financial Accountability Regime Act 2023* during the period;
- (e) information required to be included in the report by regulations under subsection (2A).

Note: Section 34C of the *Acts Interpretation Act 1901* contains provisions relating to annual reports.

- (2A) The regulations may require a report under subsection (1) to include prescribed information relating to the exercise, by ASIC, members of ASIC, or staff members, of prescribed information gathering powers. For this purpose, **information gathering powers** includes (but is not limited to) powers to require:
- (a) the provision of information (however described, including by answering questions or giving evidence); or

- (b) the production of documents; or
- (c) the provision of assistance.

Note: The information gathering powers that are prescribed may be powers conferred by this Act, or by other laws.

- (3) Paragraph (1)(db) does not authorise the inclusion in the annual report of information with respect to the affairs of a particular person.

Annual report to be sent to the Attorney-General of each State and Territory

- (4) The Minister must cause a copy of each annual report to be sent to the Attorney-General of each State and Territory as soon as practical after the Minister receives the report.

Division 3—Liability to taxation

137 Liability to taxation

- (1) ASIC is not subject to taxation under the laws of the Commonwealth or of a State or Territory.
- (2) The regulations may provide that subsection (1) does not apply in relation to a specified law.

Note: Despite subsection (1), ASIC may be subject to taxation under certain laws. See, for example, section 177-5 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Division 4—Transparency

138 Annual “dashboard” report about ASIC’s regulatory costs

- (1) As soon as practicable after 31 October in each year, ASIC must publish on its website the following information in respect of the financial year ending on 30 June in that year:
 - (a) its total regulatory costs in relation to leviable entities;
 - (b) the total regulatory costs from paragraph (a), apportioned on the basis of sector and sub-sector;
 - (c) the sector costs from paragraph (b), apportioned on the basis of costs relating to different kinds of activities undertaken by ASIC in the financial year;
 - (d) the sector costs from paragraph (b), apportioned on the basis of costs relating to different kinds of expenses incurred by ASIC in the financial year;
 - (e) any other information required by the regulations.
- (2) This section applies in respect of the financial year that ends after the commencement of the *ASIC Supervisory Cost Recovery Levy Act 2017*, and later financial years.
- (3) In this section:

leviable entity, for a financial year, has the same meaning as in the *ASIC Supervisory Cost Recovery Levy Act 2017*.

regulatory costs, for a financial year, has the same meaning as in the *ASIC Supervisory Cost Recovery Levy Act 2017*.

sector has the same meaning as in the *ASIC Supervisory Cost Recovery Levy Act 2017*.

sub-sector has the same meaning as in the *ASIC Supervisory Cost Recovery Levy Act 2017*.

Part 9—Financial Services and Credit Panels

Division 1—ASIC to convene panels

139 ASIC to convene panels

- (1) ASIC may, in writing, convene one or more Financial Services and Credit Panels.
- (2) ASIC must, in circumstances prescribed by the regulations (if any), convene a panel under subsection (1) to perform functions or exercise powers under the corporations legislation in relation to a relevant provider.
- (3) A panel convened under subsection (1) must consist of the following members appointed under subsection 140(1):
 - (a) a Chair;
 - (b) at least 2 other members.
- (4) The Chair must be a staff member.

Division 2—Panel members

140 Appointment of panel members

- (1) A member of a Financial Services and Credit Panel is to be appointed by ASIC by written instrument.
- (2) If a determination is in force under subsection 141(1), a person must not be appointed as a member of a Financial Services and Credit Panel unless the person is specified in the determination.
- (3) However, subsection (2) does not apply in relation to the appointment of the Chair of a Financial Services and Credit Panel.

141 Minister may specify persons who are eligible to be appointed to panels

- (1) The Minister may make a written determination specifying persons who are eligible to be appointed to Financial Services and Credit Panels.
- (2) The Minister must not specify a person for the purposes of subsection (1) unless:
 - (a) the person is not a member of ASIC; and
 - (b) the person is not a staff member; and
 - (c) the Minister is satisfied that the person has experience or knowledge in at least one of the following fields:
 - (i) business;
 - (ii) administration of companies;
 - (iii) financial markets;
 - (iv) financial products and financial services;
 - (v) law;
 - (vi) economics;
 - (vii) accounting;
 - (viii) taxation;
 - (ix) credit activities and credit services.

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- (3) In specifying a person for the purposes of subsection (1), the Minister may consult the Tax Practitioners Board.
- (4) A determination made under subsection (1) is not a legislative instrument.

142 Disclosure of interests to ASIC

A person specified in a determination in force under subsection 141(1) must give written notice to ASIC of all interests, pecuniary or otherwise, that the person has or acquires and that could conflict with the proper performance of the person's duties if the person were to be appointed as a member of a Financial Services and Credit Panel.

143 Remuneration

- (1) A member of a Financial Services and Credit Panel is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed under subsection (4).
- (2) A member of a Financial Services and Credit Panel is to be paid the allowances that are prescribed under subsection (4).
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) The Minister may, by legislative instrument, prescribe:
 - (a) remuneration for the purposes of subsection (1); and
 - (b) allowances for the purposes of subsection (2).

144 Resignation

- (1) A member of a Financial Services and Credit Panel may resign the member's appointment by giving ASIC a written resignation.

- (2) The resignation takes effect on the day it is received by ASIC or, if a later day is specified in the resignation, on that later day.

145 Termination of appointment

ASIC may at any time terminate the appointment of a member of a Financial Services and Credit Panel.

146 Other terms and conditions

A member of a Financial Services and Credit Panel holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined in writing by ASIC.

147 Application of finance law

A member of a Financial Services and Credit Panel (other than the Chair of the panel) is not an official of ASIC for the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*).

Division 3—Decisions of panels

Subdivision A—Decisions of panels at meetings

148 Convening meetings

- (1) The Chair of a Financial Services and Credit Panel must hold such meetings as are necessary for the panel to:
 - (a) perform its functions and exercise its powers under the corporations legislation; and
 - (b) perform functions or exercise powers delegated to the panel by ASIC under section 102 of this Act.
- (2) The Chair of a Financial Services and Credit Panel may convene a meeting at any time.
- (3) However, the Chair of a Financial Services and Credit Panel must not convene a meeting if the Chair has or acquires any interest, pecuniary or otherwise, that conflicts or could conflict with the proper performance of the Chair's duties in a matter being considered or about to be considered by the panel.
- (4) The Chair of a Financial Services and Credit Panel must, by written notice given to ASIC, disclose any interest of a kind mentioned in subsection (3).

149 Presiding at meetings

The Chair of a Financial Services and Credit Panel must preside at all meetings of the panel.

150 Disclosure of interests to panels

- (1) A member of a Financial Services and Credit Panel (other than the Chair of the panel) who has or acquires any interest, pecuniary or otherwise, that conflicts or could conflict with the proper performance of the member's duties in a matter being considered

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or about to be considered by the panel must disclose the nature of the interest to the Chair of the panel.

- (2) The disclosure must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (3) The disclosure must be recorded:
 - (a) if the disclosure is made at a meeting of the panel—in the minutes of that meeting; or
 - (b) otherwise—in the minutes of the next meeting of the panel after the disclosure is made.
- (4) At a meeting of the panel after the disclosure is made, the member:
 - (a) must not be present during any deliberation by the panel on the matter; and
 - (b) must not take part in any decision of the panel with respect to the matter.

151 Quorum

- (1) At a meeting of a Financial Services and Credit Panel, a quorum is constituted by a majority of members of the panel.
- (2) However, if:
 - (a) a member of the panel is required under section 150 not to be present during the deliberations, or to take part in any decision, of the panel with respect to a particular matter; and
 - (b) when the member leaves the meeting concerned there is no longer a quorum present;the remaining members of the panel at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

152 Voting at meetings

- (1) A question arising at a meeting of a Financial Services and Credit Panel is to be determined by a majority of the votes of the members of the panel present and voting.

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- (2) The Chair of the panel has a deliberative vote and, if the votes are equal, a casting vote.

153 Participation in meetings etc.

- (1) The Chair of a Financial Services and Credit Panel may decide to hold all or part of a meeting:
- (a) at a particular place; or
 - (b) using any technology that allows an individual to participate in the meeting, or that part of the meeting, without being physically present at the meeting or that part of the meeting.
- (2) If the Chair of the panel decides to hold all or part of a meeting using technology of a kind mentioned in paragraph (1)(b):
- (a) each member of the panel may use that technology to participate in the meeting or that part of the meeting; and
 - (b) the meeting or that part of the meeting may be held at 2 or more places at the same time.

154 Conduct of meetings

A Financial Services and Credit Panel may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

155 Minutes

A Financial Services and Credit Panel must keep minutes of its meetings.

Subdivision B—Decisions of panels without meetings

156 Decisions without meetings

- (1) A Financial Services and Credit Panel is taken to have made a decision at a meeting if:

- (a) the Chair of the panel informs the other members of the panel of the proposed decision, or makes reasonable efforts to do so; and
 - (b) without meeting, a majority of the members of the panel entitled to vote on the proposed decision indicate agreement with the decision; and
 - (c) that agreement is indicated in accordance with the method determined by the panel under subsection (2).
- (2) Subsection (1) applies only if:
- (a) the Chair of the panel is not prevented by subsection 148(3) from convening a meeting in relation to the proposed decision; and
 - (b) the panel:
 - (i) has determined that it may make decisions of that kind without meeting; and
 - (ii) has determined the method by which members of the panel are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(b):
- (a) a member of the panel (other than the Chair of the panel) is not entitled to vote on a proposed decision if the member would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the panel; and
 - (b) if:
 - (i) the number of members indicating agreement with the decision is equal to the number of members not indicating agreement with the decision; and
 - (ii) the Chair of the panel indicates the Chair's agreement with the decision;a majority of the members of the panel entitled to vote on the proposed decision is taken to have indicated agreement with the decision.
- (4) The panel must keep a record of decisions made in accordance with this section.

Division 4—Panel hearings

Subdivision A—General

157 When hearings are to be held

- (1) A Financial Services and Credit Panel may only hold a hearing as required or permitted by this section.
- (2) A Financial Services and Credit Panel must hold a hearing if:
 - (a) the panel proposes to make:
 - (i) a decision to make an order, as an ASIC delegate, against a person under subsection 920A(1) of the Corporations Act (ASIC’s power to make a banning order); or
 - (ii) a decision to make an order, as an ASIC delegate, against a person under subsection 80(1) of the *National Consumer Credit Protection Act 2009* (ASIC’s power to make a banning order); or
 - (b) a relevant provider requests that the panel hold a hearing in response to a proposed action notice given to the relevant provider.
- (3) A Financial Services and Credit Panel may hold a hearing if ASIC makes a request of the panel under:
 - (a) paragraph 171E(3)(a) of this Act (variation, withdrawal and enforcement of undertakings given to Financial Services and Credit Panels); or
 - (b) subsection 921N(2) or paragraph 921N(4)(a) of the Corporations Act (variation or revocation of instruments made in relation to relevant providers).

158 Panels to take account of evidence and submissions

A Financial Services and Credit Panel must take into account the following:

- (a) any evidence given, or any submission made, to it at a hearing of the panel;
- (b) any submission lodged with it under subsection 162(2);
- (c) any submission made in response to a proposed action notice; in making a decision on a matter to which the evidence or submission relates.

Subdivision B—Hearing procedures

159 Proceedings at hearings

- (1) A hearing of a Financial Services and Credit Panel must be conducted with as little formality and technicality, and with as much expedition, as a proper consideration of the matters before the panel permits.
- (2) At a hearing of a Financial Services and Credit Panel, the panel:
 - (a) is not bound by the rules of evidence; and
 - (b) may, on such conditions as it thinks fit, permit a person to intervene; and
 - (c) must observe the rules of natural justice.
- (5) Subdivision A of Division 3 (decisions of panels at meetings) applies, so far as practicable, in relation to a hearing of a Financial Services and Credit Panel as if the hearing were a meeting of the panel.

159A Proceedings at hearings

- (1) The Chair of a Financial Services and Credit Panel may decide to hold a hearing:
 - (a) at one or more physical venues; or
 - (b) at one or more physical venues and using virtual enquiry technology; or
 - (c) using virtual enquiry technology only.
- (2) Subsections (3) and (4) apply if the hearing is held:

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- (a) at one or more physical venues and using virtual enquiry technology; or
 - (b) using virtual enquiry technology only.
- (3) The Chair of the Financial Services and Credit Panel must ensure that the use of the virtual enquiry technology is reasonable.
- (4) If the hearing is held in public, the Chair of the Financial Services and Credit Panel must ensure that:
 - (a) the virtual enquiry technology provides the public with a reasonable opportunity to observe the hearing; and
 - (b) information sufficient to allow the public to observe the hearing using the virtual enquiry technology is made publicly available in a reasonable way.
- (5) If the hearing is held:
 - (a) at more than one physical venue; or
 - (b) at one or more physical venues and using virtual enquiry technology; or
 - (c) using virtual enquiry technology only;the Chair of the Financial Services and Credit Panel may appoint a single place and time at which the hearing is taken to have been held.
- (6) This section applies to part of a hearing in the same way that it applies to all of a hearing.

160 Notice of hearings

If a Financial Services and Credit Panel holds a hearing in relation to a proposed decision affecting a person:

- (a) the Chair of the panel must appoint a time for the hearing and give written notice of that time to the person; and
- (b) if the Chair of the panel decides under paragraph 159(3)(a) to hold the hearing, or part of the hearing, at a particular place—the Chair must give written notice of the place to the person; and

- (c) if the Chair of the panel decides under paragraph 159(3)(b) to hold the hearing, or part of the hearing, using technology that allows an individual to participate in the hearing, or that part of the hearing, without being physically present at the hearing or that part of the hearing—the Chair must give notice of the technology to be used to the person.

161 Who may be present at hearings etc.

- (1) A person must not be present at a hearing, or a part of a hearing, of a Financial Services and Credit Panel in relation to a proposed decision affecting a person (the *affected person*) unless:
 - (a) the panel has decided, under paragraph 163(2)(a), to hold the hearing or the part of the hearing, as the case may be, in public; or
 - (b) the person is required by a summons under subsection 165(1) to appear at the hearing; or
 - (c) the Chair of the panel gives a written direction naming the person; or
 - (d) both the following apply:
 - (i) the person is a staff member;
 - (ii) the Chair of the panel has not directed the person to leave the hearing or the part of the hearing, as the case may be; or
 - (e) the person is covered by subsection (2).

Note: Failure to comply with this subsection is an offence (see subsection 171(1)).

- (2) This subsection covers the following:
 - (a) the affected person;
 - (b) a person who is, under section 164, representing:
 - (i) the affected person; or
 - (ii) a person required by a summons under subsection 165(1) to appear at the hearing.

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162 Appearance of affected persons at hearings

- (1) A person does not need to appear at a hearing of a Financial Services and Credit Panel in relation to a proposed decision affecting the person (even if the person requested the hearing in response to a proposed action notice given to the person).
- (2) If the person chooses not to appear at the hearing, the person may, before the day of the hearing, lodge with the panel any written submissions that the person wishes the panel to take into account in relation to the proposed decision.

163 Affected persons may request hearings to be held in public

- (1) A person may request that a hearing (or a part of a hearing) of a Financial Services and Credit Panel in relation to a proposed decision affecting the person be held in public.
- (2) The panel must decide to:
 - (a) hold the hearing (or that part of the hearing) in public; or
 - (b) not hold the hearing (or that part of the hearing) in public.
- (3) In making a decision under subsection (2), the panel must have regard to the following:
 - (a) whether evidence that may be given, or a matter that may arise, during the hearing (or that part of the hearing) is of a confidential nature or relates to the commission, or to the alleged or suspected commission, of an offence;
 - (b) any unfair prejudice to a person's reputation that would be likely to be caused if the hearing (or that part of the hearing) took place in public;
 - (c) whether it is in the public interest that the hearing (or that part of the hearing) take place in public;
 - (d) any other relevant matter.

164 Representation at hearings

- (1) At a hearing of a Financial Services and Credit Panel, an individual may appear in person or be represented by an employee of the individual approved by the panel.
- (2) A body corporate may be represented at a hearing of a Financial Services and Credit Panel by an officer or employee of the body corporate approved by the panel.
- (3) An unincorporated association, or a person in the person's capacity as a member of an unincorporated association, may be represented at a hearing of a Financial Services and Credit Panel by a member, officer or employee of the association approved by the panel.
- (4) Any person may be represented at a hearing of a Financial Services and Credit Panel by a barrister or solicitor of the Supreme Court of a State or Territory or of the High Court.

165 Power to require persons to appear and give evidence etc.

- (1) At or prior to a hearing of a Financial Services and Credit Panel in relation to a proposed decision affecting a person (the *affected person*), the Chair of the panel may, by written summons given to a person (other than the affected person):
 - (a) require the person to appear before the panel at the hearing to give evidence, to produce specified documents, or to do both; and
 - (b) require the person to attend from day to day unless excused, or released from further attendance, by the Chair.

Note 1: The affected person does not need to appear at the hearing (see subsection 162(1)).

Note 2: Failure to comply with a requirement made under this subsection is an offence (see subsection 170(1)).
- (2) At a hearing of a Financial Services and Credit Panel, the panel may take evidence on oath or affirmation, and for that purpose the Chair of the panel may:

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- (a) require a person appearing at the hearing to either take an oath or make an affirmation; and
- (b) administer an oath or affirmation to a person appearing at the hearing.

Note: Failure to comply with a requirement made under this subsection is an offence (see subsection 170(2)).

- (3) The oath or affirmation to be taken or made by a person for the purposes of subsection (2) is an oath or affirmation that the evidence the person will give will be true.
- (4) The Chair of a Financial Services and Credit Panel presiding at a hearing of the panel:
 - (a) may require a person appearing at the hearing to answer a question put to the person; and
 - (b) may require a person appearing at the hearing pursuant to a summons issued under this section to produce a document specified in the summons.

Note: Failure to comply with a requirement made under this subsection is an offence (see subsection 170(3)).

- (5) The Chair of a Financial Services and Credit Panel may permit a person appearing at a hearing of the panel to give evidence by tendering, and if the Chair so requires, verifying by oath or affirmation, a written statement.

166 Allowances and expenses

A person required by a summons under subsection 165(1) to appear at a hearing of a Financial Services and Credit Panel in relation to a proposed decision affecting a person (the ***affected person***) is entitled to be paid the prescribed allowances and expenses (if any) by:

- (a) if the summons was issued at the affected person's request—the affected person; or
- (b) otherwise—ASIC.

167 Panels may restrict publication of certain material

- (1) If, at a hearing of a Financial Services and Credit Panel, the panel is satisfied that it is desirable to restrict the publication of evidence given before the panel, or matters contained in documents lodged with the panel, the panel may give a written direction restricting the publication of that evidence or those matters.

Note: Failure to comply with a direction in force under this subsection is an offence (see subsection 171A(1)).

- (2) In determining whether it is desirable to restrict the publication of evidence given before the panel, or matters contained in documents lodged with the panel, the panel must have regard to:
- (a) whether evidence that has been or may be given, or a matter that has arisen or may arise, during the hearing is:
 - (i) of a confidential nature; or
 - (ii) relates to the commission, or to the alleged or suspected commission, of an offence against an Australian law; and
 - (b) any unfair prejudice to a person's reputation that would be likely to be caused unless the panel gives a direction restricting the publication of that evidence or those matters; and
 - (c) whether it is in the public interest that the panel gives a direction restricting the publication of that evidence or those matters; and
 - (d) any other relevant matter.

Subdivision C—Offences

168 Contempt of panels

- (1) A person commits an offence if:
- (a) the person does an act or omits to do an act; and
 - (b) the act or omission results in the obstruction or hindering of a Financial Services and Credit Panel, or a member of the

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panel, in the performance or exercise of any of the panel's functions and powers.

Penalty: 2 years imprisonment.

- (2) A person commits an offence if:
- (a) the person does an act or omits to do an act; and
 - (b) the act or omission results in the disruption of a hearing.

Penalty: 2 years imprisonment.

169 Giving false evidence

- (1) A person commits an offence if:
- (a) the person gives evidence at a hearing of a Financial Services and Credit Panel; and
 - (b) the evidence is false or misleading in a material particular.

Penalty: 2 years imprisonment.

- (2) Subsection (1) does not apply if the person, when giving the evidence, reasonably believed that it was true and not misleading.

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

170 Failing to comply with certain requirements

- (1) A person commits an offence if:
- (a) the person is required to do something in accordance with a summons given to the person under subsection 165(1); and
 - (b) the person fails to comply with the requirement.

Penalty: 50 penalty units.

- (2) A person commits an offence if:
- (a) the person is required under paragraph 165(2)(a) to take an oath or make an affirmation; and
 - (b) the person fails to comply with the requirement.

Penalty: 50 penalty units.

- (3) A person commits an offence if:
- (a) the person is required under subsection 165(4) to answer a question or produce a document; and
 - (b) the person fails to comply with the requirement.

Penalty: 50 penalty units.

- (4) An offence against subsection (1), (2) or (3) is an offence of strict liability.

171 Being present at hearings

- (1) A person commits an offence if:
- (a) the person is present at a hearing, or a part of a hearing, of a Financial Services and Credit Panel; and
 - (b) the panel has not decided, under paragraph 163(2)(a), to hold the hearing or the part of the hearing, as the case may be, in public; and
 - (c) the person is not named in a direction of the Chair of the panel in force under paragraph 161(1)(c); and
 - (d) the person is not covered by subsection 161(2).

Penalty: 30 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

171A Publication of restricted material

- (1) A person commits an offence if:
- (a) the person publishes evidence given before, or matters contained in documents lodged with, a Financial Services and Credit Panel; and
 - (b) a direction restricting the publication of that evidence or those matters is in force under subsection 167(1).

Penalty: 120 penalty units.

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- (2) An offence against subsection (1) is an offence of strict liability.

Subdivision D—Other matters

171B Reference to Court of question of law arising at hearing

- (1) ASIC may, at the request of the Chair of a Financial Services and Credit Panel, refer to the Court for decision a question of law arising at a hearing of the panel.
- (2) Where a question is referred under subsection (1), the panel must not, in relation to a matter to which the hearing relates:
- (a) make, while the reference is pending, a decision to which the question is relevant; or
 - (b) proceed in a manner, or make a decision, that is inconsistent with the Court's opinion on the question.
- (3) Where a question is referred under subsection (1):
- (a) ASIC must send to the Court all documents that were before the panel in connection with the hearing; and
 - (b) at the end of the proceeding in the Court in relation to the reference, the Court must cause the documents to be returned to ASIC.

171C Protection of panel members etc.

- (1) A member of a Financial Services and Credit Panel has, in the performance or exercise of any of the member's functions and powers as a member in relation to a hearing of the panel, the same protection and immunity as a Justice of the High Court.
- (2) A barrister, solicitor or other person representing a person at a hearing of a Financial Services and Credit Panel has the same protection and immunity as a barrister in appearing for a party in a proceeding in the High Court.
- (3) Subject to this Act, a person who is required by a summons under subsection 165(1) to appear at a hearing of a Financial Services

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and Credit Panel, or a person appearing at a such a hearing, has the same protection as a witness in a proceeding in the High Court.

Division 5—Information given to panel members

171D Use and disclosure of information

- (1) A person commits an offence if:
- (a) the person is or was a member of a Financial Services and Credit Panel; and
 - (b) the person uses or discloses information; and
 - (c) the information was obtained by the person in connection with the performance of the panel's functions or the exercise of the panel's powers.

Penalty: 2 years imprisonment.

- (2) Subsection (1) does not apply if the use or disclosure:
- (a) is required or permitted by a law of the Commonwealth or a prescribed law of a State or Territory; or
 - (b) is made to ASIC for the purposes of the performance of ASIC's functions, or the exercise of its powers, under the corporations legislation or the *National Consumer Credit Protection Act 2009*; or
 - (c) is made to the Tax Practitioners Board for the purposes of the performance of the Board's functions, or the exercise of its powers, under the *Tax Agent Services Act 2009*; or
 - (d) is made for the purposes of the performance of the panel's functions or the exercise of its powers; or
 - (e) is made to another Financial Services and Credit Panel for the purposes of the performance of the other panel's functions or the exercise of the other panel's powers.

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

Division 6—Enforceable undertakings

171E Variation, withdrawal and enforcement of undertakings given to Financial Services and Credit Panels

- (1) A Financial Services and Credit Panel may accept a written undertaking given by a person in connection with a matter in relation to which the panel may make an instrument under subsection 921K(1) of the Corporations Act (power of Financial Services and Credit Panels to take action against relevant providers).

Variation or withdrawal of undertaking

- (2) The person may apply to ASIC to withdraw or vary the undertaking.
- (3) If the person makes an application under subsection (2), ASIC must decide to:
 - (a) request a Financial Services and Credit Panel to decide whether it consents to the person withdrawing or varying the undertaking; or
 - (b) refuse to make such a request.
- (4) The person may withdraw or vary the undertaking only if:
 - (a) ASIC makes a request of a Financial Services and Credit Panel under paragraph (3)(a) in relation to the variation or withdrawal; and
 - (b) the panel consents to the variation or withdrawal.

Enforcement of undertaking

- (5) If ASIC considers that the person who gave the undertaking has breached any of its terms, ASIC may apply to the Court for an order under subsection (6).

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- (6) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make all or any of the following orders:
- (a) an order directing the person to comply with that term of the undertaking;
 - (b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
 - (c) any order that the Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (d) any other order that the Court considers appropriate.

Division 7—Electronic communication

171F Electronic communication of documents

Documents given by panels etc.

- (1) Section 921W of the Corporations Act applies in relation to a document that is required or permitted under this Part to be given to a person by:
- (a) a Financial Services and Credit Panel; or
 - (b) the Chair of a Financial Services and Credit Panel; or
 - (c) ASIC;
- as if the document were covered by subsection (1) of that section.

Documents given to panels etc.

- (2) Section 921X of the Corporations Act applies in relation to a document that is required or permitted under this Part to be given by a person to:
- (a) a Financial Services and Credit Panel; or
 - (b) the Chair of a Financial Services and Credit Panel; or
 - (c) ASIC;
- as if the document were covered by subsection (1) of that section.

Part 10—The Takeovers Panel

Division 1—General

172 Membership

- (1) The Takeovers Panel consists of such members, not fewer than 5, as hold office in accordance with this Part.

Note: The Takeovers Panel was established by section 171 of the *Australian Securities and Investments Commission Act 1989* and is continued in existence by section 261 of this Act. It was renamed by the *Financial Services Reform Act 2001*.

- (2) The Governor-General is to appoint the members on the nomination of the Minister.
- (3) Each of the members may be appointed as a full-time member or as a part-time member.
- (4) The Minister must nominate a person as a member only if the Minister is satisfied that the person is qualified for appointment by virtue of his or her knowledge of, or experience in, one or more of the following fields, namely:
- (a) business;
 - (b) administration of companies;
 - (c) financial markets;
 - (d) financial products and financial services;
 - (e) law;
 - (f) economics;
 - (g) accounting.
- (4A) Each person who is the Minister for a State in this jurisdiction or the Northern Territory may from time to time give to the Minister the names of persons who, in the opinion of the first-mentioned Minister:

- (a) are qualified for appointment as members of the Takeovers Panel by virtue of their knowledge of, or experience in, one or more of the following fields, namely:
 - (i) business;
 - (ii) administration of companies;
 - (iii) financial markets;
 - (iv) financial products and financial services;
 - (v) law;
 - (vi) economics;
 - (vii) accounting; and
 - (b) ought to be considered for appointment as members of the Takeovers Panel.
- (4B) In nominating persons as members of the Takeovers Panel, the Minister must ensure so far as practicable that, at any time, at least one member of the Takeovers Panel is a person whose name has been given to the Minister under subsection (4A).
- (5) The performance of the functions or the exercise of the powers of the Takeovers Panel is not affected merely because its membership is not as prescribed by subsections (1) and (3), unless a continuous period of 3 months has elapsed since its membership ceased to be as so prescribed.

173 President

The Governor-General is to appoint as President of the Takeovers Panel a person who is, or is to be, a member.

174 Functions and powers of Takeovers Panel

The Takeovers Panel has the functions and powers conferred on it by or under the corporations legislation (other than the excluded provisions).

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175 Term of office as member

- (1) Subject to this Act, a person appointed as a member holds office for such term of at most 5 years as is specified in the instrument of appointment, but is eligible for re-appointment.

176 Term of office as President

- (1) Subject to this Act, a person appointed as President holds office as such until:
 - (a) the end of his or her current term as a member; or
 - (b) he or she otherwise stops being a member;whichever happens first.
- (2) A person is not ineligible to be appointed under section 173 merely because he or she has been so appointed before.

177 Resignation

A person may resign as a member or President by writing signed and delivered to the Governor-General.

178 Termination of appointment

- (1) The Governor-General may terminate a member's appointment because of misbehaviour, or the physical or mental incapacity, of the member or if the member:
 - (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or assigns remuneration or property for their benefit; or
 - (b) is a full-time member and engages without the Minister's consent in paid employment outside the duties of the member's office; or
 - (c) is a full-time member and is absent from duty, except on leave granted in accordance with section 180, for 14 consecutive days, or for 28 days in any period of 12 months; or

- (e) without reasonable excuse, contravenes section 185.
- (2) The Governor-General may, with the consent of a full-time member who is an eligible employee, retire the member from office on the ground of incapacity.

179 Remuneration and allowances

- (1) A member must be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, a member must be paid such remuneration as the Minister determines in writing.
- (2) A member must be paid such allowances as the Minister determines in writing.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

180 Leave of absence

- (1) A full-time member has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant a full-time member leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

181 Other terms and conditions

A member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as the Minister determines in writing.

182 Acting President

- (1) The Minister may appoint a member to act as President:
 - (a) during a vacancy in the office of President, whether or not an appointment has previously been made to the office; or

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- (b) during any period, or during all periods, when the President is absent from office.
- (2) A person appointed under subsection (1) to act during a vacancy must not continue for more than 12 months to act during the vacancy.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

183 Annual report

- (1) The Takeovers Panel must, as soon as practicable after 30 June, and in any event before 31 October, in each year:
 - (a) prepare a report describing the operations of the Takeovers Panel during the year that ended on 30 June in that year; and
 - (b) give to the Minister a copy of the report.
- (2) Where a copy of a report is given to the Minister under subsection (1), he or she must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after he or she receives the first-mentioned copy.

Division 2—Conduct of Takeovers Panel's business

184 Constitution of Takeovers Panel in relation to particular matters

- (1) The Takeovers Panel must, for the purposes of the performance or exercise of its functions or powers in relation to a particular matter, be constituted by 3 members in respect of whom a direction is in force under this section in relation to that matter.
- (2) The President may give directions about the members (the *sitting members*) who are to constitute the Takeovers Panel for the purposes of performing or exercising its functions or powers in relation to particular matters.
- (3) A direction under subsection (2) must:
 - (a) unless the sitting members include the President—designate one of them as President; and
 - (b) in any case—designate one of the sitting members as Deputy President;of the Takeovers Panel as constituted in relation to the matter concerned.
- (3A) The President may give a direction under subsection (2) whether the President is within or outside Australia.
- (4) Where the President gives a direction as to the sitting members, he or she may:
 - (a) at any time after the giving of the direction and before the commencement of proceedings in relation to the matter; or
 - (b) if one of those persons ceases to be a member, or ceases to be available for the purposes of proceedings in relation to a matter, during the proceedings or after the completion of the proceedings but before the matter to which the proceedings relate is determined—at any time after the person so ceases to be a member or to be available;

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revoke the direction and give a further direction under subsection (2) as to the additional members.

(4A) The regulations may make provision in relation to the constitution of the Takeovers Panel for the purposes of conducting a review under section 657EA or 657EB of the Corporations Act.

(5) In this section:

functions or powers means functions or powers of the Takeovers Panel under the corporations legislation (other than the excluded provisions).

185 Disclosure of interests by members

(1) Where a member is, or is to be, a member of the Takeovers Panel as constituted for the purposes of the performance or exercise of its functions or powers in relation to a particular matter and the member has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of the member's functions in relation to that matter:

(a) the member must disclose the interest to the President and to the parties involved in the matter; and

(b) except with the President's consent, the member must not take part in the performance or exercise of the Takeovers Panel's functions or powers in relation to the matter.

(1A) The President must not, under paragraph (1)(b), consent to a member taking part in the performance or exercise of the Takeovers Panel's functions or powers in relation to a matter unless the President believes, on reasonable grounds, that the member's interest is immaterial or indirect and will not prevent the member from acting impartially in relation to the matter.

(2) Where the President becomes aware that a member who is, or is to be, a member of the Takeovers Panel as constituted for the purposes of the performance or exercise of its functions or powers in relation to a particular matter has in relation to that matter such an interest as is mentioned in subsection (1), then:

- (a) the President must revoke the direction given under subsection 184(2) in relation to the matter unless the President believes, on reasonable grounds, that the member's interest is immaterial or indirect and will not prevent the member from acting impartially in relation to the matter; or
 - (b) if the President is not required to revoke that direction under paragraph (a), the President must cause the member's interest to be disclosed to the parties involved in the matter.
- (3) In this section:

functions or powers means functions or powers of the Takeovers Panel under the corporations legislation (other than the excluded provisions).

186 Application of Division 2 of Part 7

Division 2 of Part 7 applies in relation to the Takeovers Panel as if a reference in section 127 to ASIC included a reference to the Takeovers Panel.

Division 3—Takeovers Panel proceedings

187 Interpretation

For the purposes of the performance or exercise, in relation to a particular matter, of any of the Takeovers Panel's functions and powers, this Division has effect as if:

- (a) a reference to the Takeovers Panel were a reference to the Takeovers Panel as constituted in relation to that matter; and
- (b) a reference to a member were a reference to a member of the Takeovers Panel as so constituted; and
- (c) if the President is not a member of the Takeovers Panel as so constituted—a reference to the President were a reference to the member designated, in a direction in force under subsection 184(2), as the President of the Takeovers Panel as so constituted; and
- (d) a reference to the Deputy President were a reference to the member designated, in a direction in force under subsection 184(2), as Deputy President of the Takeovers Panel as so constituted.

188 Power to conduct proceedings

- (1) The Takeovers Panel may conduct proceedings for the purposes of the performance or exercise of any of its functions and powers.
- (2) The President may convene proceedings to be held at a place and time he or she determines.
- (3) A member may participate in Takeovers Panel proceedings regardless of whether the member is within or outside Australia.

190 Takeovers Panel may restrict publication of certain material

- (1) Where, during Takeovers Panel proceedings, the Takeovers Panel is satisfied that it is desirable to do so, the Takeovers Panel may give directions preventing or restricting the publication of

submissions or evidence made or given to, or of matters contained in documents lodged with, the Takeovers Panel.

- (2) In determining whether or not to give a direction under subsection (1), the Takeovers Panel must have regard to:
- (a) whether submissions or evidence made or given, or that may be made or given, or a matter that has arisen or may arise, during the proceedings is of a confidential nature or relates to the commission, or to the alleged or suspected commission, of an offence against an Australian law; and
 - (b) any unfair prejudice to a person's reputation that would be likely to be caused unless the Takeovers Panel exercises its powers under this section; and
 - (c) whether it is in the public interest that the Takeovers Panel exercises its powers under this section; and
 - (d) any other relevant matter.
- (3) In this section:

Takeovers Panel proceedings includes a part of Takeovers Panel proceedings.

192 Power to summon witnesses and take evidence

- (1) A member may, by written summons in the prescribed form given to a person:
- (a) require the person to appear before the Takeovers Panel at Takeovers Panel proceedings to give evidence, to produce specified documents, or to do both; and
 - (b) require the person to attend from day to day unless excused, or released from further attendance, by a member.

Note: Failure to comply with a requirement made under this subsection is an offence (see section 198).

- (2) In Takeovers Panel proceedings, the Takeovers Panel may take evidence on oath or affirmation, and for that purpose a member may:

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- (a) require a witness in the proceedings to either take an oath or make an affirmation; and
- (b) administer an oath or affirmation to a witness in the proceedings.

Note: Failure to comply with a requirement made under this subsection is an offence (see section 198).

- (3) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the evidence the person will give will be true.
- (4) The member presiding at Takeovers Panel proceedings:
 - (a) may require a witness in the proceedings to answer a question put to the witness; and
 - (b) may require a person appearing in the proceedings pursuant to a summons issued under this section to produce a document specified in the summons.

Note: Failure to comply with a requirement made under this subsection is an offence (see section 198).

- (5) An offence under section 198 relating to subsection (1), (2) or (4) of this section is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) If:
 - (a) a person appears in Takeovers Panel proceedings pursuant to a summons issued under this section; and
 - (b) the summons was issued at a person's request;the person appearing is entitled to be paid the prescribed allowances and expenses (if any) by the person at whose request the summons was issued.
- (7) The Takeovers Panel may pay such amount as it thinks reasonable on account of the costs and expenses (if any) that a person incurs in complying with a requirement made under this section.

193 Quorum

In Takeovers Panel proceedings, 2 members form a quorum.

194 Legal representation in proceedings before the Takeovers Panel

A party to Takeovers Panel proceedings may be legally represented in the proceedings only with the leave of the Takeovers Panel.

195 Procedure

- (1) Subject to subsections (2) to (4), the Takeovers Panel may determine the procedural rules to be followed in Takeovers Panel proceedings.
- (2) Takeovers Panel proceedings are to be conducted in accordance with (in order of priority):
 - (a) the requirements of this Division; and
 - (b) the requirements of the regulations.
- (3) Without limiting paragraph (2)(b), the regulations may deal with:
 - (a) making submissions or giving evidence in Takeovers Panel proceedings; and
 - (b) the right (if any) to appear, or be represented, in Takeovers Panel proceedings; and
 - (c) the matters that the Takeovers Panel is to take into account when making a decision in the course of Takeovers Panel proceedings.
- (4) The rules of procedural fairness, to the extent that they are not inconsistent with the provisions of this Act or the regulations made under it, apply to Takeovers Panel proceedings.

197 Protection of members etc.

- (1) A member has, in the performance or exercise of any of his or her functions and powers as a member in relation to Takeovers Panel proceedings, the same protection and immunity as a Justice of the High Court.

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- (3) Subject to this Act, a person who is required by a summons under section 192 to appear in Takeovers Panel proceedings, or a witness in Takeovers Panel proceedings, has the same protection as a witness in a proceeding in the High Court.

198 Non-compliance with requirements made under section 192

- (1) A person must not fail to comply with a requirement made under subsection 192(1), (2) or (4).

Penalty: 30 penalty units.

- (2) Subsection (1) does not apply to the extent that the person has a reasonable excuse.

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

199 False evidence

- (1) A person must not:
- (a) in a written submission given to the Takeovers Panel for the purposes of Takeovers Panel proceedings; or
 - (b) while appearing before the Takeovers Panel in Takeovers Panel proceedings;
- give information or evidence that is false or misleading in a material particular.

Penalty: 3 months imprisonment.

- (2) It is a defence to a prosecution for a contravention of subsection (1) if it is proved that the defendant, when giving the information or evidence, believed on reasonable grounds that it was true and not misleading.

Note: A defendant bears a legal burden in relation to the matters in subsection (2), see section 13.4 of the *Criminal Code*.

200 Contempt of Takeovers Panel

- (1) A person must not:
-

- (a) engage in conduct that results in the obstruction or hindering of the Takeovers Panel or a member in the performance or exercise of any of the Takeovers Panel's functions and powers; or
- (b) engage in conduct that results in the disruption of Takeovers Panel proceedings.

Penalty: 1 year imprisonment.

- (2) A person must not contravene a direction given under subsection 190(1).

Penalty: 120 penalty units.

- (2A) Subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2B) Subsection (2) does not apply to the extent that the person has a reasonable excuse.

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

- (3) An offence constituted by a contravention of subsection (1) or (2) is punishable on summary conviction.

201 Powers of Court where non-compliance with section 192

- (1) This section applies where the Takeovers Panel, as constituted for the purposes of particular Takeovers Panel proceedings, is satisfied that a person has, without reasonable excuse, failed to comply with a requirement made under section 192 in, or in relation to, those proceedings.
- (2) The Takeovers Panel as so constituted may by writing certify the failure to the Court.
- (3) If the Takeovers Panel does so, the Court may inquire into the case and may order the person to comply with the requirement as specified in the order.

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201A Undertakings to the Takeovers Panel

- (1) In Takeovers Panel proceedings, the Takeovers Panel may accept a written undertaking from a person affected, or likely to be affected, by the proceedings about a matter relevant to the proceedings.
- (2) The person may withdraw or vary the undertaking at any time, but only with the consent of the Takeovers Panel.
- (3) If the Takeovers Panel considers that the person has breached any of the terms of the undertaking, the Takeovers Panel may apply to the Court for an order under subsection (4).
- (4) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make all or any of the following orders:
 - (a) an order directing the person to comply with that term of the undertaking;
 - (b) any order that the Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (c) any other order that the Court considers appropriate.

Part 11—Companies Auditors Disciplinary Board

Division 1—Constitution of Disciplinary Board

203 Membership of Disciplinary Board

- (1) The Disciplinary Board consists of:
 - (a) a Chairperson; and
 - (b) a Deputy Chairperson; and
 - (c) 6 members that the Minister selects who are eligible under subsection (1B) for appointment as a member; and
 - (e) 6 members that the Minister selects who are eligible under subsection (2A) for appointment as a member.
- (1A) The *accounting members* are the members appointed under paragraph (1)(c), and the *business members* are the members appointed under paragraph (1)(e).
- (1B) A person is eligible under this subsection for appointment as an accounting member if the person:
 - (a) is resident in Australia; and
 - (b) is a member of:
 - (i) a professional accounting body; or
 - (ii) any other body prescribed by the regulations for the purposes of this subparagraph.
- (2) A person is not eligible for appointment as Chairperson or Deputy Chairperson unless he or she is enrolled as a barrister, as a solicitor, as a barrister and solicitor or as a legal practitioner of the High Court, of any federal court or of the Supreme Court of a State or Territory and has been so enrolled for a period of at least 5 years.
- (2A) A person is eligible under this subsection for appointment as a business member if:
 - (a) the person is resident in Australia; and

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- (b) the Minister is satisfied that the person is suitable for the appointment as a representative of the business community because of the person's qualifications in, knowledge of or experience in one or more of the following fields:
 - (i) business or commerce;
 - (iii) financial markets;
 - (iv) financial products and financial services;
 - (v) economics;
 - (vi) law.
- (3) The Chairperson, the Deputy Chairperson and each of the other members are to be appointed by the Minister on a part-time basis.

204 Functions and powers of Disciplinary Board

The Disciplinary Board has the functions and powers conferred on it by or under the corporations legislation (other than the excluded provisions).

205 Term of office

Subject to this Act, the Chairperson, the Deputy Chairperson and each other member holds office for such term of at most 3 years as is specified in the instrument of his or her appointment, but is eligible for re-appointment.

206 Resignation from office

A person may resign his or her office as Chairperson, Deputy Chairperson or member by writing signed and delivered to the Minister.

207 Termination of appointment

- (1) The Minister may terminate the appointment of the Chairperson, the Deputy Chairperson or any other member because of misbehaviour or physical incapacity.

- (2) If the Chairperson, the Deputy Chairperson or any other member:
- (a) is absent, without leave of the Disciplinary Board, from 3 consecutive meetings of the Board; or
 - (b) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or assigns remuneration or property for their benefit; or
 - (c) is convicted in Australia of an offence punishable by imprisonment for 12 months or longer; or
 - (d) becomes of unsound mind; or
 - (e) fails, without reasonable excuse, to comply with section 211;
- the Minister must terminate his or her appointment.

208 Acting Chairperson

- (1) The Deputy Chairperson is to act as Chairperson:
- (a) during a vacancy in the office of Chairperson (whether or not an appointment has previously been made to the office); and
 - (b) during all periods when the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office.

This subsection does not, however, operate to substitute the Deputy Chairperson for the Chairperson as a member of a particular Panel of the Disciplinary Board.

- (2) The Minister may appoint a person who is eligible for appointment as Chairperson to act as Chairperson:
- (a) during a vacancy in the office of Chairperson (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.
- (3) A person appointed under subsection (2) may only act as the Chairperson during a period if:
- (a) there is a vacancy in the office of Deputy Chairperson during that period; or

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- (b) the Deputy Chairperson is, for any reason, unable to perform the duties of the office of Chairperson during that period.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

208A Acting Deputy Chairperson

The Minister may appoint a person who is eligible for appointment as Deputy Chairperson to act as Deputy Chairperson:

- (a) during a vacancy in the office of Deputy Chairperson (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office; or
- (c) during any period during which the Deputy Chairperson is acting as Chairperson under subsection 208(1).

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

210 Meetings of the Disciplinary Board

- (1A) This section has effect subject to section 210B (meetings of Panel of the Disciplinary Board).
- (1) The Chairperson must convene such meetings of the Disciplinary Board as he or she considers necessary for the performance of its functions.
- (2) The Chairperson must preside at all meetings of the Disciplinary Board.
- (3) At a meeting of the Disciplinary Board, the Chairperson and any 5 other members (of which the Deputy Chairperson may be one) constitute a quorum.
- (4) A question arising at a meeting of the Disciplinary Board must be determined by a majority of votes of the persons present and voting.

- (5) At a meeting, the Chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (6) Subject to this section, the procedures for convening meetings of the Disciplinary Board and for the conduct of business by the Disciplinary Board must be as the Disciplinary Board determines.

210A Panel to be constituted to deal with application

- (1) The Disciplinary Board's functions and powers in relation to the following matters:
 - (a) an application to the Disciplinary Board by ASIC or APRA for a person to be dealt with under section 1292 of the Corporations Act;
 - (b) an application by a person to the Disciplinary Board under section 1295 of the Corporations Act for the termination of the suspension of the person's registration as an auditor;
 - (c) determining whether the Disciplinary Board should, of its own motion, terminate the suspension of a person's registration as an auditor under section 1295 of the Corporations Act;are to be performed and exercised by a Panel of the Disciplinary Board constituted under subsection (2).
- (2) The Chairperson is to determine, in writing, the members of the Disciplinary Board who are to constitute the Panel of the Disciplinary Board that is to hear the matter.
- (3) Without limiting subsection (2), the Chairperson may constitute the Panel in a particular manner to hear matters of a specified kind, or matters that satisfy specified criteria.
- (3A) The Chairperson must, under subsection (2), constitute the Panel so that one of the following members is the **Panel Chairperson** of the Panel:
 - (a) the Chairperson;
 - (b) the Deputy Chairperson;
 - (c) another member who:

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- (i) is enrolled as a barrister, as a solicitor, as a barrister and solicitor or as a legal practitioner of the High Court, of any federal court or of the Supreme Court of a State or Territory; and
 - (ii) has been so enrolled for a period of at least 5 years.
- (4) The Chairperson must, under subsection (2), constitute the Panel:
 - (a) if the Chairperson is satisfied that it is practicable and appropriate to do so—as a 5 person Panel consisting of:
 - (i) the Panel Chairperson; and
 - (ii) 2 accounting members; and
 - (iii) 2 business members; or
 - (b) otherwise—as a 3 person Panel consisting of:
 - (i) the Panel Chairperson; and
 - (ii) 1 accounting member; and
 - (iii) 1 business member.
- (6) This subsection applies if:
 - (a) a hearing in relation to a particular matter has been commenced or completed by a Panel of the Disciplinary Board; and
 - (b) before the matter to which the proceeding relates has been determined, one of the members constituting the Panel has:
 - (i) ceased to be a member; or
 - (ii) ceased to be available as a member of the Panel.
- (7) If subsection (6) applies:
 - (a) the hearing and determination, or the determination, of the proceedings may be completed by the Panel constituted by the remaining member or members of the Panel if the parties to the proceedings agree; and
 - (b) otherwise the matter must be reheard by a new Panel constituted by the Chairperson under subsection (2).
- (8) If a matter is reheard under paragraph (7)(b), the new Panel may, for the purposes of performing or exercising the Disciplinary Board's functions or powers in relation to that matter, have regard

to any record of the proceedings before the Panel as previously constituted for the purposes of hearing that matter.

210B Meetings of Panel of the Disciplinary Board

- (1) The Panel Chairperson of a Panel of the Disciplinary Board must:
 - (a) convene such meetings of the Panel as the Panel Chairperson considers necessary for the performance of the Panel's functions; and
 - (b) preside at all meetings of the Panel.
- (2) At a meeting of a 5 person Panel of the Board, a quorum is constituted by:
 - (a) the Panel Chairperson; and
 - (b) an accounting member; and
 - (c) a business member.This subsection has effect subject to subsection 210A(7).
- (3) At a meeting of a 3 person Panel of the Board, a quorum is constituted by:
 - (a) the Panel Chairperson; and
 - (b) the accounting member.This subsection has effect subject to subsection 210A(7).
- (4) A question arising at a meeting of a Panel of the Disciplinary Board must be determined by a majority of the votes of the members of the Panel present and voting.
- (5) At a meeting of a Panel of the Disciplinary Board, the Panel Chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (6) Subject to this Part, the procedures for convening meetings of a Panel of the Disciplinary Board and for the conduct of business by a Panel of the Disciplinary Board must be as the Disciplinary Board determines.

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211 Disclosure of interests

- (2) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Disciplinary Board or a Panel of the Disciplinary Board must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Disciplinary Board or the Panel.
- (3) A disclosure under subsection (2) must be recorded in the minutes of the meeting of the Disciplinary Board or the Panel and the member must not, unless the Minister or the Disciplinary Board or the Panel otherwise determines:
 - (a) be present during any deliberation of the Disciplinary Board or the Panel with respect to that matter; or
 - (b) take part in any decision of the Disciplinary Board or the Panel with respect to that matter.
- (4) For the purpose of the making of a determination by the Disciplinary Board or the Panel under subsection (3) in relation to a member who has made a disclosure under subsection (2), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Disciplinary Board or the Panel for the purpose of making the determination; or
 - (b) take part in the making by the Disciplinary Board or the Panel of the determination.

212 Remuneration and allowances

- (2) A member must be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, a member must be paid such remuneration as the Minister determines in writing.
- (3) A member must be paid such allowances as the Minister determines in writing.

- (4) This section has effect subject to the *Remuneration Tribunal Act 1973*.

213 Confidentiality

- (1) The Disciplinary Board must take all reasonable measures to protect from unauthorised use or disclosure information given to it in confidence in or in connection with the performance of its functions or the exercise of its powers under the corporations legislation (other than the excluded provisions).
- (1A) For the purposes of this section, information given to a Panel of the Disciplinary Board is taken to be given to the Disciplinary Board.
- (2) For the purposes of subsection (1), the disclosure of information:
- (a) as required or permitted by a law of the Commonwealth or a prescribed law of a State or Territory; or
 - (aa) to the FRC for the purposes of its performance of its functions under the corporations legislation; or
 - (ab) in order to enable or assist:
 - (i) a professional accounting body; or
 - (ii) another body prescribed by the regulations for the purposes of this paragraph;to perform its disciplinary function in relation to its members; or
 - (b) in order to enable or assist an authority or person in:
 - (i) a State or Territory; or
 - (ii) a country outside Australia and the external Territories;to perform or exercise a function or power that corresponds, or is analogous, to any of the Disciplinary Board's, or ASIC's functions and powers;
- is taken to be authorised disclosure of the information.

214 Annual report

- (1) The Disciplinary Board must, as soon as practicable after 30 June, and in any event before 31 October, in each year:

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- (a) prepare a report describing the operations of the Disciplinary Board during the year that ended on 30 June in that year; and
 - (b) give to the Minister a copy of the report.
- (2) Where a copy of a report is given to the Minister under subsection (1), he or she must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after he or she receives the first-mentioned copy.

Division 2—Hearings by Disciplinary Board

215 Definition

In this Division:

hearing means a hearing held by a Panel of the Disciplinary Board under this Division.

216 Hearings

- (1) A Panel of the Disciplinary Board constituted to hear a matter may, at a meeting of the Panel, hold a hearing for the purpose of performing or exercising the Disciplinary Board's functions or powers in relation to that matter.
- (2) Subject to subsection (3), hearings must take place in private.
- (3) If a person (other than ASIC or APRA) who is entitled to be given an opportunity to appear at a hearing requests that the hearing take place in public, the hearing must, subject to any directions of the Panel under subsection (5), take place in public.
- (4) The Panel may give directions as to the persons who may be present at a hearing that is to take place in private.
- (5) Where, at a hearing that is taking place in public at the request of a person, the Panel is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or in order to protect the interests of any other person, the Panel may:
 - (a) direct that a part of the hearing take place in private and give directions as to the persons who may be present; or
 - (b) give directions preventing or restricting the publication of evidence given before the Panel or of matters contained in documents lodged with or produced to the Panel.
- (6) Nothing in a direction given by the Panel under subsection (4) or paragraph (5)(a) prevents the presence at a hearing of:

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- (a) a person representing ASIC or APRA pursuant to subsection 218(3); or
 - (b) a person who is entitled to be given an opportunity to appear at the hearing; or
 - (c) a person representing, pursuant to subsection 218(3), a person referred to in paragraph (b); or
 - (d) a person representing, pursuant to subsection 218(3), a person who, by reason of a direction given by the Panel under subsection (4), or paragraph (5)(a), of this section is entitled to be present at the hearing.
- (7) A person contravenes this subsection if:
- (a) the person is present at a hearing of a Panel of the Disciplinary Board; and
 - (b) the person is present while the hearing is taking place in private; and
 - (c) a direction of the Panel under this section does not specify that the person may be present while the hearing is taking place in private; and
 - (d) the person is not:
 - (i) the Panel Chairperson; or
 - (ii) a member of the Panel; or
 - (iii) any other member of the Disciplinary Board approved by the Panel to be present while the hearing is taking place in private; or
 - (iv) a member of the staff of the Disciplinary Board approved by the Panel to be present while the hearing is taking place in private; or
 - (v) a person referred to in subsection (6).

Note: This subsection can apply while only a part of the hearing is taking place in private (see paragraph (5)(a)).

Penalty: 30 penalty units.

(7A) Subsection (7) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (8) Where the Panel is required to give a person an opportunity to appear at a hearing, the Panel must appoint a day, time and place for the hearing and cause notice in writing of the day, time and place to be given to the person.
- (9) A person who is entitled to be given an opportunity to appear at a hearing and who does not wish to appear at the hearing may, before the day of the hearing, lodge with the Disciplinary Board in writing any submissions that he, she or it wishes the Panel to take into account in relation to the matter.
- (10) The Panel must take into account:
 - (a) a submission made to or evidence adduced before the Panel; and
 - (b) a submission lodged with the Disciplinary Board in relation to the matter to which the hearing relates;when making any decision on the matter to which the submission or evidence relates.

217 Power to summon witnesses and take evidence

- (1) The Panel Chairperson or a member of the Panel may summon a person to appear at a hearing to give evidence and to produce such documents (if any) as are referred to in the summons, being documents relating to the matters that are the subject of the hearing.
- (2) The Panel may, at a hearing, take evidence on oath or affirmation and for that purpose the Panel Chairperson may:
 - (a) require a person appearing at the hearing to give evidence to either take an oath or make an affirmation; and
 - (b) administer an oath or affirmation to a person so appearing at the hearing.
- (3) The oath or affirmation to be taken or made by a person for the purposes of subsection (2) is an oath or affirmation that the evidence he or she will give will be true.

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218 Proceedings at hearings

- (1) At a hearing:
 - (a) the proceedings must be conducted with as little formality and technicality, and with as much expedition, as the requirements of the corporations legislation (other than the excluded provisions) and a proper consideration of the matters before the Panel permit; and
 - (b) the Panel is not bound by the rules of evidence; and
 - (c) the Panel may, on such conditions as it thinks fit, permit a person to intervene in the proceedings.
- (2) The Panel must observe the rules of natural justice at and in connection with a hearing.
- (3) At a hearing:
 - (a) ASIC or APRA may be represented by:
 - (i) a staff member, or a member or acting member, of ASIC or APRA; or
 - (ii) a person authorised by ASIC or APRA for the purpose; and
 - (b) a natural person may appear in person or may be represented by an employee of the person approved by the Panel; and
 - (c) a body corporate (other than ASIC or APRA) may be represented by an employee, or by a director or other officer, of the body corporate approved by the Panel; and
 - (d) an unincorporated association of persons or a member of an unincorporated association of persons may be represented by a member, officer or employee of the association approved by the Panel; and
 - (e) any person may be represented by a barrister or solicitor of the Supreme Court of a State or Territory or of the High Court.
- (4) A person who attends at a hearing pursuant to a summons issued under subsection 217(1) is entitled to be paid:

- (a) in a case where the summons was issued at another person's request—by that other person; or
 - (b) in any other case—by the Disciplinary Board;
- such allowances and expenses as are provided for by the regulations.
- (5) The Panel may permit a person appearing as a witness at a hearing to give evidence by tendering, and, if the Panel thinks fit, verifying by oath or affirmation, a written statement.

218A Proceedings at hearings

- (1) The Panel may decide to hold a hearing:
 - (a) at one or more physical venues; or
 - (b) at one or more physical venues and using virtual enquiry technology; or
 - (c) using virtual enquiry technology only.
- (2) Subsections (3) and (4) apply if the hearing is held:
 - (a) at one or more physical venues and using virtual enquiry technology; or
 - (b) using virtual enquiry technology only.
- (3) The Panel must ensure that the use of the virtual enquiry technology is reasonable.
- (4) If the hearing is held in public, the Panel must ensure that:
 - (a) the virtual enquiry technology provides the public with a reasonable opportunity to observe the hearing; and
 - (b) information sufficient to allow the public to observe the hearing using the virtual enquiry technology is made publicly available in a reasonable way.
- (5) If the hearing is held:
 - (a) at more than one physical venue; or
 - (b) at one or more physical venues and using virtual enquiry technology; or
 - (c) using virtual enquiry technology only;

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the Panel may appoint a single place and time at which the hearing is taken to have been held.

- (6) This section applies to part of a hearing in the same way that it applies to all of a hearing.

219 Failure of witnesses to attend and answer questions

- (1) A person served, as prescribed, with a summons to appear as a witness at a hearing must not:
- (a) fail to attend as required by the summons; or
 - (b) fail to attend from day to day unless excused, or released from further attendance, by the Panel Chairperson.
- (2) A person appearing as a witness at a hearing must not:
- (a) when required pursuant to subsection 217(2) to either take an oath or make an affirmation—refuse or fail to comply with the requirement; or
 - (b) refuse or fail to answer a question that he or she is required to answer by the Panel Chairperson; or
 - (c) refuse or fail to produce a document that he or she was required to produce by a summons under subsection 217(1) served on him or her as prescribed.

- (2A) Subsections (1) and (2) do not apply to the extent that the person has a reasonable excuse.

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

- (3) A person must not, at a hearing, give evidence that is false or misleading.
- (4) A person must not contravene subsection (1), (2) or (3).

Penalty: 3 months imprisonment.

- (5) A person who contravenes subsection (3) is not guilty of an offence against subsection (4) if it is proved that he or she, when

giving the evidence, believed on reasonable grounds that it was true and not misleading.

- (6) Where the Panel is satisfied that:
- (a) a person served, as prescribed, with a summons to appear as a witness at a hearing has, without reasonable excuse, failed to attend as required by paragraph (1)(a) or (b); or
 - (b) a person appearing as a witness at a hearing has, without reasonable excuse:
 - (i) when required pursuant to subsection 217(2) either to take an oath or make an affirmation; or
 - (ii) when required by the Panel Chairperson to answer a question; or
 - (iii) when required to produce a document by a summons under subsection 217(1) served on him or her as prescribed;refused or failed to comply with the requirement;
- the Panel Chairperson may, by instrument in writing, certify the failure to attend or the refusal or failure to comply with the requirement, as the case may be, to the Court.
- (7) Where a certificate is given under subsection (6), the Court may inquire into the case and, if it is satisfied that the person to whom the certificate relates has, without reasonable excuse, failed to attend or refused or failed to comply with a requirement as mentioned in the certificate:
- (a) may order the person to attend or to comply with the requirement at a hearing to be held at a time and place specified in the order; or
 - (b) may punish the person in the same manner as if he or she had been guilty of contempt of the Court and, if it thinks fit, also make an order under paragraph (a).

220 Contempt of Disciplinary Board

- (1) A person must not:

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- (a) engage in conduct that results in the obstruction or hindering of a Panel of the Disciplinary Board, or a member of the Panel, in the performance or exercise of any of the Disciplinary Board's functions or powers; or
- (b) engage in conduct that results in the disruption of a hearing.

Penalty: 3 months imprisonment.

- (2) A person must not contravene a direction given under paragraph 216(5)(b).

Penalty: 30 penalty units.

- (2A) Subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2B) Subsection (2) does not apply to the extent that the person has a reasonable excuse.

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

- (3) An offence constituted by a contravention of subsection (1) or (2) is punishable on summary conviction.

221 Protection of members etc.

- (1) The Panel Chairperson or a member of the Panel has, in the performance of his or her functions or the exercise of his or her powers as the Panel Chairperson or a member of the Panel in relation to a hearing, the same protection and immunity as a Justice of the High Court.
- (1A) The Chairperson of the Board has, in the performance of his or her functions or the exercise of his or her powers in relation to a conference under section 1294A of the Corporations Act, the same protection and immunity as a Justice of the High Court.
- (2) A barrister, solicitor or other person appearing on behalf of a person at a hearing has the same protection and immunity as a

barrister has in appearing for a party in proceedings in the High Court.

- (2A) A barrister, solicitor or other person appearing on behalf of a person at a conference under section 1294A of the Corporations Act has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.
- (3) Subject to this Act, a person summoned to attend or appearing as a witness at a hearing has the same protection as a witness in proceedings in the High Court.

222 Hearings taken to be judicial proceedings

A hearing is, for the purposes of Part III of the *Crimes Act 1914*, taken to be a judicial proceeding.

223 Costs

- (1) Where:
- (a) the Panel holds a hearing in relation to a person in accordance with subsection 1294(1) of the Corporations Act; and
 - (b) the Panel cancels or suspends the registration of the person as an auditor or deals with the person:
 - (i) by admonishing or reprimanding the person; or
 - (ii) by requiring the person to give an undertaking to engage in, or to refrain from engaging in, specified conduct;
- the Panel may require the person to pay an amount specified by the Panel, being all or part of:
- (c) the costs of and incidental to the hearing; or
 - (d) the costs of ASIC or APRA in relation to the hearing; or
 - (e) the costs mentioned in paragraph (c) and the costs mentioned in paragraph (d).
- (2) Where:

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- (a) the Panel holds a hearing in relation to a person in accordance with subsection 1294(1) of the Corporations Act; and
 - (b) the Panel refuses to make an order cancelling or suspending the registration of the person as an auditor and does not deal with the person in any of the ways mentioned in subparagraphs (1)(b)(i) and (ii);
- the Panel may require ASIC or APRA to pay an amount specified by the Panel, being all or part of:
- (c) the costs of and incidental to the hearing; or
 - (d) the costs of the person in relation to the hearing; or
 - (e) the costs mentioned in paragraph (c) and the costs mentioned in paragraph (d).
- (3) Where:
- (a) under subsection (1), the Panel requires a person to pay all or part of the costs of and incidental to a hearing held by the Panel in relation to the person (whether or not the Panel also requires the person to pay all or part of ASIC's costs in relation to the hearing); or
 - (b) under subsection (2), the Panel requires ASIC or APRA to pay all or part of the costs of and incidental to a hearing held by the Panel in relation to a person (whether or not the Panel also requires ASIC or APRA to pay all or part of the costs of the person in relation to the hearing);
- the amount of the costs of and incidental to the hearing so required to be paid by the first-mentioned person or by ASIC or APRA, as the case may be, may be recovered in a court of competent jurisdiction as a debt due to the Commonwealth.
- (4) Where, under subsection (1), the Panel requires a person to pay all or part of ASIC's costs or APRA's costs in relation to a hearing held by the Panel in relation to the person (whether or not the Panel also requires the person to pay all or part of the costs of and incidental to the hearing), the amount of ASIC's costs or APRA's costs so required to be paid by the person may be recovered in a

court of competent jurisdiction as a debt due to the Commonwealth.

- (5) Where, under subsection (2), the Panel requires ASIC or APRA to pay all or part of the costs of a person in relation to a hearing held by the Panel in relation to the person (whether or not the Panel also requires ASIC or APRA to pay all or part of the costs of and incidental to the hearing), the amount of the costs of the person so required to be paid by ASIC or APRA may be recovered in a court of competent jurisdiction as a debt due to the person.

Part 12—The Australian financial reporting system

224 Main objects of this Part

The main objects of this Part are:

- (a) to facilitate the development of accounting standards, and sustainability standards, that require the provision of financial and other related information that:
 - (i) allows users to make and evaluate decisions about allocating scarce resources; and
 - (ii) assists directors to discharge their obligations in relation to financial reporting; and
 - (iii) is relevant to assessing performance, financial position, financing and investment; and
 - (iv) is relevant and reliable; and
 - (v) facilitates comparability; and
 - (vi) is readily understandable; and
- (aa) to facilitate the development of auditing and assurance standards and related guidance materials that:
 - (i) provide Australian auditors with relevant and comprehensive guidance in forming an opinion about, and reporting on, whether financial reports comply with the requirements of the Corporations Act; and
 - (ii) require the preparation of auditors' reports that are reliable and readily understandable by the users of the financial reports to which they relate; and
- (b) to facilitate the Australian economy by:
 - (i) reducing the cost of capital; and
 - (ii) enabling Australian entities to compete effectively overseas; and
 - (iii) having accounting standards, auditing standards and sustainability standards that are clearly stated and easy to understand; and

(c) to maintain investor confidence in the Australian economy
(including its capital markets).

Note: Sustainability standards include standards relating to climate.

Division 1—The financial reporting system

Subdivision A—The Financial Reporting Council

225 Functions and powers of the Financial Reporting Council

Functions generally

- (1) The FRC functions are:
- (a) to provide broad oversight of the processes for setting in Australia:
 - (i) accounting standards; and
 - (ii) auditing standards; and
 - (iii) sustainability standards; and
 - (d) to give the Minister reports and advice about the matters referred to in paragraph (a); and
 - (e) the functions specified in the following subsections:
 - (i) subsection (1A) (standards functions);
 - (ii) subsection (2) (AASB governance functions);
 - (iii) subsection (2A) (AUASB governance functions);
 - (iv) subsection (2B) (auditor quality functions); and
 - (f) to establish appropriate consultative mechanisms; and
 - (g) to advance and promote the main objects of this Part; and
 - (h) any other functions that the Minister confers on the FRC by written notice to the FRC Chair.

Note: The FRC was established by subsection 225(1) of the *Australian Securities and Investments Commission Act 1989* and is continued in existence by section 261 of this Act.

Standards functions

- (1A) The FRC functions include:
- (a) monitoring the development of international accounting standards, international auditing standards and international sustainability standards; and

- (b) monitoring the development of the accounting standards, auditing standards, and sustainability standards that apply in major international financial centres; and
- (c) furthering the development of a single set of each of the following for world-wide use with appropriate regard to international developments:
 - (i) accounting standards;
 - (ii) auditing standards;
 - (iii) sustainability standards; and
- (d) promoting the continued adoption of international best practice:
 - (i) accounting standards; and
 - (ii) auditing standards; and
 - (iii) sustainability standards;in the Australian standard-setting processes if doing so would be in the best interests of both the private and public sectors in the Australian economy; and
- (e) monitoring the operation of:
 - (i) accounting standards; and
 - (ii) auditing standards; and
 - (iii) sustainability standards;to assess their continued relevance and their effectiveness in achieving their objectives in respect of both the private and public sectors of the Australian economy; and
- (f) monitoring the effectiveness of the consultative arrangements used by the AASB and the AUASB.

AASB governance functions

- (2) The FRC functions include:
 - (a) appointing the members of the AASB (other than the Chair); and
 - (b) giving the AASB advice or feedback on the AASB's:
 - (i) priorities; and
 - (ii) business plans; and

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- (iii) procedures; and
- (ba) giving the Office of the AASB advice or feedback on the Office's:
 - (i) budgets; and
 - (ii) staffing arrangements (including level, structure and composition of staffing); and
- (c) determining the AASB's broad strategic direction.

AUASB governance functions

- (2A) The FRC functions include:
- (a) appointing the members of the AUASB (other than the Chair); and
 - (b) giving the AUASB advice or feedback on the AUASB's:
 - (i) priorities; and
 - (ii) business plans; and
 - (iii) procedures; and
 - (ba) giving the Office of the AUASB advice or feedback on the Office's:
 - (i) budgets; and
 - (ii) staffing arrangements (including level, structure and composition of staffing); and
 - (c) determining the AUASB's broad strategic direction.

Specific auditor quality functions

- (2B) The FRC functions include giving strategic policy advice and reports, to the Minister and professional accounting bodies, in relation to the quality of audits conducted by Australian auditors.
- (2C) Without limiting subsection (2B), the FRC functions also include giving strategic policy advice and reports, to the Minister and professional accounting bodies, in relation to any of the following:
- (a) the systems and processes used by Australian auditors to comply with:
 - (i) the provisions of the Corporations Act dealing with the conduct of audits; and

- (ii) the auditing standards; and
 - (iii) applicable codes of professional conduct;
 - (b) the systems and processes used by professional accounting bodies for planning and performing quality assurance reviews of audit work undertaken by Australian auditors;
 - (c) the action that Australian auditors who have been subject to such quality assurance reviews have taken in response to the reports prepared as a result of those reviews;
 - (d) the action taken by professional accounting bodies to ensure that Australian auditors who have been subject to such quality assurance reviews respond appropriately to the reports prepared as a result of those reviews;
 - (e) the investigation and disciplinary procedures of professional accounting bodies as those procedures apply to Australian auditors;
 - (f) the adequacy of:
 - (i) the provisions of the Corporations Act dealing with the conduct of audits; and
 - (ii) the auditing standards; and
 - (iii) applicable codes of professional conduct;in light of international developments in relation to audit quality;
 - (g) the teaching of professional and business ethics by, or on behalf of, professional accounting bodies to the extent to which the teaching of those subjects relates to audit quality.
- (2D) A report under subsection (2B) or (2C) is not a legislative instrument.

Powers

- (3) As well as any other powers conferred by this Act, the FRC has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (4) Without limiting subsection (3), the FRC may establish committees and advisory groups.

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Restriction on powers

- (5) The FRC does not have power to direct the AASB in relation to the development, or making, of a particular standard.
- (6) The FRC does not have power to veto a standard made, formulated or recommended by the AASB.
- (7) The FRC does not have power to direct the AUASB in relation to the development, or making, of a particular auditing standard.
- (8) The FRC does not have power to veto a standard made, formulated or recommended by the AUASB.

225A Financial Reporting Council's information gathering powers

- (1) The Chair of the FRC, acting on behalf of the FRC, may give a professional accounting body a written notice requiring the body to give the FRC:
 - (a) a copy of:
 - (i) a code of professional conduct of the body; or
 - (ii) a proposed code of professional conduct of the body; or
 - (iii) a proposed amendment of a code of professional conduct of the body; or
 - (b) information about the body's planning or performance of quality assurance reviews; or
 - (c) details of the body's investigation or disciplinary procedures.
- (2) The notice may require the body to give the FRC information under paragraph (1)(b) or (c) only to the extent to which the information relates to audit work done by Australian auditors.
- (3) A professional accounting body has qualified privilege in respect of a disclosure made by the body in response to a notice given to the body under subsection (1).
- (4) A person has qualified privilege in respect of a disclosure made by the person, on behalf of a professional accounting body, in

response to a notice given to the professional body under subsection (1).

- (7) The notice under subsection (1) must specify:
- (a) the information or documents the professional accounting body must give; and
 - (b) the period within which the body must give the information or documents.

The period specified under paragraph (b) must be not less than 28 days after the day on which the notice is given.

- (8) The Chair of the FRC, acting on behalf of the FRC, may, by written notice to the professional accounting body, extend the period within which the body must give the information or documents.
- (9) A person commits an offence if:
- (a) the Chair of the FRC gives the person notice under subsection (1); and
 - (b) the person does not comply with the notice.

Penalty: 20 penalty units.

- (10) An offence against subsection (9) is an offence of strict liability.

Note: For *strict liability* see section 6.1 of the *Criminal Code*.

Subdivision B—The Australian Accounting Standards Board and the Office of the Australian Accounting Standards Board

226 The Office of the Australian Accounting Standards Board

- (1) The Office of the Australian Accounting Standards Board is established.
- (2) The Office of the AASB consists of:
- (a) the Chair of the AASB; and
 - (b) the other members of the AASB; and

Section 226A

(c) the staff of the Office of the AASB.

Note: The Office of the AASB does not have a legal identity separate from the Commonwealth.

226A Office of the AASB's functions and powers

- (1) The Office of the AASB has the following functions:
 - (a) to make such arrangements as are necessary to give effect to the decisions of the AASB;
 - (b) to provide technical services to the AASB;
 - (c) to provide administrative services to the AASB;
 - (d) to provide information to the AASB;
 - (e) to advise the AASB about the performance of any of the AASB's functions;
 - (f) to make resources and facilities (including meeting facilities, communication facilities and secretariat services) available to the AASB;
 - (g) such other functions as are conferred on the Office by this Act;
 - (h) to do anything incidental to, or conducive to, the performance of any of the above functions.
- (2) The Office of the AASB has power to:
 - (a) establish committees, advisory panels and consultative groups; and
 - (b) receive money contributed towards its or the AASB's operating costs; and
 - (c) do anything else that is necessary for, or reasonably incidental to, the performance of its functions.

227 AASB's functions and powers

Functions

- (1) The functions of the AASB are:
 - (a) to develop conceptual frameworks, not having the force of standards, for the purpose of evaluating:

- (i) proposed accounting standards and international accounting standards; and
- (ii) proposed sustainability standards and international sustainability standards; and
- (b) to make accounting standards under section 334 of the Corporations Act for the purposes of the corporations legislation (other than the excluded provisions); and
- (ba) to make sustainability standards under section 336A of the Corporations Act for the purposes of the corporations legislation (other than the excluded provisions); and
- (c) to formulate accounting standards for other purposes; and
- (ca) to formulate sustainability standards for other purposes; and
- (d) to participate in and contribute to the development of each of the following for world-wide use:
 - (i) a single set of accounting standards;
 - (ii) a single set of sustainability standards; and
- (e) to advance and promote the main objects of this Part.

Note 1: The AASB was established by subsection 226(1) of the *Australian Securities and Investments Commission Act 1989* and is continued in existence by section 261 of this Act.

Note 2: The standards mentioned in paragraphs (b) and (ba) are made and have legal effect under the Corporations Act. The standards mentioned in paragraphs (c) and (ca) do not have legal effect under the Corporations Act but may be applied or adopted by some other authority.

Note 4: For the framework within which the AASB is to formulate and make these standards, see section 224 and Division 2.

- (2) In carrying out its functions under paragraphs (1)(a) and (d), the AASB must have regard to the interests of Australian corporations which raise or propose to raise capital in major international financial centres.

Power to establish committees etc.

- (3) The AASB has power to establish committees, advisory panels and consultative groups.

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Manner of making or formulating standards

- (4) Without limiting subsection (1), the AASB:
 - (a) may make or formulate an accounting standard by issuing the text of an international accounting standard; and
 - (b) may formulate a sustainability standard by issuing the text of an international sustainability standard.
- (5) The text of an international standard referred to in subsection (4) may be modified:
 - (a) to the extent necessary to take account of the Australian legal or institutional environment; and
 - (b) in particular, to ensure that any disclosure and transparency provisions in the standard are appropriate to the Australian legal or institutional environment.

Manner of participating in the development of international standards

- (6) Without limiting paragraph (1)(d), the AASB may distribute for consultation the text of:
 - (a) a draft international accounting standard; or
 - (b) a draft international sustainability standard;(whether or not modified to take account of the Australian legal or institutional environment).

Subdivision C—The Auditing and Assurance Standards Board and the Office of the Auditing and Assurance Standards Board

227AA The Office of the Auditing and Assurance Standards Board

- (1) The Office of the Auditing and Assurance Standards Board is established.
- (2) The Office of the AUASB consists of:
 - (a) the Chair of the AUASB; and

- (b) the other members of the AUASB; and
- (c) the staff of the Office of the AUASB.

Note: The Office of the AUASB does not have a legal identity separate from the Commonwealth.

227AB Office of the AUASB's functions and powers

- (1) The Office of the AUASB has the following functions:
 - (a) to make such arrangements as are necessary to give effect to the decisions of the AUASB;
 - (b) to provide technical services to the AUASB;
 - (c) to provide administrative services to the AUASB;
 - (d) to provide information to the AUASB;
 - (e) to advise the AUASB about the performance of any of the AUASB's functions;
 - (f) to make resources and facilities (including meeting facilities, communication facilities and secretariat services) available to the AUASB;
 - (g) such other functions as are conferred on the Office by this Act;
 - (h) to do anything incidental to, or conducive to, the performance of any of the above functions.
- (2) The Office of the AUASB has power to:
 - (a) establish committees, advisory panels and consultative groups; and
 - (b) receive money contributed towards its or the AUASB's operating costs; and
 - (c) do anything else that is necessary for, or reasonably incidental to, the performance of its functions.

227A The Auditing and Assurance Standards Board

The Auditing and Assurance Standards Board is established.

Section 227B

227B AUASB's functions and powers

Functions

- (1) The functions of the AUASB are:
- (a) to make auditing standards under section 336 of the Corporations Act for the purposes of the corporations legislation; and
 - (b) to formulate auditing and assurance standards for sustainability and other purposes; and
 - (c) to formulate guidance on auditing and assurance matters; and
 - (d) to participate in and contribute to the development of a single set of auditing standards for world-wide use; and
 - (e) to advance and promote the main objects of this Part.

Note 1: The standards mentioned in paragraph (a) are made and have legal effect under the Corporations Act. The standards mentioned in paragraph (b) do not have legal effect under the Corporations Act but may be applied or adopted by some other authority.

Note 2: See section 224 and sections 234A to 234D for the framework within which the AUASB is to formulate and make auditing standards.

Power to establish committees etc.

- (2) The AUASB has power to establish committees, advisory panels and consultative groups.

Manner of making and formulating standards

- (3) Without limiting paragraph (1)(a) or (b), the AUASB may make or formulate an auditing standard by issuing the text of an international auditing standard.
- (4) The text of the international auditing standard may be modified to the extent necessary to take account of the Australian legal or institutional environment.

Manner of participating in the development of international standards

- (5) Without limiting paragraph (1)(d), the AUASB may distribute the text of a draft international auditing standard (whether or not modified to take account of the Australian legal or institutional environment) for the purposes of consultation.

Division 2—Accounting standards and sustainability standards

227C Scope of this Division

This Division applies to the following standards (the *applicable standards*):

- (a) accounting standards;
- (b) sustainability standards.

228 Purposive interpretation of standards

Objects of this Part

- (1) In interpreting an applicable standard made or formulated by the AASB, a construction that would promote the objects of this Part is to be preferred to a construction that would not promote those objects.

Note: Section 224 states the main objects of this Part.

Purposes or objects of particular standard

- (2) In interpreting an applicable standard made or formulated by the AASB, a construction that would promote a purpose or object of the standard (to the extent to which it is not inconsistent with the objects of this Part) is to be preferred to a construction that would not promote that purpose or object. This is so even if the purpose or object is not expressly stated in the standard.

229 Generic and specific standards

- (1) Applicable standards made or formulated by the AASB may:
 - (a) be of general or limited application (including a limitation to specified bodies or undertakings); and
 - (b) differ according to differences in time, place or circumstance.
- (2) In making and formulating accounting standards, the AASB:

- (a) must have regard to the suitability of a proposed standard for different types of entities; and
 - (b) may apply different accounting requirements to different types of entities; and
 - (c) must ensure that there are appropriate accounting standards for each type of entity that must comply with accounting standards.
- (3) In formulating sustainability standards, the AASB:
- (a) must have regard to the suitability of a proposed standard for different types of entities; and
 - (b) may apply different sustainability requirements to different types of entities.

230 Comparative amounts

The accounting standards for the preparation of financial reports for a period may require the inclusion in those reports of comparative amounts for earlier periods.

231 Cost/benefit analysis

- (1) The AASB must carry out a cost/benefit analysis of the impact of a proposed applicable standard before making or formulating the standard. This does not apply where the standard is being made or formulated by issuing the text of an international standard (whether or not modified to take account of the Australian legal or institutional environment).

Note: Subsection 227(4) allows the AASB to make or formulate a standard by issuing the text of an international standard. Under subsection (2) of this section, the AASB will have done a cost/benefit analysis of the international standard used in that way.

- (2) The AASB must carry out a cost/benefit analysis of the impact of a proposed international applicable standard before:
- (a) providing comments on a draft of the standard; or
 - (b) proposing the standard for adoption as an international standard.

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- (3) The AASB has to comply with subsections (1) and (2) only to the extent to which it is reasonably practicable to do so in the circumstances.
- (4) The Minister may direct the AASB to give the Minister details of a cost/benefit analysis carried out under this section. The AASB must comply with the direction.

232 FRC views

In performing its functions, the AASB must follow the broad strategic direction determined by the FRC under paragraph 225(2)(c).

233 International accounting standards

The Minister may give the AASB a direction about the role of international accounting standards in the Australian accounting standard setting system. Before giving a direction under this section, the Minister must receive and consider a report from the FRC about the desirability of giving the direction. The AASB must comply with the direction.

234 Validity of standards

A failure to comply with this Division in relation to the making or formulating of an applicable standard does not affect the validity of the standard.

Division 2A—Auditing standards

234A Purposive interpretation of standards

Objects of this Part

- (1) In interpreting an auditing standard made or formulated by the AUASB, a construction that would promote the objects of this Part is to be preferred to a construction that would not promote those objects.

Note: Section 224 states the main objects of this Part.

Purposes or objects of particular standard

- (2) In interpreting an auditing standard made or formulated by the AUASB, a construction that would promote a purpose or object of the standard (to the extent to which it is not inconsistent with the objects of this Part) is to be preferred to a construction that would not promote that purpose or object. This is so even if the purpose or object is not expressly stated in the standard.

234B Generic and specific standards

Auditing standards made or formulated by the AUASB may:

- (a) be of general or limited application (including a limitation to different types of audit and specified industries, bodies or undertakings); and
- (b) differ according to differences in time, place or circumstance.

234C FRC views

In performing its functions, the AUASB must follow the broad strategic direction determined by the FRC under paragraph 225(2A)(c).

Section 234D

234D International auditing standards

- (1) The Minister may give the AUASB a direction about the role of international auditing standards in the Australian auditing standard setting system.
- (2) Before giving a direction under this section, the Minister must receive and consider a report from the FRC about the desirability of giving the direction.
- (3) The AUASB must comply with the direction.

234E Validity of auditing standards

A failure to comply with this Division in relation to the making of an auditing standard does not affect the validity of the standard.

Division 3—Administrative provisions

Subdivision A—The Financial Reporting Council

235A Membership of FRC

- (1) The members of the FRC are appointed by the Minister in writing. The Minister may appoint a person by specifying an organisation or body that is to choose the person who is appointed.
- (3) The Minister must appoint one of the members to be Chair of the FRC. The appointment must be in writing. The FRC may appoint one of its members to be Deputy Chair of the FRC.

235AA Terms and conditions of appointment of FRC members

Remuneration and allowances

- (1) A member of the FRC is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid such remuneration as the Minister determines in writing.
- (2) A member of the FRC is to be paid such allowances as the Minister determines in writing.
- (3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.

Leave—full-time members

- (4) A full-time member of the FRC has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (5) The Minister may grant a full-time member of the FRC leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

Section 235B

Other terms and conditions

- (6) A member of the FRC holds office on the terms and conditions (if any) in relation to matters not covered by this Act as the Minister determines in writing.

235B Annual report

- (1) As soon as practicable after 30 June in each year, and in any event before 31 October, the FRC must give the Minister a report on:
- (a) the operations of the FRC and its committees and advisory groups; and
 - (b) the achievement of the objects set out in section 224; during the year that ended on 30 June in that year.
- (2) The report must include details of any advice or feedback that the FRC gave under paragraph 225(2)(b) or (ba) or (2A)(b) or (ba) during the year that ended on that 30 June.
- (3) The Minister may grant an extension of time in special circumstances.
- (4) The Minister must table the report in each House of the Parliament as soon as practicable.

235C Procedure

The FRC may determine its own procedural rules (including rules as to notice of meetings, quorum and voting).

Subdivision AA—The Office of the AASB

235D Duties of the Chair of the AASB

- (1) The Chair of the AASB, under the Minister, is responsible for managing the Office of the AASB.
- (2) In particular, the Chair of the AASB is responsible for approving:
- (a) the AASB's priorities, business plans and procedures; and

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- (b) the Office of the AASB's budgets and staffing arrangements (including level, structure and composition of staffing).
- (3) If the Chair of the AASB takes action that is inconsistent with any advice the FRC has given under paragraph 225(2)(b) or (ba), he or she must:
 - (a) make a written record of his or her reasons for not following the advice; and
 - (b) give a copy of the advice and of his or her reasons to the Minister; and
 - (c) include a copy of the advice and of his or her reasons in the annual report given by the Chair under section 46 of the *Public Governance, Performance and Accountability Act 2013* for the period during which the action is taken.

235E Staff of the Office of the AASB

Employment of staff

- (1) The Chair of the AASB may, on behalf of the Commonwealth, employ such staff under written agreements as the Chair thinks necessary to employ to assist the Office of the AASB in the performance of its functions and the exercise of its powers.
- (2) The terms and conditions of staff employed under subsection (1) are as determined in writing by the Chair.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Office of the AASB Code of Conduct

- (3) The Chair of the AASB must determine, in writing, the Office of the AASB Code of Conduct.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (4) The Office of the AASB Code of Conduct applies to the Chair of the AASB and staff appointed under subsection (1).

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- (5) An instrument made under subsection (3) is not a legislative instrument.

Engagement of staff under the Public Service Act 1999

- (6) Without limiting subsections (1) and (2), staff of the Office of the AASB may be engaged under the *Public Service Act 1999*.
- (7) For the purposes of the *Public Service Act 1999*:
- (a) the Chair of the AASB and the staff of the Office of the AASB referred to in subsection (6) together constitute a Statutory Agency; and
 - (b) the Chair of the AASB is the Head of that Statutory Agency.

235F Consultants and persons seconded to the Office of the AASB

- (1) The Chair of the AASB may, on behalf of the Commonwealth, engage consultants to perform services for the Office of the AASB in connection with the performance of any of its functions.
- (2) The terms and conditions of engagement are as determined in writing by the Chair.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (3) The Office of the AASB may also be assisted:
- (a) by employees of Agencies (within the meaning of the *Public Service Act 1999*); and
 - (b) by officers and employees of authorities of the Commonwealth; and
 - (c) by employees of Commonwealth companies (within the meaning of the *Public Governance, Performance and Accountability Act 2013*);
- whose services are made available to the Office of the AASB in connection with the performance of any of its functions.

235G Office of the AASB to have regard to FRC's advice etc.

The Office of the AASB must have regard to the advice and feedback about its budgets and staffing arrangements that the FRC gives under paragraph 225(2)(ba).

235H Chair not subject to direction by the AASB on certain matters

To avoid doubt, the Chair of the AASB is not subject to direction by the AASB in relation to the Chair's performance of functions, or exercise of powers, under the *Public Governance, Performance and Accountability Act 2013* or the *Public Service Act 1999* in relation to the Office of the AASB.

Subdivision B—The Australian Accounting Standards Board

236A Procedures

- (1) Meetings of the AASB are to be chaired by:
 - (a) the Chair; or
 - (b) the Deputy Chair if the Chair is absent; or
 - (c) a member chosen by the members present if both the Chair and the Deputy Chair are absent.
- (2) A meeting of the AASB, or a part of one of its meetings, must be held in public if the meeting or that part of it concerns the contents of any of the following:
 - (a) accounting standards or international accounting standards;
 - (b) sustainability standards or international sustainability standards.
- (4) Otherwise, the AASB may determine its own procedural rules (including rules as to notice of meetings, quorum and voting).

Section 236AA

236AA AASB to have regard to FRC's advice etc.

The AASB must have regard to the advice and feedback about its priorities, business plans and procedures that the FRC gives under paragraph 225(2)(b).

236B Appointment of members of the AASB

Appointment of Chair

- (1) The Minister appoints the Chair of the AASB.

Appointment of other members

- (2) The FRC appoints the other members of the AASB. The AASB may appoint one of its members to be Deputy Chair of the AASB.

Qualification for appointment

- (3) A person must not be appointed as a member of the AASB unless their knowledge of, or experience in, business, accounting, law, government, science, sustainability or climate change qualifies them for the appointment.

Appointment document

- (4) An appointment under subsection (1) or (2) is to be made in writing.

Period of appointment

- (5) The appointment document must specify the period of the appointment (not exceeding 5 years). A member holds office for the period specified in the appointment document and is eligible for re-appointment.

236BA Terms and conditions of appointment of members of the AASB

Remuneration and allowances

- (1) A member of the AASB is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid such remuneration as the Minister determines in writing.
- (2) A member of the AASB is to be paid such allowances as the Minister determines in writing.
- (3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.

Leave—full-time members

- (4) A full-time member of the AASB has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (5) The Minister may grant a full-time member of the AASB leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

Other terms and conditions

- (6) A member of the AASB holds office on such terms and conditions (if any) in relation to matters not covered by this Act as the Minister determines in writing.

236C Resignation and termination of appointment

Resignation

- (1) A member of the AASB may resign their appointment by giving a written resignation to:
 - (a) if the member is the Chair of the AASB—the Minister; or
 - (b) in any other case—the Chair of the FRC.

Section 236C

Termination of Chair's appointment

- (2) The Chair is not to be removed from office except as provided by subsection (3) or (4).
- (3) The Minister may terminate the appointment of the Chair of the AASB for:
 - (a) misbehaviour or physical or mental incapacity; or
 - (b) breach of the terms and conditions of their appointment.
- (4) The Minister must terminate the appointment of the Chair of the AASB if the Chair:
 - (a) becomes bankrupt; or
 - (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (c) compounds with their creditors; or
 - (d) makes an assignment of their remuneration or property for the benefit of their creditors; or
 - (e) contravenes section 237.

Termination of ordinary member's appointment

- (5) A member of the AASB (other than the Chair) is not to be removed from office except as provided by subsection (6) or (7).
- (6) The FRC may terminate the appointment of a member of the AASB (other than the Chair) for:
 - (a) misbehaviour or physical or mental incapacity; or
 - (b) breach of the terms and conditions of the member's appointment.
- (7) The FRC must terminate the appointment of a member of the AASB (other than the Chair) if the member:
 - (a) becomes bankrupt; or
 - (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (c) compounds with their creditors; or

- (d) makes an assignment of their remuneration or property for the benefit of their creditors; or
- (e) contravenes section 237.

236D Acting appointments

- (1) The Minister may appoint a person to act as Chair of the AASB:
 - (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chair is absent from duty or from Australia, or is for any reason unable to perform the duties of the office.
- (2) The AASB may appoint one of its members to act as Deputy Chair of the AASB:
 - (a) during a vacancy in the office of Deputy Chair (whether or not an appointment has previously been made to the office); or
 - or
 - (b) during any period, or during all periods, when the Deputy Chair is absent from duty or from Australia, or is for any reason unable to perform the duties of the office.
- (3) The FRC may appoint a person to act as a member of the AASB (other than the Chair):
 - (a) during a vacancy in the office of member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the member is absent from duty or from Australia, or is for any reason unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

Section 236DA

236DA Disclosure of interests

Disclosure to Minister or Chair of AASB

- (1) If a member of the AASB has or acquires any direct or indirect pecuniary interest that conflicts or could conflict with the proper performance of the member's functions, the member must:
 - (a) if the member is the Chair of the AASB—give written notice of the interest to the Minister; or
 - (b) if the member is not the Chair of the AASB—give written notice of the interest to the Chair of the AASB.

Disclosure to AASB

- (2) A member of the AASB who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the AASB must disclose the nature of the interest to a meeting of the AASB.
- (3) The disclosure under subsection (2) must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (4) The disclosure under subsection (2) must be recorded in the minutes of the meeting of the AASB.
- (5) The member:
 - (a) must not be present during any deliberation by the AASB on the matter; and
 - (b) must not take part in any decision of the AASB with respect to the matter;unless the Minister (if the member is the Chair of the AASB) or the Chair of the AASB (if the member is not the Chair of the AASB) otherwise determines.

Subdivision BAA—The Office of the AUASB

236DB Duties of the Chair of the AUASB

- (1) The Chair of the AUASB, under the Minister, is responsible for managing the Office of the AUASB.
- (2) In particular, the Chair of the AUASB is responsible for approving:
 - (a) the AUASB's priorities, business plans and procedures; and
 - (b) the Office of the AUASB's budgets and staffing arrangements (including level, structure and composition of staffing).
- (3) If the Chair of the AUASB takes action that is inconsistent with any advice the FRC has given under paragraph 225(2A)(b) or (ba), he or she must:
 - (a) make a written record of his or her reasons for not following the advice; and
 - (b) give a copy of the advice and of his or her reasons to the Minister; and
 - (c) include a copy of the advice and of his or her reasons in the annual report given by the Chair under section 46 of the *Public Governance, Performance and Accountability Act 2013* for the period during which the action is taken.

236DC Staff of the Office of the AUASB

Employment of staff

- (1) The Chair of the AUASB may, on behalf of the Commonwealth, employ such staff under written agreements as the Chair thinks necessary to employ to assist the Office of the AUASB in the performance of its functions and the exercise of its powers.
- (2) The terms and conditions of staff employed under subsection (1) are as determined in writing by the Chair.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Section 236DD

Office of the AUASB Code of Conduct

- (3) The Chair of the AUASB must determine, in writing, the Office of the AUASB Code of Conduct.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (4) The Office of the AUASB Code of Conduct applies to the Chair of the AUASB and staff appointed under subsection (1).

- (5) An instrument made under subsection (3) is not a legislative instrument.

Engagement of staff under the Public Service Act 1999

- (6) Without limiting subsections (1) and (2), staff of the Office of the AUASB may be engaged under the *Public Service Act 1999*.

- (7) For the purposes of the *Public Service Act 1999*:

- (a) the Chair of the AUASB and the staff of the Office of the AUASB referred to in subsection (6) together constitute a Statutory Agency; and
(b) the Chair of the AUASB is the Head of that Statutory Agency.

236DD Consultants and persons seconded to the Office of the AUASB

- (1) The Chair of the AUASB may, on behalf of the Commonwealth, engage consultants to perform services for the Office of the AUASB in connection with the performance of any of its functions.

- (2) The terms and conditions of engagement are as determined in writing by the Chair.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (3) The Office of the AUASB may also be assisted:

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- (a) by officers and employees of Agencies (within the meaning of the *Public Service Act 1999*); and
- (b) by officers and employees of authorities of the Commonwealth; and
- (c) by employees of Commonwealth companies (within the meaning of the *Public Governance, Performance and Accountability Act 2013*);

whose services are made available to the Office of the AUASB in connection with the performance of any of its functions.

236DE Office of the AUASB to have regard to FRC's advice etc.

The Office of the AUASB must have regard to the advice and feedback about its budgets and staffing arrangements that the FRC gives under paragraph 225(2A)(ba).

236DF Chair not subject to direction by the AUASB on certain matters

To avoid doubt, the Chair of the AUASB is not subject to direction by the AUASB in relation to the Chair's performance of functions, or exercise of powers, under the *Public Governance, Performance and Accountability Act 2013* or the *Public Service Act 1999* in relation to the Office of the AUASB.

Subdivision BA—The Auditing and Assurance Standards Board

236E Procedures

- (1) Meetings of the AUASB are to be chaired by:
 - (a) the Chair; or
 - (b) the Deputy Chair if the Chair is absent; or
 - (c) a member chosen by the members present if both the Chair and the Deputy Chair are absent.

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- (2) If a meeting of the AUASB, or a part of one of its meetings, concerns the contents of auditing standards or international auditing standards, the meeting or that part of it must be held in public.
- (4) Otherwise, the AUASB may determine its own procedural rules (including rules as to notice of meetings, quorum and voting).

236EA AUASB to have regard to FRC's advice etc.

The AUASB must have regard to the advice and feedback about its priorities, business plans and procedures that the FRC gives under paragraph 225(2A)(b).

236F Appointment of members of the AUASB

Appointment of Chair

- (1) The Minister appoints the Chair of the AUASB.

Appointment of other members

- (2) The FRC appoints the other members of the AUASB.
- (3) The AUASB may appoint one of its members to be Deputy Chair of the Board.

Qualification for appointment

- (4) A person must not be appointed as a member of the AUASB unless their knowledge of, or experience in, business, accounting, auditing, law, government, science, sustainability or climate change qualifies them for the appointment.

Appointment document

- (5) An appointment under subsection (1) or (2) is to be made in writing.

Period of appointment

- (6) The appointment document must specify the period of the appointment (not exceeding 5 years).
- (7) A member holds office for the period specified in the appointment document and is eligible for re-appointment.

236FA Terms and conditions of appointment of members of the AUASB

Remuneration and allowances

- (1) A member of the AUASB is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid such remuneration as the Minister determines in writing.
- (2) A member of the AUASB is to be paid such allowances as the Minister determines in writing.
- (3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.

Leave—full-time members

- (4) A full-time member of the AUASB has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (5) The Minister may grant a full-time member of the AUASB leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

Other terms and conditions

- (6) A member of the AUASB holds office on such terms and conditions (if any) in relation to matters not covered by this Act as the Minister determines in writing.

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236G Resignation and termination of appointment

Resignation

- (1) A member of the AUASB may resign their appointment by giving a written resignation to:
 - (a) if the member is the Chair of the AUASB—the Minister; or
 - (b) in any other case—the Chair of the FRC.

Termination of Chair's appointment

- (2) The Chair is not to be removed from office except as provided by subsection (3) or (4).
- (3) The Minister may terminate the appointment of the Chair of the AUASB for:
 - (a) misbehaviour or physical or mental incapacity; or
 - (b) breach of the terms and conditions of their appointment.
- (4) The Minister must terminate the appointment of the Chair of the AUASB if the Chair:
 - (a) becomes bankrupt; or
 - (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (c) compounds with their creditors; or
 - (d) makes an assignment of their remuneration or property for the benefit of their creditors; or
 - (e) contravenes section 237.

Termination of ordinary member's appointment

- (5) A member of the AUASB (other than the Chair) is not to be removed from office except as provided by subsection (6) or (7).
- (6) The FRC may terminate the appointment of a member of the AUASB (other than the Chair) for:
 - (a) misbehaviour or physical or mental incapacity; or

- (b) breach of the terms and conditions of the member's appointment.
- (7) The FRC must terminate the appointment of a member of the AUASB (other than the Chair) if the member:
 - (a) becomes bankrupt; or
 - (b) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (c) compounds with their creditors; or
 - (d) makes an assignment of their remuneration or property for the benefit of their creditors; or
 - (e) contravenes section 237.

236H Acting appointments

- (1) The Minister may appoint a person to act as Chair of the AUASB:
 - (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chair is absent from duty or from Australia, or is for any reason unable to perform the duties of the office.
- (2) The AUASB may appoint one of its members to act as Deputy Chair of the AUASB:
 - (a) during a vacancy in the office of Deputy Chair (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Deputy Chair is absent from duty or from Australia, or is for any reason unable to perform the duties of the office.
- (3) The FRC may appoint a person to act as a member of the AUASB (other than the Chair):
 - (a) during a vacancy in the office of the member (whether or not an appointment has previously been made to the office); or

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- (b) during any period, or during all periods, when the member is absent from duty or from Australia, or is for any reason unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

236J Disclosure of interests

Disclosure to Minister or Chair of AUASB

- (1) If a member of the AUASB has or acquires any direct or indirect pecuniary interest that conflicts or could conflict with the proper performance of the member's functions, the member must:
- (a) if the member is the Chair of the AUASB—give written notice of the interest to the Minister; or
 - (b) if the member is not the Chair of the AUASB—give written notice of the interest to the Chair of the AUASB.

Disclosure to AUASB

- (2) A member of the AUASB who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the AUASB must disclose the nature of the interest to a meeting of the AUASB.
- (3) The disclosure under subsection (2) must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (4) The disclosure under subsection (2) must be recorded in the minutes of the meeting of the AUASB.
- (5) The member:
- (a) must not be present during any deliberation by the AUASB on the matter; and
 - (b) must not take part in any decision of the AUASB with respect to the matter;

unless the Minister (if the member is the Chair of the AUASB) or the Chair of the AUASB (if the member is not the Chair of the AUASB) otherwise determines.

Subdivision C—Confidentiality

237 Confidentiality

- (1) The FRC, the AASB, the Office of the AASB, the AUASB and the Office of the AUASB must take all reasonable measures to protect from unauthorised use or disclosure information given to it in confidence.
- (2) For the purposes of subsection (1), the disclosure of information is taken to be authorised if the disclosure:
 - (a) is required or permitted by a law of the Commonwealth or a prescribed law of a State or Territory; or
 - (b) is made in order to enable an authority or person in a country outside Australia and the external Territories to perform or exercise a function or power that corresponds, or is analogous, to any of the FRC's, the AASB's, the Office of the AASB's, the AUASB's or the Office of the AUASB's functions or powers; or
 - (c) is made to bodies that set international accounting standards, international auditing standards or international sustainability standards; or
 - (d) is made to ASIC for the purposes of its performance of its functions under the corporations legislation (other than the excluded provisions); or
 - (da) is made to a member of a committee convened under Part 2 of Schedule 2 to the Corporations Act for the purposes of the performance of the committee's functions under the corporations legislation; or
 - (e) is made to the Disciplinary Board for the purposes of its performance of its functions under the corporations legislation; or

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- (ea) is made to APRA for the purposes of its performance of its functions; or
- (f) is made to a professional accounting body for the purposes of its performance of its functions.

Part 14—The Parliamentary Joint Committee on Corporations and Financial Services

241 Membership

- (2) The Parliamentary Committee consists of 10 members, of whom:
- (a) 5 are to be senators appointed by the Senate; and
 - (b) 5 are to be members of the House of Representatives appointed by that House.

Note: The Parliamentary Committee was established by subsection 241(1) of the *Australian Securities and Investments Commission Act 1989* and is continued in existence by section 261 of this Act.

- (3) The appointment of members by a House must be in accordance with that House's practice relating to the appointment of members of that House to serve on joint select committees of both Houses.
- (4) A person is not eligible for appointment as a member if he or she is:
- (a) a Minister; or
 - (b) the President of the Senate; or
 - (c) the Speaker of the House of Representatives; or
 - (d) the Deputy-President and Chairman of Committees of the Senate; or
 - (e) the Chairman of Committees of the House of Representatives.
- (5) A member ceases to hold office:
- (a) when the House of Representatives expires or is dissolved; or
 - (b) if he or she becomes the holder of an office referred to in a paragraph of subsection (4); or
 - (c) if he or she ceases to be a member of the House by which he or she was appointed; or
 - (d) if he or she resigns his or her office as provided by subsection (6) or (7), as the case requires.

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- (6) A member appointed by the Senate may resign his or her office by writing signed and delivered to the President of the Senate.
- (7) A member appointed by the House of Representatives may resign his or her office by writing signed and delivered to the Speaker of that House.
- (8) A House may appoint one of its members to fill a vacancy among the members of the Parliamentary Committee appointed by that House.

242 Powers and proceedings

Subject to this Act, all matters relating to the Parliamentary Committee's powers and proceedings must be determined by resolution of both Houses.

243 Duties

The Parliamentary Committee's duties are:

- (a) to inquire into, and report to both Houses on:
 - (i) activities of ASIC or the Takeovers Panel, or matters connected with such activities, to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; or
 - (ii) the operation of the corporations legislation (other than the excluded provisions); or
 - (iii) the operation of any other law of the Commonwealth, or any law of a State or Territory, that appears to the Parliamentary Committee to affect significantly the operation of the corporations legislation (other than the excluded provisions); or
 - (iv) the operation of any foreign business law, or of any other law of a foreign country, that appears to the Parliamentary Committee to affect significantly the operation of the corporations legislation (other than the excluded provisions); and

- (b) to examine each annual report that is prepared by a body established by this Act and of which a copy has been laid before a House, and to report to both Houses on matters that appear in, or arise out of, that annual report and to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; and
- (c) to inquire into any question in connection with its duties that is referred to it by a House, and to report to that House on that question.

Part 15—Miscellaneous

243A Prosecutions for indictable offences against this Act

- (1) Subject to subsection (2), jurisdiction is conferred on the Federal Court to hear and determine prosecutions for indictable offences against this Act.
 - (2) Subsection (1) does not apply to prosecutions for offences:
 - (a) against Division 2 of Part 2; or
 - (b) against Part 3 in its application in relation to an investigation of a contravention of that Division.
- Note: For the jurisdiction of the Federal Court in relation to prosecutions for these offences, see section 12HC.
- (3) Proceedings before the Federal Court under this section, other than proceedings instituted by:
 - (a) ASIC; or
 - (b) a person authorised in writing by ASIC;must not be instituted except with the consent in writing of the Minister or of a person authorised by the Minister in writing to give such consents.
 - (4) Nothing in subsection (3) affects the operation of the *Director of Public Prosecutions Act 1983*.

243B Offences committed partly in and partly out of the jurisdiction

Where:

- (a) a person does or omits to do an act outside Australia; and
 - (b) if that person had done or omitted to do that act in Australia, the person would, by reason of also having done or omitted to do an act in Australia, have been guilty of an offence against this Act;
- the person is guilty of that offence.

243C ASIC may publish internal dispute resolution data

- (1) ASIC may publish information relating to internal dispute resolution that is:
 - (a) information given to ASIC under any of the following:
 - (i) subparagraph 912A(1)(g)(ii) or paragraph 1017G(1)(d) of the *Corporations Act 2001*;
 - (ii) paragraph 47(1)(ha) of the *National Consumer Credit Protection Act 2009*;
 - (iii) paragraph 47(1)(c) of the *Retirement Savings Accounts Act 1997*;
 - (iv) paragraph 101(1)(c) of the *Superannuation Industry (Supervision) Act 1993*; or
 - (b) information derived from information of a kind referred to in paragraph (a).
- (2) Information published under this section may relate to a particular entity, or may be information from which a particular entity may be identified, but must not be personal information within the meaning of the *Privacy Act 1988*.

243D Financial transaction reports

Neither subsection 16(5A) nor (5AA) of the *Financial Transactions Reports Act 1988* prohibits a cash dealer from communicating or disclosing a fact or information referred to in either of those subsections:

- (a) to ASIC; or
- (b) to a market licensee; or
- (c) to a CS facility licensee; or
- (ca) to a derivative trade repository licensee, or to the operator of a prescribed derivative trade repository; or
- (d) to an operator of a market exempted under section 791C of the *Corporations Act* from the requirement to hold an Australian market licence; or
- (e) to an operator of a clearing and settlement facility exempted under section 820C of the *Corporations Act*; or

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- (f) in accordance with conditions imposed on an Australian market licence under section 796A of the Corporations Act; or
- (g) in accordance with conditions imposed on a CS facility licence under section 825A of the Corporations Act; or
- (h) in accordance with conditions on an exemption made under section 791C of the Corporations Act from the requirement to hold an Australian market licence; or
- (i) in accordance with conditions on an exemption made under section 820C of the Corporations Act from the requirement to hold an Australian CS facility licence; or
- (j) as prescribed by regulations made for the purposes of this paragraph.

243E Suspicious matters reports under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

Section 123 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* does not prohibit a person from disclosing a fact or information referred to in that section:

- (a) to ASIC; or
- (b) to a market licensee; or
- (c) to a CS facility licensee; or
- (ca) to a derivative trade repository licensee, or to the operator of a prescribed derivative trade repository; or
- (d) to an operator of a market exempted under section 791C of the Corporations Act from the requirement to hold an Australian market licence; or
- (e) to an operator of a clearing and settlement facility exempted under section 820C of the Corporations Act; or
- (f) in accordance with conditions imposed on an Australian market licence under section 796A of the Corporations Act; or
- (g) in accordance with conditions imposed on an Australian CS facility licence under section 825A of the Corporations Act; or

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- (h) in accordance with conditions on an exemption made under section 791C of the Corporations Act from the requirement to hold an Australian market licence; or
- (i) in accordance with conditions on an exemption made under section 820C of the Corporations Act from the requirement to hold an Australian CS facility licence; or
- (j) as prescribed by regulations made for the purposes of this paragraph.

243F Treat the corporate director of a CCIV as providing financial services etc. being provided by the CCIV

- (1) This section applies to a provision of this Act that applies in relation to:
 - (a) a service, or matter, that is a financial service for the purposes of that provision; or
 - (b) a financial services business; or
 - (c) a matter that is prescribed by the regulations for the purposes of this paragraph.

General rule

- (2) For the purposes of that provision of this Act:
 - (a) treat any conduct engaged in by, or on behalf of, a CCIV as also being engaged in by, or on behalf of, the corporate director of the CCIV; and
 - (b) treat any conduct relating to the CCIV that is engaged in by a person (other than the corporate director of the CCIV) as also being engaged in by that person in relation to the corporate director of the CCIV.
- (3) In subsection (2), **conduct** means an act, an omission to perform an act or a state of affairs.

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Exceptions

- (4) If the CCIV issues a security in the CCIV, then subsection (2) does not treat the corporate director of the CCIV as also being the issuer of the security.
- (5) If the CCIV is a participant in:
 - (a) a clearing and settlement facility; or
 - (b) a financial market;subsection (2) does not treat the corporate director of the CCIV as also being a participant in relation to the facility or market.
- (6) Subsection (2) does not apply in any circumstances prescribed by the regulations for the purposes of this subsection.

244 Review by Administrative Review Tribunal of certain decisions

- (1) In this section:

decision has the same meaning as in the *Administrative Review Tribunal Act 2024*.

- (2) Applications may be made to the Administrative Review Tribunal for review of a decision by ASIC:
 - (a) to make an order under section 72 or 73; or
 - (b) to make an order under subsection 75(1) varying an order in force under Division 8 of Part 3; or
 - (c) to refuse to vary or revoke an order in force under Division 8 of Part 3; or
 - (d) to refuse to make an exemption under subsection 12DY(1);
or
 - (e) to vary or revoke an exemption under subsection 12DY(1);
or
 - (f) to impose or vary a condition on an exemption under subsection 12DY(1); or
 - (g) to refuse, under paragraph 171E(3)(b), to make a request mentioned in paragraph 171E(3)(a).

244A Notice of reviewable decision and review rights

- (1) This section applies if ASIC makes a decision to which subsection 244(2) applies.
- (2) Subject to subsection (3), ASIC must take such steps as are reasonable in the circumstances to give to each person whose interests are affected by the decision notice, in writing or otherwise:
 - (a) of the making of the decision; and
 - (b) of the person's right to have the decision reviewed by the Administrative Review Tribunal.
- (3) Subsection (2) does not require ASIC to give notice to a person affected by the decision, or to the persons in a class of persons affected by the decision, if ASIC determines that giving notice to the person or persons is not warranted, having regard to:
 - (a) the cost of giving notice to the person or persons; and
 - (b) the way in which the interests of the person or persons are affected by the decision.
- (4) A failure to comply with this section does not affect the validity of the decision.
- (5) The fact that a person has not been given notice of the decision because of a determination under subsection (3) constitutes special circumstances for the purposes of subsection 20(2) of the *Administrative Review Tribunal Act 2024*.
- (6) To avoid doubt, this section, instead of section 266 (decision-maker to give notice of decision and review rights) of the *Administrative Review Tribunal Act 2024*, applies to the requirement to give notice of the making of a decision to which subsection 244(2) of this Act applies.

246 Liability for damages

- (1) None of the following:
 - (aa) the Minister;

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- (a) ASIC;
- (c) a member of ASIC;
- (e) a member of the Takeovers Panel;
- (f) a person appointed for the purposes of this Act or a prescribed law of the Commonwealth, a State or a Territory;
- (g) a staff member or a person who is, or is a member of, an ASIC delegate or is authorised to perform or exercise a function or power of, or on behalf of, ASIC;
- (i) a person who is:
 - (i) a member of staff of the Office of the AASB engaged under section 235E; or
 - (ii) a consultant to the Office of the AASB engaged under section 235F; or
 - (iii) a person assisting the Office of the AASB under subsection 235F(3);
- (j) a person who is:
 - (i) a member of staff of the Office of the AUASB engaged under section 236DC; or
 - (ii) a consultant to the Office of the AUASB engaged under section 236DD; or
 - (iii) a person assisting the Office of the AUASB under subsection 236DD(3);
- (k) an officer or employee of an Agency (within the meaning of the *Public Service Act 1999*), or of an authority of the Commonwealth, whose services are made available to the FRC, a committee convened under Part 2 of Schedule 2 to the Corporations Act or the Disciplinary Board in connection with the performance or exercise of any of its functions or powers;
- (l) a person engaged by an Agency (within the meaning of the *Public Service Act 1999*), or of an authority of the Commonwealth, to provide services to the FRC or a committee convened under Part 2 of Schedule 2 to the Corporations Act in connection with the performance or exercise of any of its functions or powers;

- (m) a member of a committee convened under Part 2 of Schedule 2 to the Corporations Act;
- (n) an expert appointed:
 - (i) under subsection 823BB(1) of the Corporations Act; or
 - (ii) as directed under subsection 823BB(4) of the Corporations Act;

is liable to an action or other proceeding for damages for or in relation to an act done or omitted in good faith in performance or purported performance of any function, or in exercise or purported exercise of any power, conferred or expressed to be conferred by or under the corporations legislation, or a prescribed law of the Commonwealth, a State or a Territory.

- (2) Without limiting paragraph (1)(f), the following are taken to be persons appointed for the purposes of this Act:
 - (a) a member of the Disciplinary Board;
 - (b) a member of the FRC or of a committee or advisory group established by the FRC;
 - (c) a member of the AASB or of a committee, advisory panel or consultative group established by the AASB or by the Office of the AASB;
 - (d) a member of the AUASB or of a committee, advisory panel or consultative group established by the AUASB or by the Office of the AUASB.

247 Duplicate seals

- (1) As well as ASIC's common seal, there are to be such duplicates of that seal as ASIC directs.
- (2) A document to which a duplicate seal of ASIC is affixed is taken to have ASIC's common seal affixed to it.

248 Judicial notice of ASIC's seal and members' signatures

- (1) A court must take judicial notice of ASIC's common seal affixed to a document and, unless the contrary is established, must presume that it was duly affixed.

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- (2) A court must take judicial notice of:
- (a) the official signature of a person who holds or has held, or is acting or has acted in, the office of member, Chairperson or Deputy Chairperson; and
 - (b) the fact that the person holds or has held, or is acting or has acted in, that office;
- if a signature purporting to be the person's signature appears on an official document.
- (3) In this section:
- (a) *court* includes a tribunal; and
 - (b) a reference, in relation to a tribunal, to taking judicial notice is a reference to taking the same notice as would be taken by a court.

249 Validation of agreements to employ staff or engage consultants

- (1) The following are, for all purposes, taken to be, and always to have been, valid agreements:
- (a) an agreement purportedly made, before the end of 9 March 2017, under subsection 120(3) of this Act or the old ASIC Act (whether or not the terms and conditions of employment under the agreement were validly determined under subsection 120(4) of this Act or the old ASIC Act);
 - (b) an agreement purportedly made, before the end of 9 March 2017, under subsection 121(1) of this Act or the old ASIC Act (whether or not the terms and conditions of engagement under the agreement were validly determined under subsection 121(2) of this Act or the old ASIC Act).

Note 1: As a result of this section (and the definition of *staff member* in subsection 5(1)), a person employed or engaged under the purported agreement would be a staff member of ASIC, and would therefore be able to exercise functions and powers delegated under section 102.

Note 2: Validation of an agreement under this section affects the significance, status and effect of the agreement, and matters relating to the agreement, for the purposes of section 279 of this Act and section 1403 of the *Corporations Act 2001*.

- (2) Subsection (1) applies to such an agreement whether or not it was expressed to be made on behalf of the Commonwealth.
- (3) Subsections (1) and (2) have effect in relation to:
 - (a) proceedings (whether original or appellate) that begin on or after the day the *Treasury Laws Amendment (2017 Measures No. 3) Act 2017* receives the Royal Assent; and
 - (b) proceedings that began before that day, if the proceedings (including any appeals) had not been finally determined as at that day.

250 Compensation for compulsory acquisition

- (1) If:
 - (a) the operation of a validation provision would result in the acquisition of property from a person otherwise than on just terms; and
 - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution; and
 - (c) section 1350 of the *Corporations Act 2001* does not apply in relation to the acquisition;the Commonwealth is liable to pay compensation of a reasonable amount to the person.
 - (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Court for the recovery from the Commonwealth of such reasonable amount as the court determines.
 - (3) Any damages or compensation recovered or other remedy given in a proceeding that is commenced otherwise than under this section is to be taken into account in assessing compensation payable in a proceeding that is commenced under this section and that arises out of the same event or transaction.
 - (4) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.
-

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Court has the same meaning as in section 58AA of the *Corporations Act 2001*.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

validation provision means:

- (a) section 249; or
- (b) paragraph 276(1)(b) or subsection 276(4) or (5); or
- (c) paragraph 277(1)(b) or subsection 277(5) or (6).

251 The regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations providing for allowances and expenses for the purposes of section 89 or subsection 192(6) or 218(4) may provide for those allowances and expenses by reference to a scale of expenses for witnesses who attend before a court specified in the regulations, being a federal court, or the Supreme Court of a State or Territory.

Part 16—Transition from the old ASIC legislation

Division 1—Preliminary

253 Object of Part

- (1) The object of this Part is to provide for a smooth transition from the regime provided for in the old ASIC legislation of the States in this jurisdiction and the Northern Territory to the regime provided for in the new ASIC legislation, so that individuals, bodies corporate and other bodies are, to the greatest extent possible, put in the same position immediately after the commencement as they would have been if:
 - (a) that old ASIC legislation had, from time to time when it was in force, been valid Commonwealth legislation applying throughout the States in this jurisdiction and the Northern Territory; and
 - (b) the new ASIC legislation (to the extent it contains provisions that correspond to provisions of the old ASIC legislation as in force immediately before the commencement) were a continuation of that old ASIC legislation as so applying.

Note: The new ASIC legislation contains provisions that correspond to most of the provisions of the old ASIC legislation. Generally, the only exceptions to this are provisions of the old ASIC legislation that related to the fact that the ASIC Law operated separately in each of the States and Territories (rather than as a single national law).

- (2) The object of this Part is also to provide for a smooth transition from the regime provided for in the old ASIC legislation of the Commonwealth to the regime provided for in the new ASIC legislation as if the new ASIC legislation (to the extent it contains provisions that correspond to provisions of the old ASIC legislation as in force immediately before the commencement) were a continuation of that old ASIC legislation as so applying.
- (3) In resolving any ambiguity as to the meaning of any of the other provisions of this Part, an interpretation that is consistent with the

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object of this Part is to be preferred to an interpretation that is not consistent with that object.

254 Definitions

(1) In this Part:

carried over provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory means a provision of that legislation that:

- (a) was in force immediately before the commencement; and
- (b) corresponds to a provision of the new ASIC legislation.

commencement means the commencement of this Act.

corresponds has a meaning affected by subsections (2), (3) and (4).

instrument means:

- (a) any instrument of a legislative character (including an Act or regulations) or of an administrative character; or
- (b) any other document.

liability includes a duty or obligation.

made includes issued, given or published.

new ASIC legislation means:

- (a) this Act; and
- (b) the new ASIC Regulations (as amended and in force from time to time) and any other regulations made under this Act; and
- (c) the laws of the Commonwealth referred to in subparagraphs (a)(ii) and (b)(iii) of the definition of **old ASIC legislation**, being those laws as they apply after the commencement; and
- (d) the preserved instruments.

new ASIC Regulations means the regulations that, because of section 264, have effect as if they were made under section 251 of this Act.

old application Act for a State or the Northern Territory means:

- (a) in the case of New South Wales—the *Corporations (New South Wales) Act 1990* of New South Wales as in force from time to time before the commencement; or
- (b) in the case of Victoria—the *Corporations (Victoria) Act 1990* of Victoria as in force from time to time before the commencement; or
- (c) in the case of Queensland—the *Corporations (Queensland) Act 1990* of Queensland as in force from time to time before the commencement; or
- (d) in the case of Western Australia—the *Corporations (Western Australia) Act 1990* of Western Australia as in force from time to time before the commencement; or
- (e) in the case of South Australia—the *Corporations (South Australia) Act 1990* of South Australia as in force from time to time before the commencement; or
- (f) in the case of Tasmania—the *Corporations (Tasmania) Act 1990* of Tasmania as in force from time to time before the commencement; or
- (g) in the case of the Northern Territory—the *Corporations (Northern Territory) Act 1990* of the Northern Territory as in force from time to time before the commencement.

old ASIC Law of a State in this jurisdiction or the Northern Territory means the ASIC Law or ASC Law of the State or Territory (within the meaning of the application Act of the State or Territory as in force from time to time before the commencement).

old ASIC legislation means:

- (a) when used in relation to the Commonwealth—the following:
 - (i) the old ASIC Act and old ASIC Regulations, and any instruments made under that Act or those Regulations (including provisions as they had effect as the ASIC

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- Law or ASIC Regulations of the Australian Capital Territory);
- (ii) the laws of the Commonwealth as applying of their own force in relation to the old ASIC Act and old ASIC Regulations of the Commonwealth from time to time before the commencement, and any instruments made under those laws as so applying; and
- (b) when used in relation to a State in this jurisdiction or the Northern Territory—the following:
- (i) the old ASIC Law and old ASIC Regulations of the State or Territory, and any instruments made under that Law or those Regulations; and
 - (ii) the old application Act for the State or Territory, and any instruments made under that Act; and
 - (iii) the laws of the Commonwealth as they applied in relation to the old ASIC Law and the old ASIC Regulations of the State or Territory from time to time before the commencement as laws of, or for the government of, that State or Territory because of Part 8 or Division 6 of Part 11 of the old Application Act for that State or Territory, and any instruments made under those laws as so applying.

old ASIC Regulations means:

- (a) when used in relation to the Commonwealth—the regulations made under section 251 or 252 of the old ASIC Act as in force from time to time before the commencement (including regulations as they had effect as the ASIC Regulations of the Australian Capital Territory); and
- (b) when used in relation to a State in this jurisdiction or the Northern Territory—the ASIC Regulations or ASIC Regulations of that State or Territory (within the meaning of the old application Act for the State or Territory) as in force from time to time before the commencement.

old corporations legislation has the meaning given by subsection 1371(1) of the *Corporations Act 2001*.

order, in relation to a court, includes any judgment, conviction or sentence of the court.

pre-commencement right or liability has the meaning given by subsection 276(1) or 277(1).

preserved instrument means an instrument that, because of section 275, has effect after the commencement as if it were made under a provision of the new ASIC legislation.

right includes an interest or status.

substituted right or liability has the meaning given by subsection 276(2) or 277(3).

this Part includes regulations made for the purposes of any of the provisions of this Part.

- (2) Subject to subsection (4), for the purposes of this Part, a provision or part (the **old provision or part**) of the old ASIC legislation of the Commonwealth, a State or the Northern Territory **corresponds** to a provision or part (the **new provision or part**) of the new ASIC legislation (and vice versa) if:
- (a) the old provision or part and the new provision or part are substantially the same, unless the regulations specify that the 2 provisions or parts do not correspond; or
 - (b) the regulations specify that the 2 provisions or parts correspond.

Note: The range of provisions of the new ASIC legislation that may be corresponding provisions for the purposes of this Part is affected by sections 277 and 284, which take certain provisions of the old ASIC legislation to be included in the new ASIC legislation.

- (3) For the purposes of paragraph (2)(a), differences of all or any of the following kinds are not sufficient to mean that 2 provisions or parts are not substantially the same:
- (a) differences in the numbering of the provisions or parts;
 - (b) differences of a minor technical nature (for example, differences in punctuation, or differences that are attributable to the correction of incorrect cross references);

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- (c) the fact that one of the provisions refers to a corresponding previous law, or a relevant previous law, and the other does not;
- (d) other differences that are attributable to the fact that the new ASIC legislation applies as a Commonwealth law throughout Australia;
- (e) other differences of a kind prescribed by the regulations for the purposes of this paragraph.

This subsection is not intended to otherwise limit the circumstances in which 2 provisions or parts are, for the purposes of paragraph (2)(a), substantially the same.

- (4) The regulations may provide that a specified provision of the old ASIC legislation of the Commonwealth, a State or the Northern Territory does, or does not, correspond to a specified provision of the new ASIC legislation.

255 Relationship of Part with State validation Acts

- (1) This Part applies to an invalid administrative action of a Commonwealth authority or an officer of the Commonwealth (within the meaning of a State validation Act) as if the circumstances that made the authority's or officer's action an invalid administrative action had not made the action invalid.

Note: For the status and effect of invalid administrative actions in relation to times before the commencement, see the State validation Acts.

- (2) However, if there are other circumstances that affect or may affect the validity of the action, neither this section, nor anything else in this Part, is taken to negate the effect of those other circumstances.
- (3) If:
 - (a) a person would have had a right or liability under a provision (the *old provision*) of the old ASIC legislation of a State if the circumstances that made the authority's or officer's action an invalid administrative action (within the meaning of the State validation Act) of that State had not made the action invalid; and

- (b) the effect of that State validation Act in relation to that action is to declare that the person has, and is taken always to have had, the same rights and liabilities as they would have had under the old provision if the invalid administrative action had been taken, or purportedly taken, at the relevant time by a duly authorised State authority or officer of the State (within the meaning of that Act);

this Part applies as if:

- (c) a reference to a right or liability arising under the old ASIC legislation included a reference to the right or liability that the person is declared to have by the State validation Act; and
- (d) that right or liability arose under the old provision.
- (4) In this section:

State validation Act means an Act of a State in this jurisdiction under which certain administrative actions (within the meaning of that Act) taken, or purportedly taken, at or before the commencement by Commonwealth authorities or officers of the Commonwealth (within the meaning of that Act) pursuant to functions or powers (the ***relevant functions or powers***) conferred, or purportedly conferred, by or under laws that include the old application Act for that State have, and are deemed always to have had, the same force and effect for all purposes as they would have had if:

- (a) they had been taken, or purportedly taken by a State authority or officer of the State (within the meaning of that Act); and
- (b) the relevant functions or powers had been duly conferred on those authorities or officers.

256 References to things taken or deemed to be the case etc.

If:

- (a) a law of a State or Territory in this jurisdiction had effect before the commencement:
- (i) to take or deem something to have happened or to be the case, or to have a particular effect, under or for the

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purposes of the old ASIC legislation (or a provision of that legislation) of the Commonwealth, a State in this jurisdiction or the Northern Territory; or

- (ii) to give something an effect for the purposes of the old ASIC legislation (or a provision of that legislation) that it would not otherwise have had; and

- (b) that effect was continuing immediately before the commencement;

this Part applies as if that thing had actually happened or were actually the case, or as if that thing actually had that other effect.

257 Existence of several versions of the old ASIC legislation does not result in this Part operating to take the same thing to be done several times under the new ASIC legislation etc.

If, apart from this section, a provision of this Part (the *transitional provision*) would, because the Commonwealth, each State in this jurisdiction and the Northern Territory had its own old ASIC legislation (containing parallel provisions) before the commencement, operate so that:

- (a) a particular thing done before the commencement would be taken to be done, or have effect, 2 or more times by, under, or for the purposes of, a provision of the new ASIC legislation; or
- (b) a right or liability would be created 2 or more times in respect of a particular event, circumstance or thing that happened before the commencement; or
- (c) a particular result or effect would be produced 2 or more times for the purposes of the new ASIC legislation in relation to the same matter;

the transitional provision is taken to operate so that:

- (d) if paragraph (a) applies—the thing is taken to be done or have effect only once by, under, or for the purposes of the provision of, the new ASIC legislation; or
- (e) if paragraph (b) applies—the right or liability is created only once in respect of the event, circumstance or thing; or

- (f) if paragraph (c) applies—the result or effect is produced only once in relation to the matter.

258 Penalty units in respect of pre-commencement conduct remain at \$100

- (1) If, because of this Part, an offence can be prosecuted after the commencement in respect of conduct that occurred before the commencement, the amount of a penalty unit in respect of that offence is \$100.
- (2) This section has effect despite section 4AA of the *Crimes Act 1914*.

259 Ceasing to be a referring State does not affect previous operation of this Part

If, after the commencement, a State ceases to be a referring State, that does not undo or affect:

- (a) the effects that this Part has already had in relation to matters connected with that State; or
- (b) the ongoing effect of this Act as it operates because of the effects referred to in paragraph (a).

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Division 2—Carrying over bodies established etc. or persons appointed under the old ASIC Act

260 Division has effect subject to Division 7 regulations

This Division has effect subject to regulations made for the purposes of Division 7.

261 Carrying over bodies established under the old ASIC Act

A body that was established under the old ASIC Act continues in existence as if it had been established under this Act.

Note: The Corporations and Markets Advisory Committee (CAMAC) ceased to exist on the commencement of Schedule 7 to the *Statute Update (Smaller Government) Act 2018*.

262 Carrying over the Chairman and Deputy Chairman of the Financial Reporting Council

- (1) A member of the FRC who was Chairman of the FRC immediately before the commencement continues as if he or she had been appointed as Chair of the FRC under this Act.
- (2) A member of the FRC who was Deputy Chairman of the FRC immediately before the commencement continues as if he or she had been appointed as Deputy Chair of the FRC under this Act.

Division 3—Carrying over the old ASIC Regulations

263 Division has effect subject to Division 7 regulations

This Division has effect subject to regulations made for the purposes of Division 7.

264 Old ASIC Regulations continue to have effect

The old ASIC Regulations that were made for the purposes of provisions of the old ASIC Act that correspond to provisions of this Act and that were in force immediately before the commencement continue to have effect (and may be dealt with) after the commencement as if:

- (a) they were regulations in force under section 251 of this Act;
and
- (b) they were made for the purposes of the corresponding provisions of this Act.

Division 4—Court proceedings and orders

265 Division has effect subject to Division 7 regulations

This Division has effect subject to regulations made for the purposes of Division 7.

266 Definitions

(1) In this Division:

appeal or review proceeding, in relation to an order of a court, means a proceeding by way of appeal, or otherwise seeking review, of the order.

enforcement proceeding, in relation to an order made by a court, means:

- (a) a proceeding to enforce the order; or
- (b) any other proceeding in respect of a breach of the order.

federal ASIC proceeding means a proceeding of any of the following kinds that, immediately before the commencement, was before a court:

- (a) a proceeding in respect of a matter arising under the *Administrative Decisions (Judicial Review) Act 1977* involving or related to a decision made under a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory;
- (b) a proceeding in respect of a matter arising under Division 2 of Part 2 of the old ASIC Act;
- (c) a proceeding for a writ of mandamus or prohibition, or an injunction, against an officer or officers of the Commonwealth (within the meaning of section 75 of the Constitution) in relation to a matter to which a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory applied;

- (ca) a proceeding in relation to a matter to which a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory applied:
 - (i) in which the Commonwealth was seeking an injunction or a declaration; or
 - (ii) to which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, was a party;
- (cb) any other proceeding in relation to a matter to which a provision of the old ASIC legislation of a State in this jurisdiction applied that was in the exercise of federal jurisdiction;
- (cc) any other proceeding in relation to a matter to which a provision of the old ASIC legislation of the Northern Territory applied that would be covered by paragraph (cb) if the Northern Territory had been a State;
- (cd) any other proceeding under the old ASIC legislation of the Commonwealth that was in the exercise of federal jurisdiction;
- (d) a proceeding in the court's accrued federal jurisdiction in relation to a matter to which a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory applied.

interlocutory application means an application that:

- (a) is made during the course of a proceeding; and
- (b) is for an order that is incidental to the principal object of that proceeding, including, for example:
 - (i) an order about the conduct of that proceeding; or
 - (ii) an order assisting a party to that proceeding to present their case in that proceeding; or
 - (iii) an order protecting or otherwise dealing with property that is the subject matter of that proceeding;but not including an order making a final determination of existing rights or liabilities.

interlocutory order means:

- (a) an order made in relation to an interlocutory application; or

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(b) an order or direction about the conduct of a proceeding.

interlocutory proceeding means a proceeding:

- (a) dealing only with; or
- (b) to the extent it deals with;

an interlocutory application.

primary proceeding means a proceeding other than an interlocutory proceeding.

proceeding means a proceeding, whether criminal or civil, before a court.

- (2) For the purposes of this Part, if an interlocutory proceeding relates to a proceeding that is itself an interlocutory proceeding, the first-mentioned proceeding is taken to relate also to the primary proceeding to which the second-mentioned proceeding relates.

267 Treatment of court proceedings under or related to the old ASIC legislation—proceedings other than federal ASIC proceedings

- (1) This section applies to a proceeding, other than a federal ASIC proceeding, in relation to which the following paragraphs are satisfied:
 - (a) the proceeding was started in a court before the commencement; and
 - (b) the proceeding was:
 - (i) under a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory; or
 - (ii) brought as, or connected with, a prosecution for an offence against a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory; and
 - (c) the proceeding was not an enforcement proceeding, or an appeal or review proceeding, in relation to an order of a court; and

- (d) the proceeding had not been concluded or terminated before the commencement; and
 - (e) either:
 - (i) if the proceeding is a primary proceeding—no final determination of any of the existing rights or liabilities at issue in the proceeding had been made before the commencement; or
 - (ii) if the proceeding is an interlocutory proceeding—this section applies to the primary proceeding to which the interlocutory proceeding relates.
- (2) In this section:
- (a) the proceeding to which this section applies is called the ***old proceeding***; and
 - (b) the provision of the old ASIC legislation referred to in whichever of subparagraphs (1)(b)(i) and (ii) applies is called the ***relevant old provision***.
- (3) A proceeding (the ***new proceeding***) equivalent to the old proceeding is, on the commencement, taken to have been brought in the same court, exercising federal jurisdiction:
- (a) if subparagraph (1)(b)(i) applies—under the provision of the new ASIC legislation that corresponds to the relevant old provision; or
 - (b) if subparagraph (1)(b)(ii) applies—as, or connected with, a prosecution for an offence against the provision of the new ASIC legislation that corresponds to the relevant old provision.

To the extent that the old proceeding, before the commencement, related to pre-commencement rights or liabilities, the new proceeding relates to the substituted rights and liabilities in relation to those pre-commencement rights and liabilities.

Note 1: See sections 276 and 277 for the creation of the substituted rights and liabilities.

Note 2: In all cases, there will be a provision of the new ASIC legislation that corresponds to the relevant old provision, either because:

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- (a) the new ASIC legislation actually contains a provision that corresponds to the relevant old provision; or
 - (b) the new ASIC legislation, because of section 277 or 284, is taken to include the relevant old provision (whether with or without modifications), in which case the provision so taken to be included will be the corresponding provision.
- (4) The following provisions apply in relation to the new proceeding:
- (a) the parties to the new proceeding are the same as the parties to the old proceeding;
 - (b) subject to subsections (5) and (6), and to any order to the contrary made by the court, the court must deal with the continued proceeding as if the steps that had been taken for the purposes of the old proceeding before the commencement had been taken for the purposes of the new proceeding.
- (5) If:
- (a) an interlocutory order was made before the commencement for the purpose of, or in relation to, the old proceeding; and
 - (b) that interlocutory order was in force immediately before the commencement;
- the rights and liabilities of all persons (including rights and liabilities arising wholly or partly because of conduct occurring before the commencement) are declared to be, for all purposes, the same as if the interlocutory order had instead been made by the same court, in the exercise of federal jurisdiction, for the purpose of, or in relation to, the new proceeding.
- (6) The court may make orders doing all or any of the following:
- (a) cancelling or varying rights or liabilities that a person has because of subsection (5);
 - (b) substituting other rights or liabilities for rights or liabilities a person has because of subsection (5);
 - (c) adding rights or liabilities to the rights or liabilities a person has because of subsection (5);
 - (d) enforcing, or otherwise dealing with conduct contrary to, a right or liability a person has because of subsection (5) in the same way as it could enforce, or deal with, the right, liability or conduct if the right or liability had arisen under or because

of an order made by the court in the exercise of federal jurisdiction under the new ASIC legislation.

268 Treatment of court proceedings under or related to the old ASIC legislation—federal ASIC proceedings

- (1) This section applies to a proceeding in relation to which the following paragraphs are satisfied:
 - (a) the proceeding was started in a court before the commencement; and
 - (b) the proceeding was a federal ASIC proceeding that related to a matter to which a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory applied; and
 - (c) the proceeding had not been concluded or terminated before the commencement.
- (2) In this section:
 - (a) the proceeding to which this section applies is called the *continued proceeding*; and
 - (b) the provision of the old ASIC legislation referred to in paragraph (1)(b) is called the *relevant old provision*.
- (3) Subject to subsection (4):
 - (a) the continued proceeding continues after the commencement in the same court as if it were, and always had been, a proceeding in relation to a matter to which the provision of the new ASIC legislation that corresponds to the relevant old provision applies; and
 - (b) to the extent that the proceeding, before the commencement, related to pre-commencement rights or liabilities, the proceeding, as continued, relates, and is taken always to have related, to the substituted rights and liabilities in relation to those pre-commencement rights and liabilities.

Note 1: See sections 276 and 277 for the creation of substituted rights and liabilities.

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Note 2: In all cases, there will be a provision of the new ASIC legislation that corresponds to the relevant old provision, either because:

- (a) the new ASIC legislation actually contains a provision that corresponds to the relevant old provision; or
 - (b) the new ASIC legislation, because of section 277 or 284, is taken to include the relevant old provision (whether with or without modifications), in which case the provision so taken to be included will be the corresponding provision.
- (4) Subject to any order to the contrary made by the court, the court must deal with the continued proceeding as if:
- (a) the steps that had been taken for the purposes of the proceeding before the commencement had been taken for the purpose of the proceeding as continued by this section; and
 - (b) any orders made in relation to the proceeding before the commencement had been made in relation to the proceeding as continued by this section.

268A Appeals etc. in relation to some former federal corporations proceedings

- (1) This section applies to a proceeding in relation to which all of the following paragraphs are satisfied:
- (a) the proceeding was started in a court before the commencement;
 - (b) the proceeding was a federal ASIC proceeding that related to matter to which a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory applied;
 - (c) the proceeding had been concluded or terminated before the commencement.
- (2) A decision or order made in the proceeding may be appealed against, or otherwise reviewed, as if it had been made in a proceeding that related to a matter to which a provision of this Act applied.

- (3) An order made in the proceeding may be enforced as if it had been made in a proceeding that related to a matter to which a provision of this Act applied.

268B Effect of decisions and orders made in federal corporations proceedings before commencement

- (1) For the avoidance of doubt, if:
- (a) a proceeding was started in a court before the commencement; and
 - (b) the proceeding was a federal ASIC proceeding that related to matter to which a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory applied; and
 - (c) a decision was made or an order given in the proceeding before the commencement;
- the decision or order continues to have effect after the commencement despite the provision of the old ASIC legislation ceasing to have effect.
- (2) This section does not limit the operation of section 268 in relation to the decision or order.

269 References to proceedings and orders in the new ASIC legislation

- (1) Subject to subsection (5), a reference in the new ASIC legislation to the taking of a proceeding, or a step in a proceeding, in a court under or in relation to a part or provision of the new ASIC legislation includes a reference to the taking of a proceeding, or the equivalent step in a proceeding:
- (a) before the commencement under or in relation to the corresponding part or provision of the old ASIC legislation of the Commonwealth, a State or the Northern Territory; or
 - (b) after the commencement under or in relation to the corresponding part or provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the

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Northern Territory, as that legislation continues to have effect after the commencement.

- (2) Subject to subsections (3), (4) and (5), a reference in the new ASIC legislation to an order made by a court under or in relation to a part or provision of the new ASIC legislation includes a reference to an order made:
- (a) before the commencement under or in relation to the corresponding part or provision of the old ASIC legislation of the Commonwealth, a State or the Northern Territory; or
 - (b) after the commencement under or in relation to the corresponding part or provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory, as that legislation continues to have effect after the commencement.
- (3) Nothing in subsection (2) is taken to produce a result that would:
- (a) make a person liable, under the new ASIC legislation, to any penalty (whether civil or criminal) provided for in an order referred to in paragraph (2)(a) or (b); or
 - (b) enable an enforcement proceeding, or an appeal or review proceeding, in relation to such an order to be taken in a court under the new ASIC legislation; or
 - (c) enable proceedings by way of appeal, or other review, of such an order to be taken in a court under the new ASIC legislation.
- (4) If, after the commencement, an order referred to in paragraph (2)(a) or (b) is varied or set aside on appeal or review, subsection (2) applies, or is taken to have applied, from the time from which the variation or setting aside takes or took effect, as if:
- (a) if the order is varied—the order had been made as so varied; or
 - (b) if the order is set aside—the order had not been made.
- (5) The regulations may provide that subsection (1) or (2) does not apply in relation to a particular reference or class of references in the new ASIC legislation.

Division 5—Functions and powers of ASIC

270 Division has effect subject to Division 7 regulations

This Division has effect subject to regulations made for the purposes of Division 7.

271 Non-federal proceedings etc.

- (1) ASIC has the functions and powers in relation to a non-federal proceeding that are expressed to be conferred on it by or under a law of the Commonwealth or the Northern Territory.
- (2) ASIC also has the functions and powers in relation to a non-federal proceeding that are expressed to be conferred on it by or under a law of a State in this jurisdiction. However, ASIC:
 - (a) is not subject to any directions in the performance of such functions or the exercise of such powers; and
 - (b) is not under a duty to perform such functions or exercise such powers.
- (3) If a Minister of a State or Territory appoints a person to bring or continue a non-federal proceeding in the State or Territory, ASIC may give the person any information and documents that ASIC has in relation to the proceeding.

- (4) In this section:

appeal or review proceeding has the same meaning as in section 266.

enforcement proceeding has the same meaning as in section 266.

non-federal proceeding means:

- (a) a proceeding in relation to which paragraphs 267(1)(a), (b) and (d) are satisfied but paragraph 267(1)(e) is not satisfied; or

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- (aa) a proceeding in relation to which paragraphs 1383(1)(a), (b) and (d) of the *Corporations Act 2001* are satisfied but paragraph 1383(1)(e) of that Act is not satisfied;
- (b) an enforcement proceeding, or an appeal or review proceeding, in relation to an order of a court made before the commencement in relation to a proceeding that was:
 - (i) under a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory; or
 - (ia) under a provision of the old corporations legislation of a State or Territory in this jurisdiction; or
 - (ii) brought as, or connected with, a prosecution for an offence against a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory; or
 - (iii) brought as, or connected with, a prosecution for an offence against a provision of the old corporations legislation of a State or Territory in this jurisdiction; or
- (c) an enforcement proceeding, or an appeal or review proceeding, in relation to an order of a court made after the commencement in relation to a proceeding referred to in paragraph (a) or (aa).

272 NCSC's functions and powers

- (1) ASIC has the functions and powers expressed to be conferred on the NCSC by or under any Act, as in force immediately before the commencement, that was a relevant Act for the purposes of the *Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980* as in force immediately before the commencement.
- (2) ASIC also has the functions and powers expressed to be conferred on the NCSC by or under any law, as in force immediately before the commencement, of a State or the Northern Territory that corresponds to an Act that was a relevant Act for the purposes of the *Companies and Securities (Interpretation and Miscellaneous*

Provisions) Act 1980 as in force immediately before the commencement. However, ASIC:

- (a) is not subject to any directions in the performance of such functions or the exercise of such powers; and
- (b) is not under a duty to perform such functions or exercise such powers.

Division 6—General transitional provisions relating to other things done etc. under the old ASIC legislation

273 Provisions in this Division have effect subject to the other Divisions

- (1) This Division has effect subject to:
 - (a) the provisions of Divisions 2, 3, 4 and 5 (which deal with matters in more specific terms); and
 - (b) regulations made for the purposes of Division 7.
- (2) Nothing in this Division applies to:
 - (a) an order made by a court before the commencement; or
 - (b) a right or liability under an order made by a court before the commencement; or
 - (c) a right to:
 - (i) appeal to a court against an order made by a court before the commencement; or
 - (ii) apply to a court for review of such an order; or
 - (iii) bring an appeal or review proceeding, or an enforcement proceeding, within the meaning of section 266, in respect of such an order; or
 - (d) a proceeding taken (including an appeal, review or enforcement proceeding) in a court before the commencement, or a step in such a proceeding.

Note: Division 4 deals with court orders and proceedings made or begun before the commencement, and with related matters.

- (3) Except as mentioned in subsections (1) and (2), nothing in Division 2, 3, 4 or 5, or in regulations made for the purposes of Division 7, is intended to limit the generality of the provisions in this Division.

274 Provisions of this Division may have an overlapping effect

The provisions of this Division deal at a broad level with concepts and matters in a way that is intended to achieve the object of this Part as set out in section 253. Some of the provisions of this Division will (depending on the situation) have an effect that overlaps or interacts to some extent with the effect of other provisions of this Division. This is intended, and the provisions of this Division should be not be regarded as dealing with mutually exclusive situations.

275 Things done by etc. carried over provisions continue to have effect

- (1) Subject to this section, a thing that:
- (a) was done before the commencement by, under, or for the purposes of, a carried over provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory; and
 - (b) had an ongoing significance (see subsections (4) and (5)) immediately before the commencement for the purposes of that legislation;

has effect (and may be dealt with) after the commencement, for the purposes of the new ASIC legislation, as if it were done by, under, or for the purposes of, the corresponding provision of the new ASIC legislation.

Note: This section covers all kinds of things done, including things of a coercive nature or done for coercive purposes.

- (2) Examples of things done include:
- (a) the making of an instrument or order (but not including the making of an order by a court); and
 - (b) the making of an application or claim (but not including the making of an application or claim to a court); and
 - (c) the granting of an application or claim (but not including the granting of an application or claim by a court); and
 - (d) the making of an appointment or delegation; and

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- (e) the commencement of a procedure or the taking of a step in a procedure (including an investigation, but not including the commencement of a proceeding in a court); and
 - (f) the making of an agreement; and
 - (g) requiring a person to do, or not to do, something (but not including a requirement contained in an order made by a court); and
 - (h) the giving of a notice or document.
- (3) The examples in subsection (2) are not intended to limit the generality of the language of subsection (1).
- (4) Subject to subsection (5), for the purposes of this section, a thing done by, under, or for the purposes of, a carried over provision of the old ASIC legislation of the Commonwealth, a State or the Northern Territory had an *ongoing significance* immediately before the commencement for the purposes of that legislation if:
- (a) if the thing done was the making of an instrument or order—the instrument or order was still in force immediately before the commencement; or
 - (b) if the thing done was the making of an application or claim—the application or claim had not been decided, and had not otherwise ceased to have effect, before the commencement; or
 - (c) if the thing done was the granting of an application or claim—the thing granted had not been revoked, and had not otherwise ceased to have effect, before the commencement; or
 - (d) if the thing done was the making of an appointment or delegation—the appointment or delegation had not been revoked, and had not otherwise ceased to have effect, before the commencement; or
 - (e) if the thing done was the commencement of a procedure or the taking of a step in a procedure—the procedure was still in progress immediately before the commencement or was otherwise still having an effect; or

- (f) if the thing done was the making of an agreement—the agreement was still in force immediately before the commencement; or
 - (g) if the thing done was requiring a person to do, or not to do something—the requirement was still in force immediately before the commencement; or
 - (h) if the thing done was the giving of a notice or document, or the doing of some other thing—the notice or document (or the giving of the notice or document), or the thing (or the doing of the thing), had an ongoing effect or significance immediately before the commencement for the purposes of the old ASIC legislation of the Commonwealth, the State or the Northern Territory.
- (5) The regulations may provide that a specified thing done by, under, or for the purposes of, a carried over provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory did, or did not, have an ongoing significance immediately before the commencement for the purposes of that legislation.

276 Creation of equivalent rights and liabilities to those that existed before the commencement under carried over provisions of the old ASIC legislation

- (1) This section applies in relation to a right or liability (the *pre-commencement right or liability*), whether civil or criminal, that:
- (a) was:
 - (i) acquired, accrued or incurred under a carried over provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory; and
 - (ii) in existence immediately before the commencement; or
 - (b) would have been:
 - (i) acquired, accrued or incurred under such a provision; and

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(ii) in existence immediately before the commencement; if every agreement that was valid only because of section 249 had been a valid agreement without the application of that section.

However, this section does not apply to a right or liability under an order made by a court before the commencement.

- (2) On the commencement, the person acquires, accrues or incurs a right or liability (the ***substituted right or liability***), equivalent to the pre-commencement liability, under the corresponding provision of the new ASIC legislation (as if that provision applied to the conduct or circumstances that gave rise to the pre-commencement right or liability).

Note: If a time limit applied in relation to the pre-commencement right or liability under the old ASIC legislation, that same time limit (calculated from the same starting point) will apply under the new ASIC legislation to the substituted right or liability—see subsection 278(3).

- (3) A procedure, proceeding or remedy in respect of the right or liability may be instituted after the commencement under the new ASIC legislation (as if that provision applied to the conduct or circumstances that gave rise to the pre-commencement right or liability).

Note: For pre-commencement proceedings in respect of substituted rights and liabilities, see sections 267 and 268.

- (4) This section does not apply to a pre-commencement right or liability that:
- (a) existed under a law of the Commonwealth or of a State or Territory; and
 - (b) would not have existed if any agreement that is valid only because of section 249 had been a valid agreement without the application of that section.

- (5) Paragraph (1)(b) and subsection (4) have effect in relation to:
- (a) proceedings (whether original or appellate) that begin on or after the day the *Treasury Laws Amendment (2017 Measures No. 3) Act 2017* receives the Royal Assent; and

- (b) proceedings that began before that day, if the proceedings (including any appeals) had not been finally determined as at that day.
- (6) Nothing in paragraph (1)(b) or subsection (4) or (5) limits the operation of section 249.

277 Creation of equivalent rights and liabilities to those that existed before the commencement under repealed provisions of the old ASIC legislation

- (1) This section applies to a right or liability (the *pre-commencement right or liability*), whether civil or criminal, that:
 - (a) was:
 - (i) acquired, accrued or incurred under a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory that was no longer in force immediately before the commencement; and
 - (ii) in existence immediately before the commencement; or
 - (b) would have been:
 - (i) acquired, accrued or incurred under such a provision; and
 - (ii) in existence immediately before the commencement;
- if every agreement that was valid only because of section 249 had been a valid agreement without the application of that section.

However, this section does not apply to a right or liability under an order made by a court before the commencement.

- (2) For the purposes of subsections (3) and (4), the new ASIC legislation is taken to include:
 - (a) the provision of the old ASIC legislation (with such modifications (if any) as are necessary) under which the right or liability was acquired, accrued or incurred; and

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- (b) the other provisions of the old ASIC legislation (with such modifications (if any) as are necessary) that applied in relation to the right or liability.
- (3) On the commencement, the person acquires, accrues or incurs a right or liability (the ***substituted right or liability***), equivalent to the pre-commencement right or liability, under the provision taken to be included in the new ASIC legislation by paragraph (2)(a) (as if that provision applied to the conduct or circumstances that gave rise to the pre-commencement right or liability).
- Note: If a time limit applied in relation to the pre-commencement right or liability under the old ASIC legislation, that same time limit (calculated from the same starting point) will apply under the new ASIC legislation to the substituted right or liability—see subsection 278(3).
- (4) A procedure, proceeding or remedy in respect of the right or liability may be instituted after the commencement under the provisions taken to be included in the new ASIC legislation by subsection (2) (as if those provisions applied to the conduct or circumstances that gave rise to the pre-commencement right or liability).
- Note: For pre-commencement proceedings in respect of substituted rights and liabilities, see sections 267 and 268.
- (5) This section does not apply to a pre-commencement right or liability that:
- (a) existed under a law of the Commonwealth or of a State or Territory; and
 - (b) would not have existed if any agreement that is valid only because of section 249 had been a valid agreement without the application of that section.
- (6) Paragraph (1)(b) and subsection (5) have effect in relation to:
- (a) proceedings (whether original or appellate) that begin on or after the day the *Treasury Laws Amendment (2017 Measures No. 3) Act 2017* receives the Royal Assent; and

- (b) proceedings that began before that day, if the proceedings (including any appeals) had not been finally determined as at that day.
- (7) Nothing in paragraph (1)(b) or subsection (5) or (6) limits the operation of section 249.

278 Old ASIC legislation time limits continue to run

- (1) An old ASIC legislation time limit (see subsection (4)):
 - (a) the starting point of which:
 - (i) was known or had been determined before the commencement (whether that starting point occurred or would occur before, on or after the commencement); or
 - (ii) would have become known, or have been determined, after the commencement if the old ASIC legislation had continued to apply (whether that starting point would have occurred before, on or after the commencement); and
 - (b) that had not ended at or before the commencement;continues to run, or starts or started to run, as if that same time limit (starting from the same starting point) were applicable under the new ASIC legislation.
- (2) If:
 - (a) under the old ASIC legislation, a process, a status of a person or body, or an instrument, commenced from a particular time before the commencement; and
 - (b) that process, status or instrument is continued after the commencement for the purposes of the new ASIC legislation by a provision of this Part;that process, status or instrument as so continued is still taken to have commenced from the time referred to in paragraph (a).
- (3) If an old ASIC legislation time limit related to a pre-commencement right or liability, the same time limit applies in relation to the substituted right or liability.

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(4) In this section:

old ASIC legislation time limit includes:

- (a) a period for the doing of a thing specified or determined under a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory; or
- (b) a period specified or determined under a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory as the duration of a particular instrument or status.

279 Preservation of significance etc. of events or circumstances

(1) An event, circumstance or other thing:

- (a) that occurred or arose before the commencement under or as mentioned in a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory; and
- (b) that had a particular significance, status or effect for the purposes of a carried over provision of that legislation (including because of an interpretative provision);

has that same significance after the commencement for the purposes of the provision of the new ASIC legislation that corresponds to that carried over provision.

(2) Without limiting subsection (1), an event, circumstance or other thing has a particular significance for the purposes of a carried over provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory if:

- (a) the carried over provision creates an obligation in respect of the event, circumstance or thing (whenever it arose); or
- (b) the carried over provision provides for the event, circumstance or thing to be dealt with in a particular way; or
- (c) the carried over provision states that the event, circumstance or thing (whenever it arose) is to be disregarded for the purposes of that provision or not covered by that provision.

280 References in the new ASIC legislation generally include references to events, circumstances or things that happened or arose before the commencement

- (1) Subject to this section, a reference in the new ASIC legislation to an event, circumstance or thing of a particular kind that happens or arises, or that has happened or arisen, is taken to include a reference to an event, circumstance or thing of that kind that happened or arose at a time before the commencement, unless the contrary intention appears. The fact that the provision uses only the present tense in referring to an event, circumstance or thing is not, of itself, to be regarded as an expression of a contrary intention.
- (2) Nothing in subsection (1) is taken to produce a result that a right or liability exists under a provision of the new ASIC legislation that relates solely to events, circumstances or things that occurred before the commencement.

Note: Instead, an equivalent right or liability will be created by section 276 or 277.
- (3) The regulations may provide that subsection (1) does not apply in relation to a particular reference or class of references in the new ASIC legislation.

281 References in the new ASIC legislation to that legislation or the new corporations legislation generally include references to corresponding provisions of the old ASIC legislation or old corporations legislation

- (1) Subject to subsection (4), a reference in the new ASIC legislation to:
 - (a) an Act, or to regulations or another instrument that is part of the new ASIC legislation; or
 - (b) a provision or group of provisions of such an Act, regulations or other instrument;is taken, in relation to events, circumstances or things that happened or arose at a time before the commencement when the old ASIC legislation was in force, to include (in the absence of an

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express provision to the contrary) a reference to the corresponding part, provision or provisions of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory.

- (2) Subject to subsection (4), a reference in the new ASIC legislation to:
- (a) an Act, or to regulations or some other instrument that is part of the new corporations legislation; or
 - (b) a provision or group of provisions of such an Act, regulations or other instrument;
- is taken, in relation to events, circumstances or things that happened or arose at a time before the commencement when the old corporations legislation was in force, to include (in the absence of an express provision to the contrary) a reference to the corresponding part, provision or provisions of the old corporations legislation of the States and Territories in this jurisdiction.
- (3) In subsection (2):
- (a) ***new corporations legislation*** and ***old corporations legislation*** have the same meanings as they have in Part 10.1 of the Corporations Act; and
 - (b) the question whether a provision or part of the old corporations legislation corresponds to a provision of part of the new corporations legislation is to be determined in the same way as it is determined for the purposes of Part 10.1 of the Corporations Act.
- (4) The regulations may provide that subsection (1) or (2) does not apply in relation to a particular reference or class of references in the new ASIC legislation.

282 Carrying over references to corresponding previous laws or relevant previous laws

- (1) If a carried over provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern

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Territory contained a reference (whether in its own terms or by operation of another provision) to:

- (a) a corresponding previous law (as defined for the purposes of that provision or provisions including that provision), or a thing done by, under, or for the purposes of, such a law; or
- (b) a relevant previous law (as defined for the purposes of that provision or provisions including that provision), or a thing done by, under, or for the purposes of, such a law;

the corresponding provision of the new ASIC legislation is taken to contain an equivalent reference to that previous law, or to such a thing done by, under, or for the purposes of, that previous law.

- (2) The following references in the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory are covered by subsection (1) in the same way as they would be if they used the “corresponding previous law” form of words:
 - (a) the reference in section 15 to a “previous law corresponding to”;
 - (b) any other references prescribed by the regulations for the purposes of this subsection.

283 References to ASIC legislation in instruments

- (1) Subject to subsection (2), a reference in, or taken immediately before the commencement to be in, an instrument, other than:
 - (a) an Act of a State, the Australian Capital Territory, the Northern Territory or Norfolk Island; or
 - (b) an instrument made under such an Act;to:
 - (c) an Act, or to regulations or some other instrument, that is part of the old ASIC legislation (whether the reference is in general terms or in relation to the Commonwealth, or a particular State or Territory in this jurisdiction); or
 - (d) to a provision or group of provisions of such an Act, regulations or other instrument;

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is taken, after the commencement, to include a reference to the corresponding part, provision or provisions of the new ASIC legislation (unless there is no such corresponding part, provision or provisions).

Note: In this Part, *instrument* means an instrument of a legislative or administrative character (see the definition in section 254), or any other document.

- (2) The regulations may do either or both of the following:
- (a) provide that subsection (1) does not apply in relation to prescribed references in prescribed instruments;
 - (b) provide that subsection (1) has effect in relation to prescribed references in prescribed instruments as if, in that subsection, the words “to be” were substituted for the words “to include”.

284 Old transitional provisions continue to have their effect

- (1) Subject to subsection (3), this Act has the same effect, after the commencement, as it would have if:
- (a) the transitional provisions (see subsections (6) and (7)) of the old ASIC Act, the old ASIC Law of the States in this jurisdiction and the old ASIC Law of the Northern Territory (as in force from time to time before the commencement) had been part of this Act; and
 - (b) those transitional provisions produced the same results or effects (to the greatest extent possible) for the purposes of this Act as they produced for the purposes of that Act and those Laws.
- (2) Without limiting subsection (1) (but subject to subsection (3)), if a transitional provision of the old ASIC Act, the old ASIC Law of the States in this jurisdiction or the old ASIC Law of the Northern Territory could, if it had continued in force after the commencement, have operated to give rise to rights and liabilities (including civil or criminal liabilities) in relation to acts or omissions occurring after the commencement, this Act is taken to

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include that transitional provision (with such modifications (if any) as are necessary).

Note: In relation to acts or omissions that occurred before the commencement, equivalent rights or liabilities are created by sections 276 and 277.

- (3) The regulations may determine how a matter dealt with in a transitional provision of the old ASIC Act, the old ASIC Law of the States in this jurisdiction or the old ASIC Law of the Northern Territory is to be dealt with under or in relation to the new ASIC legislation (including by creating offences). The regulations have effect despite subsections (1) and (2), but subject to subsection (5).

Note: In creating offences, the regulations are subject to the limitation imposed by section 258.

- (4) For the purpose of determining whether the new ASIC legislation includes a provision that corresponds to a provision of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory, and for the purpose of any reference in this Part to a corresponding provision of the new ASIC legislation, this Act is taken to include the transitional provisions of the old ASIC legislation of the Commonwealth, a State in this jurisdiction or the Northern Territory, as they have effect because of subsections (1) and (2).

- (5) Nothing in subsection (1) or (2), or in regulations made for the purposes of subsection (3), is taken to produce a result that a right or liability exists under a transitional provision as it has effect because of subsection (1) or (2), or exists under regulations made for the purposes of subsection (3), that relates solely to events, circumstances or things that occurred before the commencement.

Note: Instead, an equivalent right or liability will be created by section 276 or 277.

- (6) Subject to subsection (7), for the purposes of this section, a **transitional provision** is any of the following provisions of the old ASIC Act, the old ASIC Law of the States in this jurisdiction and the old ASIC Law of the Northern Territory:

(a) section 12AB;

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- (b) subsection 12GL(2);
 - (c) section 12IA;
 - (d) subsection 13(3);
 - (e) subsection 13(5);
 - (f) section 14A;
 - (g) subsection 51(2);
 - (h) subsection 68(4);
 - (i) subsection 68(5);
 - (j) section 122A;
 - (k) section 127A;
 - (l) subsection 246(2);
 - (m) Part 16;
 - (n) Part 17;
 - (o) Part 18.
- (7) The regulations may provide that certain provisions are to be taken to be included in, or omitted from, the list in subsection (6). The list then has effect as if the provisions were so included in it or omitted from it.

Division 7—Regulations dealing with transitional matters

285 Regulations may deal with transitional matters

- (1) The regulations may deal with matters of a transitional nature relating to the transition from the application of provisions of the old ASIC legislation of the Commonwealth, a State in this jurisdiction and the Northern Territory to the application of provisions of the new ASIC legislation. The regulations have effect despite anything else in this Part, other than section 258.
- (2) Without limiting subsection (1), the regulations may provide for a matter to be dealt with, wholly or partly, in any of the following ways:
 - (a) by applying (with or without modifications) to the matter:
 - (i) provisions of the old ASIC legislation, as in force immediately before the commencement or at some earlier time; or
 - (ii) provisions of the new ASIC legislation; or
 - (iii) a combination of provisions referred to in subparagraphs (i) and (ii);
 - (b) by otherwise specifying rules for dealing with the matter;
 - (c) by specifying a particular consequence of the matter, or of an outcome of the matter, for the purposes of the new ASIC legislation.
- (3) The regulations may provide that certain provisions of this Part are taken to be modified as set out in the regulations. The provisions then have effect as if they were so modified.
- (4) Despite subsection 12(2) of the *Legislation Act 2003*, regulations made for the purposes of this section may be expressed to take effect from a date before the regulations are registered under that Act.

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(5) In this section:

matters of a transitional nature also includes matters of an application or saving nature.

Part 17—Transitional provisions relating to the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004

285A Definitions

In this Part:

amending Act means the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004*.

old Act means this Act as in force immediately before the commencement of the amending Act.

Schedule 1 commencement means the day on which Schedule 1 to the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004* commences.

286 Application of new subsection 225A(5)

Subsection 225A(5) applies to audits conducted in relation to financial reports for financial years that end on or after 1 July 2004.

287 Application of Part 8 of Schedule 1 to the amending Act

- (1) The person holding office as the Chairperson of the Companies Auditors and Liquidators Disciplinary Board under paragraph 203(1)(a) of the old Act immediately before the Schedule 1 commencement continues to hold office on and after the Schedule 1 commencement for the remainder of the term of the person's appointment as if the person had been appointed under paragraph 203(1)(a) of this Act as amended by Part 8 of Schedule 1 to the amending Act.

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- (2) The person holding office as a member of the Companies Auditors and Liquidators Disciplinary Board under paragraph 203(1)(b) of the old Act immediately before the Schedule 1 commencement continues to hold office on and after the Schedule 1 commencement for the remainder of the term of the person's appointment as if the person had been appointed under paragraph 203(1)(c) of this Act as amended by Part 8 of Schedule 1 to the amending Act.
- (3) The person holding office as a member of the Companies Auditors and Liquidators Disciplinary Board under paragraph 203(1)(c) of the old Act immediately before the Schedule 1 commencement continues to hold office on and after the Schedule 1 commencement for the remainder of the term of the person's appointment as if the person had been appointed under paragraph 203(1)(d) of this Act as amended by Part 8 of Schedule 1 to the amending Act.
- (4) Despite the repeal of section 209 of the old Act by item 146 of Schedule 1 to the amending Act:
 - (a) a person holding office as a deputy of a member under that section immediately before the Schedule 1 commencement continues to hold office on and after the Schedule 1 commencement for the purposes of a hearing in relation to an application made to the Companies Auditors and Liquidators Disciplinary Board before the Schedule 1 commencement; and
 - (b) continues on and after the Schedule 1 commencement to be entitled to attend meetings of the Board at which the member is not present and, while so attending, to be taken to be a member of the Board.
- (5) The amendments made by items 148 and 156 to 175 of Schedule 1 to the amending Act apply to applications made to the Companies Auditors and Liquidators Disciplinary Board on or after the Schedule 1 commencement (regardless of when the circumstances to which the application relates occurred).

288 Application of Schedule 3 to the amending Act

The amendments made to this Act by Schedule 3 to the amending Act apply to causes of action that arise on or after the day on which that Schedule commences.

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Part 18—Transitional provisions relating to the Corporations Amendment (Corporate Reporting Reform) Act 2010

289 Definitions

In this Part:

amending Act means the *Corporations Amendment (Corporate Reporting Reform) Act 2010*.

old Act means this Act as in force immediately before the commencement of the amending Act.

Schedule 2 commencement means the day on which Part 1 of Schedule 2 to the amending Act commences.

transition period means the period:

- (a) beginning at the start of the day Part 1 of Schedule 2 to the amending Act commences; and
- (b) ending when there is no longer any person holding an appointment as a member of the Companies Auditors and Liquidators Disciplinary Board under paragraph 203(1)(c) or (d) of the old Act.

290 Application of Companies Auditors and Liquidators Disciplinary Board amendments

- (1) The amendments made by items 1 to 5 of Schedule 2 to the amending Act do not apply until after the transition period.
- (2) During the transition period:
 - (a) a person holding an appointment as a member of the Companies Auditors and Liquidators Disciplinary Board under paragraph 203(1)(c) or (d) of the old Act immediately before the Schedule 2 commencement continues to hold that

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- appointment on and after that commencement for the remainder of the term of the person's appointment as if those amendments had not been made; and
- (b) paragraph (a) does not prevent the Minister terminating the appointment under section 207 or the person from resigning under section 206; and
 - (c) there are to be no more than 6 accounting members of the Companies Auditors and Liquidators Disciplinary Board; and
 - (d) any member appointed after the Schedule 2 commencement:
 - (i) must be selected by the Minister; and
 - (ii) must be eligible to be appointed under subsection 203(1B) as inserted by item 5 of Schedule 2 to the amending Act; and
 - (e) **accounting member** means:
 - (i) a member appointed under paragraph (d); or
 - (ii) a member appointed under paragraph 203(1)(c) or (d) of the old Act.
- (3) After the transition period, **accounting member** is taken to include a member appointed under paragraph (2)(d).

291 Application of pre-hearing conference amendments

The amendments made by items 7 and 8 of Schedule 2 to the amending Act apply in relation to conferences conducted before, on or after the Schedule 2 commencement.

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Part 19—Transitional provisions relating to the Corporations Legislation Amendment (Audit Enhancement) Act 2012

292 Definitions

In this Part:

amending Act means the *Corporations Legislation Amendment (Audit Enhancement) Act 2012*.

commencement means the commencement of Schedule 2 to the amending Act.

293 Amendments made by Part 1 of Schedule 2—final report on auditor independence functions

- (1) Subject to subsection (2), section 235BA, as in force immediately before commencement, continues (despite its repeal) to apply so as to require a report for the period beginning on 1 July 2011 and ending on commencement, as if that period were a year ending on 30 June.
- (2) The report referred to in subsection (1) must be included in the report, for the year ending on that 30 June, given to the Minister under section 235B.

294 Application of amendments made by Parts 2 and 3 of Schedule 2

- (1) The amendments made by Part 2 of Schedule 2 to the amending Act apply in relation to audit deficiencies identified by ASIC after commencement.
- (2) The amendment made by Part 3 of Schedule 2 to the amending Act applies in relation to information obtained by ASIC after commencement.

Part 20—Transitional provisions relating to the Clean Energy Legislation (Carbon Tax Repeal) Act 2014

295 Definition

In this Part:

designated carbon unit day has the same meaning as in Part 3 of Schedule 1 to the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*.

296 Transitional—carbon units issued before the designated carbon unit day

Despite the amendments of this Act made by Schedule 1 to the *Clean Energy Legislation (Carbon Tax Repeal) Act 2014*, this Act continues to apply, in relation to carbon units issued before the designated carbon unit day, as if those amendments had not been made.

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**Part 21—Transitional provisions relating to the
Corporations Legislation Amendment
(Deregulatory and Other Measures) Act
2015**

297 Definitions

In this Part:

amending Act means the *Corporations Legislation Amendment (Deregulatory and Other Measures) Act 2015*.

commencement means the commencement of Schedule 2 to the amending Act.

298 FRC members

- (1) If:
- (a) immediately before commencement, a person is a member of the FRC; or
 - (b) a person is appointed as a member of the FRC during the transition period;
- this Act applies to the member, during the transition period, as if the amendments made by Schedule 2 to the amending Act had not been made.
- (2) For the purposes of this section, **transition period** means the period:
- (a) beginning on commencement; and
 - (b) ending when the Remuneration Tribunal makes a determination under subsection 235AA(1) as inserted by the amending Act.

299 AASB members

- (1) If:
- (a) immediately before commencement, a person is a member of the AASB; or
 - (b) a person is appointed as a member of the AASB during the transition period;
- this Act applies to the member, during the transition period, as if the amendments made by Schedule 2 to the amending Act had not been made.
- (2) For the purposes of this section, *transition period* means the period:
- (a) beginning on commencement; and
 - (b) ending when the Remuneration Tribunal makes a determination under subsection 236BA(1) as inserted by the amending Act.

300 AUASB members

- (1) If:
- (a) immediately before commencement, a person is a member of the AUASB; or
 - (b) a person is appointed as a member of the AUASB during the transition period;
- this Act applies to the member, during the transition period, as if the amendments made by Schedule 2 to the amending Act had not been made.
- (2) For the purposes of this section, *transition period* means the period:
- (a) beginning on commencement; and
 - (b) ending when the Remuneration Tribunal makes a determination under subsection 236FA(1) as inserted by the amending Act.

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**Part 22—Application provision relating to the
Treasury Legislation Amendment (Small
Business and Unfair Contract Terms) Act
2015**

301 Application

- (1) The amendments made by Schedule 1 to the *Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Act 2015* apply in relation to a contract entered into on or after the commencement of that Schedule.
- (2) The amendments do not apply to a contract entered into before the commencement of that Schedule. However:
 - (a) if the contract is renewed on or after that commencement—the amendments apply to the contract as renewed, on and from the day (the *renewal day*) on which the renewal takes effect, in relation to conduct that occurs on or after the renewal day; or
 - (b) if a term of the contract is varied on or after that commencement and paragraph (a) has not already applied in relation to the contract—the amendments apply to the term as varied, on and from the day (the *variation day*) on which the variation takes effect, in relation to conduct that occurs on and after the variation day.
- (3) If paragraph (2)(b) of this section applies to a term of a contract, subsection 12BF(2) and section 12BK of this Act apply to the contract.
- (4) Despite paragraphs (2)(a) and (b) and subsection (3) of this section, the amendments do not apply to a contract, or a term of a contract, to the extent that the operation of the amendments would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise

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than on just terms (within the meaning of that paragraph of the
Constitution).

Part 23—Transitional provisions relating to the Insolvency Law Reform Act 2016

302 Definitions

In this Part:

commencement day means the day on which Part 1 of Schedule 2 to the *Insolvency Law Reform Act 2016* commences.

control of the property of a corporation means:

- (a) the receivership of that property; and
- (b) the possession, or control, of that property for the purpose of enforcing a security interest;

and includes any functions or powers in connection with managing the corporation that may be performed or exercised by a receiver or other controller of that property.

Insolvency Practice Schedule (Corporations) means Schedule 2 to the *Corporations Act 2001*, and includes rules made under section 105-1 of that Schedule.

old Corporations Act means the *Corporations Act 2001*, as in force immediately before the commencement day, and includes regulations made under that Act as in force immediately before that day.

303 General powers of investigation continue to apply to failure to comply with duties before the commencement day

Despite the amendment of subsection 13(3) by the *Insolvency Law Reform Act 2016*, that subsection continues to apply to duties that were not performed, or may not have been performed, before the commencement day by a person who was a liquidator registered under Division 2 of Part 9.2 of the old Corporations Act.

304 Notice to registered liquidators concerning information and books—requirements before the commencement day

- (1) For the purposes of section 30B and subsection 33(3), the *liquidator requirements* are taken to include:
 - (a) the requirements in relation to liquidators, the external administration of companies and the control of the property of corporations under Chapter 5 of the old Corporations Act; and
 - (b) other provisions of the old Corporations Act that relate to that Chapter.
- (2) For the purposes of subparagraph 30B(2)(c)(ii), a reference to an alleged or suspected contravention of a law of the Commonwealth, or of a State or Territory in this jurisdiction includes an alleged or suspected contravention of such a law that:
 - (a) relates to the performance or exercise of a liquidator's functions, duties or powers before the commencement day; and
 - (b) either:
 - (i) concerns the management of the affairs of a body corporate before the commencement day; or
 - (ii) involves fraud or dishonesty before the commencement day and relates to a body corporate.
- (3) Subsection 33(3) applies, whether or not the liquidator is a registered liquidator under the Insolvency Practice Schedule (Corporations) or was registered as a liquidator under Division 2 of Part 9.2 of the old Corporations Act.

305 ASIC may give information and books relating to pre-commencement activity

On and after the commencement day, section 39C applies in relation to information and books obtained or generated by ASIC before the commencement day:

- (a) in relation to a person who was a liquidator of a company, or of a specified company, or an official liquidator before the

Section 306

commencement day—in the same way as it applies in relation to a registered liquidator on and after the commencement day; and

- (b) in relation to any of the following:
- (i) a company that was under administration before the commencement day;
 - (ii) a company in relation to which a deed of company arrangement had been entered into before the commencement day;
 - (iii) a company in relation to which a liquidator or provisional liquidator was appointed before the commencement day;

in the same way as it applies in relation to a company under external administration on and after the commencement day; and

- (c) in relation to a corporation property of which is under control before the commencement day—in the same way as it applies to a corporation property of which is under control on or after the commencement day.

306 Information to be included in ASIC's annual report

The amendment of section 136 made by the *Insolvency Law Reform Act 2016* applies to reports on ASIC's operations during the financial year ending on 30 June 2017, and later financial years.

307 Appointments to the Companies Auditors Disciplinary Board

The amendment of section 203 made by the *Insolvency Law Reform Act 2016* applies to appointments made on or after the commencement day.

Part 24—Application provision relating to the Treasury Laws Amendment (2017 Measures No. 1) Act 2017

308 Application

The amendment of section 127 of this Act made by Schedule 2 to the *Treasury Laws Amendment (2017 Measures No. 1) Act 2017* applies in relation to disclosures of information made on or after the commencement of that Schedule, whether ASIC obtained the information before, on or after that commencement.

Section 309

Part 25—Transitional provisions relating to the Treasury Laws Amendment (Enhancing ASIC's Capabilities) Act 2018

309 Definitions

In this Part:

APS employee has the meaning given in section 7 of the *Public Service Act 1999*.

commencement day means the day on which Schedule 2 to the *Treasury Laws Amendment (Enhancing ASIC's Capabilities) Act 2018* commences.

staff member has the meaning given in subsection 5(1) as in force on and from the commencement day.

310 Staff members engaged under former subsection 120(3)

Each person who, immediately before the commencement day, was a staff member employed under a written agreement under subsection 120(3) continues to be employed under that agreement. That agreement is taken to be an agreement under section 120 as in force on and from that day.

311 APS employees in ASIC

- (1) This section applies to a person who, immediately before the commencement day, was a staff member (as defined in subsection 5(1) as in force immediately before the commencement day) engaged under the *Public Service Act 1999*.
- (2) On and from the commencement day, the person is taken:
 - (a) to cease to be engaged under the *Public Service Act 1999*;
 - and

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-
- (b) to be employed by ASIC under a written agreement under section 120 as in force on and from the commencement day; and
- (c) except as provided by this Act:
- (i) to be employed on the same terms and conditions as those that applied to the person immediately before the commencement day; and
 - (ii) to have accrued an entitlement to benefits, in connection with that employment by ASIC, that is equivalent to the entitlement that the person had accrued, in connection with his or her employment, immediately before the commencement day.
- (3) The person's service as an employee of ASIC is taken, for all purposes, to be continuous with his or her service as an APS employee.
- (4) This Part does not affect any promotion, performance management or disciplinary actions (however described) in relation to the person that had been started before the commencement day.
- (5) A staff member who ceases to be an APS employee because of subsection (2) is not entitled to receive any payment or other benefit merely because he or she ceased to be an APS employee.

312 ASIC Enterprise Agreement

- (1) In this section:

Enterprise Agreement means the *Australian Securities & Investments Commission Enterprise Agreement 2016-2019* approved under the *Fair Work Act 2009* on 20 May 2016, as in force immediately before the commencement day.

- (2) The Enterprise Agreement:
- (a) continues, on and from the commencement day, to cover and apply to employees whom it covered and applied to immediately before the commencement day; and

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- (b) covers and applies to employees at the classification levels covered by the Enterprise Agreement whose employment with ASIC commences on or after the commencement day.
- (3) On and after the commencement day, the Enterprise Agreement covers and applies to the Chairperson as the employing authority but on behalf of ASIC under section 120.
- (4) This section does not prevent the variation or termination of the Enterprise Agreement in accordance with law.
- (5) This section does not affect the operation of section 58 of the *Fair Work Act 2009*.

313 Variation of terms and conditions of employment

- (1) This Part does not prevent the terms and conditions of a staff member's employment after the commencement day from being varied:
 - (a) in accordance with those terms and conditions; or
 - (b) by or under a law, award, determination or agreement.
- (2) In this section:
 - vary*, in relation to terms and conditions, includes:
 - (a) omitting any of those terms and conditions; and
 - (b) adding to those terms and conditions; and
 - (c) substituting new terms or conditions for any of those terms and conditions.

314 Transitional rules

- (1) In this section:
 - transitional rule* means an instrument made under subsection (2) or (4).
- (2) The Minister may make a written instrument prescribing matters of a transitional nature (including prescribing any saving or

Section 314

application provisions) relating to sections 310 to 313 in relation to a particular person.

- (3) An instrument made under subsection (2) is not a legislative instrument.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

- (4) The Minister may, by legislative instrument, prescribe matters of a transitional nature (including prescribing any saving or application provisions) relating to sections 310 to 313 in relation to a class of persons.

- (5) Without limiting subsection (2) or (4):

- (a) a transitional rule made under subsection (2) may declare that a specified provision of sections 310 to 313 is to have effect, in relation to a particular person, as if it were modified as specified in the transitional rule; and
- (b) a transitional rule made under subsection (4) may declare that a specified provision of sections 310 to 313 is to have effect, in relation to a class of persons, as if it were modified as specified in the transitional rule.

The provision has effect accordingly.

- (6) A transitional rule:

- (a) must not be made after 12 months after the commencement day; and
- (b) if it is a legislative instrument—takes effect from the later of:
 - (i) the day after the day it is registered; or
 - (ii) a later day specified in the rule; and
- (c) if it is not a legislative instrument—takes effect from the later of:
 - (i) the day after the day it is made; or
 - (ii) a later day specified in the rule; and
- (d) unless revoked earlier, remains in effect for 12 months from the day the rule takes effect, or a shorter period specified in the rule.

Section 314

- (7) To avoid doubt, a transitional rule may not do any of the following:
- (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

Part 26—Transitional provisions relating to the Treasury Laws Amendment (ASIC Governance) Act 2018

314A Saving of appointments

- (1) The *Treasury Laws Amendment (ASIC Governance) Act 2018* does not affect an appointment of the Chairperson, a Deputy Chairperson or a member under this Act.
- (2) Subsection (1) does not prevent the termination of an appointment.

Part 26A—Application provisions relating to the Treasury Laws Amendment (Australian Consumer Law Review) Act 2018

315 Application—listed public companies

The amendments made by items 1 and 2 of Schedule 2 to the *Treasury Laws Amendment (Australian Consumer Law Review) Act 2018* apply in relation to acts or omissions on or after the day that Schedule commences.

316 Application—power to obtain information, documents and evidence in relation to unfair contract terms

The amendment made by item 1 of Schedule 7 to the *Treasury Laws Amendment (Australian Consumer Law Review) Act 2018* applies in relation to contracts entered into on or after the day that Schedule commences.

317 Application—consumer protection

The amendments made by Schedule 10 to the *Treasury Laws Amendment (Australian Consumer Law Review) Act 2018* apply in relation to acts or omissions on or after the day that Schedule commences.

318 Application—financial products

The amendments made by Schedule 11 to the *Treasury Laws Amendment (Australian Consumer Law Review) Act 2018* apply in relation to acts or omissions on or after the day that Schedule commences.

Part 27—Application and transitional provisions relating to the Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019

320 Definitions

In this Part:

amending Act means the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019*.

commencement day means the day on which Schedule 2 to the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019* commences.

321 Application—offences

Subject to this Part, the amendments made by Schedule 2 to the amending Act 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 day.

322 Application—civil penalty provisions

Subject to this Part, the amendments made by Schedule 2 to the amending Act 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 day.

323 Application—infringement notices

- (1) An infringement notice may be given on or after the commencement day under section 12GX of the Act, as inserted by

Section 323

item 17 of Schedule 2 to the amending Act, in relation to an alleged contravention of a provision whether the alleged contravention occurred before, on or after the commencement day.

- (2) Despite the repeal of Subdivision GB of Division 2 of Part 2 of the Act by item 17 of Schedule 2 to the amending Act, the Act continues to apply in relation to notices given under that Subdivision before the commencement day as if that Subdivision and any regulations made under that Subdivision had not been repealed.

**Part 28—Transitional provisions relating to the
Financial Sector Reform (Hayne Royal
Commission Response—Stronger
Regulators (2019 Measures)) Act 2020**

324 Application of amendments—search warrant provisions

The amendments of this Act made by Parts 1 and 3 of Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Act 2020* apply to warrants applied for on or after the commencement of those Parts (whether or not a matter to which the warrant relates arose before, on, or after that commencement).

Section 325

**Part 29—Application provisions relating to
Schedule 12 to the Financial Sector Reform
(Hayne Royal Commission Response) Act
2020**

325 Definitions

In this Part:

amending Act means the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020*.

commencement time means the time when Schedule 12 to the amending Act commences.

326 Application

- (1) Subject to this section, the amendments to this Act made by Part 2 of Schedule 12 to the amending Act apply in relation to requests made by APRA under section 122B on or after the commencement time, whether or not the information or documents requested were given to ASIC before that time.
- (2) Section 122E, as inserted by Part 2 of Schedule 12 to the amending Act, applies in relation to breaches of legislative provisions that may have occurred before, on or after the commencement time.

Part 29A—Application provisions relating to the Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020

326A Application—unfair contract terms

- (1) The amendments of this Act made by Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020* apply in relation to a contract entered into on or after the commencement of that Schedule.
- (2) The amendments do not apply to a contract entered into before the commencement of that Schedule. However:
 - (a) if the contract is renewed on or after that commencement—the amendments apply to the contract as renewed, on and from the day (the *renewal day*) on which the renewal takes effect, in relation to conduct that occurs on or after the renewal day; or
 - (b) if a term of the contract is varied on or after that commencement and paragraph (a) has not already applied in relation to the contract—the amendments apply to the term as varied, on and from the day (the *variation day*) on which the variation takes effect, in relation to conduct that occurs on and after the variation day.
- (3) If paragraph (2)(b) of this section applies to a term of a contract, subsection 12BF(2) and section 12BK of this Act apply to the contract.
- (4) Despite paragraphs (2)(a) and (b) and subsection (3) of this section, the amendments do not apply to a contract, or a term of a contract, to the extent that the operation of the amendments would result in an acquisition of property (within the meaning of

Section 326A

paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph of the Constitution).

Part 30—Application provisions relating to the Treasury Laws Amendment (2019 Measures No. 3) Act 2020

327 Application—amounts of pecuniary penalties

The amendments made by items 2 and 3 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020* apply in relation to the contravention of a civil penalty provision if the conduct constituting the contravention of the provision occurred or occurs wholly on or after the commencement of Schedule 2 to the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019*.

Note: Schedule 2 to the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019* commenced on 13 March 2019.

328 Application—authorised disclosure to monitoring body

The amendment of section 127 of this Act made by item 4 of Schedule 3 to the *Treasury Laws Amendment (2019 Measures No. 3) Act 2020* applies in relation to disclosures of information made on or after the commencement of that item, whether ASIC obtained the information before, on or after that commencement.

Section 329

**Part 31—Application and transitional provisions
relating to Schedule 3 to the Financial
Sector Reform (Hayne Royal Commission
Response) Act 2020**

329 Application—deferred sales model for add-on insurance

- (1) The amendments made by Schedule 3 to the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020* apply in relation to a principal product or service (within the meaning of section 12DO) if:
 - (a) a person enters into a commitment to acquire the principal product or service on or after the commencement of that Schedule; or
 - (b) a person acquires the principal product or service on or after the commencement of that Schedule without previously having entered into such a commitment.
- (2) Regulations made for the purposes of subsection 12DO(3) apply for the purposes of this section.

**Part 32—Application and transitional provisions
relating to Schedule 4 to the Financial
Sector Reform (Hayne Royal Commission
Response) Act 2020**

330 Application—caps on commissions

The amendments made by Schedule 4 to the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020* apply to commissions provided in connection with supplies of add-on risk products that are supplies under contracts, arrangements or understandings entered into on or after the commencement of that Schedule.

Section 331

**Part 33—Transitional provision relating to the
Treasury Laws Amendment (2020
Measures No. 6) Act 2020**

331 Transitional—directions by Minister

A direction given under subsection 12(1) of this Act that is in force immediately before the commencement of Part 1 of Schedule 4 to the *Treasury Laws Amendment (2020 Measures No. 6) Act 2020* continues in force (and may be dealt with) as if it had been given under that subsection as amended by that Part.

**Part 34—Application provision relating to
Schedule 1 to the Financial Regulator
Assessment Authority (Consequential
Amendments and Transitional Provisions)
Act 2021**

333 Application—confidentiality

The amendment of section 127 made by Part 1 of Schedule 1 to the *Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021* applies in relation to any use or disclosure of information after the commencement of that Part, whether ASIC obtained the information before or after that commencement.

Section 336

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

336 Application—reports of liquidators

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

Part 37—Application and transitional provisions for the Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020

337 Definitions

In this Part:

interim period means the period:

- (a) starting at the start of 22 June 2022; and
- (b) ending at the end of the day before the day on which Part 2 of Schedule 4 to the *Treasury Laws Amendment (2022 Measures No. 1) Act 2022* commences.

postponed item means any of the following that commenced on 22 June 2022 (disregarding Part 1 of Schedule 4 to the *Treasury Laws Amendment (2022 Measures No. 1) Act 2022*):

- (a) an item of Part 2 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020*;
- (b) an item of Part 3 of Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Act 2021*;
- (c) an item of Part 4 of Schedule 2 to the *Treasury Laws Amendment (2021 Measures No. 1) Act 2021*.

Note Item 103 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020* is not covered by paragraph (a) because that item commenced on 4 April 2021.

Section 338

338 Validation of acts or things done during interim period

Object

- (1) The object of this section is to treat all situations during the interim period in every respect as if:
 - (a) the amendments made by Part 1 of Schedule 4 to the *Treasury Laws Amendment (2022 Measures No. 1) Act 2022* had been made at the start of 21 June 2022; and
 - (b) the amendments made by the postponed items had not been made at the start of 22 June 2022 and had had no effect during the interim period.

Validation of acts and things done in interim period

- (2) An act or thing that was done at any time during the interim period is as valid, and is taken always to have been as valid, as it would have been if:
 - (a) the amendments made by Part 1 of Schedule 4 to the *Treasury Laws Amendment (2022 Measures No. 1) Act 2022* had been made at the start of 21 June 2022; and
 - (b) in particular, the amendments made by the postponed items had not been made at the start of 22 June 2022 and had had no effect during the interim period.

Continuation of delegations

- (3) Without limiting subsection (2), if:
 - (a) a function or power conferred by this Act or the *Public Governance, Performance and Accountability Act 2013* was delegated to a person; and
 - (b) the delegation was in force immediately before 22 June 2022; and
 - (c) but for this subsection, the delegation would have ceased to have effect at the start of 22 June 2022 because of any of the amendments made by the postponed items;then:

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- (d) an act or thing done by the delegate in the interim period is, and is taken always to have been, as valid a performance or exercise of the function or power as it would have been if the delegation had continued in force throughout the interim period; and
- (e) the delegation has effect, on and after the day section 1 of the *Treasury Laws Amendment (2022 Measures No. 1) Act 2022* commences, as if it had been made at the time that section commences.

Acts and things to which this section applies

- (4) This section applies to an act or thing, regardless of the basis on which, or capacity in which, the act or thing was done or purported to be done.

**339 Application of item 102 of Schedule 1 to the Treasury Laws
Amendment (Registries Modernisation and Other
Measures) Act 2020**

- (1) The amendment of section 12A made by item 102 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020* applies, in relation to a matter (the **relevant matter**), on and after the earliest of the following days:
 - (a) if a notifiable instrument is in force under paragraph (2)(a) of this section—the day the instrument specifies;
 - (b) if a notifiable instrument is in force under paragraph (2)(b) of this section that specifies matters that include the relevant matter—the day the instrument specifies in relation to those matters;
 - (c) 1 July 2026.

Note: Section 12A, as in force immediately before the commencement day for the amending item, will continue to apply in relation to the relevant matter until the day that applies under this subsection.

- (2) The Minister:
 - (a) may by notifiable instrument specify a day for the purposes of paragraph (1)(a); and

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(b) may by notifiable instrument specify days and matters for the purposes of paragraph (1)(b).

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

- (3) A day specified in a notifiable instrument made under subsection (2) must be:
- (a) on or after the day that the instrument is made; and
 - (b) on or after the day on which item 102 of Schedule 1 to the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020* commences.

Part 38—Transitional provisions relating to the Financial Accountability Regime (Consequential Amendments) Act 2023

340 Application—confidentiality

The amendment of section 12A made by Part 1 of Schedule 1 to the *Financial Accountability Regime (Consequential Amendments) Act 2023*, so far as it relates to the definition of protected information in subsection 127(9) of this Act, applies in relation to any use or disclosure of information after the commencement of that Part, whether ASIC obtained the information before or after that commencement.

341 Information to be included in ASIC’s annual report

The amendment of section 136 made by Part 1 of Schedule 1 to the *Financial Accountability Regime (Consequential Amendments) Act 2023* applies to reports on ASIC’s investigations during the financial year ending on 30 June 2024, and later financial years.

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Part 39—Application provisions relating to the Treasury Laws Amendment (More Competition, Better Prices) Act 2022

342 Amendments relating to unfair contract terms

- (1) This section applies to the amendments of this Act made by Schedule 2 (the *amending Schedule*) to the *Treasury Laws Amendment (More Competition, Better Prices) Act 2022*, except item 58 of that Schedule.
- (2) The amendments:
 - (a) apply in relation to a contract made at or after the commencement (the *relevant commencement*) of the amending Schedule; and
 - (b) do not apply to a contract (an *existing contract*) made before the relevant commencement, except as provided in this section.
- (3) If an existing contract is renewed at or after the relevant commencement, the amendments apply to the contract as renewed, on and from the day (the *renewal day*) on which the renewal takes effect, in relation to conduct that occurs on or after the renewal day.
- (4) If an existing contract is varied at or after the relevant commencement by varying or adding a term and subsection (3) has not already applied in relation to the contract:
 - (a) the amendments apply to the term as varied or added, and so apply:
 - (i) on and from the day (the *variation day*) on which the variation of the contract takes effect; and
 - (ii) as if the contract as varied had been made on the variation day; and

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- (iii) in relation to conduct that occurs on and after the variation day; and
 - (b) paragraph 12BF(2A)(f) applies in relation to a person proposing the varied or added term, whether before, at or after the relevant commencement; and
 - (c) subsection 12BF(2), and section 12BK, as in force at and after the relevant commencement, apply to the contract.
- (5) If a contract is made or renewed at or after the relevant commencement, paragraph 12BF(2A)(f) applies in relation to a person proposing a term of the contract, whether before, at or after the relevant commencement.
- (6) Despite subsections (3) to (5) of this section, the amendments do not apply to a contract, or a term of a contract, to the extent that the operation of the amendments would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph of the Constitution).

343 Application of sections 12BLA and 12BLB

- (1) Sections 12BLA and 12BLB have effect despite section 325 as inserted by Schedule 1 to the *Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020*.
- (2) However, neither of sections 12BLA and 12BLB applies to the extent that its operation would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph of the Constitution).

Part 40 Application and transitional provisions relating to the ALRC Financial Services Interim Reports

Division 1 Schedule 2 to the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023

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Part 40—Application and transitional provisions relating to the ALRC Financial Services Interim Reports

Division 1—Schedule 2 to the Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023

344 Definitions

In this Division:

commencement time means the time when Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023* commences.

344A Translation of references in instruments

- (1) This section applies to an instrument (the *affected instrument*) that:
- (a) was made under this Act; and
 - (b) was in force immediately before the commencement time.

References to moved definitions and other provisions

- (2) If:
- (a) immediately before the commencement time, the affected instrument contained a reference to a provision of the Corporations legislation (including, for example, a definition); and
 - (b) that provision was repealed by Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*; and

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(c) the Corporations legislation, as amended by that Schedule, contains a corresponding provision;
then the affected instrument has effect, at and after the commencement time, as if the reference to the repealed provision were a reference to the corresponding provision.

References to repealed definitions with no corresponding definition

- (3) Despite the repeal of definitions in sections 9 and 761A of the Corporations Act made by items 2, 3, 83, 85, 87, 90, 100, 115 and 117 of Schedule 2 to the *Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023*, the definitions repealed by those items continue, at and after the commencement time, to have effect for the purposes of the affected instrument as if those definitions had not been repealed.

Section 344B

Division 2—Schedules 1 and 2 to the Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

344B Definitions

In this Division:

commencement time means the time when Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023* commences.

344C Translation of references in instruments

- (1) This section applies to an instrument (the *affected instrument*) that:
- (a) was made under this Act; and
 - (b) was in force immediately before the commencement time.

References to moved definitions and other provisions

- (2) If:
- (a) immediately before the commencement time, the affected instrument contained a reference to a provision of the Corporations legislation (including, for example, a definition); and
 - (b) that provision was repealed by Schedule 1 or 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*; and
 - (c) either of the following contains a corresponding provision:
 - (i) the Corporations legislation as amended by those Schedules;
 - (ii) the *Acts Interpretation Act 1901* as in force at the commencement time;

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then the affected instrument has effect, at and after the commencement time, as if the reference to the repealed provision were a reference to the corresponding provision.

References to repealed definitions with no corresponding definition

- (3) If:
- (a) immediately before the commencement time, the affected instrument contained a reference to a term defined in section 9, 416, 489F, 580, 589, 601RAA, 601WAA, 761A, 880B, 892A, 910A, 960, 994A, 994K, 1011B, 1019C, 1020AA, 1020AH, 1021B, 1022A, 1023B, 1042A, 1073B, 1074B, 1200A, 1210, 1276, 1317DAA or 1363 of the Corporations Act; and
 - (b) the definition of that term was repealed by Schedule 2 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*; and
 - (c) neither of the following contains a corresponding definition:
 - (i) section 9 of the Corporations Act as amended by those Schedules;
 - (ii) the *Acts Interpretation Act 1901* as in force at the commencement time;

then, despite the repeal of the definition, the definition continues, at and after the commencement time, to have effect for the purposes of the affected instrument as if the definition had not been repealed.

344D Calculation of time

- (1) Despite the repeal of section 5A of this Act and section 105 of the Corporations Act by Schedule 1 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*, those sections continue to apply at and after the commencement time, as if those sections had not been repealed, in relation to:
- (a) a period of time that starts before the commencement time; and

Part 40 Application and transitional provisions relating to the ALRC Financial Services Interim Reports

Division 2 Schedules 1 and 2 to the Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

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- (b) a calculation of how many days a particular day, act or event is before or after another day, act or event if:
 - (i) the first mentioned day, or the day of the first mentioned act or event, starts before the commencement time; or
 - (ii) the other day, or the day of the other act or event, starts before the commencement time.
- (2) Otherwise, section 105 of the Corporations Act (as inserted by that Schedule) applies on and after the commencement time.

**Part 41—Application provision relating to
Schedule 6 to the Treasury Laws
Amendment (2023 Law Improvement
Package No. 1) Act 2023**

345 Application—hearings held by a Panel of the Disciplinary Board

Subsection 216(7), as amended by Division 2 of Part 1 of Schedule 6 to the *Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023*, applies in relation to a hearing of a Panel of the Disciplinary Board that is constituted on or after the commencement of that Division.

346 Application—claims handling and settling services

Paragraph 12BAB(1)(eb) applies in relation to providing a claims handling and settling service on or after the commencement of this section.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous (prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
ed = editorial change	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislation	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LA = <i>Legislation Act 2003</i>	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md) = misdescribed amendment can be given effect	SR = Statutory Rules
(md not incorp) = misdescribed amendment cannot be given effect	Sub-Ch = Sub-Chapter(s)
mod = modified/modification	SubPt = Subpart(s)
No. = Number(s)	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Securities and Investments Commission Act 2001	51, 2001	28 June 2001	15 July 2001 (<i>see</i> s. 2 and <i>Gazette</i> 2001, No. S285)	
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	ss. 4–14 and Schedule 2 (items 1–11): 15 July 2001 (<i>see</i> s. 2(2) and <i>Gazette</i> 2001, No. S285)	ss. 4–14
General Insurance Reform Act 2001	119, 2001	19 Sept 2001	Schedule 3 (items 2–7): 1 July 2002	—
Financial Services Reform Act 2001	122, 2001	27 Sept 2001	Sch 1 (items 2–137): 11 Mar 2002 (gaz 2001, No. GN42) Sch 3 (items 1–4): Royal Assent	—
Financial Services Reform (Consequential Provisions) Act 2001	123, 2001	27 Sept 2001	Sch 1 (items 8–215): 11 Mar 2002 (<i>see</i> s. 2(1), (6) and <i>Gazette</i> 2001, No. GN42)	—
as amended by				
Statute Law Revision Act 2005	100, 2005	6 July 2005	Sch 2 (items 14, 15): 11 Mar 2002 (s 2(1) item 34)	—
Treasury Legislation Amendment (Application of Criminal Code) Act (No. 2) 2001	146, 2001	1 Oct 2001	s 4 and Sch 5 (item 1): 15 Dec 2001 (s 2(1)) Sch 5 (item 2): 11 Mar 2002 (s 2(3))	s 4
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	Schedule 1 (items 23, 24, 97): 29 Oct 2001	Sch. 1 (item 97)

Australian Securities and Investments Commission Act 2001

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Compilation No. 101

Compilation date: 14/10/2024

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Royal Commissions and Other Legislation Amendment Act 2001	166, 2001	1 Oct 2001	Schedule 1 (items 1, 1A, 2): 1 Oct 2001	—
Corporations Legislation Amendment Act 2003	24, 2003	11 Apr 2003	Schedule 5 (items 1, 2): Royal Assent	—
Crimes Legislation Enhancement Act 2003	41, 2003	3 June 2003	Schedule 2 (items 1B, 1C): 1 Jan 2003	—
Financial Sector Legislation Amendment Act (No. 1) 2003	116, 2003	27 Nov 2003	Sch 1 (items 1–3): 28 Nov 2003 Sch 1 (item 4): 15 July 2001 (s 2(1) item 3)	—
Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003	140, 2003	17 Dec 2003	Sch 1 (item 12): 1 Jan 2005 (s 2(1) item 3)	—
Financial Services Reform Amendment Act 2003	141, 2003	17 Dec 2003	Schedule 3 (items 1A– 1E): 18 Dec 2003	—
Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004	103, 2004	30 June 2004	Sch 1 (items 1–36, 130– 175), Sch 9 (items 1–6) and Sch 11 (items 1, 2): 1 July 2004 (s 2(1) items 2, 11, 13) Sch 2 (items 10, 11): 1 Jan 2005 (s 2(1) item 2B) Sch 3 (items 1, 2): 26 July 2004 (s 2(1) item 3) Sch 12 (item 1): 30 June 2004 (s 2(1) item 14)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Legislation Amendment (Professional Standards) Act 2004	118, 2004	13 July 2004	13 July 2004	—
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s. 4 and Schedule 1 (items 96, 496): Royal Assent	s. 4 and Sch. 1 (item 496)
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Schedule 5 (items 32, 33) and Schedule 6 (items 5–11): Royal Assent	Sch. 6 (items 5–11)
Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006	170, 2006	12 Dec 2006	Schedule 1 (item 12): 13 Dec 2006 (<i>see</i> s. 2(1))	—
Australian Securities and Investments Commission Amendment (Audit Inspection) Act 2007	1, 2007	19 Feb 2007	Schedule 1 (items 1–16): 20 Feb 2007	—
Private Health Insurance (Transitional Provisions and Consequential Amendments) Act 2007	32, 2007	30 Mar 2007	Schedule 2 (item 8A): 1 Apr 2007 (<i>see</i> s. 2(1))	—
Governance Review Implementation (Treasury Portfolio Agencies) Act 2007	74, 2007	5 June 2007	Schedule 1 (items 1–12, 40–46, 67) and Schedule 2 (items 1–10, 14–20): 1 July 2007	Sch. 2 (items 1–10, 14–20)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Corporations Amendment (Insolvency) Act 2007	132, 2007	20 Aug 2007	Schedule 2 (item 1) and Schedule 5 (items 1, 2): 31 Dec 2007 (<i>see</i> F2007L03798)	—
Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007	154, 2007	24 Sept 2007	Schedule 4 (item 1): Royal Assent	—
Trade Practices Legislation Amendment Act (No. 1) 2007	159, 2007	24 Sept 2007	Schedule 3 (items 1–4, 9): 25 Sept 2007	Sch. 3 (item 9)
Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008	26, 2008	23 June 2008	Schedule 1 (items 39–42): Royal Assent	—
First Home Saver Accounts (Consequential Amendments) Act 2008	45, 2008	25 June 2008	Schedule 2 (items 1, 2): 26 June 2008	—
Private Health Insurance Legislation Amendment Act 2008	54, 2008	25 June 2008	Schedule 1 (items 1, 2): Royal Assent	—
Governance Review Implementation (AASB and AUASB) Act 2008	61, 2008	30 June 2008	1 July 2008	Sch. 2
First Home Saver Accounts (Further Provisions) Amendment Act 2008	92, 2008	30 Sept 2008	Schedule 2 (item 1): 1 Oct 2008	—
Trade Practices Legislation Amendment Act 2008	116, 2008	21 Nov 2008	Schedule 3 (items 1–6): 22 Nov 2008	Sch. 3 (item 6)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Corporations Legislation Amendment (Financial Services Modernisation) Act 2009	108, 2009	6 Nov 2009	Schedule 2 (items 1–3K): 6 May 2010	—
National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009	135, 2009	15 Dec 2009	Sch 3 (item 1): 1 Apr 2010 (s 2(1) item 4)	—
as amended by Treasury Laws Amendment (2019 Measures No. 3) Act 2020	64, 2020	22 June 2020	Sch 3 (items 40, 45): 23 June 2020 (s 2(1) item 4)	—
Trade Practices Amendment (Australian Consumer Law) Act (No. 1) 2010	44, 2010	14 Apr 2010	Schedule 3 (items 1A, 1, 3–8, 34, 37, 42, 44–55): 1 July 2010 Schedule 3 (items 9–14, 18–32, 57): 15 Apr 2010	Sch. 3 (item 8)
Corporations Amendment (Corporate Reporting Reform) Act 2010	66, 2010	28 June 2010	Schedule 2: Royal Assent	—
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Schedule 3 (items 1–32): 1 Jan 2011	—
Corporations Amendment (No. 1) Act 2010	131, 2010	24 Nov 2010	Schedule 1 (items 1–3, 22): 13 Dec 2010 (<i>see</i> F2010L03188)	Sch. 1 (item 22)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Tax Laws Amendment (Confidentiality of Taxpayer Information) Act 2010	145, 2010	16 Dec 2010	Schedule 2 (item 7): 17 Dec 2010	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Schedule 1 (item 9): Royal Assent	—
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011	58, 2011	28 June 2011	Sch 1 (items 24, 25): 1 July 2011 (s 2(1) item 2)	—
Carbon Credits (Consequential Amendments) Act 2011	102, 2011	15 Sept 2011	Sch 1 (items 5–7): 8 Dec 2011 (s 2(1) item 2)	—
Business Names Registration (Transitional and Consequential Provisions) Act 2011	127, 2011	3 Nov 2011	Sch 2 (items 4–7): 20 Apr 2012 (s 2(1) item 4)	—
Clean Energy (Consequential Amendments) Act 2011	132, 2011	18 Nov 2011	Sch 1 (items 47–49): 2 Apr 2012 (s2(1) item 2) Sch 1 (item 256A): 1 July 2012 (s2(1) item 3)	—
Competition and Consumer Legislation Amendment Act 2011	184, 2011	6 Dec 2011	Sch 2 (item 1): 1 Jan 2012 (s 2(1) item 3)	—
Corporations Legislation Amendment (Audit Enhancement) Act 2012	72, 2012	27 June 2012	Sch 2: 27 June 2012 (s 2(1) item 3)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Corporations Legislation Amendment (Financial Reporting Panel) Act 2012	118, 2012	12 Sept 2012	Sch 1 (items 1, 2): 1 Oct 2012 (s 2(1) item 2)	—
Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012	169, 2012	3 Dec 2012	Sch 3 (items 20–23): 3 Dec 2012 (s 2(1) item 10)	—
Treasury Legislation Amendment (Unclaimed Money and Other Measures) Act 2012	176, 2012	4 Dec 2012	Sch 5 (item 1): 5 Dec 2012 (s 2(1) item 11)	—
Corporations Legislation Amendment (Derivative Transactions) Act 2012	178, 2012	6 Dec 2012	Sch 1 (items 46–53): 3 Jan 2013 (s 2(1) item 2)	—
Corporations and Financial Sector Legislation Amendment Act 2013	59, 2013	21 June 2013	Sch 1 (items 16–21, 25, 26): 19 July 2013 (s 2(1) item 2)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 5 (item 110), Sch 6 (item 28) and Sch 14: 1 July 2014 (s 2(1) items 5, 6, 14)	Sch 14
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (item 7) and Sch 7: 14 Apr 2015 (s 2)	Sch 7

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Clean Energy Legislation (Carbon Tax Repeal) Act 2014	83, 2014	17 July 2014	Sch 1 (items 92–94): 1 July 2014 (s 2(1) item 2)	—
Corporations Legislation Amendment (Deregulatory and Other Measures) Act 2015	19, 2015	19 Mar 2015	Sch 2: 19 Mar 2015 (s 2)	—
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 5 (items 5–17, 74–77) and Sch 7: 14 Apr 2015 (s 2)	Sch 5 (items 74–77) and Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Tax and Superannuation Laws Amendment (2015 Measures No. 1) Act 2015	70, 2015	25 June 2015	Sch 1 (items 16, 17, 195–205): 1 July 2015 (s 2(1) items 3, 6)	Sch 1 (items 195–205)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Act 2015	147, 2015	12 Nov 2015	Sch 1 (items 1–18): 12 Nov 2016 (s 2(1) item 2)	—
Insolvency Law Reform Act 2016	11, 2016	29 Feb 2016	Sch 2 (items 5–32, 321): 1 Mar 2017 (s 2(1) items 3, 7)	—
Courts Administration Legislation Amendment Act 2016	24, 2016	18 Mar 2016	Sch 5 (item 3): 1 July 2016 (s 2(1) item 7) Sch 6: 18 Mar 2016 (s 2(1) item 9)	Sch 6
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 5 (item 17): 1 July 2016 (s 2(1) item 7)	—
Corporations Amendment (Crowd-sourced Funding) Act 2017	17, 2017	28 Mar 2017	Sch 1 (items 35–37): 28 Sept 2017 (s 2(1) item 2)	—
Treasury Laws Amendment (2017 Measures No. 1) Act 2017	26, 2017	4 Apr 2017	Sch 2: 5 Apr 2017 (s 2(1) item 3)	—
ASIC Supervisory Cost Recovery Levy (Consequential Amendments) Act 2017	45, 2017	19 June 2017	Sch 1 (items 1, 2, 29): 1 July 2017 (s 2(1) item 1)	Sch 1 (item 29)
Treasury Laws Amendment (2017 Measures No. 3) Act 2017	75, 2017	26 June 2017	Sch 1 (items 1–7): 15 July 2017 (s 2(1) item 1)	—
Statute Update (Smaller Government) Act 2018	4, 2018	20 Feb 2018	Sch 7: 21 Feb 2018 (s 2(1) item 1)	Sch 7 (items 14–27)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018	13, 2018	5 Mar 2018	s 4: 5 Mar 2018 (s 2(1) item 1) Sch 1 (item 14) and Sch 2 (item 1): 6 Mar 2018 (s 2(1) items 2, 7) Sch 3 (items 3–5, 32(2)): 5 Mar 2022 (s 2(1) item 8)	s 4 and Sch 3 (item 32(2))
Treasury Laws Amendment (ASIC Governance) Act 2018	42, 2018	22 May 2018	Sch 1 (items 1–9): 5 June 2018 (s 2(1) item 1)	—
Corporations Amendment (Asia Region Funds Passport) Act 2018	61, 2018	29 June 2018	Sch 2 (items 6–17): 18 Sept 2018 (s 2(1) item 2)	—
Treasury Laws Amendment (Enhancing ASIC’s Capabilities) Act 2018	122, 2018	3 Oct 2018	Sch 1: 4 Oct 2018 (s 2(1) item 2) Sch 2 (items 1–13): 1 July 2019 (s 2(1) item 3)	—
Treasury Laws Amendment (Australian Consumer Law Review) Act 2018	132, 2018	25 Oct 2018	Sch 2 (items 1, 2), Sch 7 (item 1), Sch 10, 11 and Sch 12 (item 1): 26 Oct 2018 (s 2(1) item 1)	—
Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019	17, 2019	12 Mar 2019	Sch 2: 13 Mar 2019 (s 2(1) item 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019	50, 2019	5 Apr 2019	Sch 2 (items 16–18): 6 Apr 2019 (s 2(1) item 3)	—
Financial Sector Reform (Hayne Royal Commission Response—Protecting Consumers (2019 Measures)) Act 2020	2, 2020	17 Feb 2020	Sch 1 (items 1–7): 5 Apr 2021 (s 2(1) item 2) Sch 2 (item 1): 18 Feb 2020 (s 2(1) item 3)	—
Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Act 2020	3, 2020	17 Feb 2020	Sch 1 (items 1, 3–12, 28): 18 Feb 2020 (s 2(1) item 1)	—
Treasury Laws Amendment (2019 Measures No. 3) Act 2020	64, 2020	22 June 2020	Sch 3 (items 1–9): 23 June 2020 (s 2(1) item 4)	—
Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020	69, 2020	22 June 2020	Sch 1 (items 102, 1465–1467): <u>awaiting commencement (s 2(1) items 2, 5)</u> Sch 1 (item 103): 4 Apr 2021 (s 2(1) item 2)	<u>Sch 1 (items 1465–1467) and Sch 1 (item 1468)</u>
as amended by Treasury Laws Amendment (2022 Measures No. 1) Act 2022	35, 2022	9 Aug 2022	Sch 4 (items 6, 7, 9): 21 June 2022 (s 2(1) item 5) Sch 4 (item 15): 10 Aug 2022 (s 2(1) item 6)	Sch 4 (item 9)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Financial Sector Reform (Hayne Royal Commission Response) Act 2020	135, 2020	17 Dec 2020	Sch 3 (items 1–18): 5 Oct 2021 (s 2(1) item 5) Sch 4 (items 1–13), Sch 9 (items 28–32) and Sch 12 (items 2, 9, 10, 13–16): 1 Jan 2021 (s 2(1) items 6, 10, 12)	—
Treasury Laws Amendment (2020 Measures No. 6) Act 2020	141, 2020	17 Dec 2020	Sch 4 (items 2–4): 18 Dec 2020 (s 2(1) item 6)	—
Territories Legislation Amendment Act 2020	154, 2020	17 Dec 2020	Sch 2 (items 3–11): 2 Aug 2021 (s 2(1) item 4) Sch 2 (item 64): 18 Dec 2020 (s 2(1) item 5)	—
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021	13, 2021	1 Mar 2021	Sch 2 (items 109–117): 1 Sept 2021 (s 2(1) item 5)	—
Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021	64, 2021	29 June 2021	Sch 1 (items 7, 8, 17, 18): 1 July 2021 (s 2(1) item 2)	Sch 1 (item 18)
Treasury Laws Amendment (2021 Measures No. 1) Act 2021	82, 2021	13 Aug 2021	Sch 2 (items 1, 24): 14 Aug 2021 (s 2(1) item 3)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Act 2021	115, 2021	28 Oct 2021	Sch 1 (items 1–13): 1 Jan 2022 (s 2(1) item 2)	—
Treasury Laws Amendment (2021 Measures No. 5) Act 2021	127, 2021	7 Dec 2021	Sch 2 (items 1, 2) and Sch 3 (items 8–19): 8 Dec 2021 (s 2(1) items 3, 4)	—
Corporate Collective Investment Vehicle Framework and Other Measures Act 2022	8, 2022	22 Feb 2022	Sch 3 (items 1–14): 1 July 2022 (s 2(1) item 2)	—
Treasury Laws Amendment (2022 Measures No. 1) Act 2022	35, 2022	9 Aug 2022	Sch 4 (items 10, 19, 20): 10 Aug 2022 (s 2(1) items 6, 8)	—
Treasury Laws Amendment (More Competition, Better Prices) Act 2022	54, 2022	9 Nov 2022	Sch 2 (items 2–4, 27–40, 43, 44, 49–52, 56–58, 69–75, 79, 80): 9 Nov 2023 (s 2(1) item 3)	Sch 2 (item 80)
National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022	89, 2022	12 Dec 2022	Sch 1 (item 34): 1 July 2023 (s 2(1) item 2)	—
Treasury Laws Amendment (2022 Measures No. 4) Act 2023	29, 2023	23 June 2023	Sch 6 (items 186–191): 1 July 2023 (s 2(1) item 3)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Laws Amendment (Financial Services Compensation Scheme of Last Resort) Act 2023	46, 2023	3 July 2023	Sch 1 (items 4, 5): 4 July 2023 (s 2(1) item 2)	—
Financial Accountability Regime (Consequential Amendments) Act 2023	68, 2023	14 Sept 2023	Sch 1 (items 15–20): 15 Sept 2023 (s 2(1) item 2)	—
Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023	69, 2023	14 Sept 2023	Sch 1 (items 63–68), Sch 2 (items 1, 81, 82, 156) and Sch 4 (items 62, 63): 15 Sept 2023 (s 2(1) items 2, 4, 5)	—
Treasury Laws Amendment (2023 Measures No. 3) Act 2023	75, 2023	20 Sept 2023	Sch 3 (item 1): 21 Sept 2023 (s 2(1) item 9)	—
Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023	76, 2023	20 Sept 2023	Sch 1 (items 1–11), Sch 2 (items 1, 7, 141, 163, 168–175, 178–194, 589, 599, 614, 616) and Sch 3 (items 7, 12): 20 Oct 2023 (s 2(1) items 2, 5, 8) Sch 3 (items 1, 2): 9 Nov 2023 (s 2(1) item 3) Sch 6 (items 2–8, 18, 19): 21 Sept 2023 (s 2(1) items 20–22)	—
Treasury Laws Amendment (2023 Measures No. 1) Act 2023	101, 2023	27 Nov 2023	Sch 2: 28 Nov 2023 (s 2(1) item 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024	38, 2024	31 May 2024	Sch 1 (items 8–13): 14 Oct 2024 (s 2(1) item 2)	—
Attorney-General's Portfolio Miscellaneous Measures Act 2024	41, 2024	11 June 2024	Sch 1 (items 1–3): 12 June 2024 (s 2(1) item 2)	—
Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024	87, 2024	17 Sept 2024	Sch 1 (item 35) and Sch 2 (item 95): 24 Sept 2024 (s 2(1) items 2, 9) Sch 4 (items 1, 128–131) and Sch 5 (item 1): 18 Sept 2024 (s 2(1) item 14)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Title.....	am No 122, 2001; No 4, 2018
Part 1	
Division 1	
s 1.....	am No 122, 2001; No 103, 2004; No 118, 2012; No 11, 2016; No 4, 2018; No 122, 2018
Division 3	
s 4.....	am No 122, 2001; No 33, 2016; No 154, 2020
s 4AA.....	ad No 146, 2001 rep No 146, 2001
s 4A.....	ad No 123, 2001
Division 4	
s 5.....	am No 122, 2001; No 123, 2001; No 103, 2004; No 74, 2007; No 61, 2008; No 108, 2009; No 66, 2010; No 58, 2011; No 72, 2012; No 169, 2012; No 59, 2013; No 11, 2016; No 17, 2017; No 75, 2017; No 4, 2018; No 42, 2018; No 122, 2018; No 17, 2019; No 154, 2020; No 115, 2021; No 8, 2022; No 69, 2023; No 76, 2023; No 101, 2023; No 87, 2024
s 5A.....	rs No 140, 2003 rep No 76, 2023
Part 2	
Division 1	
s 8.....	am No 74, 2007; No 62, 2014; No 64, 2020
s 8A.....	ad No 74, 2007
s 9.....	am No 122, 2001
s 9A.....	ad No 62, 2014
s 10.....	rs No 42, 2018
s 10A.....	ad No 74, 2007 am No 36, 2015 rs No 122, 2018

Endnote 4—Amendment history

Provision affected	How affected
s 11.....	am No 1, 2007; No 4, 2018; No 61, 2018; No 115, 2021; No 76, 2023
s 12.....	am No 141, 2020
s 12A.....	am No 122, 2001; No 45, 2008; No 135, 2009; No 127, 2011; No 70, 2015; No 45, 2017; No 13, 2018; <u>No 69, 2020</u> ; No 46, 2023; No 68, 2023
s 12AA.....	ad No 135, 2020
Division 2	
Subdivision A	
s 12AA.....	rep No 123, 2001
s 12AC.....	am No 135, 2020
s 12AD.....	am No 123, 2001
s 12AE.....	am No 141, 2003; No 44, 2010; No 135, 2020
Subdivision B	
s 12BA.....	am No 122, 2001; No 123, 2001; No 44, 2010; No 103, 2010; No 147, 2015; No 24, 2016; No 132, 2018; No 17, 2019; No 2, 2020; No 135, 2020; No 13, 2021; No 54, 2022; No 76, 2023
s 12BAA.....	ad No 122, 2001 am No 32, 2007; No 45, 2008; No 54, 2008; No 102, 2011; No 132, 2011; No 178, 2012; No 83, 2014; No 70, 2015; No 61, 2018; No 2, 2020; No 76, 2023
s 12BAB.....	ad No 122, 2001 am No 141, 2003; No 108, 2009; No 102, 2011; No 132, 2011; No 178, 2012; No 83, 2014; No 17, 2017; No 61, 2018; No 132, 2018; No 135, 2020; No 8, 2022; No 76, 2023
s 12BB.....	am No 123, 2001 rs No 103, 2010
s 12BC.....	am No 123, 2001; No 103, 2010
s 12BEA.....	ad No 103, 2010 am No 132, 2018
Subdivision BA	
Subdivision BA.....	ad No 44, 2010
s 12BF.....	ad No 44, 2010

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am No 147, 2015; No 2, 2020; No 54, 2022
s 12BG	ad No 44, 2010
	am No 147, 2015; No 54, 2022
s 12BH	ad No 44, 2010
	am No 147, 2015; No 54, 2022
s 12BI.....	ad No 44, 2010
	am No 147, 2015; No 2, 2020; No 54, 2022
s 12BK	ad No 44, 2010
	am No 54, 2022
s 12BL.....	ad No 44, 2010
	rs No 147, 2015
	am No 61, 2018; No 2, 2020; No 54, 2022
s 12BLA.....	ad No 54, 2022
s 12BLB.....	ad No 54, 2022
s 12BLC.....	ad No 54, 2022
	am No 76, 2023
s 12BM	ad No 44, 2010
Subdivision C	
s 12CA	am No 123, 2001
s 12CB	am No 123, 2001; No 116, 2008
	rs No 184, 2011
	am No 132, 2018
s 12CC	ad No 123, 2001
	am No 159, 2007; No 116, 2008; No 108, 2009; No 103, 2010
	rs No 184, 2011
Subdivision D	
s 12DA	am No 122, 2001; No 123, 2001; No 17, 2017; No 82, 2021
s 12DB	am No 122, 2001; No 123, 2001; No 103, 2010; No 17, 2017
s 12DC	am No 122, 2001; No 123, 2001; No 103, 2010; No 132, 2018
s 12DD.....	am No 122, 2001; No 123, 2001
s 12DE	rs No 123, 2001

Endnote 4—Amendment history

Provision affected	How affected
	am No 103, 2010; No 127, 2021
s 12DF.....	am No 123, 2001
s 12DG.....	am No 123, 2001
s 12DH.....	am No 123, 2001
s 12DI.....	rs No 123, 2001
s 12DJ.....	rs No 123, 2001
s 12DK.....	am No 122, 2001; No 123, 2001 (as am by No 100, 2005)
s 12DL.....	am No 123, 2001
s 12DM.....	am No 123, 2001; No 103, 2010; No 132, 2018
s 12DMA.....	ad No 103, 2010
	am No 132, 2018
s 12DMB.....	ad No 103, 2010
	am No 132, 2018
s 12DMC.....	ad No 135, 2020
s 12DN.....	am No 123, 2001
	rs No 103, 2010
	am No 127, 2021
Subdivision DA	
Subdivision DA.....	ad No 135, 2020
s 12DO.....	ad No 135, 2020
s 12DP.....	ad No 135, 2020
s 12DQ.....	ad No 135, 2020
s 12DR.....	ad No 135, 2020
s 12DS.....	ad No 135, 2020
s 12DT.....	ad No 135, 2020
s 12DU.....	ad No 135, 2020
	am No 76, 2023
s 12DV.....	ad No 135, 2020
s 12DW.....	ad No 135, 2020
s 12DX.....	ad No 135, 2020
s 12DY.....	ad No 135, 2020

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Endnote 4—Amendment history

Provision affected	How affected
s 12DZ	ad No 135, 2020
s 12DZA	ad No 135, 2020
Subdivision E	
s 12EA	am No 123, 2001
s 12EB.....	am No 123, 2001
s 12EC.....	am No 123, 2001
s 12ED	am No 123, 2001; No 118, 2004
Subdivision F.....	rep No 122, 2001
s 12FA.....	rep No 122, 2001
Subdivision G	
s 12GB	am No 123, 2001; No 17, 2019; No 135, 2020
s 12GBA	ad No 44, 2010 rs No 17, 2019 am No 135, 2020; No 54, 2022
s 12GBB	ad No 44, 2010 rs No 17, 2019 am No 135, 2020
s 12GBC	ad No 44, 2010 rs No 17, 2019
s 12GBCA.....	ad No 17, 2019 am No 64, 2020
s 12GBCB.....	ad No 17, 2019
s 12GBCC.....	ad No 17, 2019
s 12GBCD.....	ad No 17, 2019
s 12GBCE.....	ad No 17, 2019
s 12GBCF	ad No 17, 2019
s 12GBCG.....	ad No 17, 2019
s 12GBCH.....	ad No 17, 2019
s 12GBCJ.....	ad No 17, 2019
s 12GBCK.....	ad No 17, 2019
s 12GBCL	ad No 17, 2019

Endnote 4—Amendment history

Provision affected	How affected
s 12GBCM.....	ad No 17, 2019
s 12GBCN.....	ad No 17, 2019 am No 135, 2020
s 12GBCP.....	ad No 17, 2019
s 12GBD.....	ad No 44, 2010 am No 17, 2019
s 12GCA.....	ad No 123, 2001 am No 44, 2010 rs No 17, 2019
s 12GD.....	am No 44, 2010; No 147, 2015; No 54, 2022
s 12GE.....	rep No 123, 2001
s 12GF.....	am No 123, 2001; No 103, 2004; No 118, 2004; No 135, 2020; No 54, 2022
s 12GFA.....	ad No 135, 2020
s 12GG.....	am No 123, 2001; No 44, 2010; No 17, 2019; No 135, 2020 rs No 54, 2022
s 12GH.....	am No 123, 2001
s 12GI.....	am No 123, 2001; No 44, 2010; No 17, 2019; No 135, 2020; No 8, 2022
s 12GJ.....	am No 123, 2001
s 12GK.....	am No 123, 2001
s 12GL.....	am No 13, 2021
s 12GLA.....	ad No 123, 2001 am No 135, 2020; No 54, 2022
s 12GLB.....	ad No 123, 2001 am No 44, 2010; No 17, 2019
s 12GLC.....	ad No 44, 2010 am No 54, 2022
s 12GLD.....	ad No 44, 2010 am No 54, 2022

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Endnote 4—Amendment history

Provision affected	How affected
s 12GM	am No 123, 2001; No 116, 2003; No 118, 2004; No 44, 2010; No 147, 2015; No 135, 2020; No 54, 2022
s 12GN	am No 123, 2001; No 44, 2010; No 147, 2015; No 17, 2019; No 135, 2020; No 54, 2022
s 12GNA	ad No 118, 2004 am No 154, 2020; No 76, 2023
s 12GNB	ad No 44, 2010 am No 44, 2010; No 147, 2015; No 54, 2022
s 12GNC	ad No 44, 2010 am No 54, 2022
s 12GND	ad No 44, 2010 rs No 147, 2015 am No 2, 2020; No 54, 2022
s 12GNE	ad No 54, 2022 ed C96
s 12GNF	ad No 54, 2022 ed C96
s 12GNG	ad No 54, 2022 ed C96
s 12GO	rs No 123, 2001
Subdivision GA	
Subdivision GA	ad No 103, 2004
s 12GP	ad No 103, 2004
s 12GQ	ad No 103, 2004
s 12GR	ad No 103, 2004
s 12GS	ad No 103, 2004
s 12GT	ad No 103, 2004
s 12GU	ad No 103, 2004
s 12GV	ad No 103, 2004
s 12GW	ad No 103, 2004

Endnote 4—Amendment history

Provision affected	How affected
Subdivision GB	
Subdivision GB.....	ad No 44, 2010 rs No 17, 2019
s 12GX.....	ad No 44, 2010 rs No 17, 2019
s 12GXA.....	ad No 44, 2010 rs No 17, 2019 am No 135, 2020
s 12GXB.....	ad No 44, 2010 rs No 17, 2019 am No 135, 2020; No 127, 2021
s 12GXC.....	ad No 44, 2010 am No 103, 2010 rs No 17, 2019 am No 127, 2021
s 12GXD.....	ad No 44, 2010 rs No 17, 2019
s 12GXE.....	ad No 44, 2010 rs No 17, 2019
s 12GXF.....	ad No 44, 2010 rs No 17, 2019
s 12GXG.....	ad No 44, 2010 rs No 17, 2019
s 12GXH.....	ad No 17, 2019
Subdivision GC	
Subdivision GC.....	ad No 44, 2010
s 12GY.....	ad No 44, 2010
s 12GYA.....	ad No 44, 2010
s 12GYB.....	ad No 44, 2010
s 12GYC.....	ad No 44, 2010

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Endnote 4—Amendment history

Provision affected	How affected
Subdivision H	
s 12HB	am No 123, 2001; No 44, 2010; No 54, 2022
s 12HC	am No 123, 2001; No 41, 2024
Part 3	
Division 1	
s 13	am No 122, 2001; No 132, 2007; No 11, 2016; No 132, 2018
s 14	am No 122, 2001; No 178, 2012
s 15	am No 11, 2016; No 127, 2021
s 18	am No 41, 2003
Division 2	
s 19	am No 123, 2001; No 76, 2023
s 21	am No 123, 2001
s 22	am No 123, 2001; No 17, 2019
s 22A	ad No 69, 2023
s 23	am No 123, 2001
s 24	am No 123, 2001
s 25	am No 123, 2001; No 17, 2019
s 26	am No 123, 2001; No 17, 2019
Division 3	
Division 3 heading	rs No 1, 2007
s 28	am No 122, 2001; No 1, 2007; No 11, 2016; No 3, 2020
s 29	am No 123, 2001
s 30	am No 123, 2001
s 30A	ad No 1, 2007 am No 169, 2012
s 30B	ad No 11, 2016
s 31	am No 122, 2001; No 123, 2001; No 178, 2012
s 32	rep No 122, 2001
s 32A	am No 123, 2001
s 33	am No 122, 2001; No 123, 2001; No 1, 2007; No 169, 2012; No 11, 2016

Endnote 4—Amendment history

Provision affected	How affected
s 34.....	am No 122, 2001; No 123, 2001; No 1, 2007; No 11, 2016
s 35.....	am No 131, 2010 rep No 3, 2020
s 36.....	am No 131, 2010 rep No 3, 2020
s 36A.....	ad No 131, 2010 rep No 3, 2020
s 37.....	am No 123, 2001; No 1, 2007; No 11, 2016; No 3, 2020
s 38.....	am No 123, 2001; No 5, 2011
s 39.....	am No 123, 2001
s 39A.....	am No 17, 2019
s 39B.....	ad No 1, 2007 am No 3, 2020
s 39C.....	ad No 11, 2016 am No 17, 2019
Division 3A	
Division 3A.....	ad No 3, 2020
Subdivision A	
s 39D.....	ad No 3, 2020
s 39E.....	ad No 3, 2020
Subdivision B	
s 39F.....	ad No 3, 2020
s 39G.....	ad No 3, 2020
s 39H.....	ad No 3, 2020 am No 89, 2022
s 39I.....	ad No 3, 2020
Division 4	
Division 4 heading.....	rs No 122, 2001; No 108, 2009
s 40.....	am No 122, 2001; No 108, 2009
s 41.....	am No 122, 2001; No 123, 2001
s 42.....	ad No 108, 2009

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Endnote 4—Amendment history

Provision affected	How affected
s 43.....	am No 122, 2001; No 123, 2001; No 103, 2004; No 76, 2023
s 44.....	rep No 122, 2001 ad No 108, 2009
s 46.....	rep No 122, 2001
s 47.....	am No 123, 2001; No 17, 2019
s 48.....	am No 123, 2001
Division 5	
s 49.....	am No 123, 2001
Division 5A	
Division 5A.....	ad No 72, 2012
s 50A.....	ad No 72, 2012
s 50B.....	ad No 72, 2012
s 50C.....	ad No 72, 2012
s 50D.....	ad No 72, 2012
s 50E.....	ad No 72, 2012
Division 6	
s 56.....	am No 123, 2001; No 17, 2019
s 58.....	am No 123, 2001; No 76, 2023
s 59.....	am No 103, 2004; No 135, 2020; No 8, 2022
s 59A.....	ad No 69, 2023
Division 7	
s 63.....	am No 122, 2001; No 123, 2001; No 1, 2007; No 108, 2009; No 11, 2016; No 17, 2019
s 64.....	am No 17, 2019
s 65.....	am No 123, 2001; No 17, 2019; No 3, 2020
s 66.....	am No 123, 2001; No 17, 2019
s 67.....	am No 123, 2001; No 17, 2019
s 69.....	am No 132, 2007; No 17, 2019
Division 8	
s 71.....	am No 122, 2001; No 108, 2009
s 72.....	am No 123, 2001

Endnote 4—Amendment history

Provision affected	How affected
s 73.....	am No 122, 2001; No 123, 2001; No 108, 2009
s 74.....	rep No 122, 2001
s 75.....	am No 122, 2001; No 17, 2019
Division 9	
s 80.....	am No 122, 2001; No 1, 2007; No 11, 2016
Division 10	
s 84.....	am No 103, 2004 rs No 8, 2022
s 91.....	am No 123, 2001; No 17, 2019
s 93AA.....	am No 115, 2021
Part 3A	
Part 3A heading.....	rs No 61, 2018
s 93A.....	am No 61, 2018
s 93B.....	ad No 61, 2018
s 93BA.....	ad No 8, 2022
Part 3B	
Part 3B.....	ad No 17, 2019
s 93C.....	ad No 17, 2019 am No 135, 2020
s 93D.....	ad No 17, 2019
s 93E.....	ad No 17, 2019
s 93F.....	ad No 17, 2019
s 93G.....	ad No 17, 2019
s 93H.....	ad No 17, 2019
Part 4	
Division 1	
s 94.....	am No 74, 2007
s 95.....	am No 122, 2001; No 154, 2020
s 96.....	am No 122, 2018

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Endnote 4—Amendment history

Provision affected	How affected
Division 3	
s 102.....	am No 74, 2007; No 44, 2010; No 103, 2010; No 122, 2018; No 50, 2019; No 115, 2021
Division 4	
s 103.....	rs No 135, 2020
s 104.....	rep No 135, 2020
s 106.....	am No 42, 2018
s 107.....	rs No 135, 2020
s 107A.....	ad No 135, 2020
s 107B.....	ad No 135, 2020
Part 5	
Division 1	
s 108.....	am No 159, 2001
s 109.....	am No 42, 2018
s 110.....	am No 42, 2018
s 111.....	am No 122, 2001; No 26, 2008; No 58, 2011; No 36, 2015
Division 2	
s 116.....	am No 42, 2018; No 76, 2023
s 117.....	am No 76, 2023
s 118.....	rs No 42, 2018 am No 76, 2023
Division 3	
s 119A.....	am No 122, 2018
Part 6	
s 120.....	rs No 122, 2018
s 121.....	am No 122, 2018
s 122.....	rs No 55, 2001
s 122A.....	ad No 122, 2018
Part 6A	
Part 6A.....	ad No 135, 2020
s 122B.....	ad No 135, 2020

Endnote 4—Amendment history

Provision affected	How affected
s 122C	ad No 135, 2020 am No 64, 2021
s 122D	ad No 135, 2020
s 122E	ad No 135, 2020
Part 7	
Division 1	
s 123	am No 122, 2001
s 124	am No 74, 2007 rep No 36, 2015
s 125	am No 123, 2001; No 122, 2018; No 17, 2019
s 126A	ad No 122, 2018
s 126B	ad No 122, 2018
s 126C	ad No 122, 2018
Division 2	
s 127	am No 122, 2001; No 123, 2001; No 166, 2001; No 41, 2003; No 116, 2003; No 141, 2003; No 103, 2004; No 1, 2007; No 92, 2008; No 145, 2010; No 102, 2011; No 127, 2011; No 132, 2011; No 72, 2012; No 178, 2012; No 59, 2013; No 11, 2016; No 26, 2017; No 4, 2018; No 13, 2018; No 61, 2018; No 17, 2019; No 64, 2020; No 69, 2020; No 154, 2020; No 64, 2021; No 82, 2021; No 115, 2021; No 29, 2023; No 46, 2023; No 68, 2023; No 75, 2023; No 76, 2023; No 87, 2024 ed C95
Division 3	rep No 122, 2001
s 128	rep No 122, 2001
s 129	rep No 122, 2001
s 130	rep No 122, 2001
s 131	rep No 122, 2001
s 132	rep No 122, 2001
Part 8	
Part 8	rs No 74, 2007
Division 1	rep No 176, 2012

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Endnote 4—Amendment history

Provision affected	How affected
s 133.....	rs No 74, 2007 rep No 176, 2012
s 134.....	rs No 74, 2007 rep No 176, 2012
s 135.....	am No 122, 2001; No 8, 2005 rs No 74, 2007 rep No 176, 2012
Division 2	
s 136.....	ad No 74, 2007 am No 127, 2011; No 59, 2013; No 36, 2015; No 11, 2016; No 50, 2019; No 115, 2021; No 68, 2023
Division 3	
s 137.....	am No 24, 2003 rs No 74, 2007
Division 4	
Division 4	ad No 45, 2017
s 138.....	am No 122, 2001; No 1, 2007 rep No 74, 2007 ad No 45, 2017
Part 9	
Part 9 heading.....	rs No 122, 2001 rep No 4, 2018 ad No 115, 2021
Part 9.....	rep No 4, 2018 ad No 115, 2021
Division 1	
s 139.....	am No 101, 2006 rep No 74, 2007 ad No 115, 2021
Division 2	
s 140.....	rep No 74, 2007

Endnote 4—Amendment history

Provision affected	How affected
	ad No 115, 2021
s 141.....	rep No 74, 2007
	ad No 115, 2021
s 142.....	rep No 74, 2007
	ad No 115, 2021
s 143.....	ad No 115, 2021
	rs No 35, 2022
s 144.....	ad No 115, 2021
s 145.....	ad No 115, 2021
s 146.....	am No 122, 2001; No 74, 2007
	rep No 4, 2018
	ad No 115, 2021
s 146A.....	ad No 74, 2007
	rep No 4, 2018
s 147.....	am No 122, 2001
	rep No 4, 2018
	ad No 115, 2021
s 147A.....	ad No 74, 2007
	rep No 4, 2018
Division 3	
Subdivision A	
s 148.....	am No 122, 2001
	rep No 4, 2018
	ad No 115, 2021
s 149.....	rep No 4, 2018
	ad No 115, 2021
s 150.....	rep No 4, 2018
	ad No 115, 2021
s 151.....	rep No 4, 2018
	ad No 115, 2021
s 152.....	rep No 4, 2018

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Endnote 4—Amendment history

Provision affected	How affected
	ad No 115, 2021
s 153.....	am No 24, 2003
	rep No 4, 2018
	ad No 115, 2021
s 154.....	am No 122, 2001
	rep No 4, 2018
	ad No 115, 2021
s 155.....	am No 122, 2001
	rep No 4, 2018
	ad No 115, 2021
Division 2 heading.....	rs No 74, 2007
	rep No 4, 2018
Subdivision B	
s 156.....	am No 122, 2001
	rep No 4, 2018
	ad No 115, 2021
Division 4	
Subdivision A	
s 157.....	am No 122, 2001
	rep No 4, 2018
	ad No 115, 2021
	am No 35, 2022
s 158.....	am No 122, 2001
	rep No 4, 2018
	ad No 115, 2021
Division 3	ad No 74, 2007
	rep No 4, 2018
Subdivision B	
s 159.....	am No 122, 2001
	rs No 74, 2007
	rep No 4, 2018

Endnote 4—Amendment history

Provision affected	How affected
	ad No 115, 2021
	am No 69, 2023
s 159A.....	ad No 69, 2023
s 160.....	am No 122, 2001
	rep No 74, 2007
	ad No 115, 2021
s 161.....	am No 122, 2001; No 8, 2005
	rep No 74, 2007
	ad No 115, 2021
Division 4	ad No 74, 2007
	rep No 4, 2018
s 162.....	ad No 74, 2007
	rep No 4, 2018
	ad No 115, 2021
s 163.....	am No 122, 2001
	rep No 74, 2007
	ad No 115, 2021
s 164.....	ad No 115, 2021
s 165.....	am No 122, 2001; No 101, 2006
	rep No 74, 2007
	ad No 115, 2021
s 166.....	am No 122, 2001
	rep No 74, 2007
	ad No 115, 2021
s 167.....	am No 122, 2001
	rep No 74, 2007
	ad No 115, 2021
Subdivision C	
s 168.....	am No 122, 2001
	rep No 74, 2007
	ad No 115, 2021

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Endnote 4—Amendment history

Provision affected	How affected
s 169.....	ad No 115, 2021
s 170.....	ad No 115, 2021
s 171.....	ad No 115, 2021
s 171A.....	ad No 115, 2021
Subdivision D	
s 171B.....	ad No 115, 2021
s 171C.....	ad No 115, 2021
Division 5	
s 171D.....	ad No 115, 2021
Division 6	
s 171E.....	ad No 115, 2021
Division 7	
s 171F.....	ad No 115, 2021
Part 10	
Part 10 heading.....	rs No 122, 2001
Division 1	
s 172.....	am No 122, 2001; No 76, 2023
s 173.....	am No 76, 2023
s 174.....	am No 76, 2023
s 175.....	am No 159, 2001
s 178.....	am No 122, 2001
s 182.....	am No 76, 2023
s 183.....	am No 76, 2023
Division 2	
Division 2 heading.....	am No 76, 2023
s 184.....	am No 19, 2015; No 76, 2023
s 185.....	am No 76, 2023
s 186.....	rs No 122, 2001 am No 76, 2023
Division 3	
Division 3 heading.....	am No 76, 2023

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Provision affected	How affected
s 187.....	am No 76, 2023
s 188.....	am No 19, 2015; No 76, 2023
s 190.....	am No 76, 2023
s 192.....	am No 123, 2001; No 76, 2023
s 193.....	am No 76, 2023
s 194.....	am No 76, 2023
s 195.....	am No 76, 2023
s 197.....	am No 76, 2023
s 198.....	am No 123, 2001; No 17, 2019
s 199.....	am No 123, 2001; No 17, 2019; No 76, 2023
s 200.....	am No 123, 2001; No 17, 2019; No 76, 2023
s 201.....	am No 76, 2023
s 201A.....	am No 76, 2023
Part 11	
Part 11 heading.....	rs No 11, 2016
Division 1	
s 203.....	am No 116, 2003; No 103, 2004; No 66, 2010; No 11, 2016
s 205.....	am No 103, 2004
s 206.....	am No 103, 2004
s 207.....	am No 103, 2004
s 208.....	rs No 103, 2004 am No 76, 2023
s 208A.....	ad No 103, 2004 am No 76, 2023
s 209.....	rep No 103, 2004
s 210.....	am No 103, 2004
s 210A.....	ad No 103, 2004 am No 66, 2010; No 11, 2016; No 76, 2023
s 210B.....	ad No 103, 2004
s 211.....	am No 103, 2004
s 212.....	am No 103, 2004

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Endnote 4—Amendment history

Provision affected	How affected
s 213.....	am No 103, 2004
Division 2	
s 215.....	am No 103, 2004
s 216.....	am No 119, 2001; No 123, 2001; No 103, 2004; No 17, 2019; No 76, 2023
s 217.....	am No 103, 2004
s 218.....	am No 119, 2001; No 103, 2004; No 76, 2023
s 218A.....	ad No 69, 2023
s 219.....	am No 123, 2001; No 103, 2004; No 17, 2019
s 220.....	am No 123, 2001; No 103, 2004; No 17, 2019
s 221.....	am No 103, 2004; No 66, 2010
s 223.....	am No 119, 2001; No 103, 2004; No 11, 2016
Part 12	
Part 12 heading.....	rs No 103, 2004
s 224.....	am No 103, 2004; No 101, 2023
Division 1	
Division 1	rs No 103, 2004
Subdivision A	
Subdivision A heading.....	ad No 61, 2008
s 225.....	am No 103, 2004; No 61, 2008; No 66, 2010; No 72, 2012; No 101, 2023
s 225A.....	ad No 103, 2004 am No 72, 2012; No 17, 2019
Subdivision B	
Subdivision B heading.....	ad No 61, 2008
s 226.....	rs No 61, 2008
s 226A.....	ad No 61, 2008
s 227.....	am No 103, 2004; No 61, 2008; No 101, 2023; No 87, 2024
Subdivision C	
Subdivision C	ad No 61, 2008
s 227AA.....	ad No 61, 2008

Endnote 4—Amendment history

Provision affected	How affected
s 227AB	ad No 61, 2008
s 227A.....	ad No 103, 2004 am No 61, 2008
s 227B.....	ad No 103, 2004 am No 61, 2008; No 101, 2023; No 87, 2024
Division 2	
Division 2 heading.....	rs No 101, 2023
s 227C.....	ad No 101, 2023
s 228.....	am No 101, 2023
s 229.....	am No 101, 2023
s 231.....	am No 61, 2008; No 101, 2023
s 232.....	am No 103, 2004 rs No 61, 2008
s 234.....	rs No 101, 2023
Division 2A	
Division 2A.....	ad No 103, 2004
s 234A.....	ad No 103, 2004
s 234B.....	ad No 103, 2004
s 234C.....	ad No 103, 2004 rs No 61, 2008
s 234D.....	ad No 103, 2004
s 234E.....	ad No 103, 2004
Division 3	
Subdivision A	
s 235A.....	am No 19, 2015
s 235AA.....	ad No 19, 2015
s 235B.....	am No 103, 2004; No 61, 2008
s 235BA.....	ad No 103, 2004 rep No 72, 2012
Subdivision AA	
Subdivision AA	ad No 61, 2008

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Endnote 4—Amendment history

Provision affected	How affected
s 235D.....	ad No 61, 2008 am No 36, 2015
s 235E.....	ad No 61, 2008
s 235F.....	ad No 61, 2008 am No 36, 2015
s 235G.....	ad No 61, 2008
s 235H.....	am No 36, 2015
s 235J.....	ad No 61, 2008 rep No 36, 2015
Subdivision B	
s 236A.....	am No 103, 2004; No 61, 2008; No 101, 2023
s 236AA.....	ad No 61, 2008
s 236B.....	am No 19, 2015; No 101, 2023
s 236BA.....	ad No 19, 2015
s 236D.....	am No 76, 2023
s 236DA.....	ad No 61, 2008
Subdivision BAA	
Subdivision BAA.....	ad No 61, 2008
s 236DB.....	ad No 61, 2008 am No 36, 2015
s 236DC.....	ad No 61, 2008
s 236DD.....	ad No 61, 2008 am No 36, 2015
s 236DE.....	ad No 61, 2008
s 236DF.....	ad No 61, 2008 am No 36, 2015
s 236DG.....	ad No 61, 2008 rep No 36, 2015
Subdivision BA	
Subdivision BA.....	ad No 103, 2004
s 236E.....	ad No 103, 2004

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Provision affected	How affected
	am No 61, 2008
s 236EA	ad No 61, 2008
s 236F	ad No 103, 2004
	am No 19, 2015; No 101, 2023
s 236FA.....	am No 19, 2015
s 236G.....	ad No 103, 2004
s 236H.....	ad No 103, 2004
	am No 76, 2023
s 236J	ad No 61, 2008
Subdivision C	
s 237.....	am No 103, 2004; No 61, 2008; No 11, 2016; No 101, 2023
Subdivision D	rep No 61, 2008
s 238.....	am No 103, 2004
	rep No 61, 2008
Part 13.....	ad No 103, 2004
	rep No 118, 2012
s 239AA.....	ad No 103, 2004
	rep No 118, 2012
s 239AB	ad No 103, 2004
	rep No 118, 2012
s 239AC	ad No 103, 2004
	rep No 118, 2012
s 239AD.....	ad No 103, 2004
	rep No 118, 2012
s 239AE	ad No 103, 2004
	rep No 118, 2012
s 239AF.....	ad No 103, 2004
	rep No 118, 2012
s 239AG.....	ad No 103, 2004
	rep No 118, 2012
s 239AH.....	ad No 103, 2004

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Endnote 4—Amendment history

Provision affected	How affected
	rep No 118, 2012
s 239AI	ad No 103, 2004
	rep No 118, 2012
s 239AJ	ad No 103, 2004
	rep No 118, 2012
s 239AK	ad No 103, 2004
	rep No 118, 2012
s 239AL	ad No 103, 2004
	rep No 118, 2012
s 239AM	ad No 103, 2004
	rep No 118, 2012
s 239BA	ad No 103, 2004
	rep No 118, 2012
s 239BB	ad No 103, 2004
	rep No 118, 2012
s 239BC	ad No 103, 2004
	rep No 118, 2012
s 239CA	ad No 103, 2004
	rep No 118, 2012
s 239CB	ad No 103, 2004
	rep No 118, 2012
s 239CC	ad No 103, 2004
	rep No 118, 2012
s 239CD	ad No 103, 2004
	rep No 118, 2012
s 239CE	ad No 103, 2004
	rep No 118, 2012
s 239CF	ad No 103, 2004
	rep No 118, 2012
s 239CG	ad No 103, 2004
	rep No 118, 2012

Endnote 4—Amendment history

Provision affected	How affected
s 239CH	ad No 103, 2004 rep No 118, 2012
s 239CI	ad No 103, 2004 rep No 118, 2012
s 239CJ	ad No 103, 2004 rep No 118, 2012
s 239CK	ad No 103, 2004 rep No 118, 2012
s 239CL	ad No 103, 2004 rep No 118, 2012
Part 14	
Part 14 heading	rs No 122, 2001
s 243	am No 59, 2013; No 76, 2023
Part 15	
s 243A	ad No 41, 2024
s 243C	ad No 13, 2018
s 243D	am No 122, 2001; No 178, 2012; No 87, 2024
s 243E	ad No 170, 2006 am No 178, 2012; No 87, 2024
s 243F	ad No 8, 2022 am No 69, 2023
s 244	am No 122, 2001; No 135, 2020; No 115, 2021; No 76, 2023; No 38, 2024
s 244A	am No 38, 2024
s 245	rep No 76, 2023
s 246	am No 122, 2001; No 103, 2004; No 61, 2008; No 11, 2016; No 4, 2018; No 76, 2023; No 87, 2024
s 249	ad No 75, 2017
s 250	ad No 75, 2017
Part 16	
Division 1	

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 254.....	am No 55, 2001; No 116, 2003; No 75, 2017
s 255.....	am No 55, 2001
Division 2	
s 261.....	am No 4, 2018
Division 4	
s 266.....	am No 55, 2001
s 268A.....	ad No 55, 2001
s 268B.....	ad No 55, 2001
Division 5	
s 271.....	am No 55, 2001
s 272.....	am No 55, 2001
Division 6	
s 276.....	am No 75, 2017
s 277.....	am No 75, 2017
Division 7	
s 285.....	am No 154, 2007; No 76, 2023
Part 17	
Part 17.....	ad No 103, 2004
s 285A.....	ad No 103, 2004
s 286.....	ad No 103, 2004
s 287.....	ad No 103, 2004
s 288.....	ad No 103, 2004
Part 18	
Part 18.....	ad No 66, 2010
s 289.....	ad No 66, 2010
s 290.....	ad No 66, 2010
s 291.....	ad No 66, 2010
Part 19	
Part 19.....	ad No 72, 2012
s 292.....	ad No 72, 2012
s 293.....	ad No 72, 2012

Endnote 4—Amendment history

Provision affected	How affected
s 294.....	ad No 72, 2012
Part 20	
Part 20.....	ad No 83, 2014
s 295.....	ad No 83, 2014
s 296.....	ad No 83, 2014
Part 21	
Part 21.....	ad No 19, 2015
s 297.....	ad No 19, 2015
s 298.....	ad No 19, 2015
s 299.....	ad No 19, 2015
s 300.....	ad No 19, 2015
Part 22	
Part 22.....	ad No 147, 2015
s 301.....	ad No 147, 2015
Part 23	
Part 23.....	ad No 11, 2016
s 302.....	ad No 11, 2016
s 303.....	ad No 11, 2016
s 304.....	ad No 11, 2016
s 305.....	ad No 11, 2016
s 306.....	ad No 11, 2016
s 307.....	ad No 11, 2016
Part 23 (second occurring).....	ad No 26, 2017 renum No 64, 2020
s 302 (second occurring).....	ad No 26, 2017 renum No 64, 2020
Part 24	
Part 24 (prev Part 23 (second occurring))	
s 308 (prev s 302 (second occurring))	

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Part 25	
Part 25.....	ad No 122, 2018
s 309.....	ad No 122, 2018
s 310.....	ad No 122, 2018
s 311.....	ad No 122, 2018
s 312.....	ad No 122, 2018
s 313.....	ad No 122, 2018
s 314.....	ad No 122, 2018
Part 26	
Part 26.....	ad No 42, 2018
s 314A (prev s 315 (first occurring))	
s 315 (first occurring).....	ad No 42, 2018 renum No 64, 2020
Part 26 (second occurring).....	ad No 132, 2018 renum No 64, 2020
Part 26A	
Part 26A (prev Part 26 (second occurring))	
s 315.....	ad No 132, 2018
s 316.....	ad No 132, 2018
s 317.....	ad No 132, 2018
s 318.....	ad No 132, 2018
Part 27	
Part 27.....	ad No 17, 2019
s 320.....	ad No 17, 2019
s 321.....	ad No 17, 2019
s 322.....	ad No 17, 2019
s 323.....	ad No 17, 2019
Part 28	
Part 28.....	ad No 3, 2020

Endnote 4—Amendment history

Provision affected	How affected
s 324.....	ad No 3, 2020
Part 29	
Part 29 (first occurring)	ad No 135, 2020
s 325 (first occurring)	ad No 135, 2020
s 326.....	ad No 135, 2020
Part 29 (second occurring).....	ad No 2, 2020
	renum No 69, 2023
s 325 (second occurring).....	ad No 2, 2020
	renum No 69, 2023
Part 29A	
Part 29A (prev Part 29 (second occurring))	
s 326A (prev s 325 (second occurring))	
Part 30	
Part 30.....	ad No 64, 2020
s 327.....	ad No 64, 2020
s 328.....	ad No 64, 2020
Part 31	
Part 31.....	ad No 135, 2020
s 329.....	ad No 135, 2020
Part 32	
Part 32.....	ad No 135, 2020
s 330.....	ad No 135, 2020
Part 33	
Part 33.....	ad No 141, 2020
s 331.....	ad No 141, 2020
Part 34	
Part 34.....	ad No 64, 2021
s 333.....	ad No 64, 2021
Part 35.....	ad No 154, 2020

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	rep end of 8 Aug 2022 (s 335)
s 334.....	ad No 154, 2020
	rep end of 8 Aug 2022 (s 335)
s 335.....	ad No 154, 2020
	rep end of 8 Aug 2022 (s 335)
Part 36	
Part 36.....	ad No 127, 2021
s 336.....	ad No 127, 2021
Part 37	
Part 37.....	ad No 35, 2022
s 337.....	ad No 35, 2022
s 338.....	ad No 35, 2022
s 339.....	ad No 35, 2022
Part 38	
Part 38.....	ad No 68, 2023
s 340.....	ad No 68, 2023
s 341.....	ad No 68, 2023
Part 39	
Part 39.....	ad No 54, 2022
s 342.....	ad No 54, 2022
s 343.....	ad No 54, 2022
Part 40	
Part 40.....	ad No 69, 2023
Division 1	
s 344.....	ad No 69, 2023
s 344A.....	ad No 69, 2023
Division 2	
Division 2	ad No 76, 2023
s 344B.....	ad No 76, 2023
s 344C.....	ad No 76, 2023
s 344D.....	ad No 76, 2023

Endnote 4—Amendment history

Provision affected	How affected
Part 41	
Part 41	ad No 76, 2023
s 345	ad No 76, 2023
s 346	ad No 76, 2023
