



Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024

No. 138, 2024

**An Act to amend the law relating to taxation,
consumer credit, the Medicare levy and federal
financial relations, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 138, 2024

An Act to amend the law relating to taxation, consumer credit, the Medicare levy and federal financial relations, and for related purposes

[Assented to 10 December 2024]

The Parliament of Australia enacts:

*No. 138, 2024 Treasury Laws Amendment (Responsible Buy Now Pay Later and
Other Measures) Act 2024*

1

1 Short title

This Act is the *Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	10 December 2024
2. Schedule 1	At the same time as the <i>Capital Works (Build to Rent Misuse Tax) Act 2024</i> commences. However, the provisions do not commence at all if that Act does not commence.	1 January 2025
3. Schedule 2, Part 1	The day after this Act receives the Royal Assent.	11 December 2024
4. Schedule 2, Parts 2 to 10	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	10 June 2025
5. Schedules 3 and 4	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 January 2025
6. Schedule 5, Part 1	The day after this Act receives the Royal Assent.	11 December 2024
7. Schedule 5,	The later of:	11 December

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
item 13	<p>(a) the start of the day after this Act receives the Royal Assent; and</p> <p>(b) immediately after the commencement of item 1 of Schedule 3 to the <i>Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024</i>.</p> <p>However, the provision does not commence at all if the event mentioned in paragraph (b) does not occur on or before the day after this Act receives the Royal Assent.</p>	<p>2024</p> <p>(paragraph (a) applies)</p>
8. Schedule 5, item 14	<p>The day after this Act receives the Royal Assent.</p> <p>However, the provision does not commence at all if item 1 of Schedule 3 to the <i>Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024</i> commences on or before that day.</p>	Never commenced
9. Schedule 6	The day after this Act receives the Royal Assent.	11 December 2024

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

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

3 Schedules

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

Schedule 1—Build to rent developments

Income Tax Assessment Act 1936

1 Subsection 170(10AA) (after table item 15)

Insert:

17	The cell, of the table in subsection 43-145(1), dealing with use in the 4% build to rent manner	Deductions for capital works relating to build to rent developments
	Section 43-237	

Income Tax Assessment Act 1997

2 Section 12-5 (table item headed “buildings”)

Before:

income producing buildings, capital allowances Division 43

insert:

build to rent development misuse tax, no deduction for .. 26-99B

3 After section 26-99A

Insert:

26-99B Build to rent development misuse tax cannot be deducted

You cannot deduct under this Act an amount of *build to rent development misuse tax that you pay.

4 Group heading before section 43-140

Repeal the heading, substitute:

Using your area

5 Section 43-145

Before “You use a”, insert “(1)”.

6 Section 43-145 (table item dealing with Time period 1: After 30/6/97)

After:

You use the part of *your area for the
*purpose of producing assessable income,
and that part is used by any entity:

- (a) wholly or mainly for *industrial activities; or
- (b) to provide meal rooms, rest rooms, first aid rooms, change rooms or similar facilities that are wholly or mainly for use by:
 - (i) workers employed wholly or mainly to undertake the work directly involved in carrying out industrial activities; or
 - (ii) the immediate supervisors of those workers; or
- (c) wholly or mainly as office accommodation for the immediate supervisors of those workers.

insert:

You use the part of *your area in the *4%
build to rent manner.

7 At the end of section 43-145

Add:

- (2) You use a part of *your area in the **4% build to rent manner** if:
 - (a) you use the part of your area for the *purpose of producing assessable income; and

- (b) that part is, or is part of, an *active build to rent development area (the ***eligible development***); and
- (c) if the *build to rent compliance period for each of the *dwellings in the eligible development has ended:
 - (i) no other entity is using the eligible development, or any part of the eligible development, for the purpose of producing assessable income; and
 - (ii) at each earlier time (if any) at which you or another entity used the eligible development, or any part of the eligible development, for the purpose of producing assessable income and at which the eligible development was an *active build to rent development, no other entity was using the eligible development, or any part of the eligible development, for the purpose of producing assessable income.
- (3) For the purposes of paragraph (2)(c), disregard use of the eligible development, or any part of the eligible development, for the *purpose of producing assessable income by providing management services.

8 Before section 43-150

Insert:

Industrial activities

9 At the end of Subdivision 43-D

Add:

Build to rent developments

43-151 Meaning of active build to rent development area

- (1) An ***active build to rent development area*** is a part of a building comprising any of the following:
 - (a) the *dwellings of an *active build to rent development;
 - (b) any *common areas for those dwellings.
 - (2) An ***active build to rent development*** is a *build to rent development that has:
-

- (a) *commenced to be an active build to rent development (see subsections 43-152(1) and (2)); and
 - (b) not *ceased to be an active build to rent development (see subsection 43-152(4)).
- (3) A **common area** for *dwellings of a *build to rent development is an area, facility or amenity:
- (a) intended for use for the purposes of those dwellings; or
 - (b) intended for use for the purposes of those dwellings and any other dwellings in the same building.

43-152 Build to rent developments

Commencement

- (1) On and after the first day on which a building has 50 or more *dwellings:
- (a) that satisfy subsection 43-153(1); and
 - (b) that the owner of the dwellings chooses to form a *build to rent development in accordance with subsection (6) of this section;
- those dwellings are a **build to rent development**, of the building, that **commences** to be an *active build to rent development on that day.
- (2) Also, on and after the first day (if any):
- (a) after the most recent instance of a *build to rent development of a building *commencing to be an *active build to rent development; and
 - (b) on which the building has 50 or more *dwellings:
 - (i) that satisfy subsection 43-153(1); and
 - (ii) that were not part of a build to rent development just before that day; and
 - (iii) that the owner of the dwellings chooses to form a build to rent development in accordance with subsection (6) of this section;
- those dwellings are a **build to rent development**, of the building, that **commences** to be an active build to rent development on that

day unless an active build to rent development *expands under subsection (3) on that day to include the dwellings.

Expansion

- (3) If a building has a *build to rent development (the **existing development**) that has *commenced to be an *active build to rent development, on the first day (if any) on which the building has *dwellings (the **new dwellings**):
- (a) that taken together with the dwellings of the existing development for which the *build to rent compliance period has not ended, satisfy subsection 43-153(1); and
 - (b) that are not already a part of a build to rent development; and
 - (c) that the owner of the dwellings chooses to form part of the existing development in accordance with subsection (6) of this section;
- the existing development **expands** to comprise:
- (d) the dwellings of the existing development; and
 - (e) the new dwellings.

Cessation

- (4) A *build to rent development **ceases** to be an *active build to rent development if the dwellings of the active build to rent development for which the *build to rent compliance period has not ended cease to satisfy subsection 43-153(1).

Build to rent compliance period

- (5) The **build to rent compliance period** for a *dwelling of an *active build to rent development is the 15 years beginning on the day after the day on which:
- (a) unless paragraph (b) applies—the development *commences to be an active build to rent development; or
 - (b) if:
 - (i) the dwelling is not part of the development when it commences to be an active build to rent development; but
 - (ii) the development *expands to include the dwelling;
- the development expands to include the dwelling.

-
- (6) To make a choice for the purposes of paragraph (1)(b), subparagraph (2)(b)(iii) or paragraph (3)(c) in respect of *dwellings, the owner of the dwellings must:
 - (a) make the choice in the *approved form; and
 - (b) give it to the Commissioner.
 - (7) The choice is taken to be made on the following day:
 - (a) if:
 - (i) the owner nominates a day in the choice; and
 - (ii) the Commissioner receives the choice before the nominated day;
 the nominated day; or
 - (b) otherwise—the day the Commissioner receives the choice.

43-153 Build to rent developments—eligibility

- (1) For the purposes of section 43-152, *dwellings of a building satisfy this subsection at a particular time if, at that time:
 - (a) each of the dwellings is:
 - (i) available to the public to be tenanted by way of lease for a period of 5 years or more in accordance with any requirements determined under subsection (1A); or
 - (ii) being tenanted by way of lease as a result of being made available to the public to be tenanted by way of lease for a period of 5 years or more in accordance with any requirements determined under subsection (1A); and
 - (b) all of the dwellings are:
 - (i) *residential premises; and
 - (ii) *taxable Australian real property; and
 - (iii) not *commercial residential premises; and
 - (c) all of the dwellings and *common areas for the dwellings are owned by a single entity; and
 - (d) the number of the dwellings that are *affordable dwellings is equal to or greater than:
 - (i) 10% of the number of the dwellings; or
 - (ii) if the number of dwellings worked out under subparagraph (i) is not a whole number—that number

rounded down to the nearest whole number of dwellings; and

(e) subsection (5) applies to each of the affordable dwellings.

Note: For the purposes of paragraph (a), a lease is still offered to the public for a period of 5 years or more even if a prospective tenant subsequently requests and the lessor accepts a shorter lease.

(1A) For the purposes of subparagraphs (1)(a)(i) and (ii), the Minister may, by legislative instrument, determine requirements relating to the terms of the lease.

(1B) For the purposes of subparagraphs (1)(a)(i) and (ii), disregard a requirement determined under subsection (1A) if complying with that requirement would contravene a law of a State or Territory.

Affordable dwellings

(2) A *dwelling is an **affordable dwelling** if the requirements determined under subsection (3) in relation to the dwelling are met.

(3) For the purposes of subsection (2), the Minister must, by legislative instrument, determine requirements relating to a dwelling. Without limiting this subsection, the requirements may include requirements relating to:

- (a) the rent payable under the lease for the dwelling; or
- (b) the income of the tenant or prospective tenant.

(4) A reference in paragraph (1)(a) to the public in relation to a lease of a *dwelling is taken to be a reference to a segment of the public if:

- (a) the dwelling is an *affordable dwelling; and
- (b) requirements determined under subsection (3) require that the dwelling be tenanted, or be available to be tenanted, only to that segment of the public.

(5) For the purposes of paragraph (1)(e), this subsection applies in relation to an affordable dwelling (the **test dwelling**) if:

$$\text{Number of comparable non-affordable dwellings} \geq \text{Number of comparable affordable dwellings}$$

where:

number of comparable affordable dwellings means the number of the dwellings (including the test dwelling) that:

- (a) are *affordable dwellings; and
- (b) have the same number of bedrooms as the test dwelling; and
- (c) have a floor area that is at least equal to the floor area of the test dwelling, but does not exceed 110% of that floor area.

number of comparable non-affordable dwellings means the number of the dwellings that:

- (a) are not *affordable dwellings; and
- (b) have the same number of bedrooms as the test dwelling; and
- (c) have a floor area that is at least equal to the floor area of the test dwelling, but does not exceed 110% of that floor area.

Eligibility during construction

- (6) Dwellings of a building are taken to satisfy subsection (1) at a particular time if:
 - (a) one or more of the dwellings is not tenanted, and not available to be tenanted, at that time as mentioned in paragraph (1)(a) because of:
 - (i) construction of an extension, alteration or improvement to any of the dwellings or the building; or
 - (ii) the making of repairs to any of the dwellings or the building; and
 - (b) the dwellings satisfied subsection (1) just before paragraph (a) of this subsection began to apply; and
 - (c) it is reasonable to expect that the dwellings will satisfy subsection (1) when the construction or repairs are completed.

Commissioner's discretion

- (7) The Commissioner may determine that *dwellings of a building are taken to satisfy one or more of paragraphs (1)(a), (d) and (e) (the ***eligibility criteria***) at all times during a particular period, if:
 - (a) the entity that owns the dwellings applies to the Commissioner in the *approved form; and
 - (b) the Commissioner is satisfied of the following:

- (i) the dwellings did not otherwise satisfy the eligibility criteria at all times during the period due to events outside the control of the entity;
 - (ii) the entity took all reasonable steps to ensure that the dwellings would satisfy the eligibility criteria as soon as practicable;
 - (iii) at the time of the determination, the dwellings satisfy the eligibility criteria;
 - (iv) at the time of the determination, the entity intends that each dwelling will satisfy subsection (1) for the remainder of its *build to rent compliance period.
- (8) A determination made under subsection (7) has effect according to its terms.

43-154 Notice of events

- (1) If any of the following events happen in relation to a *build to rent development, each entity to which subsection (3) applies must notify the Commissioner of the event:
- (a) the development *commences to be an *active build to rent development;
 - (b) the development *expands;
 - (c) the *ownership interest in the development is acquired by another entity;
 - (d) the development *ceases to be an active build to rent development.
- (2) The notice must be:
- (a) in the *approved form; and
 - (b) given no later than 28 days after the event.
- (3) This subsection applies to the following entities:
- (a) the owner of the development at the time just before the event happens;
 - (b) if in the income year in which the event happens, an entity is required to notify the Commissioner under subsection 16-150(4) in Schedule 1 to the *Taxation Administration Act 1953* of an amount to which

- subsection 12-450(5) in that Schedule applies, to any extent, because of a *dwelling of the development—the entity;
- (c) if the event is the event mentioned in paragraph (1)(c) of this section—the entity that acquires the *ownership interest in the development.

43-154A References to buildings

A reference in sections 43-151 to 43-153 to a building includes a reference to any other buildings that are on the same or adjacent land.

10 After section 43-235

Insert:

43-237 Post-26 February 1992 undeducted construction expenditure—modification for active build to rent developments that have ceased

- (1) This section applies if:
- (a) a part of *your area was an *active build to rent development area; and
 - (b) on a day (the *cessation day*) in the income year or a prior income year, the *active build to rent development of the active build to rent development area *ceases to be an active build to rent development.
- (2) Section 43-235 applies to the part as if for each day in the use period:
- (a) before the cessation day; and
 - (b) that the part was an *active build to rent development; you did not use the part in the *4% manner.

11 After Division 43

Insert:

Division 44—Build to rent development misuse tax

Table of Subdivisions

Guide to Division 44

- 44-A Object of this Division
- 44-B Build to rent development misuse tax
- 44-C When tax is payable

Guide to Division 44

44-1 What this Division is about

This Division removes certain tax concessions for build to rent developments when they cease to be active build to rent developments.

Subdivision 44-A—Object of this Division

Table of sections

Operative provisions

- 44-5 Object of this Division

Operative provisions

44-5 Object of this Division

The object of this Division is to remove certain tax concessions for *build to rent developments when they *cease to be *active build to rent developments.

Subdivision 44-B—Build to rent development misuse tax

Guide to Subdivision 44-B

44-10 What this Subdivision is about

You are liable to pay a tax if a build to rent development you own ceases to be an active build to rent development. The tax is on an amount (called a build to rent misuse amount) related to past

capital works deductions and withholding amounts (if any) for the active build to rent development.

Table of sections

Liability for tax

44-15 Liability for tax

Build to rent misuse amounts

44-20 Build to rent misuse amounts
44-25 Your build to rent capital works deduction amount
44-30 Your build to rent withholding amount

Liability for tax

44-15 Liability for tax

You are liable to pay *build to rent development misuse tax for an income year if you have a *build to rent misuse amount for the income year.

Note: The amount of tax is set out in the *Capital Works (Build to Rent Misuse Tax) Act 2024*.

Build to rent misuse amounts

44-20 Build to rent misuse amounts

- (1) You have a **build to rent misuse amount** for an income year, equal to the amount worked out under subsection (2), if the amount worked out under that subsection is greater than nil.
- (2) For the purposes of subsection (1), the amount is the sum of:
 - (a) the amount that is the sum of your *build to rent capital works deduction amounts, worked out under section 44-25, for each *build to rent development to which subsection (3) of this section applies for the income year (if any); and
 - (b) the amount that is 10 times the sum of your *build to rent withholding amounts, worked out under section 44-30, for each build to rent development to which subsection (3) of this section applies for the income year (if any).

- (3) For the purposes of paragraphs (2)(a) and (b), this subsection applies to a *build to rent development for an income year if:
- (a) the build to rent development *ceases to be an *active build to rent development during the income year; and
 - (b) you owned the *dwellings of the build to rent development immediately before that cessation.

44-25 Your build to rent capital works deduction amount

Your ***build to rent capital works deduction amount***, for a *build to rent development that *ceases to be an *active build to rent development, is the amount worked out as follows:

Method statement

- Step 1. Identify each income year in which, at any time during the year, the *build to rent development was an *active build to rent development.
- Step 2. For each of those years:
- (a) identify each *construction expenditure area of capital works that are or include the *active build to rent development area of the *build to rent development at any time during the year; and
 - (b) calculate the amount worked out by the following formula for each construction expenditure area:

$$\frac{\text{Portion of construction expenditure} \times \text{Days used}}{365}$$

where:

active build to rent part, of the *construction expenditure area, is the part of the area that was the *active build to rent development area, or part of the active build to rent development area at any time during the year.

days used is the number of days in the income year that:

- (a) any entity owned or was the lessee of the *active build to rent part and used it in the *4% build to rent manner; or
- (b) any entity was the holder of the active build to rent part under a *quasi ownership right over land granted by an *exempt Australian government agency or an *exempt foreign government agency, and used it in the 4% build to rent manner.

portion of construction expenditure is the portion of *construction expenditure that is attributable to the *active build to rent part.

Step 3. Reduce the Step 2 amount for each *construction expenditure area, for each year, by the extent to which the *active build to rent part was used only partly for the *purpose of producing assessable income in the year.

Note: This step applies if:

- (a) part of the income from the active build to rent part is exempt income; or
- (b) part of the active build to rent part was not used for the purpose of producing assessable income or was not available for that use; or
- (c) the active build to rent part was not used for such a purpose during a part of the days used period.

Step 4. For each year, add up the amounts worked out under Step 3 for each *construction expenditure area.

Step 5. Add up the Step 4 amounts for each year.

Step 6. Multiply the Step 5 amount by:

- (a) if *you are a company (other than a company in the capacity of a trustee)—the *corporate tax rate for the income year in which the *build to rent

	development *ceases to be an *active build to rent development (the <i>cessation year</i>); or
(b)	in any other case—the maximum rate specified in the table in Part I of Schedule 7 to the <i>Income Tax Rates Act 1986</i> for the cessation year.
Step 7.	Your <i>build to rent capital works deduction amount</i> is the Step 6 amount multiplied by 1.08.

Note: You can have more than one build to rent capital works deduction amount because there can be more than one build to rent development for which you have a build to rent capital works deduction amount.

44-30 Your build to rent withholding amount

Your *build to rent withholding amount*, for a *build to rent development that *ceases to be an *active build to rent development, is the amount worked out as follows:

<i>Method statement</i>	
Step 1.	Identify each income year in which, at any time during the year, the *build to rent development was an *active build to rent development.
Step 2.	For each of those years, identify each *fund payment made by the owner of the *active build to rent development, or each part of such a fund payment, (if any) that is referable to any of the following:
(a)	a payment of rental income under a lease of a *dwelling of the active build to rent development;
(b)	a *capital gain from a *CGT event in relation to a dwelling of the active build to rent development.
Note:	For the purposes of this step, it does not matter whether an amount must be withheld from a fund payment under Part 2-5 in Schedule 1 to the <i>Taxation Administration Act 1953</i> .

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- | | |
|---------|--|
| Step 3. | For each year add up the amounts of payments, or parts of payments, identified under Step 2. |
| Step 4. | Add up the Step 3 amounts for each year. |
| Step 5. | Your build to rent withholding amount is the Step 4 amount multiplied by 1.08. |

Subdivision 44-C—When tax is payable

Guide to Subdivision 44-C

44-35 What this Subdivision is about

<p>This Subdivision has rules about payment of build to rent development misuse tax.</p>
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Table of sections

44-40	When tax is payable—original assessments
44-45	When tax is payable—amended assessments
44-50	General interest charge

44-40 When tax is payable—original assessments

Your *assessed build to rent development misuse tax is due and payable at the end of 21 days after the Commissioner gives you notice of the assessment of the amount of the *build to rent development misuse tax.

Note: For assessments of build to rent development misuse tax, see Division 155 in Schedule 1 to the *Taxation Administration Act 1953*.

44-45 When tax is payable—amended assessments

If the Commissioner amends your assessment, any extra *assessed build to rent development misuse tax resulting from the amendment is due and payable 21 days after the day the Commissioner gives you notice of the amended assessment.

44-50 General interest charge

If an amount of *assessed build to rent development misuse tax that you are liable to pay remains unpaid after the time by which it is due to be paid, you are liable to pay the *general interest charge on the unpaid amount for each day in the period that:

- (a) begins on the day on which the amount was due to be paid; and
- (b) ends on the last day on which, at the end of the day, any of the following remains unpaid:
 - (i) the assessed build to rent development misuse tax;
 - (ii) general interest charge on any of the assessed build to rent development misuse tax.

Note: The general interest charge is worked out under Part IIA of the *Taxation Administration Act 1953*.

12 Subsection 995-1(1)

Insert:

4% build to rent manner has the meaning given by subsection 43-145(2).

active build to rent development has the meaning given by subsection 43-151(2).

active build to rent development area has the meaning given by subsection 43-151(1).

active build to rent part has the meaning given by section 44-25.

affordable dwelling has the meaning given by subsection 43-153(2).

assessed build to rent development misuse tax means *build to rent development misuse tax, as assessed under Schedule 1 to the *Taxation Administration Act 1953*.

build to rent capital works deduction amount has the meaning given by section 44-25.

build to rent compliance period has the meaning given by subsection 43-152(5).

build to rent development has the meaning given by subsections 43-152(1), (2) and (3).

build to rent development misuse tax means tax imposed by the *Capital Works (Build to Rent Misuse Tax) Act 2024*.

build to rent misuse amount has the meaning given by section 44-20.

build to rent withholding amount has the meaning given by section 44-30.

cease to be an *active build to rent development has the meaning given by subsection 43-152(4).

commence to be an *active build to rent development has the meaning given by subsections 43-152(1) and (2).

common area, for *dwellings of an *active build to rent development, has the meaning given by subsection 43-151(3).

expand, in relation to an *active build to rent development, has the meaning given by subsection 43-152(3).

Taxation Administration Act 1953

13 Subsection 8AAB(4) (after table item 12)

Insert:

12A	44-50	<i>Income Tax Assessment Act 1997</i>	payment of assessed build to rent development misuse tax
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16 After paragraph 12-395(3)(ac) in Schedule 1

Insert:

- (ad) must specify the extent (if any) to which the payment is, or is attributable to, an amount that would be non-concessional MIT income only if subsection 12-450(5) were disregarded; and

17 After paragraph 12-395(6)(ac) in Schedule 1

Insert:

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- (ad) must specify the extent (if any) to which the payment is, or is attributable to, an amount that would be non-concessional MIT income only if subsection 12-450(5) were disregarded; and

18 At the end of section 12-450 in Schedule 1

Add:

Income from a build to rent development

- (5) Subject to subsection (7), the amount is ***not MIT residential housing income*** of the *managed investment trust under subsection (2) to the extent any of the following paragraphs applies to the amount in relation to a *dwelling of an *active build to rent development:
- (a) the amount is, or is referable to, a payment of rental income under a lease of the dwelling;
 - (b) the amount is, or is attributable to, a *capital gain from a *CGT event in relation to the dwelling;
 - (c) all of the following subparagraphs apply:
 - (i) the amount is, or is attributable to, a part of a capital gain from a CGT event in relation to a *membership interest in an entity;
 - (ii) just before the time of the CGT event, all or part of the *market value of the membership interest is referable to the dwelling;
 - (iii) subsection (6) applies to the part of the capital gain.
- (6) This subsection applies to the part of a *capital gain mentioned in paragraph (5)(c) worked out as follows:

$$\frac{\text{Amount of the *capital gain} \times \text{Value of the interest in the dwelling}}{\text{Value of the membership interest}}$$

where:

value of the interest in the dwelling means so much of the value of the membership interest as is referable to the *dwelling.

value of the membership interest means the *market value of the *membership interest just before the time of the *CGT event.

- (7) Subsection (5) does not apply to an amount if:
- (a) the *build to rent compliance period for each of the *dwellings of the *active build to rent development has ended; and
 - (b) assuming that the build to rent compliance period for each of the dwellings had not ended, the active build to rent development would have *ceased to be an active build to rent development.

19 Subsection 16-150(1) in Schedule 1

After “Commissioner” (first occurring), insert “, other than an amount to which subsection (4) applies,”.

20 At the end of section 16-150 in Schedule 1

Add:

- (4) If:
- (a) an entity must pay an amount (even if it is a nil amount) to the Commissioner under subsection 16-70(1) (about amounts withheld under Division 12); and
 - (b) subsection 12-450(5) (about income from a build to rent development) applies to the amount;

the entity must notify the Commissioner of the amount:

- (c) on or before the day provided in a determination under subsection (5) of this section; or
- (d) if there is no such determination—on or before the day on which the amount is due to be paid (regardless of whether it is paid).

The notification must be in the *approved form and lodged with the Commissioner.

- (5) The Commissioner may, by legislative instrument, determine when the Commissioner must be notified for the purposes of paragraph (4)(c).

21 At the end of subsection 155-5(2) in Schedule 1

Add:

- ; (m) an amount of *build to rent development misuse tax.

22 At the end of subsection 155-30(3) in Schedule 1

Add:

; (e) the *build to rent development misuse tax payable by you for an income year.

23 Subsection 250-10(2) in Schedule 1 (after table item 37AC)

Insert:

37AD	build to rent development misuse tax	44-40 and 44-45	<i>Income Tax Assessment Act 1997</i>
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24 After paragraph 357-55(1)(fe) in Schedule 1

Insert:

(ff) *build to rent development misuse tax;

25 Application of amendments

- (1) The amendments of section 43-145 of the *Income Tax Assessment Act 1997* made by this Schedule apply to capital works begun after 7:30 pm, by legal time in the Australian Capital Territory, on 9 May 2023.
- (2) The amendment of section 12-450 in Schedule 1 to the *Taxation Administration Act 1953* made by this Schedule applies to an amount:
 - (a) that is referable to a payment of rental income made on or after 1 July 2024; or
 - (b) that is, or is attributable, to a capital gain, or part of a capital gain, from a CGT event that happens on or after 1 July 2024.

Schedule 2—Buy now, pay later

Part 1—Extending the application of the National Consumer Credit Protection Act 2009

National Consumer Credit Protection Act 2009

1 Subsection 5(1)

Insert:

buy now pay later arrangement has the same meaning as in section 13D of the National Credit Code.

buy now pay later contract has the same meaning as in section 13D of the National Credit Code.

low cost credit contract has the same meaning as in section 13E of the National Credit Code.

2 Subsection 5(1) (paragraph (a) of the definition of *short-term credit contract*)

After “continuing credit contract”, insert “or a low cost credit contract”.

3 Subsection 5(1) (paragraph (a) of the definition of *small amount credit contract*)

After “continuing credit contract”, insert “or a low cost credit contract”.

4 Subsection 160G(2) (note)

Omit “sections 5 and 6”, substitute “sections 5, 6, 13B and 13C”.

5 After Part 1 of the *National Credit Code*

Insert:

Part 1A—Extending the application of this Code

13B Application of this Code to buy now pay later contracts

Application of this Code apart from this section

- (1) This Code applies to the provision of credit under a buy now pay later contract (and to the buy now pay later contract and related matters) if, apart from this section, the Code applies to the provision of credit under the buy now pay later contract (and to the buy now pay later contract and related matters).

Note: For when this Code applies in relation to a buy now pay later contract apart from this section, see sections 5, 6 and 13C. Section 13C deals with low cost credit contracts, including low cost credit contracts that are buy now pay later contracts.

Extending the application of this Code

- (2) In addition, this Code applies to the provision of credit under a buy now pay later contract (and to the buy now pay later contract and related matters) if:
 - (a) the credit provider, or the debtor, under the buy now pay later contract is a constitutional corporation; and
 - (b) this Code would, apart from this section, apply to the provision of credit under the buy now pay later contract (and to the buy now pay later contract and related matters) if the following were disregarded:
 - (i) paragraph 5(1)(c) (which requires charges to be made for the provision of credit);
 - (ii) subsection 6(1) (which excludes the provision of certain kinds of short term credit);
 - (iii) subsection 6(5) (which excludes the provision of credit for which only account charges are payable).
- (3) If this Code applies to the provision of credit under a buy now pay later contract (and to the buy now pay later contract and related matters) under subsection (2), then:

- (a) this Code applies in relation to all transactions or acts under the contract whether or not they take place in this jurisdiction; and
- (b) this Code continues to apply even if the credit provider ceases to carry on a business in this jurisdiction.

13C Application of this Code to low cost credit contracts

Application of this Code apart from this section

- (1) This Code applies to the provision of credit under a low cost credit contract (and to the low cost credit contract and related matters) if, apart from this section, the Code applies to the provision of credit under the low cost credit contract (and to the low cost credit contract and related matters).

Note: For when this Code applies in relation to a low cost credit contract apart from this section, see sections 5, 6 and 13B. Section 13B deals with buy now pay later contracts, including buy now pay later contracts that are low cost credit contracts.

Extending the application of this Code

- (2) In addition, this Code applies to the provision of credit under a low cost credit contract (and to the low cost credit contract and related matters) if:
 - (a) the credit provider, or the debtor, under the low cost credit contract is a constitutional corporation; and
 - (b) this Code would, apart from this section, apply to the provision of credit under the low cost credit contract (and to the low cost credit contract and related matters) if the following were disregarded:
 - (i) paragraph 5(1)(c) (which requires charges to be made for the provision of credit);
 - (ii) subsection 6(1) (which excludes the provision of certain kinds of short term credit);
 - (iii) subsection 6(5) (which excludes the provision of credit for which only account charges are payable);
 - (iv) subsection 6(13) (which allows the regulations to exclude a provision of credit) and any exclusions made under that subsection;

- (v) subsections 6(14) and (17) (which allow ASIC to exclude a provision of credit) and any exclusions made under those subsections.
- (3) If this Code applies to the provision of credit under a low cost credit contract (and to the low cost credit contract and related matters) under subsection (2), then:
 - (a) this Code applies in relation to all transactions or acts under the contract whether or not they take place in this jurisdiction; and
 - (b) this Code continues to apply even if the credit provider ceases to carry on a business in this jurisdiction.

13D Meaning of *buy now pay later arrangement* and *buy now pay later contract*

Buy now pay later arrangement

- (1) A ***buy now pay later arrangement*** is an arrangement or a series of arrangements:
 - (a) under which a person (the ***merchant***) supplies goods or services to a consumer (within the meaning of the National Credit Act); and
 - (b) under which a third person (the ***BNPL provider***) directly or indirectly pays the merchant an amount that is some or all of the price for the supply mentioned in paragraph (a); and
 - (c) that includes a contract between the BNPL provider and the consumer under which the BNPL provider provides credit to the consumer in connection with the supply mentioned in paragraph (a).
- (2) However, an arrangement or a series of arrangements of the kind described in subsection (1) is not a ***buy now pay later arrangement*** if the arrangement or series of arrangements is of a kind prescribed by the regulations for the purposes of this subsection.
- (3) For the purposes of subsection (1), and to avoid doubt:
 - (a) it does not matter whether any fees or charges are payable by the consumer or the merchant in connection with the arrangement or series of arrangements; and

- (b) it does not matter whether the payment by the BNPL provider mentioned in paragraph (1)(b) occurs before, at or after the time when the goods or services are supplied by the merchant to the consumer as mentioned in paragraph (1)(a); and
- (c) it does not matter whether the contract mentioned in paragraph (1)(c) is a continuing credit contract; and
- (d) it is not necessary for the arrangement or series of arrangements to include any contract to which the merchant, the consumer and the BNPL provider are all parties.

Buy now pay later contract

- (4) A contract is a **buy now pay later contract** if:
 - (a) it is part of a buy now pay later arrangement; and
 - (b) it is a contract of the kind mentioned in paragraph (1)(c).

13E Meaning of low cost credit contract

- (1) A contract is a **low cost credit contract** if:
 - (a) credit is, or may be, provided under the contract; and
 - (b) the contract is:
 - (i) a buy now pay later contract; or
 - (ii) a contract prescribed by the regulations for the purposes of this subparagraph; and
 - (c) the period during which credit is, or may be, provided under the contract is no longer than the period (if any) prescribed by the regulations for the purposes of this paragraph; and
 - (d) the contract satisfies any requirements prescribed by the regulations for the purposes of this paragraph that relate to fees or charges that are, or may be, payable under the contract; and
 - (e) the contract satisfies any other requirements prescribed by the regulations for the purposes of this paragraph.

Fees and charges

- (2) To avoid doubt, regulations made for the purposes of paragraph (1)(d) may prescribe that a specified fee or charge, or a

fee or charge of a specified kind, must, or must not, be payable under the contract.

- (3) For the purposes of this section, fees or charges:
- (a) include a charge referred to in paragraph (a) of the definition of *credit fees and charges* in subsection 204(1); and
 - (b) do not include a fee, charge, duty or expense referred to in paragraph (b), (c) or (d) of that definition.

6 Subsection 204(1) of the *National Credit Code*

Insert:

buy now pay later arrangement: see section 13D.

buy now pay later contract: see section 13D.

low cost credit contract: see section 13E.

7 Subsection 204(1) of the *National Credit Code* (paragraph (a) of the definition of *medium amount credit contract*)

After “continuing credit contract”, insert “or a low cost credit contract”.

8 Application and transitional provisions

General rule

- (1) Subject to this item, the amendments made by this Part apply:
- (a) on and after the delayed commencement time (see subitem (5)); and
 - (b) in relation to contracts entered into before, on or after the commencement of this Part.

Early applications for licences etc.

- (2) Despite subitem (1), the amendments made by this Part apply on and after the commencement of this Part for the purposes of:
- (a) Divisions 2, 3, 4 and 6 of Part 2-2 of the Credit Act (which are about licensing of persons who engage in credit activities); and

- (b) Part 2-3 of the Credit Act (which is about credit representatives).

Transitional arrangements

- (3) Subitem (4) applies if:
- (a) before the delayed commencement time, a person (the **applicant**) lodges an application in the approved form for:
 - (i) a licence authorising the applicant to engage in a covered credit activity (see subitem (5)); or
 - (ii) ASIC to vary the conditions on the applicant's licence by authorising the applicant to engage in a covered credit activity; and
 - (b) immediately before the delayed commencement time, the application has not been withdrawn by the applicant or dealt with by ASIC; and
 - (c) the applicant is a member of the AFCA scheme at all times in the period (the **transition period**) that:
 - (i) starts at the delayed commencement time; and
 - (ii) ends when the application is withdrawn by the applicant, or dealt with by ASIC, whichever happens first.

Note: ASIC may deal with the application by granting, or refusing to grant, the licence (see section 37 of the Credit Act), by granting, or refusing to grant, the variation (see sections 45 and 46A of the Credit Act), or by refusing to receive the application (see section 218 of the Credit Act).

- (4) The Credit Act does not apply in relation to covered credit activity to which the application relates if the covered credit activity is engaged in by any of the following persons during the transition period:
- (a) the applicant;
 - (b) a person who:
 - (i) is an employee or a director of the applicant, or of a related body corporate of the applicant; and
 - (ii) is acting on behalf of the applicant and within the authority of the applicant;
 - (c) a person who:
 - (i) the applicant intends to authorise under section 64 of the Credit Act to engage in the covered credit activity on

- behalf of the applicant, if the applicant becomes licensed to engage in the covered credit activity; and
- (ii) could, after the delayed commencement time, be validly so authorised under section 64 of the Credit Act (as amended by this Act); and
 - (iii) is authorised in writing by the applicant to act on behalf of the applicant and is acting within that authority;
- (d) if there is a person covered by paragraph (c) of this subitem (a **prospective credit representative**) in relation to the applicant—another person who:
- (i) the prospective credit representative intends to authorise under section 65 of the Credit Act to engage in the covered credit activity on behalf of the applicant, if the applicant becomes licensed to engage in the covered credit activity and the prospective credit representative becomes a credit representative of the applicant in relation to the covered credit activity; and
 - (ii) could, after the delayed commencement time, be validly so authorised under section 65 of the Credit Act (as amended by this Act); and
 - (iii) with the written consent of the applicant, is authorised in writing by the prospective credit representative to act on behalf of the applicant and is acting within that authority.

Definitions

- (5) In this item:

covered credit activity means credit activity that relates to a buy now pay later contract or a low cost credit contract.

Credit Act means the *National Consumer Credit Protection Act 2009*.

delayed commencement time means the time when Part 2 of this Schedule commences.

Part 2—Responsible lending conduct

National Consumer Credit Protection Act 2009

9 Subsection 5(1)

Insert:

unsuitability assessment policy has the meaning given by
subsection 133BXG(1).

10 Before section 115

Insert:

115A Scope of this Division

This Division does not apply in relation to a credit contract that is a
low cost credit contract.

11 Section 128

After “the regulations”, insert “for the purposes of this section”.

12 After paragraph 128(d) (before the penalty)

Insert:

Note: Part 3-2BA affects how this section, and other provisions in this Part,
apply in relation to certain low cost credit contracts.

13 Paragraph 133(4)(b)

Omit “at the time of the contract is entered or the credit limit is
increased, the information”, substitute “at the time the contract is
entered or the credit limit is increased”.

14 After Part 3-2B

Insert:

Part 3-2BA—Licensees that are credit providers under credit contracts: additional rules relating to low cost credit contracts

Division 1—Introduction

133BX Guide to this Part

This Part has rules that apply to certain licensees who are, or are to be, credit providers under certain low cost credit contracts. It applies in addition to the general rules in Part 3-2, and modifies some of those rules.

Division 1 provides that a licensee may elect that this Part apply to the licensee in relation to some or all low cost credit contracts. This Part only applies to a licensee who has made an election, and only applies to such a licensee in relation to low cost credit contracts covered by the election.

Division 2 modifies how some of the general rules in Part 3-2 apply to a licensee who has made an election. These modifications affect the rules that deal with the obligations of the licensee:

- (a) to assess whether a low cost credit contract will be unsuitable for a consumer before doing particular things in relation to the contract; and
- (b) not to enter, or increase the credit limit of, a low cost credit contract that is unsuitable for a consumer.

Division 3 requires a licensee who has made an election to have a policy (called an unsuitability assessment policy) that sets out how the licensee will comply with the licensee's obligation under Part 3-2 to assess whether a low cost credit contract will be unsuitable for a consumer.

133BXA Scope of this Part

This Part applies if licensee makes election

- (1) A licensee may, in writing, elect that this Part apply to the licensee in relation to:
 - (a) all low cost credit contracts; or
 - (b) each low cost credit contract in a specified class of low cost credit contracts.
- (2) This Part:
 - (a) applies to a licensee if the licensee has made an election under subsection (1) and the election is in force; and
 - (b) applies to such a licensee in relation to a credit contract if the credit contract is a low cost credit contract covered by the election.
- (3) An election made under subsection (1) remains in force until the licensee revokes the election.

Licensee must keep copy of election and revocation

- (4) A licensee who makes an election under subsection (1) must keep a written copy of the election for the period:
 - (a) starting at the time when licensee makes the election; and
 - (b) ending 6 years after the day on which the election ceases to be in force.
- (5) If a licensee revokes an election made under subsection (1), then the licensee must keep a written copy of the revocation for the period of 6 years after the day on which the licensee revokes the election.

Part 3-2 not otherwise affected

- (6) Nothing in this Part affects how Part 3-2 applies to a licensee in relation to a credit contract if the licensee has not made an election under subsection (1) of this section that covers the contract.

Division 2—Unsuitable low cost credit contracts

133BXB When inquiries etc. must be made

For the purposes of applying section 128 to a licensee in relation to a low cost credit contract:

- (a) paragraphs 128(aa) and (ba) are to be disregarded; and
- (b) the period for making the assessment mentioned in paragraph 128(c), and the inquiries and verification mentioned in paragraph 128(d), is taken to be the period of 90 days (or other period prescribed by the regulations for the purposes of this paragraph) ending immediately before the licensee starts to do the thing mentioned in paragraph 128(a) or (b) (whichever applies).

133BXC When inquiries etc. are reasonable

- (1) This section applies to a licensee who:
 - (a) enters a low cost credit contract with a consumer who will be the debtor under the contract; or
 - (b) increases the credit limit of a low cost credit contract with a consumer who is the debtor under the contract.

Note: The licensee must also have elected under subsection 133BXA(1) that this Part apply to the licensee in relation to the low cost credit contract: see subsection 133BXA(2).

Relevant matters

- (2) In determining whether the licensee has:
 - (a) made reasonable inquiries about the consumer's requirements and objectives in relation to the low cost credit contract, as required under paragraph 130(1)(a); and
 - (b) made reasonable inquiries about the consumer's financial situation, as required under paragraph 130(1)(b); and
 - (c) taken reasonable steps to verify the consumer's financial situation, as required under paragraph 130(1)(c);regard must be had to the matters covered by subsection (3) of this section, and regard may be had to any other relevant matters.

Note: Regulations made for the purposes of subsection 130(2) may prescribe particular inquiries or steps that must be made or taken, or that do not need to be made or taken, for the purposes of paragraph 130(1)(a), (b) or (c).

- (3) The matters covered by this subsection are the following:
- (a) the nature of the low cost credit contract (including the terms of the contract and the type and amount of credit provided under the contract);
 - (b) if there is a target market determination (within the meaning of the *Corporations Act 2001*) for the low cost credit contract—the nature of the target market for the low cost credit contract, as described in that determination;
 - (c) whether the consumer is financially vulnerable;
 - (d) whether the licensee has any procedures in place to reduce the risk of the licensee providing credit to a consumer on terms that are not affordable for the consumer;
 - (e) whether the licensee has any procedures in place to mitigate the harm that may be caused to a consumer if the licensee provides credit to the consumer on terms that are not affordable for the consumer;
 - (f) any matters prescribed by the regulations.

Note: The particular things that a licensee must do in order to satisfy the licensee's obligations under paragraphs 130(1)(a) to (c) in relation to low cost credit contracts may vary from case to case, and may be less onerous in some cases than in others, depending on matters such as those covered by this subsection.

133BXD Assessments etc. in relation to larger contracts

- (1) This section applies to a licensee who enters a low cost credit contract (the ***initial contract***) with a consumer who will be the debtor under the contract.

Entering the initial contract

- (2) The licensee may satisfy paragraphs 128(c) and (d) in relation to entering the initial contract by (respectively):
- (a) making an assessment that would satisfy paragraph 128(c) in relation to entering a larger contract with the consumer; and

- (b) making inquiries and verification that would satisfy paragraph 128(d) in relation to entering the larger contract with the consumer.

Note: For **larger contract**, see subsection (7).

Subsequent credit increases

- (3) Subsection (4) applies if:
 - (a) the licensee satisfies paragraphs 128(c) and (d) in relation to entering the initial contract by:
 - (i) making an assessment (the **initial assessment**) that would satisfy paragraph 128(c) in relation to entering, with the consumer, a larger contract with a particular credit limit (the **maximum credit limit**); and
 - (ii) making inquiries and verification (the **initial inquiries and verification**) that would satisfy paragraph 128(d) in relation to entering the larger contract with the consumer; and
 - (b) the initial assessment is an assessment that the larger contract will not be unsuitable for the consumer if the larger contract is entered in the period covered by the initial assessment.
- (4) If the licensee subsequently, within the protected period, makes a protected increase to the credit limit of the initial contract, then:
 - (a) the licensee is taken to satisfy section 128 in relation to the protected increase (regardless of whether the initial assessment, and the initial inquiries and verification, were made within the period that applies in relation to the protected increase under that section); and
 - (b) the initial assessment is taken to be:
 - (i) an assessment that covers the protected period; and
 - (ii) an assessment that the initial contract will not be unsuitable for the consumer if the protected increase is made in the protected period.

Note 1: For **protected increase** and **protected period**, see subsection (7).

Note 2: Even if the licensee is taken under this subsection to satisfy section 128 in relation to the protected increase, it is still possible for the licensee to contravene subsection 131(1) or 133(1) in relation to the protected increase.

Exceptions

- (5) Subsection (4) does not apply to the licensee in relation to the protected increase if, at the time when the protected increase is made, the licensee has information on the basis of which it would be reasonable to conclude that the credit contract is likely to be unsuitable for the consumer if the protected increase is made.
- (6) Despite subsections (3) and (4):
 - (a) the licensee may, at any time after making the initial assessment and before making the protected increase, make a new assessment in relation to the protected increase for the purposes of paragraph 128(c); and
 - (b) if the licensee does so, then subsection (4) of this section does not apply to the licensee in relation to the protected increase.

Definitions

- (7) In this section:

larger contract means a low cost credit contract that:

- (a) has a credit limit that is greater than the credit limit of the initial contract when the initial contract is entered; and
- (b) has terms that are otherwise substantially the same as the terms of the initial contract when the initial contract is entered.

protected increase: an increase to the credit limit of the initial contract is a ***protected increase*** if:

- (a) after the increase, the initial contract has a credit limit that is no greater than the maximum credit limit (within the meaning of subparagraph (3)(a)(i)); and
- (b) the terms of the initial contract after the increase are otherwise substantially the same as the terms of the initial contract immediately before the increase.

protected period means whichever of the following is shorter (disregarding paragraph (4)(b)):

- (a) the period covered by the initial assessment;

- (b) the period of 2 years beginning when the period covered by the initial assessment begins.

133BXE Assessments of low cost credit contracts—presumptions where credit limit of contract not above threshold amount

- (1) This section applies when determining, for the purposes of subsection 131(1), whether a low cost credit contract will be unsuitable for a consumer under paragraph 131(2)(b) if the contract is entered, or the credit limit of the contract is increased, in the period covered by the assessment mentioned in subsection 131(1).

Note: This section does not affect whether a low cost credit contract will be unsuitable for a consumer under paragraph 131(2)(a) or (c).

Entering a low cost credit contract

- (2) For the purpose of applying subsection 131(1) in relation to a licensee entering a low cost credit contract (the **initial contract**) with a consumer, if the credit limit of the initial contract, at the time the initial contract is entered, will be less than or equal to the threshold amount, then it is presumed (unless the contrary is proved) that the initial contract will not be unsuitable for the consumer under paragraph 131(2)(b) if the initial contract is entered in the period covered by the assessment.
- (3) However, subsection (2) does not apply if:
 - (a) the licensee satisfies paragraph 128(c) in relation to entering the initial contract by making an assessment that would satisfy that paragraph in relation to entering a larger contract with the consumer (see subsection 133BXD(2)); and
 - (b) the credit limit of the larger contract is greater than the threshold amount.

Increasing the credit limit of a low cost credit contract

- (4) For the purpose of applying subsection 131(1) in relation to an increase (the **relevant increase**) made by a licensee to the credit limit of a low cost credit contract (the **initial contract**) with a consumer, if the credit limit of the initial contract after the increase will be less than or equal to the threshold amount, then it is presumed (unless the contrary is proved) that the initial contract

will not be unsuitable for the consumer under paragraph 131(2)(b) if the relevant increase occurs during the period covered by the assessment.

- (5) However, subsection (4) does not apply if:
- (a) the licensee previously satisfied paragraph 128(c) in relation to entering the initial contract by making an assessment that would have satisfied that paragraph in relation to entering a larger contract with the consumer (see subsection 133BXD(2)); and
 - (b) the credit limit of the larger contract was greater than the threshold amount; and
 - (c) because of subsection 133BXD(4), the licensee is not required to make a new assessment in order to satisfy paragraph 128(c) in relation to the relevant increase.

Definitions

- (6) In this section:

larger contract means a low cost credit contract that:

- (a) has a credit limit that is greater than the credit limit of the initial contract when the initial contract is entered; and
- (b) has terms that are otherwise substantially the same as the terms of the initial contract when the initial contract is entered.

threshold amount means:

- (a) \$2,000, unless paragraph (b) applies; or
- (b) if the regulations prescribe another dollar amount (whether larger or smaller) for the purposes of this paragraph—that other dollar amount.

133BXF Prohibition on entering unsuitable low cost credit contracts etc.—presumptions where credit limit of contract not above threshold amount

- (1) This section applies when determining, for the purposes of subsection 133(1), whether a low cost credit contract is unsuitable for a consumer under paragraph 133(2)(b).

Note: This section does not affect whether a low cost credit contract is unsuitable for a consumer under paragraph 133(2)(a) or (c).

Entering a low cost credit contract

- (2) For the purpose of applying subsection 133(1) in relation to a licensee entering a low cost credit contract with a consumer, if the credit limit of the contract, at the time the contract is entered, is less than or equal to the threshold amount, then it is presumed (unless the contrary is proved) that the contract is not unsuitable for the consumer under paragraph 133(2)(b).

Increasing the credit limit of a low cost credit contract

- (3) For the purpose of applying subsection 133(1) in relation to an increase made by a licensee to the credit limit of a low cost credit contract with a consumer, if the credit limit of the contract after the increase is less than or equal to the threshold amount, then it is presumed (unless the contrary is proved) that the contract is not unsuitable for the consumer under paragraph 133(2)(b).

Definitions

- (4) In this section:

threshold amount means:

- (a) \$2,000, unless paragraph (b) applies; or
- (b) if the regulations prescribe another dollar amount (whether larger or smaller) for the purposes of this paragraph—that other dollar amount.

Division 3—Unsuitability assessment policies

133BXG Licensee must have an unsuitability assessment policy

- (1) A licensee must have a written policy (an ***unsuitability assessment policy***) that sets out how the licensee will comply with sections 128 and 131 (which deal with assessments of unsuitability), as those sections apply in relation to low cost credit contracts.

Unsuitability assessment policy must be effective

- (2) The licensee must ensure that the licensee's unsuitability assessment policy is one that, if followed, makes it likely that the licensee will comply with sections 128 and 131, as those sections apply in relation to low cost credit contracts.

Regulations may prescribe further requirements

- (3) The licensee must comply with any requirements relating to unsuitability assessment policies prescribed by the regulations for the purposes of this subsection.

15 After subsection 17(15A) of the *National Credit Code*

Insert:

Elections relating to low cost credit contracts

(15B) If:

- (a) the credit contract is a low cost credit contract; and
- (b) the credit provider has made an election under subsection 133BXA(1) of the *National Credit Act* that covers the contract, and the election is in force;

then the contract document must contain a statement that the credit provider has made such an election.

16 Saving provision—regulations

To avoid doubt, regulations prescribing a period for the purposes of section 128 of the *National Consumer Credit Protection Act 2009* that were in force immediately before the commencement of this Part:

- (a) continue in force on and after that commencement; and
- (b) are taken, on and after that commencement, to be made for the purposes of that section as amended by this Part.

17 Application provision—obligations of credit assistance providers before providing credit assistance

Division 4 of Part 3-1 of the *National Consumer Credit Protection Act 2009*, as amended by this Part, applies in relation to credit assistance provided on or after the commencement of this Part.

18 Application provision—Part 3-2BA of the Act

Elections

- (1) A licensee may, under subsection 133BXA(1) of the *National Consumer Credit Protection Act 2009* (the *Act*), make an election that covers a low cost credit contract whether the contract was entered into before, on or after the time (the *commencement time*) when this Part commences.

When inquiries etc. must be made

- (2) Section 133BXB of the Act applies for the purposes of applying section 128 of the Act in relation to conduct mentioned in paragraph 128(a), (aa), (b) or (ba) of the Act that occurs on or after the commencement time.
- (3) To avoid doubt, a period of 90 days mentioned in paragraph 133BXB(b) of the Act may start before, on or after the commencement time.

When inquiries etc. are reasonable

- (4) Section 133BXC of the Act applies in relation to:
- (a) conduct mentioned in paragraph 133BXC(1)(a) or (b) of the Act that occurs on or after the commencement time; and
 - (b) determining whether a licensee has done a thing mentioned in paragraph 133BXC(2)(a), (b) or (c) of the Act, whether that thing is done before, on or after the commencement time.

Assessments etc. in relation to larger contracts

- (5) Subsection 133BXD(2) of the Act applies in relation to entering a low cost credit contract if:
- (a) the contract is entered on or after the commencement time; and
 - (b) the assessment, and the inquiries and verification, mentioned in that subsection are made on or after the commencement time.
- (6) Subsections 133BXD(3) to (6) of the Act apply:

- (a) in relation to entering a low cost credit contract, as mentioned in paragraph 133BXD(3)(a) of the Act, if:
 - (i) the contract is entered on or after the commencement time; and
 - (ii) the assessment, and the inquiries and verification, mentioned in that paragraph are made on or after the commencement time; and
- (b) in relation to an increase to the credit limit of a low cost credit contract, as mentioned in subsection 133BXD(4) of the Act, if the increase occurs on or after the commencement time.

Presumptions

- (7) Section 133BXE of the Act applies in relation to assessments mentioned in subsection 131(1) of the Act that are made on or after the commencement time.
- (8) Section 133BXF of the Act applies in relation to conduct mentioned in paragraph 133(1)(a) or (b) of the Act that occurs on or after the commencement time.

19 Application provision—information about elections

Subsection 17(15B) of the National Credit Code, as inserted by this Part, applies in relation to a contract document for a low cost credit contract entered into on or after the commencement of this Part.

Part 3—Credit representatives

National Consumer Credit Protection Act 2009

20 Subsection 64(5)

Omit “This section”, substitute “This subsection”.

21 Paragraph 64(5)(c)

Repeal the paragraph, substitute:

- (c) a person who is not a member of the AFCA scheme to engage in a credit activity in relation to a contract that is not a low cost credit contract; or
- (ca) a person who is not a member of the AFCA scheme to collect, on the licensee’s behalf, repayments made by a debtor under a low cost credit contract; or

22 Paragraph 65(6)(c)

Repeal the paragraph, substitute:

- (c) a natural person who is not a member of the AFCA scheme to engage in a credit activity in relation to a contract that is not a low cost credit contract; or
- (ca) a natural person who is not a member of the AFCA scheme to collect, on the licensee’s behalf, repayments made by a debtor under a low cost credit contract; or

23 After subsection 71(5)

Insert:

Exceptions—sub-authorisations relating to low cost credit contracts

- (5A) Subsections (1) and (4) do not apply to an authorisation under subsection 65(1) (which deals with sub-authorisations) that authorises a person to engage in credit activities in relation to a low cost credit contract.

24 After subsection 158(1)

Insert:

Exceptions—credit activity relating to low cost credit contracts

- (1A) Subsection (1) does not apply if the credit representative gives the consumer the licensee’s credit guide:
- (a) for the purpose of satisfying subsection 113(1) in connection with the provision of credit assistance to the consumer in relation a low cost credit contract; or
 - (b) for the purpose of satisfying subsection 126(1) in connection with entry into a low cost credit contract with the consumer; or
 - (c) for the purpose of satisfying subsection 127(1) in connection with the assignment to the licensee of rights or obligations of a credit provider under a low cost credit contract.

Form and content of credit guide

25 Paragraph 160(3)(e)

After “is a credit representative”, insert “and has been allocated a credit representative number”.

26 Application provision

When authorisation is of no effect

- (1) The amendments of sections 64 and 65 of the *National Consumer Credit Protection Act 2009* made by this Part apply, on and after the commencement of this Part, in relation to authorisations given before, on or after that commencement.

Obligation to notify ASIC

- (2) Subsection 71(5A) of the *National Consumer Credit Protection Act 2009*, as inserted by this Part:
- (a) to the extent that it relates to subsection 71(1) of that Act (which deals with the obligation to notify when an authorisation is given)—applies in relation to authorisations given on or after the commencement of this Part; and

- (b) to the extent that it relates to subsection 71(4) of that Act (which deals with the obligation to notify of changes after an authorisation is given)—applies, on and after the commencement of this Part, in relation to authorisations given before, on or after that commencement.

Part 4—Precontractual disclosure

National Consumer Credit Protection Act 2009

27 Subsection 16(1) of the *National Credit Code*

After “credit contract”, insert “(other than a low cost credit contract)”.

28 After subsection 16(1) of the *National Credit Code*

Insert:

- (1A) A credit provider must not enter into a low cost credit contract unless the credit provider has given the debtor:
 - (a) a precontractual statement setting out the matters required by section 17 to be included in the contract document; and
 - (b) an information statement that complies with:
 - (i) the requirements prescribed by the regulations; and
 - (ii) any requirements determined by ASIC under subsection (1B) of this section.
- (1B) ASIC may, by legislative instrument, determine requirements for the purposes of subparagraph (1A)(b)(ii). The requirements must be consistent with any requirements prescribed by the regulations for the purposes of subparagraph (1A)(b)(i).

29 Application provision

- (1) Subject to subitem (2), the amendments of section 16 of the National Credit Code made by this Part apply in relation to entering into a credit contract on or after the commencement of this Part.
- (2) The amendments do not apply in relation to entering into a credit contract on or after the commencement of this Part if the precontractual statement, and information statement, relating to the contract were given:
 - (a) before the commencement of this Part; and
 - (b) in accordance with section 16 of the National Credit Code (as in force at the time the statements were given).

Part 5—Contract documents and statements of account

National Consumer Credit Protection Act 2009

30 After subsection 17(6) of the *National Credit Code*

Insert:

Where no interest charge is payable under low cost credit contract

- (6A) In the case of a credit contract that is a low cost credit contract, if no interest charges are payable under the contract then:
- (a) subsections (4), (5) and (6) do not apply in relation to the contract document; and
 - (b) the contract document must contain a statement to the effect that no interest charges are payable under the contract.

31 Subsection 17(7) of the *National Credit Code*

Omit “The contract document must contain”, substitute “In the case of a credit contract other than a low cost credit contract, the contract document must contain”.

32 After subsection 17(7) of the *National Credit Code*

Insert:

- (7A) If the credit contract is a low cost credit contract, and more than one repayment is to be made, then the contract document must contain:
- (a) the frequency of payment of repayments; and
 - (b) if ascertainable, the amount of the repayments, the number of repayments and the total amount of the repayments; and
 - (c) if the amount of the repayments is not ascertainable—the method of calculating the amount of the repayments.

33 After subsection 17(10) of the *National Credit Code*

Insert:

- (10A) If the credit contract is a low cost credit contract, and statements of account are to be given to the debtor by electronic communication, then the contract document must contain information about how the statements of account will be given.
- (10B) If the credit contract is a low cost credit contract, and statements of account are not required to be given because of paragraph 33(3)(g), then the contract document must contain the information (if any) prescribed by the regulations for the purposes of this subsection.

34 At the end of subsection 33(3) of the *National Credit Code*

Add:

- ; or (g) in the case of a credit contract that is a low cost credit contract—the credit provider satisfies the requirements prescribed by the regulations for the purposes of this paragraph.

35 Application provision

- (1) On and after the commencement of this Part, section 17 of the National Credit Code applies in relation to a buy now pay later contract or a low cost credit contract only if the contract was entered into on or after the commencement of this Part.
- (2) Paragraph 33(3)(g) of the National Credit Code, as added by this Part, applies on and after the commencement of this Part in relation to a low cost credit contract entered into before, on or after that commencement.

Part 6—Increasing credit limits

National Consumer Credit Protection Act 2009

36 Subsection 133BE(1) (paragraph (b) of the note)

After “subsection 67(4)”, insert “and section 67AA”.

37 Paragraph 61(2)(b) of the *National Credit Code*

Omit “section 68”, substitute “section 67AA or 68”.

38 Section 67 (heading) of the *National Credit Code*

Omit “in”, substitute “under”.

39 After section 67 of the *National Credit Code*

Insert:

67AA Increasing credit limits under low cost credit contracts

A credit provider may increase the credit limit under a low cost credit contract only at the request of the debtor or with the written consent of the debtor.

Note: For low cost credit contracts that are continuing credit contracts, subsection 67(4) has the same effect as this section.

40 At the end of subsection 68(4) of the *National Credit Code*

Add “or section 67AA”.

Part 7—Interest rates and comparison rates

National Consumer Credit Protection Act 2009

41 Paragraph 32A(4)(b) of the *National Credit Code*

After “the credit contract is a”, insert “low cost credit contract,”.

42 After subsection 34(6) of the *National Credit Code*

Insert:

- (6A) Subsection (6) applies in relation to a low cost credit contract only if interest charges are payable under the contract.

43 Subsection 157(2) of the *National Credit Code*

After “continuing credit contracts”, insert “or low cost credit contracts”.

44 Section 158 of the *National Credit Code* (at the end of the heading)

Add “or low cost credit contracts”.

45 At the end of subsection 158(1) of the *National Credit Code*

Add “or low cost credit contracts”.

46 Subsection 158(2) of the *National Credit Code*

Repeal the subsection, substitute:

- (2) Accordingly, a reference in this Part to the provision of credit (or to a credit contract or related matters) does not include a reference to:
- (a) the provision of credit under a continuing credit contract (or to a continuing credit contract or matters related to such a contract); or
 - (b) the provision of credit under a low cost credit contract (or to a low cost credit contract or matters related to such a contract).

47 Section 159 of the *National Credit Code* (definition of *consumer credit product*)

After “continuing credit contract”, insert “or a low cost credit contract”.

48 Application provision—comparison rates

- (1) The amendments of sections 157, 158 and 159 of the National Credit Code made by this Part apply in relation to a credit advertisement that is published on or after the commencement of this Part.
- (2) For the purposes of subitem (1), a credit advertisement that:
 - (a) began to be published before the commencement of this Part; and
 - (b) remains published on, or for a period after, that commencement;is taken to be published on or after that commencement.

Part 8—Default notices

National Consumer Credit Protection Act 2009

49 Subsection 39C(1) of the *National Credit Code*

Omit “(1)”.

50 Subsection 39C(2) of the *National Credit Code*

Repeal the subsection.

51 Subdivision C of Division 1 of Part 5 of the *National Credit Code* (heading)

Omit “first direct debit default”, substitute “first default in payment”.

52 Section 87 of the *National Credit Code* (heading)

Omit “the first time a direct debit default occurs”, substitute “of first default in payment”.

53 Before subsection 87(1) of the *National Credit Code*

Insert:

Which defaults does this section apply to?

54 Paragraph 87(1)(a) of the *National Credit Code*

After “credit contract”, insert “(other than a low cost credit contract)”.

55 After subsection 87(1) of the *National Credit Code*

Insert:

(1A) This section also applies if:

- (a) a debtor under a low cost credit contract is in default in relation to the payment of an amount under the contract; and
- (b) it is the first occasion when the debtor is in default in relation to such a payment.

Offence

56 Before subsection 87(5) of the *National Credit Code*

Insert:

Other notice requirements not affected

57 Application provision

The amendments of section 87 of the National Credit Code made by this Part apply in relation to a default that occurs on or after the commencement of this Part.

Part 9—Avoidance schemes

National Consumer Credit Protection Act 2009

58 Section 323 (paragraph beginning “Division 1A”)

After “small amount credit contracts”, insert “, low cost credit contracts”.

59 Paragraphs 323A(2)(a) to (d)

After “small amount credit contract”, insert “, a low cost credit contract”.

60 Subparagraphs 323B(1)(a)(i) and (ii)

After “small amount credit contract”, insert “or a low cost credit contract”.

61 Subparagraphs 323B(1)(b)(i) and (ii)

After “small amount credit contracts”, insert “, low cost credit contracts”.

62 Application provision

The amendments made by this Part apply in relation to conduct mentioned in a paragraph of subsection 323A(1), (3), (4) or (5) of the *National Consumer Credit Protection Act 2009* if the conduct occurs wholly or partly on or after the commencement of this Part.

Part 10—Giving information or documents

National Consumer Credit Protection Act 2009

63 Subsection 5(1)

Insert:

electronic communication has the same meaning as in the *Electronic Transactions Act 1999*.

information system has the same meaning as in the *Electronic Transactions Act 1999*.

64 Before section 332

Insert:

331 Giving information or documents in connection with low cost credit contracts

- (1) This section applies in relation to a provision (a *covered provision*) of this Act or the National Credit Code that requires or permits a person (a *giver*) to give information or documents (*covered material*) to another person (a *recipient*) in connection with a low cost credit contract.

Making covered material available for retrieval on an electronic document retrieval system

- (2) Subject to subsection (6), a giver is taken to give covered material to a recipient for the purposes of a covered provision if:
- (a) the giver notifies the recipient, in accordance with subsection (3), that the covered material is available for retrieval by the recipient on an electronic document retrieval system (see subsection (5)); and
 - (b) the giver makes the covered material available for retrieval by the recipient, in accordance with the notification, for a reasonable period after the giver gives the notification to the recipient; and

- (c) the covered material is made available for retrieval by the recipient in such a manner that it is reasonable to expect that the recipient will be able to save the covered material to an electronic file and print it.

Note: This subsection does not limit the ways in which a giver may give covered material to a recipient for the purposes of a covered provision.

- (3) For the purposes of paragraph (2)(a), the notice must:
 - (a) explain the nature of the covered material; and
 - (b) include any information relating to the covered material that the recipient needs in order to be able to retrieve the covered material.

Note: The information mentioned in paragraph (3)(b) might include, for example, the covered material's electronic address or any password protecting the covered material.

- (4) The giver is taken to give the covered material to the recipient at the first time:
 - (a) that occurs at or after the time the giver gives the recipient the notification mentioned in paragraph (2)(a); and
 - (b) at which the covered material is available for retrieval by the recipient as mentioned in paragraphs (2)(b) and (c).

- (5) For the purposes of this section, covered material is available for retrieval by a recipient on an electronic document retrieval system if the covered material is available on an information system for retrieval by electronic communication by the recipient.

Note: For *electronic communication* and *information system*, see subsection 5(1).

Mandatory requirements relating to giving covered material

- (6) The giving of information or documents is to be disregarded for the purposes of a covered provision if:
 - (a) the regulations prescribe requirements relating to the giving of information or documents for the purposes of the covered provision; and
 - (b) those requirements are not satisfied.

No effect in relation to other kinds of credit contracts

- (7) To avoid doubt, if a covered provision requires or permits information or documents to be given in connection with a credit contract that is not a low cost credit contract, this section does not apply in relation to the giving of the information or documents.

Interaction with other provisions

- (8) If this section is inconsistent with any other provision of this Act or the National Credit Code that deals with the giving of information or documents in connection with a low cost credit contract (even if the other provision also deals with other matters), then the other provision has no effect to the extent of the inconsistency.

Note: For example, section 187 of the National Credit Code (application of the *Electronic Transactions Act 1999*) has no effect to the extent that it is inconsistent with subsection (6) of this section.

65 Subsection 16(11) of the *National Credit Code*

Omit “electronic transactions and documents”, substitute “application of the *Electronic Transactions Act 1999*”.

66 Section 187 of the *National Credit Code* (heading)

Repeal the heading, substitute:

187 Application of the *Electronic Transactions Act 1999*

67 Subsection 204(1) of the *National Credit Code* (definition of *electronic communication*)

Omit “has the same meaning as in the *Electronic Transactions Act 1999*”, substitute “has the same meaning as in section 5 of the National Credit Act”.

68 Subsection 204(1) of the *National Credit Code*

Insert:

information system has the same meaning as in section 5 of the National Credit Act.

69 Application provision

The amendments made by this Part apply in relation to information or documents given on or after the commencement of this Part.

Schedule 3—Medicare levy exemption for lump sum payments

Medicare Levy Act 1986

1 After section 9

Insert:

9A Adjustment of taxable income for lump sum payments in arrears

- (1) This section applies to a person for a year of income if:
- (a) the person's assessable income for the year includes one or more eligible lump sums; and
 - (b) the total arrears amount is not less than 10% of the normal taxable income of the year; and
 - (c) in each relevant accrual year, one or more of the following applied:
 - (i) the sum of the person's taxable income and the annual arrears amount for the year did not exceed the phase-in limit;
 - (ii) under section 8, no levy was payable by the person on the person's taxable income and, if the annual arrears amount for the year had been included in the person's taxable income, either no levy would have been payable or the amount of levy would have been reduced;
 - (iii) under section 8, the amount of the levy payable by the person on the person's taxable income was reduced, and would also have been reduced if the annual arrears amount for the year had been included in the person's taxable income;
 - (iv) the person was a prescribed person for at least one day.

Note: For *prescribed person*, see section 251U of the Assessment Act.

- (2) For the purposes of subsections 6(1) and 7(1) and (2), the person's taxable income for the year of income is taken not to include the total arrears amount.
- (3) For the purposes of working out, under section 8:

- (a) whether levy is payable by the person on the person's taxable income for the year of income; or
- (b) whether the amount of levy payable by the person on the person's taxable income for the year of income is to be reduced;

the person's taxable income for the year of income is taken not to include the total arrears amount.

Note: This subsection does not affect the person's taxable income for the purposes of working out, under section 8, the family income in relation to a spouse of the person.

- (4) In this section:

accrual year has the meaning given by subsection 159ZR(1) of the Assessment Act.

annual arrears amount has the meaning given by subsection 159ZR(1) of the Assessment Act.

eligible lump sum has the meaning given by subsection 159ZR(1) of the Assessment Act.

normal taxable income has the meaning given by subsection 159ZR(1) of the Assessment Act.

relevant accrual years means:

- (a) if there are 2 or more accrual years for the total arrears amount—the most recent 2 of those years; or
- (b) in any other case—the accrual year for the total arrears amount.

total arrears amount has the meaning given by subsection 159ZR(1) of the Assessment Act.

2 Application of amendment

Section 9A of the *Medicare Levy Act 1986*, as inserted by this Schedule:

- (a) applies to assessments for the 2024-25 year of income and later years of income; and
- (b) applies in relation to accrual years that begin before, at or after the commencement of this item.

Schedule 4—Multinational tax transparency— country by country reporting

Taxation Administration Act 1953

1 After section 3CA

Insert:

3D Publication of information by certain country by country reporting entities

- (1) This section applies to an entity for a period mentioned in subsection (2) (the ***reporting period***) if:
- (a) the entity is:
 - (i) a constitutional corporation; or
 - (ii) a partnership in which each of the partners is a constitutional corporation; or
 - (iii) a trust of which each of the trustees is a constitutional corporation; and
 - (b) the entity was a country by country reporting parent for a period that includes the whole or a part of the period mentioned in subsection (2) that preceded the reporting period; and
 - (c) the entity is a member of a country by country reporting group at any time during the reporting period; and
 - (d) at any time during the reporting period, the entity or another member of the country by country reporting group is:
 - (i) an Australian resident; or
 - (ii) a foreign resident who operates an Australian permanent establishment (within the meaning of Part IVA of the *Income Tax Assessment Act 1936*); and
 - (e) assuming that the reporting period were an income year, both of the following apply:
 - (i) the entity's aggregated turnover for the income year includes one or more amounts of income from an Australian source;

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- (ii) the sum of those amounts is \$10 million or more; and
 - (f) the entity is not included in a class of entities:
 - (i) prescribed by the regulations for the purposes of this subparagraph; or
 - (ii) specified in a legislative instrument under subsection 3DB(4); and
 - (g) the entity and the reporting period are not specified in an exemption under subsection 3DB(5).
- (2) For the purposes of subsection (1), the period is:
- (a) if paragraph (b) of this subsection does not apply—each period for which audited consolidated financial statements for the entity for the period are prepared; or
 - (b) if the entity does not prepare audited consolidated financial statements—each period for which the entity would be, on the assumption that the entity were a listed company (within the meaning of section 26BC of the *Income Tax Assessment Act 1936*), required to prepare such statements.

Publication of information

- (3) An entity to which this section applies for a reporting period must, within 12 months after the end of the reporting period:
- (a) publish the information set out in subsection 3DA(1), except to the extent the entity, the information and the reporting period are specified in an exemption under subsection 3DB(6); and
 - (b) do so by giving a document containing the information to the Commissioner in the approved form.
- Note: Subsection 288-140(1) in Schedule 1 provides for an administrative penalty for failing to comply with this subsection on time.
- (4) The Commissioner must, as soon as practicable after receiving the document given in accordance with paragraph (3)(b), make the information in the document available on an Australian government website.

Government related entities

- (5) This section does not apply to a corporate tax entity for a period mentioned in subsection (2) if:
 - (a) the entity is a government related entity (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*); and
 - (b) the Commissioner has given notice to the entity for the period under subsection (6).
- (6) For the purposes of paragraph (5)(b), the Commissioner may give notice in writing to a government related entity (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*) for one or more specified periods if the Commissioner considers that it is appropriate to do so.

Interpretation

- (7) An expression used in this section or section 3DA or 3DB that is also used in the *Income Tax Assessment Act 1997* has the same meaning as in that Act.

3DA Publication of information by certain country by country reporting entities—information to be published

- (1) For the purposes of paragraph 3D(3)(a), the information the entity must publish is as follows:
 - (a) the name of the entity;
 - (b) the names of each other entity that, at that time, was a member of the country by country reporting group;
 - (c) a description of the country by country reporting group's approach to tax;
 - (d) the matters listed in subsection (3) of this section for the reporting period in respect of each of the following jurisdictions:
 - (i) Australia;
 - (ii) a jurisdiction specified in a determination under subsection (4), if the country by country reporting group operates in that jurisdiction;

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- (e) in respect of the jurisdictions in which the country by country reporting group operates that are not mentioned in paragraph (d) of this subsection:
 - (i) a description of the country by country reporting group's main business activities for the reporting period in the area consisting of those jurisdictions;
 - (ii) for each matter listed in subsection (5), the amounts for the reporting period for that matter in respect of each jurisdiction in the area, published as a sum of those amounts for that matter;
 - (iii) the currency used in calculating and presenting the information mentioned in subparagraph (ii);
 - (f) if regulations for the purposes of this paragraph prescribe information—that information.
- (2) However, for the purposes of this section and sections 3D and 3DB, the entity is taken to have published the information set out in paragraph (1)(e) of this section if it publishes the matters listed in subsection (3) for the reporting period in respect of each jurisdiction in which the country by country reporting group operates.
- (3) For the purposes of paragraph (1)(d) and subsection (2), the following matters are listed:
- (a) the name of the jurisdiction;
 - (b) a description of main business activities;
 - (c) the number of employees (on a full-time equivalent basis) as at the end of the reporting period;
 - (d) revenue from unrelated parties;
 - (e) revenue from related parties that are not tax residents of the jurisdiction;
 - (f) profit or loss before income tax;
 - (g) the book value at the end of the reporting period of tangible assets, other than cash and cash equivalents;
 - (h) income tax paid (on a cash basis);
 - (i) income tax accrued (current year);
 - (j) the reasons for the difference between:
 - (i) the amount mentioned in paragraph (i) of this subsection; and
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- (ii) the amount of income tax due if the income tax rate applicable in the jurisdiction were applied to the amount mentioned in paragraph (f) of this subsection;
 - (k) the currency used in calculating and presenting the information mentioned in paragraphs (d) to (j) of this subsection.
- (4) For the purposes of subparagraph (1)(d)(ii), the Minister may, by legislative instrument, make a determination specifying jurisdictions.
- (5) For the purposes of subparagraph (1)(e)(ii), the following matters are listed:
 - (a) the number of employees (on a full-time equivalent basis) as at the end of the reporting period;
 - (b) revenue from unrelated parties;
 - (c) revenue from related parties that are not tax residents of the jurisdiction;
 - (d) profit or loss before income tax;
 - (e) the book value at the end of the reporting period of tangible assets, other than cash and cash equivalents;
 - (f) income tax paid (on a cash basis);
 - (g) income tax accrued (current year).
- (6) The amounts published by the entity for the matters listed in paragraphs (3)(c) to (i) and subsection (5) must be based on:
 - (a) if paragraph (b) of this subsection does not apply—amounts as shown in the audited consolidated financial statements for the entity for the reporting period; or
 - (b) if audited consolidated financial statements for the entity for the reporting period have not been prepared—amounts that would be, on the assumptions that the entity were a listed company (within the meaning of section 26BC of the *Income Tax Assessment Act 1936*) and such statements were prepared, shown in those statements.

Interpretation

- (7) For the purposes of determining the effect that paragraph (1)(c), subsections (3) and (5) and any regulations made for the purposes

of paragraph (1)(f) have in relation to an entity, identify information mentioned in those provisions:

- (a) so as best to achieve consistency with Disclosures 207-1 and 207-4 of *GRI 207:Tax 2019* of the Global Reporting Initiative’s Sustainability Reporting Standards; and
- (b) having regard to the following documents, to the extent they are relevant:
 - (i) the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, as approved by the Council of the Organisation for Economic Cooperation and Development and last amended on 7 January 2022;
 - (ii) *Guidance on the Implementation of Country-by-Country Reporting: BEPS Action 13* (2022) of the Organisation for Economic Cooperation and Development;
 - (iii) a document, or part of a document, prescribed by the regulations for the purposes of this subparagraph.

Note 1: The document in paragraph (a) could in 2024 be viewed on the Global Reporting Initiative’s website (<https://www.globalreporting.org>).

Note 2: The documents in subparagraphs (b)(i) and (ii) could in 2024 be viewed on the Organisation for Economic Cooperation and Development’s website (<https://www.oecd.org>).

3DB Publication of information by certain country by country reporting entities—corrections and exemptions etc.

Corrections

- (1) If an entity becomes aware that a document it has given to the Commissioner under paragraph 3D(3)(b) contains an error, it:
 - (a) if the error is a material error—must; or
 - (b) otherwise—may;
 publish information that corrects the error by giving a document containing the information to the Commissioner in the approved form.
- (2) If paragraph (1)(a) applies, the entity must publish the information by giving the document containing the information to the Commissioner no later than 28 days after the entity becomes aware of the error.

Note: Subsection 288-140(1) in Schedule 1 provides for an administrative penalty for failing to comply with paragraph (1)(a) of this section on time.

- (3) The Commissioner must, as soon as practicable after receiving the document given in accordance with subsection (1), make the information available on an Australian government website.

Exemptions

- (4) For the purposes of subparagraph 3D(1)(f)(ii), the Commissioner may, by legislative instrument, specify a class of entity to which subsection 3D(3) does not apply.
- (5) For the purposes of paragraph 3D(1)(g), the Commissioner may, by notice in writing, specify:
- (a) an entity that is exempt from publishing information under subsection 3D(3); and
 - (b) the reporting period for which the exemption applies.
- (6) For the purposes of paragraph 3D(3)(a), the Commissioner may, by notice in writing, specify:
- (a) an entity that is exempt from publishing information of a particular kind; and
 - (b) the particular kind of information that the entity is exempt from publishing; and
 - (c) the reporting period for which the exemption applies.
- (7) A notice under subsection (5) or (6) must only specify a single reporting period.
- (8) A notice under subsection (5) or (6) is not a legislative instrument.

2 After paragraph 8C(1)(aa)

Insert:

- (ab) to publish information in the manner in which it is required under a taxation law to be published; or

3 At the end of Division 288 in Schedule 1

Add:

288-140 Penalty for failing to publish information on time

- (1) You are liable to an administrative penalty if:
 - (a) you are required under subsection 3D(3) or 3DB(2) to publish information by giving a document containing the information to the Commissioner in the *approved form by a particular day; and
 - (b) you do not publish the information by giving the document to the Commissioner in the approved form by that day.
- (2) The amount of the penalty is 500 penalty units for each period of 28 days or part of a period of 28 days:
 - (a) starting on the day mentioned in paragraph (1)(a); and
 - (b) ending when you publish the information by giving the document to the Commissioner in the approved form;up to a maximum of 2,500 penalty units.

Note: Division 298 contains machinery provisions for administrative penalties.

4 Application

The amendments made by this Schedule apply in relation to a reporting period mentioned in subsection 3D(1) of the *Taxation Administration Act 1953* that starts on or after 1 July 2024.

Schedule 5—Deductible gift recipients

Part 1—Main amendments

Income Tax Assessment Act 1997

1 In the appropriate position in subsection 30-25(2) (table)

Insert:

2.2.59	Ourschool Ltd	the gift must be made after 30 June 2024 and before 1 July 2029
2.2.60	Tasmanian Leaders Inc.	the gift must be made after 30 June 2024 and before 1 July 2029

2 In the appropriate position in section 30-65 (table)

Insert:

7.2.6	Ethnic Business Awards Foundation Limited	the gift must be made after 30 June 2024 and before 1 July 2029
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3 Section 30-315 (after table item 21)

Insert:

21AAAA	Australian Democracy Network Ltd	item 13.2.40
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4 Section 30-315 (after table item 26)

Insert:

26AA	Australian Science Media Centre Incorporated	item 13.2.41
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5 Section 30-315 (after table item 29)

Insert:

72	<i>Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Act 2024</i>	<i>No. 138, 2024</i>
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29AA Centre for Australian Progress Ltd item 13.2.42

6 Section 30-315 (after table item 34)

Insert:

34AAAA Combatting Antisemitism Fund Limited item 13.2.43

7 Section 30-315 (after table item 48AA)

Insert:

48AB Ethnic Business Awards Foundation
Limited item 7.2.6

8 Section 30-315 (after table item 57)

Insert:

57A Hillview Foundation Australia Limited item 13.2.46

9 Section 30-315 (after table item 63)

Insert:

63AAA International Campaign to Abolish
Nuclear Weapons, Australia Inc. item 13.2.44

10 Section 30-315 (after table item 80)

Insert:

81 Ourschool Ltd item 2.2.59

11 Section 30-315 (after table item 112AG)

Insert:

112A Susan McKinnon Charitable Foundation
Ltd item 13.2.45

12 Section 30-315 (after table item 113)

Insert:

113A	Tasmanian Leaders Inc.	item 2.2.60
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Part 2—Contingent amendments

Income Tax Assessment Act 1997

13 In the appropriate position in subsection 30-105(2) (table)

Insert:

13.2.40	Australian Democracy Network Ltd	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.41	Australian Science Media Centre Incorporated	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.42	Centre for Australian Progress Ltd	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.43	Combatting Antisemitism Fund Limited	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.44	International Campaign to Abolish Nuclear Weapons, Australia Inc.	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.45	Susan McKinnon Charitable Foundation Ltd	the gift must be made after 30 June 2023 and before 1 July 2028
13.2.46	The Hillview Foundation Australia Limited	the gift must be made after 30 June 2024 and before 1 July 2029

14 In the appropriate position in section 30-105 (table)

Insert:

13.2.40	Australian Democracy Network Ltd	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.41	Australian Science Media Centre Incorporated	the gift must be made after 30 June 2024 and before

Schedule 5 Deductible gift recipients
Part 2 Contingent amendments

		1 July 2029
13.2.42	Centre for Australian Progress Ltd	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.43	Combatting Antisemitism Fund Limited	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.44	International Campaign to Abolish Nuclear Weapons, Australia Inc.	the gift must be made after 30 June 2024 and before 1 July 2029
13.2.45	Susan McKinnon Charitable Foundation Ltd	the gift must be made after 30 June 2023 and before 1 July 2028
13.2.46	The Hillview Foundation Australia Limited	the gift must be made after 30 June 2024 and before 1 July 2029

Schedule 6—National skills and workforce development payments

Part 1—Amendments

Federal Financial Relations Act 2009

1 After paragraph 3(1)(a)

Insert:

- (aa) payments to be spent by the States in accordance with a skills and workforce development agreement; and

2 Section 4

Insert:

skills and workforce development agreement means:

- (a) the National Skills Agreement that was entered into between the Commonwealth and the States and that took effect on 1 January 2024, as amended from time to time; or
- (b) if the agreement referred to in paragraph (a) ceases to have effect—an agreement, as amended from time to time, that:
 - (i) is entered into between the Commonwealth and one or more States; and
 - (ii) relates to skills or workforce development, or both; and
 - (iii) is expressed to be a skills and workforce development agreement for the purposes of this Act; and
 - (iv) is entered into before or after the commencement of this paragraph.

3 After Part 2

Insert:

Part 2A—National skills and workforce development payments

12A National skills and workforce development payments

Scope

- (1) This section applies to a State in relation to a financial year if:
 - (a) the State is a party to a skills and workforce development agreement; and
 - (b) the financial year is the 2024-25 financial year or a later financial year.

Determination

- (2) The Minister may determine that an amount specified in the determination is to be paid to the State for the purpose of making a grant of financial assistance for the financial year for the purpose of expenditure in accordance with the skills and workforce development agreement.
- (3) A determination under subsection (2) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the determination.

Terms and conditions

- (4) Financial assistance is payable to the State under this section for the financial year on condition that the financial assistance is spent in accordance with the skills and workforce development agreement.
- (5) Financial assistance payable to the State under this section is subject to such additional terms and conditions (if any) as are set out in the skills and workforce development agreement.

4 Section 12

Repeal the section.

5 Paragraphs 17(b), 18(1)(b) and 18(2)(b)

After “Part”, insert “2A,”.

6 After paragraph 21(a)

Insert:

(aaa) if:

- (i) the determination relates to financial assistance to a State under section 12A; and
- (ii) the State is a party to a skills and workforce development agreement;
the skills and workforce development agreement; and

7 Section 22

After “Part 2”, insert “, Part 2A”.

Part 2—Application and saving provisions

8 Definitions

In this Part:

Act means the *Federal Financial Relations Act 2009*.

9 Application provision—2024-25 financial year and earlier financial years

- (1) Section 12 of the Act, as in force immediately before the commencement of this Schedule, continues to apply in relation to the 2024-25 financial year and earlier financial years despite the repeal of that section by this Schedule.
- (2) However, the following do not apply in relation to the 2024-25 financial year:
 - (a) paragraph 12(2)(c) of the Act;
 - (b) subsections 12(4) and (5) of the Act;
 - (c) any determinations under the subsections mentioned in paragraph (b) of this subitem.
- (3) Instead, the total amount of all financial assistance payable under subsection 12(1) of the Act to the States for the 2024-25 financial year is the amount determined by the Minister, by legislative instrument, under this subitem.
- (4) The Minister may, by legislative instrument, determine the manner in which the total amount determined under subitem (3) of this item is to be divided between the States.
- (5) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to a determination made under subitem (3) or (4) of this item.
- (6) To avoid doubt, a determination under:
 - (a) subitem (3) or (4) of this item; or
 - (b) subsection 12(4) or (5) of the Act, as those subsections are continued in force by subitem (1) of this item;may be made after the end of the financial year to which the determination relates.

10 Saving provision—determinations

If:

- (a) a determination was made in relation to the 2023-24 financial year or an earlier financial year under subsection 12(4) or (5) of the Act; and
- (b) the determination is in force immediately before the commencement of this Schedule;

then, despite the repeal of section 12 of that Act by this Schedule, the determination continues in force, on and after that commencement, as if that section had not been repealed.

11 Application provision—overpayment or underpayment of grant

Overpayments

- (1) If a State has been paid an amount in excess of the amount that, under section 12 of the Act, it was entitled to receive by way of financial assistance for the 2024-25 or 2023-24 financial year:
 - (a) section 18 of the Act does not apply to the amount; and
 - (b) the Minister must deduct an amount equal to the excess from any amount that the State is entitled to receive by way of financial assistance under section 12A of that Act for the first practicable subsequent financial year.

Underpayments

- (2) If a State has been paid less than the amount that, under section 12 of the Act, it was entitled to receive by way of financial assistance for the 2024-25 or 2023-24 financial year:
 - (a) section 18 of the Act does not apply to the amount; and
 - (b) the Minister must add an amount equal to the shortfall to any amount that the State is entitled to receive by way of financial assistance under section 12A of the Act for the first practicable subsequent financial year.

*[Minister's second reading speech made in—
House of Representatives on 5 June 2024
Senate on 28 November 2024]*

(65/24)

82 *Treasury Laws Amendment (Responsible Buy Now Pay Later and
Other Measures) Act 2024* No. 138, 2024