# EXPLANATORY STATEMENT

## Issued by authority of the Minister for Revenue and Financial Services,

*Financial Sector (Collection of Data) Act 2001*

*Financial Sector (Collection of Data) Regulations 2018*

Section 30 of the *Financial Sector (Collection of Data) Act 2001* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Financial Sector (Collection of Data) Regulations 2018* (the Regulations) is to remake the *Financial Sector (Collection of Data) Regulations 2008* prior to their ‘sunsetting’. The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, are automatically repealed on or after their tenth anniversary of their registration. The *Financial Sector (Collection of Data) Regulations 2008* will be automatically repealed on 1 October 2018.Legislative instruments generally cease to have effect after 10 years unless further legislative action is taken to extend their operation, such as remaking the instrument.

The Regulations remake the *Financial Sector (Collection of Data) Regulations 2008* by updating the language and restructuring provisions to align with current drafting practices.

These changes do not change the substantive meaning or operation of the provisions.

Details of the Regulations are set out in the Attachment.

The Act does not specify any conditions that need to be met before the power to make the Regulations may be exercised.

An exposure draft of the Regulations and accompanying explanatory material were released for public consultation from 26 March 2018 to 16 April 2018. No submissions were received during the consultation process.

The Regulations is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 1 October 2018.

The Office of Best Practice Regulation consider the Regulations to be minor and machinery in nature and has certified that the remaking of the Regulations do not require a Regulatory Impact Statement (OBPR  ID  23768).

### Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

*Financial Sector (Collection of Data) Regulations 2018*

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### Overview of the *Financial Sector (Collection of Data) Regulations 2018*

The Regulations remake the *Financial Sector (Collection of Data) Regulations 2008* by updating the language and restructuring provisions to align with current drafting practices.

These changes are not intended to change the current operation of the equivalent provisions.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**ATTACHMENT**

**Details of the *Financial Sector (Collection of Data) Regulations 2018***

Section 1- Name of proposed Regulations

This section provides that the title of the Regulations is the *Financial Sector (Collection of Data) Regulations 2018*.

Section 2 - Commencement

This section provides that the Regulations commence on 1 October 2018.

Section 3 - Authority

This section provides that the Regulations are made under the *Financial Sector (Collection of Data) Act 2001* (the Act).

Section 4- Schedule

This section provides that each instrument that is specified in a Schedule to the Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other items in a Schedule to this instrument has effect according to its terms.

Sections 5 to 7 of Schedule 1

These sections replicate the corresponding provisions in the *Financial Sector (Collection of Data) Regulations 2008* (please refer to the Finding Table at page 4), with some minor wording changes to reflect current drafting practices. In addition, the language in section 7 has been updated to refer to ‘authorities’ rather than ‘agencies’ to ensure consistency with the Act.

Schedule 1 – Repeals

This schedule provides for the repeal of the *Financial Sector (Collection of Data) Regulations 2008* as the instrument is due to sunset on 1 October 2018 and is being remade by the Regulations.

Under section 7 of the *Acts Interpretation Act 1901*, as applied to legislative instruments by subsection 13(1) of the *Legislation Act 2003*, the repeal of the *Financial Sector (Collection of Data) Regulations 2008* does not affect its previous operation.

**Finding Table**

As a result of some of the changes described above, it became necessary to renumber provisions of the Regulations. The finding table assists in identifying which provision in the Regulations corresponds to a provision in the old law that has been renumbered.

|  |  |
| --- | --- |
| ***Old law*** | ***New Law*** |
| *Financial Sector (Collection of Data) Regulations 2008* | *Financial Sector (Collection of Data) Regulations 2018* |
| 1 | 1 |
| No equivalent | 2 |
| No equivalent | 3 |
| No equivalent | 4 |
| 3 | 5 |
| 4 | 6 |
| 5 | 7 |