

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Minister for Competition, Charities and Treasury**

*Corporations Act 2001*

*National Consumer Credit Protection Act 2009*

*Retirement Savings Accounts Act 1997*

*Superannuation Industry (Supervision) Act 1993*

*Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2025*

The purpose of the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2025* (the Amending Regulations) is to make miscellaneous and technical amendments to regulations in the Treasury portfolio, including to laws with respect to corporations, credit, superannuation and taxation. The amendments demonstrate the Government's commitment to the care and maintenance of Treasury portfolio legislation.

The following provisions provide that the Governor-General may make regulations prescribing matters required or permitted by the relevant Acts to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to that Act (collectively, the Authorising Acts): section 1364 of the *Corporations Act 2001*, section 329 of the *National Consumer Credit Protection Act 2009*, section 200 of the *Retirement Savings Accounts Act 1997* and section 353 of the *Superannuation Industry (Supervision) Act 1993*.

Miscellaneous and technical amendments are periodically made to Treasury portfolio legislation to correct errors and unintended outcomes, make technical changes and improve the quality of Treasury portfolio legislation. The process was first supported by a recommendation of the 2008 Tax Design Review Panel, which considered ways to improve the quality of tax legislation. It has since been expanded to all Treasury legislation.

The Treasury consulted with the public on exposure draft legislation and accompanying explanatory materials. The amendments were publicly consulted between 20 January 2025 and 31 January 2025. From the consultation, one submission was received regarding the Amending Regulations. The submission suggested drafting refinements on the exposure draft legislation and the exposure draft explanatory statement. These suggestions have been considered and incorporated where appropriate.

Details of the Amending Regulations are set out in [Attachment A](#).

The Authorising Acts do not specify any conditions that need to be satisfied before the power to make the Amending Regulations may be exercised.

A statement of Compatibility with Human Rights is at [Attachment B](#).

The Office of Impact Analysis (OIA) has been consulted (OIA24-08814) and agreed that the proposals are minor and technical amendments that do not represent adverse impact on individuals and/or businesses. As such, an Impact Analysis (IA) is not required.

The Amending Regulations are a legislative instrument for the purposes of the *Legislation Act 2003* and are subject to disallowance under that Act.

The amendments to the *Corporations Regulations 2001*, the *National Consumer Credit Protection Regulations 2010*, the *Retirement Savings Accounts Regulations 1997* and *Superannuation Industry (Supervision) Regulations 1994* are exempt from sunseting under items 18, 42AA, 56B and 59A of the table in regulation 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

Once the amendments are made, the Amending Regulations will be automatically repealed under section 48A of the *Legislation Act 2003*.

Schedule 1 to the Amending Regulations commenced on the day after the instrument is registered on the Federal Register of Legislation.

**Details of the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2025***

**Section 1 – Name**

This section provides that the name of the regulations is the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2025* (the Amending Regulations).

**Section 2 – Commencement**

The Amending Regulations commence on the day after the instrument was registered on the Federal Register of Legislation.

**Section 3 – Authority**

The Amending Regulations are made under the *Corporations Act 2001* (Corporations Act), *National Consumer Credit Protection Act 2009* (Credit Act), *Retirement Savings Accounts Act 1997* (RSA Act), and the *Superannuation Industry (Supervision) Act 1993* (SIS Act) (collectively, the Authorising Acts).

**Section 4 – Schedule**

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

**Schedule 1 – Miscellaneous and technical amendments**

Legislative references are made to Schedule 1 to the Amending Regulations unless otherwise stated.

**Part 1 – Executive officer**

Part 1 amends the *Corporations Regulations 2001* (Corporations Regulations) to update the outdated term ‘executive officer’ to ‘senior manager’.

**Items [1 to 20] – Heading to regulation 7.2.02, subregulation 7.2.02(1), heading to regulation 7.2.03, subregulation 7.2.03(1), paragraph 7.2.03(2)(d), subparagraphs 7.2.11(c)(iii), 7.2.11(c)(iv), 7.2.12(c)(iv) and 7.2.14(f)(iii), heading to regulation 7.3.01, subregulation 7.3.01(1), heading to regulation 7.3.02, subregulation 7.3.02(1), paragraph 7.3.02(2)(d), subparagraphs 7.3.10(c)(iii), 7.3.10(c)(iv), 7.3.11(c)(iv) and 7.3.13(e)(iii), paragraphs 7.4.02(1)(a), 7.4.03(1)(a) and 7.5.04(3)(a), form 509H of Schedule 2 (note 1), and subparagraphs 8302(d)(i) and (ii) of Schedule 8**

Items 1 to 20 amend various provisions throughout the Corporations Regulations to replace outdated references to the term ‘executive officer’ with ‘senior manager’. In 2004, the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004* replaced the definition of ‘executive officer’ in section 9 of the *Corporations*

*Act 2001* with a new definition of ‘senior manager’. The Amending Regulations replace the outdated terminology to improve consistency.

## **Part 2 – Miscellaneous amendments to the *Corporations Regulations 2001***

Part 2 amends the Corporations Regulations to improve clarity of legislative references, correct errors and improve readability.

### **Item [21] – Notes to subregulation 1.0.03A(2)**

Item 21 amends the notes to subregulation 1.0.03A(2) of the Corporations Regulations so that they are identified as ‘Note 1’ and ‘Note 2’. This amendment allows for either note to be referenced individually and is editorial in nature.

### **Item [22] – Subparagraph 8A.5.10(4)(d)(i)**

Item 22 amends subparagraph 8A.5.10(4)(d)(i) of the Corporations Regulations to correct a typographical error. Subparagraph 8A.5.10(4)(d)(i) included an incorrect reference to ‘voluntarily deregistration’. This amendment corrects the reference by replacing ‘voluntarily’ with ‘voluntary’.

### **Item [23] – Part 10.18**

Item 23 repeals the heading to Part 10.18 of the Corporations Regulations. The substantive provisions of Part 10.18 contained transitional provisions which were repealed on 1 July 2013 by operation of former subregulation 10.18.01(3), which stated that the ‘regulation expires on 1 July 2013 as if the regulation had been repealed by another legislative instrument’. However, the Part heading remained. The amendment repeals the remaining heading. It contains no operative provisions.

### **Item [24] – Part 10.25 (the Part 10.25 inserted by item 1 of Schedule 10 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017*)**

Item 24 rennumbers a Part to avoid the duplication of headings in the Corporations Regulations.

The Corporations Regulations contained two Parts identified as ‘Part 10.25’. The amendment resolves this duplication by renumbering the Part 10.25 that was inserted by item 1 of Schedule 10 to the *Treasury Laws Amendment (Fair and Sustainable Superannuation) Regulations 2017* as Part 10.25A.

### **Item [25] – Note to item 211 of Schedule 10**

Item 25 corrects a typographical error in the note to item 211 of Schedule 10. The note contained an asterisk. Item 211 contained no corresponding asterisk. The amendment removes the asterisk from the note.

However, note that Schedule 10 of the Corporations Regulations has been substituted by the *ASIC Corporations (Disclosure of Fees and Costs) Instrument 2019/1070*, in accordance with subsection 1020F(1) of the Corporations Act.

### **Part 3 – National Consumer Credit Protection Regulations 2010**

Part 3 amends the *National Consumer Credit Protection Regulations 2010* (Credit Regulations) to update legislative references to outdated State and Territory legislation.

#### **Items [26 to 29] – Paragraphs 21(5)(a), (b), (c), (e), (f) and (g)**

Subregulation 21(5) of the Credit Regulations lists State and Territory legislation that regulates debt collection activities. Debt collectors are exempt from the requirement to hold an Australian credit licence under the *National Consumer Credit Protection Act 2009*, if they hold a licence or authorisation to engage in debt collection activities under legislation listed under subregulation 21(5) of the Credit Regulations and meet certain criteria. This exemption means debt collectors are not subject to dual licensing regimes.

Item 26 replaces references to repealed State legislation in paragraphs 21(5)(a) to (c) of the Credit Regulations with operative State legislation that regulate debt collection activities. The State legislation is:

- the *Fair Trading Act 1987* (NSW);
- the *Australian Consumer Law and Fair Trading Act 2012* (Vic.); and
- the *Debt Collectors (Field Agents and Collection Agents) Act 2014* (Qld).

Item 27 updates the reference to the South Australian legislation in paragraph 21(5)(e) of the Credit Regulations to correspond with the updated short title of that legislation, which was amended by the *Security and Investigation Agents (Miscellaneous) Amendment Act 2013* (SA). The correct short title of the South Australian legislation is the *Security and Investigation Industry Act 1995* (SA).

Item 28 updates the reference to the Tasmanian legislation in paragraph 21(5)(f) of the Credit Regulations to align with contemporary drafting practices. The reference to ‘Tas’ is updated to ‘Tas.’.

Item 29 inserts the year of enactment for the Northern Territory legislation in paragraph 21(5)(g) of the Credit Regulations. Since the passage of the *Interpretation Legislation Amendment Act 2018* (NT), citations to Northern Territory legislation have included the year of enactment for the legislation. The correct reference to the Northern Territory legislation is the *Commercial and Private Agents Licensing Act 1979* (NT).

### **Part 4 – Disability requirements**

Part 4 amends the *Retirement Savings Accounts Regulations 1997* (RSA Regulations) and the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) to remove references to the former *Disability Services Act 1986* and to repeal a redundant note.

The *Disability Services Act 1986* was repealed by item 1 of Schedule 1 to the *Disability Services and Inclusion (Consequential Amendments and Transitional Provisions) Act 2023*. The amendments ensure the continued operation of the provisions in the RSA Regulations and SIS Regulations as intended by inserting certain definitions previously found in the *Disability Services Act 1986* into the RSA Regulations and SIS Regulations.

### **Item [30] – Note to subregulation 4.24(3)**

Regulation 4.24 of the RSA Regulations provides for cashing requirements that apply on the death of the holder of a Retirement Savings Account (RSA) and refers to the former *Disability Services Act 1986*.

Item 30 repeals the redundant note to subregulation 4.24(3) of the RSA Regulations as the note refers to regulation 4.24, which is the regulation where the note is located.

### **Items [31 to 35] – Sub-subparagraph 4.24(3A)(b)(ii)(B), subregulations 4.24(3B), 4.24(3C) and 4.24(5)**

Items 31 to 35 amend the RSA Regulations to ensure the provisions operate as intended following the repeal of the *Disability Services Act 1986*. The amendments insert a new provision that corresponds with former subsection 8(1) of the *Disability Services Act 1986*.

Items 31 and 32 update the outdated reference to ‘disability of a kind described in subsection 8(1) of the *Disability Services Act 1986*’ in sub-subparagraph 4.24(3A)(b)(ii)(B) and subregulation 4.24(3B) to ‘a person with disability to whom subregulation (3C) applies’.

Item 33 amends the RSA Regulations to preserve the intended operation of the relevant provisions relating to disability by inserting a new subregulation 4.24(3C). The content of the new subregulation 4.24(3C) of the RSA Regulations is consistent with former subsection 8(1) of the *Disability Services Act 1986*, which will ensure the provision continues to operate as intended.

Item 34 amends the RSA Regulations to add subregulation 4.24(5), which provides for the meaning of ‘service’ in the regulation. The term ‘service’ appears in the new subregulation 4.24(3C) inserted by item 33. The meaning of ‘service’ is identical to the definition in former section 7 of the *Disability Services Act 1986*.

Item 35 inserts an application provision into Part 7 of the RSA Regulations to provide that the amendments of subregulations 4.24(3A) and (3B) apply to the specified events on or after 1 January 2024. This application provision is necessary to ensure continued operation of the provisions from when the *Disability Services Act 1986* was repealed. The retrospective application is necessary and appropriate to avoid a gap, which could mean that RSA providers would be unable to make payments under these provisions.

### **Items [36 to 40] – Sub-subparagraph 6.21(2A)(b)(ii)(B), subregulations 6.21(2B), 6.21(2C) and 6.21(4)**

Regulation 6.21 of the SIS Regulations provides for cashing requirements that apply on the death of a member of a regulated superannuation fund and makes reference to the former *Disability Services Act 1986*.

Items 36 to 40 amend the SIS Regulations to ensure the provisions operate as intended following the repeal of the *Disability Services Act 1986*. The amendments insert a new provision that corresponds with former subsection 8(1) of the *Disability Services Act 1986*.

Items 36 and 37 update the outdated reference to ‘disability’ in sub-subparagraph 6.21(2A)(b)(ii)(B) and subregulation 6.21(2B) to a person with disability to whom subregulation (2C) applies.

Subregulations 6.21(2A) and (2B) of the SIS Regulations deal with the form in which death benefits may be cashed to certain entitled recipients, including those with a disability of the kind described in former subsection 8(1) of the *Disability Services Act 1986*.

Item 38 amends the SIS Regulations to preserve the intended operation of the relevant provisions relating to disability by inserting a new subregulation 6.21(2C). The content of the new subregulation 6.21(2C) of the SIS Regulations is consistent with former subsection 8(1) of the *Disability Services Act 1986*. This will ensure the provision continues to operate as intended.

Item 39 amends the SIS Regulations to add subregulation 6.21(4), which provides for the meaning of ‘service’ in the regulation. The term ‘service’ appears in the new subregulation 6.21(2B) inserted by item 38. The meaning of ‘service’ is identical to the definition in former section 7 of the *Disability Services Act 1986*.

Item 40 inserts an application provision into Part 14 of the SIS Regulations to provide that the amendments of subregulations 6.21(2A) and (2B) apply to the specified events on or after 1 January 2024. This application provision is necessary to ensure continued operation of the provisions from when the *Disability Services Act 1986* was repealed. The retrospective application is necessary and appropriate to avoid a gap, which could mean that trustees would be unable to make payments under these provisions.

## **Part 5 – References to repealed provisions**

Part 5 amends the RSA Regulations and SIS Regulations to repeal redundant notes.

### **Item [41 to 44] – Note to subregulation 4.23A(2)**

Item 41 amends the RSA Regulations by repealing a redundant note to subregulation 4.23A(2).

Items 42 to 44 amend the SIS Regulations by repealing redundant notes to subregulations 6.20A(2), 6.20B(2) and 6.24A(2).

Prior to the amendments, these notes referenced regulation 2.17 of the *Migration Regulations 1994*, which was repealed by the *Migration Amendment (Visa Labels) Regulation 2015*. The corresponding primary law in the *Migration Act 1958* was repealed by the *Migration Legislation Amendment (Cessation of Visa Labels) Act 2016*.

Replacement provisions for these notes are not required as the move to electronic databases means that information can be easily located online, hence no specific legislation needs to be prescribed.

**Statement of Compatibility with Human Rights**

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

**Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2025**

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 Legislative Instrument**

The purpose of the *Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2025* (the Amending Regulations) is to make miscellaneous and technical amendments to regulations in the Treasury portfolio, including to laws with respect to corporations, credit, superannuation and taxation. The amendments demonstrate the Government's commitment to the care and maintenance of Treasury portfolio legislation.

Miscellaneous and technical amendments are periodically made to Treasury portfolio legislation to correct errors and unintended outcomes, make technical changes and improve the quality of Treasury portfolio legislation. The process was first supported by a recommendation of the 2008 Tax Design Review Panel, which considered ways to improve the quality of tax legislation. It has since been expanded to all Treasury legislation.

**Human rights implications**

The amendments in Part 4 of the Amending Regulations engage rights from the Convention on the Rights of Persons with Disabilities. Part 4 amends the *Retirement Savings Accounts Regulations 1997* (RSA Regulations) and the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) to remove references to the former *Disability Services Act 1986*.

The *Disability Services Act 1986* was repealed by item 1 of Schedule 1 to the *Disability Services and Inclusion (Consequential Amendments and Transitional Provisions) Act 2023*. The amendments ensure the continued operation of the provisions in the RSA Regulations and SIS Regulations as intended by inserting certain definitions previously found in the *Disability Services Act 1986* into the RSA Regulations and SIS Regulations.

The amendments in Part 4 promote the rights of persons with a disability because they ensure continued operation of existing law that provides for the form in which superannuation death benefits can be paid to certain eligible dependents, including those with a disability. The Amending Regulations do not make any substantive changes to the law and the definition of disability for the purpose of these provisions. The Amending Regulations continue to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs, and ensure that persons with disabilities are



not arbitrarily deprived of their property when they are an eligible dependent for the purpose of payments under the SIS Regulations and RSA Regulations.

### **Conclusion**

This Legislative Instrument is compatible with human rights because it promotes the rights of persons with a disability by ensuring the law relating to payment of superannuation death benefits to eligible dependents with a disability continues to operate as intended.