

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Treasurer and Minister for Financial Services**

*Corporations Act 2001*

*Superannuation Industry (Supervision Act) 1993*

*Treasury Laws Amendment (Paid Parental Leave Superannuation Consequential Amendments) Regulations 2025*

Section 1364 of the *Corporations Act 2001* (the Corporations Act) and section 353 of the *Superannuation Industry (Supervision) Act 1993* (the SIS Act) provide that the Governor-General may make regulations prescribing matters required or permitted by the Acts to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Acts.

The purpose of the *Treasury Laws Amendment (Paid Parental Leave Superannuation Consequential Amendments) Regulations 2025* (the Regulations) is to make consequential amendments to the *Corporations Regulations 2001* (the Corporations Regulations) and the *Superannuation Industry (Supervision) Regulations 1994* (the SIS Regulations) to support the amendments made by the *Paid Parental Leave Amendment (Adding Superannuation for a More Secure Retirement) Act 2024* (the PPL Super Act).

The PPL Super Act received Royal Assent on 1 October 2024 and amends the *Paid Parental Leave Act 2010* to add a superannuation payment under the Paid Parental Leave (PPL) scheme for births and adoptions on or after 1 July 2025. Under the PPL scheme, eligible parents and carers can receive Parental Leave Pay to take time off work after a birth or adoption. Under the amendments made by the PPL Super Act, eligible individuals can receive an additional payment of 12 per cent (the legislated superannuation guarantee rate from 1 July 2025) of the Parental Leave Pay as a superannuation contribution. Together with a further interest component, these amounts comprise of the PPL superannuation contribution (the PPLSC) paid annually by the Australian Taxation Office.

The Corporations Act requires issuers of financial products with an investment component (including superannuation funds) to provide clients with periodic statements for specific reporting periods. These statements must include information such as the opening and closing balances and the return on investment for the relevant reporting period, and the details prescribed by the regulations. The Regulations amend the Corporations Regulations to require superannuation funds (other than self-managed superannuation funds) and holders of a retirement savings account to include in their periodic statements, the amount of PPLSC allocated to the member (if any) during the relevant reporting period. They are able to do so by reporting the sum of any PPLSC and employer contributions made during the reporting period.

Under the Corporations Act, issuers or sellers of financial products must confirm certain transactions with people who acquire the product. The confirmation must identify the issuer and the holder of the product (i.e., the acquirer) and include information such as the date of the transaction and a description of it. Certain transactions are exempt from this requirement, including those prescribed by the regulations. The Regulations amend the

Corporations Regulations to exempt transactions in relation to PPLSC made under the *Paid Parental Leave Act 2010* (as amended by the PPL Super Act). This amendment ensures PPLSCs are treated consistently with transactions in relation to other Government superannuation co-contributions, which are exempt from this requirement.

The SIS Regulations set out the minimum benefits for members of defined benefit superannuation funds. Benefit certificates specify the minimum benefit for a class of defined benefit fund members. However, the minimum benefits for a member, who does not belong to a class to which a benefit certificate applies, consist of: their member-financed benefits (generally, the contributions made by that member), mandated employer-financed benefits, any Government co-contribution benefits (including any investment earnings on them), and any contributions the trustee allocates to that member (as required under regulation 7.11 of the SIS Regulations). The Regulations amend the SIS Regulations so that minimum benefits for such members also includes PPLSCs.

The SIS Regulations also stipulate that a beneficiary's right or claim to accrued benefits (and the amount of these accrued benefits) must not be adversely altered by amendments to the superannuation fund's governing rules or by any other act carried out, or consented to, by the trustee. The SIS Regulations exempt certain alterations that are necessary for superannuation funds or trustees to comply with their legislative obligations. The Regulations add an exemption for alterations that enable the trustee to be reimbursed if they have paid, or will pay back, any overpaid amounts of PPLSC that the Commissioner of Taxation has, or will, recover under the PPL scheme.

The Corporations Act and SIS Act do not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Australian Taxation Office and the Department of Social Services were consulted in the course of developing the Regulations and no significant concerns were raised. Broader public consultation was not undertaken due to the amendments being of a minor and technical nature, consequential to broader law changes that have already taken effect.

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

The Regulations are subject to the automatic repeal process under section 48A of the Legislation Act. This section provides that where a legislative instrument only repeals or amends another instrument, without making any application, saving or transitional provisions relating to the amendment or repeal, that instrument is automatically repealed. The Regulations amend the Corporations Regulations and the SIS Regulations, which are both exempt from sunset, as set out in items 18(d) and 59A respectively of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. These Regulations both contain extensive regulatory requirements and are subject to frequent review and amendment, and have been exempt from sunset *inter alia* on the basis of the need to provide regulatory certainty.

The Regulations commenced on the day after they were registered on the Federal Register of Legislation.

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

A Statement of Compatibility with Human Rights is at Attachment B.

Under paragraph 7(3)(b) of the *Superannuation (Objective) Act 2024*, an Objective of Superannuation Statement of Compatibility is not required for the Regulations. The Regulations deal with matters of a minor or technical nature, as they make consequential amendments to support the PPL Super Act.

**Details of the *Treasury Laws Amendment (Paid Parental Leave Superannuation Consequential Amendments) Regulations 2025***

**Section 1 – Name**

This section provides that the name of the regulations is the *Treasury Laws Amendment (Paid Parental Leave Superannuation Consequential Amendments) Regulations 2025* (the Regulations).

**Section 2 – Commencement**

Schedule 1 to the Regulations commenced on the day after the Regulations are registered on the Federal Register of Legislation.

**Section 3 – Authority**

The Regulations are made under the *Corporations Act 2001* (the Corporations Act) and the *Superannuation Industry (Supervision) Act 1993* (the SIS Act).

**Section 4 – Schedule**

This section provides that each instrument specified in the Schedules to this instrument are 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.

***Corporations Regulations 2001 (the Corporations Regulations)***

Subsection 1017D(1) of the Corporations Act requires issuers of certain financial products with an investment component to provide clients with a periodic statement. The contents of this statement are set out in subsection 1017D(5), including details prescribed by the regulations at paragraph 1017D(5)(g). Item 1 of the Regulations amends paragraph 7.9.20(1)(e) of the Corporations Regulations to require superannuation funds (other than self-managed superannuation funds) to report an aggregate figure in their periodic statements that is the sum of the relevant member's employer superannuation contribution and any amounts of Paid Parental Leave superannuation contributions (PPLSC) they received (if any) during the relevant reporting period. If the member did not receive any PPLSCs during this reporting period, superannuation funds only need to report, in the periodic statement, the amount of employer contributions that were made for that member during the relevant reporting period. Item 1 also amends paragraph 7.9.26(1)(b) in the Corporations Regulations to impose the same requirements for periodic statements provided by holders of a retirement savings account (RSA). This amendment ensures that periodic statements provide fulsome information to members about the transactions in relation to their superannuation accounts. An aggregate amount is utilised to avoid requiring superannuation funds to implement significant systems changes to facilitate line-reporting.

Subsections 1017F(1) to (3) of the Corporations Act require issuers or sellers of financial products to confirm certain transactions with clients who acquired a financial product as part of that transaction. Subsection 1017F(4) exempts certain transactions from this requirement, including those prescribed by the regulations at paragraph 1017F(4)(e).

Item 2 of the Regulations inserts new paragraph 7.9.62(4)(i) to the Corporations Regulations to create a new exemption for transactions relating to a superannuation product or an RSA and the payment of a PPLSC under section 115B of the *Paid Parental Leave Act 2010* from the requirement in the Corporations Act. Section 115B of the *Paid Parental Leave Act 2010* sets out who is eligible to be paid a PPLSC. In effect, trustees of superannuation funds will not need to specifically confirm with, or notify, members each time a PPLSC has been paid into their superannuation account. This treatment of PPLSCs is consistent with transactions relating to a superannuation product or RSA and the payment of other Government superannuation co-contributions (an existing exemption at regulation 7.6.62(4)(h)). Such information will be provided through the periodic statement given to members.

### ***Superannuation Industry (Supervision) Regulations 1994 (the SIS Regulations)***

Regulation 5.04 of the SIS Regulations sets out the minimum benefits for regulated superannuation funds. Subregulation 5.04(3) specifies the minimum benefits for defined benefit funds, including if no benefit certificate applies to the relevant member. Under such circumstances, the minimum benefits for these members consist of their member-financed benefits, their mandated employer-financed benefits, Government superannuation co-contribution benefits and any investment earnings on them, and any other amount allocated under SIS regulation 7.11. Item 3 of the Regulations adds a new paragraph 5.04(3)(v) stipulating that any PPLSC amounts are also included in the minimum benefits of defined benefit funds for members to which a benefit certificate does not apply.

Subsection 31(1) of the SIS Act provides for the regulations to prescribe standards for the operation of regulated superannuation funds. Subregulation 13.16(1) of the SIS Regulations sets an operating standard that prohibits regulated superannuation funds from amending their governing rules or for trustees to carry out, or consent to, an act that adversely alters a beneficiary's right or claim to accrued benefits. Subregulation 13.16(2) lists alterations that are exempt from this operating standard, if they are necessary to ensure compliance with various legislative requirements. Item 4 of the Regulations inserts new paragraph 13.16(2)(h) to the SIS Regulations exempting alterations that enable the trustee to be reimbursed for an amount paid, or to be paid, under section 115P of the *Paid Parental Leave Act 2010*. Section 115P enables the Commissioner of Taxation to recover any amount of overpaid PPLSC.

**Statement of Compatibility with Human Rights**

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

***Treasury Laws Amendment (Paid Parental Leave Superannuation Consequential 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 (Paid Parental Leave Superannuation Consequential Amendments) Regulations 2025* (the Legislative Instrument) is to make consequential amendments to the *Corporations Regulations 2001* (the Corporations Regulations) and the *Superannuation Industry (Supervision) Regulations 1994* (the SIS Regulations) to ensure consistency with the *Paid Parental Leave Amendment (Adding Superannuation for a More Secure Retirement) Act 2024* (the PPL Super Act). The PPL Super Act amends the *Paid Parental Leave Act 2010* to add a superannuation contribution on the Paid Parental Leave scheme for births and adoptions on or after 1 July 2025.

These consequential amendments ensure that Paid Parental Leave superannuation contributions (PPLSCs) are treated in the Corporations Regulations and the SIS Regulations consistently with other Government superannuation co-contributions.

This Legislative Instrument amends the Corporations Regulations to require superannuation funds (other than self-managed superannuation funds) and holders of a retirement savings account to report PPLSCs in the periodic statements they provide to members. This Legislative Instrument also amends the Corporations Regulations so superannuation trustees will not need to confirm with members each time a member has been paid a PPLSC into their superannuation account.

This Legislative Instrument also amends the SIS Regulations to ensure that the minimum benefits for members of a defined benefit superannuation fund, for which a benefit certificate does not apply, also include any PPLSCs paid to that member.

The PPL Super Act enables the Commissioner of Taxation to recover overpaid PPLSC from superannuation providers. The *Superannuation Industry (Supervision) Act 1993* prohibits any amendments to the governing rules of superannuation funds, or any acts carried out, or consented to, by the trustee that adversely alter a beneficiary's right or claim to accrued benefits. This Legislative Instrument exempts from this prohibition, alterations to a superannuation fund's governing rules that enable the trustee to be reimbursed if they have paid, or will pay back, any overpaid amounts of PPLSC that the Commissioner of Taxation has, or will, recover.

## **Human rights implications**

This Legislative Instrument engages the same rights as the primary legislation, the PPL Super Act, by making amendments to subordinate legislation that support the PPLSC scheme. This Legislative Instrument similarly supports access to just and favourable work conditions and contributes towards the family's financial security in old age for eligible parents who take time off work after the birth or adoption of a child. It does so by ensuring that superannuation members are notified of the PPLSCs that they are paid through periodic statements, and that minimum benefits for defined benefit schemes, without an applicable benefit certificate, include PPLSCs. These amendments help ensure that PPLSC recipients are appropriately appraised of their PPLSC payments and that members of defined benefit schemes, without an applicable benefit certificate, still receive PPLSC amounts as part of their minimum benefits.

The amendments that carve PPLSCs out from the list of transactions that must be confirmed with members do not limit any of these rights, as they do not prevent members from receiving the PPLSC. Trustees do not need to notify members every time a PPLSC has been made to a member's account, instead, members are notified through the periodic statements that they receive after each reporting period, reducing the regulatory burden on trustees.

This Legislative Instrument enables superannuation funds or trustees to limit the ability of members to claim accrued benefits by excluding overpaid amounts of PPLSC. This limitation is necessary and reasonable to ensure trustees do not bear the ultimate financial burden when the Commissioner of Taxation recovers overpayments of PPLSC under the PPL Super Act. The limitation is proportionate as members' ability to claim accrued benefits is limited to the amount of PPLSC they are entitled to under the PPL Super Act, and to the extent that the trustee can be reimbursed for overpaid PPLSC amounts they have paid, or will pay, to the Commissioner of Taxation.

## **Conclusion**

The Legislative Instrument is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate, to ensure that overpaid amounts of PPLSC are able to be recovered by the Government.