

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Measures
for Consultation) Bill 2021:
Miscellaneous and Technical
Amendments No. 2**

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Schedule 1, Part 1	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	
3. Schedule 1, Part 3	The seventh day after this Act receives the Royal Assent.	
4. Schedule 1, Part 4	Immediately after the commencement of Part 2 of Schedule 2 to the <i>National Consumer Credit Protection Amendment (Mandatory Credit Reporting and Other Measures) Act 2021</i> .	1 July 2022

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Schedule 1—Amendments

Part 1—Amendments commencing day after Royal Assent

Australian Prudential Regulation Authority Supervisory Levies Determination 2021

1 Section 9-2 (cell at table item 3, column headed “Minimum restricted levy amount (\$)”)

Omit “7,50”, substitute “7,500”.

2 At the end of the instrument

Add:

Part 10—Application provisions

10-1 Amendment of section 9-2

The amendment of section 9-2 made by Part 1 of Schedule 1 to the *Treasury Laws Amendment (Measures for Consultation) Act 2021* applies for the financial year beginning on 1 July 2021.

Competition and Consumer Act 2010

3 Section 4B

Before “For”, insert “(1)”.

4 At the end of section 4B

Add:

- (2) If it is alleged in any proceeding under this Act, or in any other proceeding in respect of a matter arising under this Act, that a person was a consumer in relation to particular goods or services, it is presumed, unless the contrary is established, that the person was a consumer in relation to those goods or services.

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5 Application

The amendments of section 4B of the *Competition and Consumer Act 2010* made by this Part apply in relation to an allegation in a proceeding commenced on or after the commencement of this Part (regardless of when the conduct to which the allegation relates occurred).

6 Paragraph 76(1A)(cb)

Omit “the amount of that pecuniary penalty”, substitute “the lesser of the amount of that pecuniary penalty and \$10,000,000”.

7 Paragraph 76(1B)(aab)

Omit “the amount of that pecuniary penalty”, substitute “the lesser of the amount of that pecuniary penalty and \$500,000”.

Corporations Act 2001

8 At the end of subsection 912D(3)

Add:

; (e) an obligation of a representative of the licensee under the financial services law, so far as it relates to provisions of this Act or the ASIC Act referred to in paragraphs (a), (b), (ba) and (c) of the definition of *financial services law* in section 761A.

9 At the end of section 912D

Add:

- (6) Regulations for the purposes of paragraph (4)(b) may prescribe a civil penalty provision to the extent that it relates to the following:
- (a) contraventions of specified provisions;
 - (b) specified matters.

10 Subsection 916B(3)

Repeal the subsection (not including the note), substitute:

- (3) An authorised representative (*authoriser*) of a financial services licensee may, in that capacity, give an individual a written notice authorising that individual, for the purposes of this Chapter, to provide a specified financial service or financial services on behalf of the licensee, but only if the licensee consents in writing given to the authoriser.

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11 After subsection 916B(3)

Insert:

(3A) An individual who is authorised as mentioned in subsection (3) cannot, in that capacity, authorise another person under subsection (3).

12 Subsection 916B(5A)

Omit “a body corporate”, substitute “an authoriser”.

13 Paragraph 916B(7)(b)

Omit “the body corporate”, substitute “the authoriser”.

14 Subsection 916B(9)

Omit “the body corporate”, substitute “the authoriser”.

15 Paragraph 946C(3)(c)

Omit “5 days”, substitute “5 business days”.

16 Paragraph 1019B(3)(b)

Omit “5th day”, substitute “fifth business day”.

17 In the appropriate position in Chapter 10

Insert:

Part 10.62—Application provisions relating to Schedule 1 to the Treasury Laws Amendment (Measures for Consultation) Act 2021

1689 Definitions

In this Part:

amending Part means Part 1 of Schedule 1 to the *Treasury Laws Amendment (Measures for Consultation) Act 2021*.

commencement day means the day the amending Part commences.

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1690 Application of paragraph 912D(3)(e)

(1) Paragraph 912D(3)(e), as inserted by the amending Part, applies in relation to a reportable situation that arises on or after 1 October 2021 that relates to a breach of an obligation referred to in that paragraph.

(2) If:

(a) due to subsection (1), a financial services licensee is required, under a provision in Division 3 of Part 7.6, to do a thing in relation to a reportable situation that arose before the commencement day; and

(b) that thing must be done within a period of a specified number of days after the licensee first knows about, or is reckless with respect to, particular matters; and

(c) that period began before the commencement day;
then, that requirement is taken to be a requirement to do the thing within the specified number of days after the commencement day.

1691 Application of subsection 912D(6)

Subsection 912D(6), as inserted by the amending Part, applies in relation to a reportable situation that arises on or after the commencement day.

Foreign Acquisitions and Takeovers Act 1975

18 Paragraph 62A(3)(b)

Omit “subsection (1)”, substitute “subsection (2)”.

19 Subsection 76(4)

Omit “paragraph (1)(c)”, substitute “subparagraph (1)(b)(i)”.

Income Tax Rates Act 1986

20 At the end of subsection 3A(1)

Add:

; or (d) a Subclass 408 (Temporary Activity) visa if that visa was granted to allow the individual to remain in Australia after the expiry of a visa of a kind described in paragraph (a), (b) or (c) that was held by the individual.

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21 Application

The amendment of subsection 3A(1) of the *Income Tax Rates Act 1986* applies to an individual in relation to:

- (a) an income year, in relation to which the individual is a non-resident taxpayer, that begins on or after 1 July 2019; and
- (b) an income year, in relation to which the individual is a resident taxpayer, that begins on or after the first 1 July to occur after the day this Part commences.

National Consumer Credit Protection Act 2009

22 Paragraph 50A(3)(c)

Repeal the paragraph, substitute:

- (c) the obligation under paragraph 47(1)(d), so far as it relates to Commonwealth legislation that is:
 - (i) covered by paragraph (d) of the definition of *credit legislation* in subsection 5(1); and
 - (ii) specified in regulations made for the purposes of this subparagraph.

23 At the end of subsection 50A(3)

Add:

- ; (d) an obligation of a representative of the licensee under this Act, the Transitional Act, Division 2 of Part 2 of the ASIC Act or regulations made for the purpose of that Division.

24 After subsection 50A(5)

Insert:

- (5A) Regulations for the purposes of paragraph (4)(b) may prescribe a civil penalty provision to the extent that it relates to the following:
 - (a) contraventions of specified provisions;
 - (b) specified matters.

National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009

25 In the appropriate position

Insert:

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Schedule 20—Application provisions relating to Schedule 1 to the Treasury Laws Amendment (Measures for Consultation) Act 2021

1 Definitions

In this Schedule:

amending Part means Part 1 of Schedule 1 to the *Treasury Laws Amendment (Measures for Consultation) Act 2021*.

commencement day means the day the amending Part commences.

2 Application of paragraph 50A(3)(d) of the National Credit Act

(1) Paragraph 50A(3)(d) of the National Credit Act, as inserted by the amending Part, applies in relation to a reportable situation that arises on or after 1 October 2021 that relates to a breach of an obligation referred to in that paragraph.

(2) If:

(a) due to subitem (1), a licensee is required, under a provision in Division 5 of Part 2-2 of the National Credit Act, to do a thing in relation to a reportable situation that arose before the commencement day; and

(b) that thing must be done within a period of a specified number of days after the licensee first knows about, or is reckless with respect to, particular matters; and

(c) that period began before the commencement day;

then, that requirement is taken to be a requirement to do the thing within the specified number of days after the commencement day.

3 Application of paragraph 50A(3)(c) and subsection 50A(5) of the National Credit Act

Paragraph 50A(3)(c) and subsection 50A(5) of the National Credit Act, as inserted by the amending Part, apply in relation to a reportable situation that arises on or after the commencement day.

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Payment Times Reporting Act 2020

26 Section 5 (definition of *volunteering entity*)

Omit “paragraph 7(1)(b)”, substitute “subsection 7(1A)”.

27 Subsection 7(1)

Repeal the subsection, substitute:

(1) A constitutionally covered entity becomes a *reporting entity* at the start of an income year for the entity if the entity is covered by subsection (2).

(1A) If a constitutionally covered entity gives the Regulator notice in writing that the entity elects to become a reporting entity, the entity becomes a *reporting entity* when the notice is given.

Note: A reporting entity that is a reporting entity only because of an election under subsection (1A) is a *volunteering entity*: see section 5.

28 Section 8

Omit “Each”, substitute “(1) Subject to subsections (2) and (3), each”.

29 At the end of section 8

Add:

(2) If a volunteering entity becomes a reporting entity within the first 6 months of an income year for the entity, the first 6 months of that income year is not a reporting period for the entity.

(3) If a volunteering entity becomes a reporting entity after the first 6 months of an income year for the entity, no period in that income year is a reporting period for the entity.

30 Application of volunteering entity amendments

The amendments of sections 5, 7 and 8 of the *Payment Times Reporting Act 2020* made by this Part apply in relation to an election to become a reporting entity given by an entity on or after the commencement of this Part.

31 Paragraph 14(1)(h)

Repeal the paragraph, substitute:

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1 (h) state the proportion, determined by total value, of all invoices
2 paid by the entity during the reporting period that were small
3 business invoices; and

4 **32 Application**

5 Paragraph 14(1)(h) of the *Payment Times Reporting Act 2020*, as
6 inserted by this Part, applies in relation to a payment times report given
7 on or after the commencement of this Part, including a payment times
8 report for a reporting period that began before that commencement.

9 **33 Paragraphs 27(3)(a) and (b)**

10 Repeal the paragraphs.

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1 **Part 2—Amendments commencing first day of next**
2 **quarter**

3 ***Income Tax Assessment Act 1997***

4 **34 Paragraph 840-905(b)**

5 Repeal the paragraph, substitute:

- 6 (b) that you *derive at a time when you are a foreign resident
7 and:
8 (i) you hold a Temporary Work (International Relations)
9 Visa (subclass 403); or
10 (ii) you hold a Temporary Activity Visa (subclass 408)
11 having previously held a Temporary Work
12 (International Relations) Visa (subclass 403).

13 **35 Application**

14 The amendment of paragraph 840-905(b) of the *Income Tax Assessment*
15 *Act 1997* made by this Part applies in relation to income derived on or
16 after 1 July 2019.

17 ***Taxation Administration Act 1953***

18 **36 Paragraph 12-319A(b) of Schedule 1**

19 Repeal the paragraph, substitute:

- 20 (b) at a time when the employee is a foreign resident and:
21 (i) the employee holds a Temporary Work (International
22 Relations) Visa (subclass 403); or
23 (ii) the employee holds a Temporary Activity Visa
24 (subclass 408) having previously held a Temporary
25 Work (International Relations) Visa (subclass 403).

26 **37 Application**

27 The amendment of paragraph 12-319A(b) of Schedule 1 to the *Taxation*
28 *Administration Act 1953* made by this Part applies in relation to salary,
29 wages, commission, bonuses or allowances paid on or after 1 July 2019.

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1 **Part 3—Amendments commencing 7 days after**
2 **Royal Assent**

3 *Income Tax Assessment Act 1936*

4 **38 Paragraph 160ZZZA(1)(c)**

5 Omit “LIBOR” (wherever occurring), substitute “qualified rate”.

6 **39 Subsection 160ZZZA(2)**

7 Omit “to the LIBOR”, substitute “to the qualified rate”.

8 **40 Paragraph 160ZZZA(2)(a)**

9 Omit “LIBOR”, substitute “qualified rate”.

10 **41 Paragraph 160ZZZA(2)(b)**

11 Omit “no LIBOR”, substitute “no qualified rate”.

12 **42 Subparagraph 160ZZZA(2)(b)(i)**

13 Omit “the LIBOR”, substitute “the qualified rate”.

14 **43 Subparagraph 160ZZZA(2)(b)(ii)**

15 Omit “LIBORs”, substitute “qualified rates”.

16 **44 Subparagraph 160ZZZA(2)(b)(ii)**

17 Omit “LIBOR”, substitute “qualified rates”.

18 **45 Paragraph 160ZZZA(3)(a)**

19 Repeal the paragraph, substitute:

- 20 (a) a reference to the qualified rate, in relation to a particular
21 time, is a reference to the rate of interest applicable at that
22 time, as determined for the particular currency under an
23 instrument made under subsection (4); and

24 **46 At the end of section 160ZZZA**

25 Add:

- 26 (4) The Commissioner may, by legislative instrument, determine a rate
27 of interest, or a manner of working out a rate of interest, for a
28 currency.

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1 (5) Despite subsection 14(2) of the *Legislation Act 2003*, a
2 determination under subsection (4) of this section may make
3 provision in relation to a matter by applying, adopting or
4 incorporating, with or without modification, any matter contained
5 in an instrument or other writing as in force or existing from time
6 to time.

7 *Payment Times Reporting Act 2020*

8 **47 Subsection 14(2)**

9 Repeal the subsection, substitute:

10 (2) The rules may prescribe the method for working out any of the
11 matters mentioned in paragraph (1)(e), (f), (g) or (h), including in
12 relation to the issue or payment of small business invoices.

13 **48 Application**

14 Subsection 14(2) of the *Payment Times Reporting Act 2020*, as inserted
15 by this Part, applies in relation to a payment times report given on or
16 after the commencement of this Part including a payment times report
17 for a reporting period that began before that commencement.

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Part 4—Amendments commencing on 1 July 2022

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National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009

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49 Item 23 of Schedule 9

Omit “23”, substitute “1”.