

EXPOSURE DRAFT

2019-2020-2021

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Treasury Laws Amendment (Modernising Business Communications) Bill 2021

No. , 2021

(Treasury)

**A Bill for an Act to amend the law relating to
corporations, consumer credit and other matters in
the Treasury portfolio, and for related purposes**

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1 column 2 of the table. Any other statement in column 2 has effect
2 according to its terms.

3

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.	
2. Schedule 1	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 2 to the <i>Corporations (Meetings and Documents) Act 2021</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
3. Schedule 2, Part 1	The day after the end of the period of 1 month beginning on the day this Act receives the Royal Assent.	
4. Schedule 2, Part 2	The day after this Act receives the Royal Assent.	
5. Schedule 3, Part 1	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.	
6. Schedule 3, Part 2	The later of: (a) immediately after the commencement of the provisions covered by table item 5; and (b) immediately after the commencement of item 563 of Schedule 1 to the <i>Treasury</i>	

2 *Treasury Laws Amendment (Modernising Business Communications) No. , 2021*
Bill 2021

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Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details

*Laws Amendment (Registries
Modernisation and Other Measures) Act
2020.*

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

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

7 **3 Schedules**

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9 repealed as set out in the applicable items in the Schedule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

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Schedule 1 Documents and meetings under the Corporations Act 2001

1 **Schedule 1—Documents and meetings under**
2 **the Corporations Act 2001**
3

4 *Corporations Act 2001*

5 **1 Subsections 110(1), (2) and (3)**

6 Repeal the subsections, substitute:

7 *Signing of documents under this Act*

- 8 (1) This Division applies to a document (including a deed) required or
9 permitted to be signed by a person under this Act.

10 Note 1: A document is any record of information: see the definition of
11 *document* in section 9.

12 Note 2: This Division provides that a person may sign a document in physical
13 form or electronic form: see subsection 110A(1).

14 *Signing of documents by or on behalf of company*

- 15 (2) Without limiting subsection (1), this Division applies to a
16 document (including a deed) to be signed by a person:

17 (a) exercising the powers of a company under section 126
18 (making of contracts and execution of documents by an
19 agent); or

20 (b) under section 127 (execution of documents by a company).

21 **2 At the end of section 110B**

22 Add:

23 Note: This section does not prevent ASIC or the Registrar from refusing to
24 receive or register the document on any other basis. In particular, there
25 are lodgement requirements (see, for example, Chapter 2P) and ASIC
26 or the Registrar may refuse to receive or register a document if those
27 requirements are not met.

28 **3 Division 2 of Part 1.2AA (heading)**

29 Omit “to be sent to, among others, directors, members and
30 auditors”.

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Documents and meetings under the Corporations Act 2001 **Schedule 1**

1 **4 Section 110C**

2 Repeal the section, substitute:

3 **110C Documents to which this Division applies**

4 *Sending documents*

- 5 (1) This Division applies to any document covered by subsection (3)
6 or (4) that is required or permitted under this Act to be sent by a
7 person or entity (the *sender*) to another person or entity (the
8 *recipient*).
- 9 (2) A reference in subsection (1) to an entity includes a reference to a
10 disclosing entity.

11 *Covered documents*

- 12 (3) This subsection covers a document that is required or permitted be
13 sent by the sender to the recipient under:
14 (a) this Chapter; or
15 (b) Chapters 2A to 2M; or
16 (c) Chapters 5 to 5D; or
17 (d) Chapter 6, 6A, 6B, 6C or 6D; or
18 (e) Chapter 8 or 8A; or
19 (f) Chapter 9; or
20 (g) Schedule 2; or
21 (h) any other provision of this Act, to the extent that it relates to
22 the provisions mentioned in paragraphs (a) to (g).
- 23 (4) This subsection covers a document that is in a class of documents
24 specified in regulations made for the purposes of this subsection.
- 25 Note: For when and where a document is *sent* and *received* by electronic
26 communication, see sections 105A and 105B.
- 27 (5) However, this Division does not apply to a document that is
28 required or permitted under this Act to be sent by or to ASIC, the
29 Registrar or the Takeovers Panel.

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Schedule 1 Documents and meetings under the Corporations Act 2001

1 *References to sending documents*

2 (6) This Division applies to a requirement or permission to send a
3 document, whether the expression *send, give, serve* or *dispatch*, or
4 any other expression, is used.

5 **Paragraph 110D(3)(a)**

6 Repeal the paragraph, substitute:

7 (a) is a report mentioned in section 314 or 314A (which deal
8 with annual financial reporting to members); or

9 **Section 110E (heading)**

10 Omit “**Member’s election**”, substitute “**Election**”.

11 **7 At the end of subsection 110E(1)**

12 Add:

13 ; or (e) where the sender is the operator of a notified foreign passport
14 fund—the recipient is an Australian member of the fund; or

15 (f) where the sender is the bidder under a takeover bid—the
16 recipient is a holder of securities in the target for the bid; or

17 (g) the recipient is of a kind specified in regulations made for the
18 purposes of this paragraph.

19 **8 At the end of subsection 110E(3)**

20 Add:

21 Note: The documents in relation to which an election may be made include,
22 for example, documents required or permitted to be sent under this
23 Act in relation to a takeover bid: see section 648CB.

24 **9 Paragraph 110E(5)(a)**

25 Repeal the paragraph, substitute:

26 (a) reports mentioned in section 314 or 314A (which deal with
27 annual financial reporting to members);

28 **10 After subsection 110F(4)**

29 Insert:

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Documents and meetings under the Corporations Act 2001 **Schedule 1**

1 *No current address for sending documents in elected manner*

2 (4A) Subsection (2) does not apply if:

3 (a) the sender reasonably believes that none of the addresses
4 (including any electronic addresses) for the recipient known
5 to the sender are a current address for the recipient to be sent
6 the document in a manner that complies with the election;
7 and

8 (b) the sender sends the document to the recipient in a manner
9 that does not comply with the election, as mentioned in
10 paragraph (1)(b), other than in the manner mentioned in
11 paragraph 110D(1)(e); and

12 (c) if the document is a report mentioned in section 314A
13 (annual reporting by notified foreign passport funds)—the
14 requirement (if applicable) in paragraph 314A(4)(b) (about
15 sending report in elected language) is satisfied.

16 Note: A defendant bears an evidential burden in relation to the matter in
17 subsection (4A), see subsection 13.3(3) of the *Criminal Code*.

18 **11 At the end of subsection 110J(3)**

19 Add:

20 ; or (e) where the sender is the operator of a notified foreign passport
21 fund—the recipient is an Australian member of the fund; or

22 (f) where the sender is the bidder under a takeover bid—the
23 recipient is a holder of securities in the target for the bid; or

24 (g) the recipient is of a kind specified in regulations made for the
25 purposes of this paragraph.

26 **12 After section 110J**

27 Insert:

28 **110JA Sender does not need to send document if member** 29 **uncontactable**

30 *Sender taken to send document*

31 (1) Subsection (2) applies if:

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Schedule 1 Documents and meetings under the Corporations Act 2001

- 1 (a) the sender is required or permitted to send a document to
2 which this Division applies to the recipient under a provision
3 of this Act; and
4 (b) the conditions in subsection (3) are satisfied; and
5 (c) any of the following apply:
6 (i) the sender is a company and the recipient is a member
7 of the company;
8 (ii) the sender is the responsible entity of a registered
9 scheme and the recipient is a member of the scheme;
10 (iii) the sender is a disclosing entity mentioned in
11 subsection 111AC(1) and the recipient is a member of
12 the disclosing entity;
13 (iv) the sender is a disclosing entity mentioned in
14 subsection 111AC(2) and the recipient is a member of
15 the managed investment scheme mentioned in that
16 subsection; and
17 (d) the sender sends the document in accordance with the
18 provision mentioned in paragraph (a) to one or more other
19 members of a kind mentioned in whichever of
20 subparagraphs (c)(i) to (iv) applies.
- 21 (2) For the purposes of the provision mentioned in paragraph (1)(a):
22 (a) the sender is taken to send the document, as required or
23 permitted in accordance with that provision, at the later of:
24 (i) the time all the conditions in paragraphs (3)(a), (b) and
25 (c) are first satisfied; and
26 (ii) the time the sender first sends the document to one or
27 more other members as mentioned in paragraph (1)(d);
28 and
29 (b) the recipient is taken to receive the document when it is taken
30 to be sent under paragraph (a) of this subsection.
- 31 *Conditions for relief*
- 32 (3) For the purposes of paragraph (1)(b), the conditions are that:
33 (a) the sender has received notification in relation to each of the
34 following addresses that indicates it is not a current address
35 for the recipient:

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- 1 (i) if the sender is a company or responsible entity of a
2 registered scheme—the recipient’s address in the
3 company or scheme’s register of members;
4 (ii) any other addresses for the recipient, including any
5 electronic addresses for receiving electronic
6 communications, known to the sender; and
7 (b) the sender reasonably believes that none of those addresses
8 are a current address for the recipient; and
9 (c) the sender is unable, after taking reasonable steps, to
10 ascertain a current address for the recipient; and
11 (d) if the period of 12 months that starts on the day all conditions
12 in paragraphs (a), (b) and (c) are first satisfied has ended—
13 within the last 6 months of that period, the sender took
14 reasonable steps to advise the recipient that:
15 (i) the sending of documents to which this Division applies
16 to the recipient by the sender is suspended; and
17 (ii) although that sending has been suspended, it will be
18 resumed if the recipient provides a current address
19 (which may be an electronic address) for being sent
20 those documents.
- 21 (4) For the purposes of paragraph (3)(c), the sender has not taken
22 reasonable steps unless the sender has attempted to communicate
23 with the recipient using all contact details for the recipient known
24 to the sender.

25 **13 Paragraph 110K(3)(a)**

26 Omit “paragraph 110E(1)(c) or (d)”, substitute “subsection (3A)”.

27 **14 After subsection 110K(3)**

28 Insert:

- 29 (3A) For the purposes of paragraph (3)(a), the members are:
30 (a) for a disclosing entity mentioned in subsection 111AC(1)—
31 the members of the disclosing entity; and
32 (b) for a disclosing entity mentioned in subsection 111AC(2)—
33 the members of the managed investment scheme mentioned
34 in that subsection.

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- 1 (3B) The operator of a notified foreign passport fund must:
2 (a) send the Australian members of the fund, at least once in
3 each financial year, a notice setting out the matters
4 mentioned in subsection (4); or
5 (b) make such a notice readily available on a website.

6 **15 At the end of subsection 110K(4)**

- 7 Add:
8 ; and (d) for a notified foreign passport fund—Australian members’
9 rights to elect to be sent reports mentioned in section 314A in
10 English or in an official language of the home economy of
11 the fund (see subsections 314A(3) and (4)).

12 **16 Section 248D**

13 Repeal the section, substitute:

14 **248D Use of technology**

- 15 (1) A directors’ meeting may be called or held using any technology.
16 (2) However, if technology is used to call or hold a directors’ meeting,
17 the technology must be reasonable.

18 **17 Subsection 254P(2)**

19 Omit “The notice must be sent by post.”.

20 **18 Paragraphs 283EA(3)(b) and (c)**

21 Repeal the paragraphs, substitute:
22 (b) in the manner mentioned in paragraph 110D(1)(a), (b), (c) or
23 (d); or

24 **19 Subsection 283EA(4) (heading)**

25 Omit “*fax*”, substitute “*electronic means*”.

26 **20 Paragraph 283EA(4)(b)**

27 Omit “fax or other”.

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Documents and meetings under the Corporations Act 2001 **Schedule 1**

1 **21 Subsection 314A(2)**

2 Repeal the subsection, substitute:

- 3 (2) A notified foreign passport fund may provide the reports by
4 sending them to each Australian member.

5 **22 Subsections 314A(3), (4), (5) and (6)**

6 Repeal the subsections, substitute:

- 7 (3) If an Australian member of a notified foreign passport fund elects
8 under subsection 110E(2) to be sent reports mentioned in this
9 section in physical form or in electronic form, that election may
10 also include an election to be sent the reports in English or in an
11 official language of the home economy of the fund.
- 12 (4) If the member makes an election to be sent the reports in a
13 language mentioned in subsection (3) of this section:
- 14 (a) for the purposes of section 110F (failure to comply with
15 member's election), such a report is not sent in a manner that
16 complies with the election under section 110E unless it is
17 sent in that language; and
- 18 (b) for the purposes of paragraph 110F(4A)(c), it is a
19 requirement that such a report be sent in that language.

20 **23 Subsections 314A(7) and (8)**

21 Repeal the subsections, substitute:

- 22 (7) A notified foreign passport fund must provide the reports in
23 English, other than to the extent it provides reports in an official
24 language of the home economy of the fund because of
25 subsections (3) and (4).

26 **24 Subsection 314A(9)**

27 Omit "(1), (3)", substitute "(1)".

28 **25 Subsection 315(6)**

29 Repeal the subsection.

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Schedule 1 Documents and meetings under the Corporations Act 2001

1 **26 Section 316AA**

2 Repeal the section.

3 **27 Subsection 316A(1)**

4 Omit “notice in writing to the company, elect to receive a hard copy or
5 an electronic copy of”, substitute “notifying the company (whether or
6 not in writing), elect to receive”.

7 **28 Subsections 316A(3) and (4)**

8 Omit “, in accordance with the election,”.

9 **29 Subsection 414(2)**

10 Omit “as prescribed”, substitute “, in accordance with the requirements
11 mentioned in subsection (10B) (if applicable),”.

12 **30 Paragraph 414(9)(a)**

13 Omit “as prescribed”, substitute “, in accordance with the requirements
14 mentioned in subsection (10B) (if applicable),”.

15 **31 After subsection 414(10)**

16 Insert:

17 (10A) Without limiting the manner in which a notice mentioned in
18 subsection (2) or paragraph (9)(a) may be given to a shareholder,
19 the notice may be given to the shareholder personally.

20 (10B) If a notice mentioned in subsection (2) or paragraph (9)(a) is given
21 to a shareholder:

22 (a) by sending the notice in a physical form in accordance with
23 paragraph 110D(1)(a); or

24 (b) by sending information in a physical form in accordance with
25 paragraph 110D(1)(b);

26 the notice or information must be sent by prepaid post to the
27 shareholder’s address shown in the books of the transferor
28 company.

29 **32 Section 600G**

30 Repeal the section.

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Documents and meetings under the Corporations Act 2001 **Schedule 1**

1 **33 After paragraph 641(1)(a)**

2 Insert:

- 3 (aa) where the target knows the person's electronic address for
4 receiving electronic communications—that electronic
5 address; and
6 (ab) where an election of the person to be sent documents by the
7 target in physical form, or in electronic form, is in force
8 under section 110E (disregarding subsection 110E(8)) in
9 relation to a kind of documents mentioned in subsection (1C)
10 of this section—the fact that such an election is in force; and

11 **34 After subsection 641(1B)**

12 Insert:

- 13 (1C) For the purposes of paragraph (1)(ab), the kinds of documents are:
14 (a) all documents to which Division 2 of Part 1.2AA applies; or
15 (b) one or more classes of documents that, taken together,
16 include the documents mentioned in subsection 648CB(3)
17 (documents relating to takeover bids).

18 **35 After section 641**

19 Insert:

20 **641A Use or disclosure of information obtained from target**

- 21 (1) A person contravenes this subsection if:
22 (a) the target gives the bidder information under section 641 in
23 relation to another person (the *security holder*); and
24 (b) the person:
25 (i) is the bidder; or
26 (ii) obtains the information from the bidder (whether
27 directly or indirectly); and
28 (c) the person uses or discloses the information; and
29 (d) the use or disclosure is not for the purposes of sending a
30 document, or otherwise complying with an obligation, under:
31 (i) this Chapter; or
32 (ii) Part 6A.1; or

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Schedule 1 Documents and meetings under the Corporations Act 2001

- 1 (iii) any other provision of this Act, to the extent that it
2 relates to the provisions mentioned in subparagraphs (i)
3 and (ii).

4 Civil penalty:

- 5 (a) for an individual—2,000 penalty units; and
6 (b) for a body corporate—10,000 penalty units.

7 (2) Subsection (1) does not apply if the use or disclosure is required or
8 permitted by a law of the Commonwealth or a prescribed law of a
9 State or internal Territory.

10 (3) A person who contravenes subsection (1) is not guilty of an
11 offence.

12 Note: Subsection (1) is a civil penalty provision (see section 1317E).

13 **36 Section 648B**

14 After “address”, insert “(including the electronic address, if any)”.

15 **37 Section 648C**

16 Repeal the section, substitute:

17 **648C Sending documents to holders of securities—general**

18 (1) This section applies if a document is required or permitted to be
19 sent to a holder of securities under this Chapter.

20 Note 1: Division 2 of Part 1.2AA provides for technology neutral sending of
21 documents.

22 Note 2: Section 109X makes general provision for service of documents.

23 (2) If the document is sent by sending the document in a physical form
24 in accordance with paragraph 110D(1)(a), or by sending
25 information in a physical form in accordance with
26 paragraph 110D(1)(b), the document or information must be sent:

- 27 (a) if the document or information is to be sent to the holder
28 outside Australia—by pre-paid airmail post or by courier; or
29 (b) if the document or information is to be sent to the holder in
30 Australia—by pre-paid ordinary post or by courier.

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Documents and meetings under the Corporations Act 2001 **Schedule 1**

- 1 (3) For the purposes of this Chapter, the document is taken to have
2 been sent to the holder:
- 3 (a) if the document is sent in a physical form in accordance with
4 paragraph 110D(1)(a):
- 5 (i) when the document is posted; or
6 (ii) if the document is sent by courier—when the document
7 is given to the courier; or
- 8 (b) if the document is sent by sending information in accordance
9 with paragraph 110D(1)(b) (sending information in physical
10 form that allows electronic access):
- 11 (i) when the information is posted; or
12 (ii) if the information is sent by courier—when the
13 information is given to the courier; or
- 14 (c) if the document is sent by sending an electronic
15 communication in accordance with paragraph 110D(1)(c)—
16 when the electronic communication is sent; or
- 17 (d) if the document is sent by sending an electronic
18 communication in accordance with paragraph 110D(1)(d)
19 (sending information in electronic form allowing electronic
20 access)—when the electronic communication is sent.
- 21 Note: For when an electronic communication is *sent*, see section 105A.
- 22 (4) However, for the purposes of this Chapter, one or more documents
23 are taken not to be sent if:
- 24 (a) the bidder sends the documents to the holder of securities by
25 sending information mentioned in paragraph 110D(1)(b) or
26 (d); and
- 27 (b) the requirements (if any) specified in regulations made for
28 the purposes of this paragraph are not satisfied.
- 29 (5) This section applies to a requirement or permission to send a
30 document, whether the expression *send*, *give*, *serve* or *dispatch*, or
31 any other expression, is used.

648CA Sending documents to holders of securities—subsequent sending of document or information in physical form

- 34 (1) A person commits an offence if:
-

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Schedule 1 Documents and meetings under the Corporations Act 2001

- 1 (a) the person is required or permitted to send a document to a
2 holder of securities under this Chapter; and
3 (b) the person sends the document to the holder by sending an
4 electronic communication in accordance with
5 paragraph 110D(1)(c) or (d) (sending document or
6 information giving access by electronic communication); and
7 (c) the person receives a notification that the electronic
8 communication is unable to be delivered to the electronic
9 address of the holder; and
10 (d) the person fails to send the document to the holder in
11 accordance with paragraph 110D(1)(a) or (b) (sending
12 physical form of document or information in a physical form
13 for electronic access to document) within 3 days after the day
14 on which the person received that notification.
- 15 (2) An offence against subsection (1) is an offence of strict liability.
- 16 (3) This section applies to a requirement or permission to send a
17 document, whether the expression *send*, *give*, *serve* or *dispatch*, or
18 any other expression, is used.

19 **648CB Sending documents to holders of securities—effect of election** 20 **by holder to be sent documents by target in particular** 21 **form**

- 22 (1) This section applies if the target for a takeover bid has informed
23 the bidder in accordance with paragraph 641(1)(ab) that an election
24 of a holder of securities under section 110E to be sent documents
25 in physical form or electronic form is in force.
- 26 (2) An election of the holder under section 110E to be sent documents
27 by the bidder in the relevant form is taken to be in force from the
28 time the target informs the bidder of the election.
- 29 (3) The election is taken to be made in relation to all documents
30 required or permitted to be sent by the bidder under:
31 (a) this Chapter; or
32 (b) Part 6A.1; or
33 (c) any other provision of this Act, to the extent that it relates to
34 the provisions mentioned in paragraphs (a) and (b).

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Documents and meetings under the Corporations Act 2001 **Schedule 1**

1 (4) Subsection (2) has effect subject to any notification of withdrawal
2 of the election received by the bidder from the holder of securities
3 in accordance with paragraph 110E(7)(b).

4 **38 Subsection 661B(3)**

5 Repeal the subsection.

6 **39 Subsection 661B(4)**

7 Repeal the subsection (including the note).

8 **40 Subsection 661D(1)**

9 After “addresses”, insert “(but not the electronic addresses)”.

10 **41 Subsection 662B(3)**

11 Repeal the subsection.

12 **42 Subsection 662B(4)**

13 Repeal the subsection (including the note).

14 **43 Subsection 663B(3)**

15 Repeal the subsection.

16 **44 Subsection 663B(4)**

17 Repeal the subsection (including the note).

18 **45 Subsection 664C(4)**

19 Repeal the subsection.

20 **46 Subsection 664C(5)**

21 Repeal the subsection.

22 **47 Subsection 664E(1)**

23 Omit “returning”, substitute “giving”.

24 **48 Subsection 664E(2)**

25 Omit “returned” (wherever occurring), substitute “given”.

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Schedule 1 Documents and meetings under the Corporations Act 2001

1 **49 Subsection 665B(3)**

2 Repeal the subsection.

3 **50 Subsection 665B(4)**

4 Repeal the subsection (including the note).

5 **51 At the end of Chapter 6A**

6 Add:

7 **Part 6A.7—Miscellaneous**

8

9 **669A Sending documents**

10 (1) This section applies to any document that is required or permitted
11 to be sent to a person (the *recipient*) under this Chapter.

12 Note 1: Division 2 of Part 1.2AA provides for technology neutral sending of
13 documents.

14 Note 2: Section 109X makes general provision for service of documents.

15 (2) Without limiting the manner in which the document may be sent,
16 the document may be sent to the recipient by giving it to the
17 recipient personally.

18 (3) For the purposes of this Chapter, the document is taken to have
19 been sent to the recipient:

20 (a) if the document sent in a physical form in accordance with
21 paragraph 110D(1)(a):

22 (i) 3 days after the document is posted; or

23 (ii) if the document is sent by courier—3 days after the
24 document is given to the courier; or

25 (b) if the document is sent by sending information in accordance
26 with paragraph 110D(1)(b) (sending information in physical
27 form that allows electronic access):

28 (i) 3 days after the information is posted; or

29 (ii) if the information is sent by courier—3 days after the
30 information is given to the courier; or

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Documents and meetings under the Corporations Act 2001 **Schedule 1**

- 1 (c) if the document is sent by sending an electronic
2 communication in accordance with paragraph 110D(1)(c)—
3 when the electronic communication is sent; or
4 (d) if the document is sent by sending an electronic
5 communication in accordance with paragraph 110D(1)(d)
6 (sending information in electronic form allowing electronic
7 access)—when the electronic communication is sent.

8 Note: For when an electronic communication is *sent*, see section 105A.

- 9 (4) This section does not apply to a document that is required or
10 permitted to be sent by or to ASIC under this Chapter.
11 (5) This section applies to a requirement or permission to send a
12 document, whether the expression *send*, *give*, *serve* or *dispatch*, or
13 any other expression, is used.

14 **669B Sending documents—subsequent sending of document or** 15 **information in physical form**

- 16 (1) A person commits an offence if:
17 (a) the person (the *sender*) is required or permitted to send a
18 document to another person (the *recipient*) under this
19 Chapter; and
20 (b) the sender sends the document to the recipient by sending an
21 electronic communication in accordance with
22 paragraph 110D(1)(c) or (d) (sending document or
23 information giving access by electronic communication); and
24 (c) the sender receives a notification that the electronic
25 communication is unable to be delivered to the electronic
26 address of the recipient; and
27 (d) the sender fails to send the document to the recipient in
28 accordance with paragraph 110D(1)(a) or (b) (sending
29 physical form of document or information in a physical form
30 for electronic access to document), or by giving it to the
31 recipient personally, within 3 days after the day on which the
32 person received that notification.
33 (2) For the purposes of paragraph (1)(d), if the document is sent in
34 accordance with paragraph 110D(1)(a) or (b), it is taken to be sent:

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Schedule 1 Documents and meetings under the Corporations Act 2001

- 1 (a) when the document is posted; or
2 (b) if the document is sent by courier—when the document is
3 given to the courier.
- 4 (3) Subsection (2) has effect despite subsection 669A(3).
- 5 (4) An offence against subsection (1) is an offence of strict liability.
- 6 (5) This section does not apply to a document that is required or
7 permitted to be sent by or to ASIC under this Chapter.
- 8 (6) This section applies to a requirement or permission to send a
9 document, whether the expression *send*, *give*, *serve* or *dispatch*, or
10 any other expression, is used.

11 **52 In the appropriate position in Chapter 10**

12 Insert:

13 **Part 10.63—Application and transitional provisions** 14 **relating to Schedule 1 to the Treasury Laws** 15 **Amendment (Modernising Business** 16 **Communications) Act 2021** 17

18 **1693 Definitions**

19 In this Part:

20 *amending Schedule* means Schedule 1 to the *Treasury Laws*
21 *Amendment (Modernising Business Communications) Act 2021*.

22 *commencement day* means the day the amending Schedule
23 commences.

24 **1693A Application—signing documents**

25 The amendments made by the amending Schedule apply in relation
26 to the signing of a document (including a deed) on or after the
27 commencement day.

EXPOSURE DRAFT

Documents and meetings under the Corporations Act 2001 **Schedule 1**

1 **1693B Application—sending documents**

2 The amendments made by the amending Schedule apply in relation
3 to a document sent on or after the commencement day.

4 **1693C Application—uncontactable members**

5 Section 110JA, as inserted by the amending Schedule, applies in
6 relation to documents required or permitted to be sent on or after
7 the commencement day, if the notification under
8 paragraph 110JA(3)(a) of this Act was received on or after that
9 day.

10 **1693D Application—director’s meetings**

11 The amendment of section 248D made by the amending Schedule
12 applies in relation to the calling or holding of a directors’ meeting
13 on or after the commencement day.

14 **1693E Transitional—elections by Australian members of notified
15 foreign passport funds to receive annual reports in
16 particular form etc.**

- 17 (1) This section applies in relation to an election by an Australian
18 member of a notified foreign passport fund, to receive reports in
19 hard copy or as an electronic copy, that is in force under
20 subsection 314A(3) of this Act immediately before the
21 commencement day.
- 22 (2) Despite the amendment of that subsection by the amending
23 Schedule, the election continues in force on and after that day as if
24 it were an election under section 110E of this Act, as amended by
25 the amending Schedule:
- 26 (a) to be sent such reports:
- 27 (i) for an election to receive in hard copy—in physical
28 form; or
- 29 (ii) for an election to receive as an electronic copy—in
30 electronic form; and

EXPOSURE DRAFT

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Schedule 1 Documents and meetings under the Corporations Act 2001

- 1 (b) if the election included an election to receive the reports in
2 English, or in an official language of the home economy of
3 the fund—to be sent such reports in that language.

4 **1693F Transitional—elections by members of companies limited by**
5 **guarantee to receive reports etc.**

- 6 (1) This section applies in relation to an election by a member of a
7 company limited by guarantee, to receive reports in hard copy or as
8 an electronic copy, that is in force under subsection 316A(1)
9 immediately before the commencement day.
- 10 (2) Despite the amendment of that section by the amending Schedule:
11 (a) the election continues in force on and after the
12 commencement day as an election under subsection 316A(1)
13 of this Act to receive such reports (in accordance with
14 subsection 316A(2)); and
15 (b) an election of the member is taken to be in force under
16 section 110E on and after the commencement day to be sent
17 such reports:
18 (i) for an election to receive in hard copy—in physical
19 form; or
20 (ii) for an election to receive as an electronic copy—in
21 electronic form.
- 22 (3) Paragraph (2)(b) has effect subject to paragraph 110E(7)(b)
23 (withdrawal of election).

24 **53 In the appropriate position in Schedule 3**

25 Insert:

26 Subsection 110K(3B) 30 penalty units

27 **54 Schedule 3 (table item dealing with subsections 314A(1),**
28 **(3) and (7), column headed “provision”)**

29 Omit “Subsections 314A(1), (3) and (7)”, substitute
30 “Subsections 314A(1) and (7)”.

EXPOSURE DRAFT

Documents and meetings under the Corporations Act 2001 **Schedule 1**

1 **55 In the appropriate position in subsection 1317E(3) (table)**

2 Insert:

3

subsection 641A(1)	use or disclosure of information obtained from target	uncategorised
--------------------	--	---------------

4 **56 In the appropriate position in Schedule 3**

5 Insert:

Subsection 648CA(1) 30 penalty units

6 **57 In the appropriate position in Schedule 3**

7 Insert:

Subsection 669B(1) 30 penalty units

EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 2 Documents under the National Credit Code and payments

Part 1 Documents under the National Credit Code

1 **Schedule 2—Documents under the National**
2 **Credit Code and payments**

3 **Part 1—Documents under the National Credit Code**

4 *National Consumer Credit Protection Act 2009*

5 **1 At the end of section 187 of the *National Credit Code***

6 Add:

7 (3) Despite subsection (2), paragraphs 9(1)(d) and (2)(d) of the
8 *Electronic Transactions Act 1999* do not apply to a requirement or
9 permission by or under this Code to give information in writing.

10 Note: Paragraphs 9(1)(d) and (2)(d) of the *Electronic Transactions Act 1999*
11 deal with the consent of the recipient of information to the information
12 being given by way of electronic communication.

13 **2 Section 195 of the *National Credit Code***

14 Repeal the section, substitute:

15 **195 Manner of giving notice or other document**

16 (1) This section applies in relation to a notice or other document
17 required or permitted by this Code to be given by a person (the
18 *giver*) to another person (the *recipient*).

19 *Appropriate address for giving documents*

20 (2) The appropriate address of the recipient is:
21 (a) an address nominated by the recipient to the giver; or
22 (b) if there is no such nomination, and the giver has never before
23 given a notice or other document to the recipient in
24 accordance with this paragraph:
25 (i) where the recipient does not carry on a business—the
26 address of the place of residence of the recipient last
27 known to the giver; or

EXPOSURE DRAFT

Documents under the National Credit Code and payments **Schedule 2**
Documents under the National Credit Code **Part 1**

- 1 (ii) where the recipient carries on a business—the address
2 of the place of residence or business of the recipient last
3 known to the giver; or
4 (iii) in any case—the electronic address (if any) for
5 receiving electronic communications for the recipient
6 last known to the giver; or
7 (c) if:
8 (i) there is no such nomination; and
9 (ii) the giver has given a notice or other document to the
10 recipient in accordance with paragraph (b); and
11 (iii) paragraph (d) does not apply;
12 the address at which the giver gave the most recent notice or
13 other document as mentioned in subparagraph (ii) of this
14 paragraph; or
15 (d) if:
16 (i) there is no such nomination; and
17 (ii) the giver has given a notice or other document to the
18 recipient in accordance with paragraph (b); and
19 (iii) notice given by the giver to the recipient in accordance
20 with subsection (8), specifying an address of a kind
21 mentioned in paragraph (b) of this subsection, is in force
22 under subsection (9);
23 the address specified in the most recent notice in force under
24 that subsection.
- 25 Note: A nominated address may be an electronic address.
- 26 *Recipient taken to nominate physical address in certain*
27 *circumstances*
- 28 (3) Subsection (4) applies if the recipient notifies the giver that the
29 recipient does not want to receive documents electronically, but
30 does not nominate an address under paragraph (2)(a) in that
31 notification.
- 32 (4) For the purposes of this section, the notification is taken to be a
33 nomination under paragraph (2)(a) by the recipient to the giver of
34 the address of the place of residence or business of the recipient
35 last known to the giver.

EXPOSURE DRAFT

Schedule 2 Documents under the National Credit Code and payments

Part 1 Documents under the National Credit Code

1

Making, changing or cancelling nomination

2

(5) If the recipient nominates an address under paragraph (2)(a), the recipient may, by notice to the giver, change the nominated address or cancel the nomination.

3

4

5

(6) The nomination of an address under this section or the giving of notice under subsection (3) or (5) may be made in any appropriate manner (whether or not in writing).

6

7

8

Note: The nomination or notice may, for example, be given in writing, by telephone or in person.

9

10

(7) A nomination under this section ceases to have effect if it is cancelled by the recipient.

11

12

Notice of address at which documents will be given

13

(8) For the purposes of paragraph (2)(d), the giver may give the recipient notice that contains a prominent statement to the effect that:

14

15

16

(a) unless the recipient nominates another physical or electronic address, the giver will give relevant documents and notices to the giver at a specified physical or electronic address after the expiry of 14 days after the notice is given; and

17

18

19

20

(b) that specified physical or electronic address is:

21

22

(i) the address of the place of residence or business of the recipient last known to the giver; or

23

24

25

(ii) the electronic address for receiving electronic communications for the recipient last known to the giver; and

26

27

(c) the recipient may at any time nominate an alternative physical or electronic address to the giver.

28

Note: The appropriate address for giving the notice is worked out under subsection (2).

29

30

(9) Notice under subsection (8) comes into force 14 days after it is given (regardless whether the recipient has responded to that notice).

31

32

EXPOSURE DRAFT

Documents under the National Credit Code and payments **Schedule 2**
Documents under the National Credit Code **Part 1**

1 **3 Paragraph 196(1)(c) of the *National Credit Code***

2 Omit “subsection 14(3)”, substitute “section 14A”.

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

5 **4 In the appropriate position**

6 Insert:

7 **Schedule 21—Application and transitional**
8 **provisions for Schedule 2 to the**
9 **Treasury Laws Amendment**
10 **(Modernising Business**
11 **Communications) Act 2021**
12

13 **1 Definitions**

14 In this Schedule:

15 ***amending Part*** means Part 1 of Schedule 2 to the *Treasury Laws*
16 *Amendment (Modernising Business Communications) Act 2021*.

17 ***commencement day*** means the day the amending Part commences.

18 **2 Application—giving documents**

19 The amendments made by the amending Part apply in relation to notices
20 or other documents given on or after the commencement day.

21 **3 Transitional—addresses used before commencement**

22 A reference in section 195 of the *National Credit Code*, as amended by
23 the amending Part, to a notice or other document given in accordance
24 with paragraph (2)(b) of that section, includes a reference to a notice or
25 other document given before the commencement day in accordance
26 with paragraph 195(1)(b) or (2)(b) of the *National Credit Code*, as in
27 force immediately before the commencement day.

EXPOSURE DRAFT

Schedule 2 Documents under the National Credit Code and payments

Part 1 Documents under the National Credit Code

4 Transitional—cancellations of nominations before commencement

Subparagraph 195(2)(b)(iii) of the *National Credit Code*, as inserted by the amending Part, does not apply in relation to the giving of a notice or other document to a person (the *recipient*) by another person (the *giver*) if:

- (a) the recipient, before the commencement day, cancelled a nomination of an address under section 195 of the *National Credit Code*, as in force at the time of the cancellation, in relation to documents to be given by the giver; and
- (b) between the time of that cancellation and start of the commencement day, the recipient did not nominate an address to the giver under paragraph 195(1)(a) or (2)(a) of the *National Credit Code*, as in force immediately before the commencement day; and
- (c) the recipient does not nominate an address to the giver on or after the commencement day under paragraph 195(2)(a) of the *National Credit Code*, as inserted by the amending Part.

5 Saving—nominated addresses

A nomination of an address under paragraph 195(1)(a) or (2)(a) of the *National Credit Code* that is in force immediately before the commencement day continues in force on and after that day as a nomination under paragraph 195(2)(a) of the *National Credit Code*, as amended by the amending Part.

EXPOSURE DRAFT

Documents under the National Credit Code and payments **Schedule 2**
Payments **Part 2**

1 **Part 2—Payments**

2 *Corporations Act 2001*

3 **5 Paragraph 254P(2)(c)**

4 Repeal the paragraph, substitute:
5 (c) details for making the payment.

6 **6 Subsection 254P(2)**

7 Omit “The notice must be sent by post.”.

8 *Excise Act 1901*

9 **7 Paragraph 129C(2)(a)**

10 Repeal the paragraph, substitute:
11 (a) the person may pay the penalty stated in the notice in any
12 way stated in the notice; and

13 *Small Superannuation Accounts Act 1995*

14 **8 Section 32**

15 Repeal the section.

EXPOSURE DRAFT

Schedule 3 Publication requirements and other amendments

Part 1 Main amendments

1 **Schedule 3—Publication requirements and**
2 **other amendments**

3 **Part 1—Main amendments**

4 *Competition and Consumer Act 2010*

5 **1 Paragraph 28(2)(a)**

6 Omit “such newspapers and other journals as”, substitute “any other
7 manner”.

8 **2 Subsection 44GA(10)**

9 Omit “national newspaper”, substitute “manner that results in the notice
10 being accessible to the public and reasonably prominent”.

11 **3 Subsection 44LD(10)**

12 Omit “national newspaper”, substitute “manner that results in the notice
13 being accessible to the public and reasonably prominent”.

14 **4 Subsection 44NC(10)**

15 Omit “national newspaper”, substitute “manner that results in the notice
16 being accessible to the public and reasonably prominent”.

17 **5 Subsection 44ZZOA(10)**

18 Omit “national newspaper”, substitute “manner that results in the notice
19 being accessible to the public and reasonably prominent”.

20 *Corporations Act 2001*

21 **6 Section 9 (definition of *daily newspaper*)**

22 Repeal the definition.

23 **7 Section 9 (definition of *national newspaper*)**

24 Repeal the definition.

EXPOSURE DRAFT

Publication requirements and other amendments **Schedule 3**
Main amendments **Part 1**

1 **8 Paragraph 103(2)(b)**

2 Omit all the words after “published”.

3 **9 Subsections 254Q(3), (4) and (4A)**

4 Repeal the subsections, substitute:

5 *Advertisement of sale*

6 (3) At least 14 days, and not more than 21 days, before the day of the
7 sale, a notice of the sale must be published in accordance with
8 subsection (5A). The specific number of shares to be offered need
9 not be specified in the notice and it is sufficient for the notice to be
10 to the effect that all shares on which a call remains unpaid will be
11 sold.

12 *Postponement of sale*

13 (4) An intended sale of forfeited shares of which a notice has been
14 published in accordance with subsection (3) may be postponed for
15 not more than 21 days from the date of sale specified in the notice.
16 A notice of the date to which the sale is postponed must be
17 published in accordance with subsection (5A).

18 **10 After subsection 254Q(5)**

19 Insert:

20 *Publishing notices*

21 (5A) A notice under subsection (3) or (4) is published in accordance
22 with this subsection if the notice is published:
23 (a) unless paragraph (b) of this subsection applies—in a manner
24 that results in the notice being accessible to the public and
25 reasonably prominent; or
26 (b) if a determination in force under subsection (5B) specifies
27 one or more manners in which such a notice may be
28 published—in a manner so specified.

EXPOSURE DRAFT

Schedule 3 Publication requirements and other amendments

Part 1 Main amendments

1 (5B) For the purposes of paragraph (5A)(b), ASIC may, by legislative
2 instrument, make a determination specifying one or more manners
3 in which a notice under subsection (3) or (4) may be published.

4 (5C) A manner of publication may be specified in the determination
5 only if ASIC considers that the manner of publication would result
6 in such a notice being accessible to the public and reasonably
7 prominent.

8 **11 Paragraph 601CC(14)(a)**

9 Omit “advertisement in a daily newspaper circulating generally in each
10 State or Territory where the body carried on business at any time during
11 the 6 years before the liquidation”, substitute “a notice published in
12 accordance with subsection 601CCA(1)”.

13 **12 At the end of Division 1 of Part 5B.2**

14 Add:

15 **601CCA Publishing notices relating to cessation of business etc.**

- 16 (1) A notice mentioned in paragraph 601CC(14)(a) is published in
17 accordance with this subsection if it is published:
- 18 (a) unless paragraph (b) of this subsection applies—in a manner
19 that results in the notice being accessible to the public and
20 reasonably prominent; or
 - 21 (b) if a determination under subsection (2) is in force:
 - 22 (i) if the determination specifies one or more manners of
23 publication under paragraph (2)(a)—in a manner
24 specified in the determination; or
 - 25 (ii) if the determination specifies that such a notice may be
26 published in the prescribed manner—in the prescribed
27 manner.

28 Note: For publication in the prescribed manner, see section 1367A.

- 29 (2) For the purposes of paragraph (1)(b), ASIC may, by legislative
30 instrument, make a determination specifying:

EXPOSURE DRAFT

Publication requirements and other amendments **Schedule 3**
Main amendments **Part 1**

- 1 (a) unless the matter in paragraph (b) of this subsection is
2 specified—one or more manners in which a notice mentioned
3 in paragraph 601CC(14)(a) may be published; or
4 (b) that such a notice may be published in the prescribed manner.
- 5 (3) A manner of publication may be specified in the determination
6 under paragraph (2)(a) only if ASIC considers that the manner of
7 publication would result in such a notice being accessible to the
8 public and reasonably prominent.

9 **13 Paragraph 601CL(15)(a)**

10 Omit “advertisement in a daily newspaper circulating generally in each
11 State or Territory where the foreign company carried on business at any
12 time during the 6 years before the liquidation”, substitute “a notice
13 published in accordance with subsection 601CLA(1)”.

14 **14 After section 601CL**

15 Insert:

16 **601CLA Publishing notices relating to cessation of business etc.**

- 17 (1) A notice mentioned in paragraph 601CL(15)(a) is published in
18 accordance with this subsection if it is published:
19 (a) unless paragraph (b) of this subsection applies—in a manner
20 that results in the notice being accessible to the public and
21 reasonably prominent; or
22 (b) if a determination under subsection (2) is in force:
23 (i) if the determination specifies one or more manners of
24 publication under paragraph (2)(a)—in a manner
25 specified in the determination; or
26 (ii) if the determination specifies that such a notice may be
27 published in the prescribed manner—in the prescribed
28 manner.
- 29 Note: For publication in the prescribed manner, see section 1367A.
- 30 (2) For the purposes of paragraph (1)(b), ASIC may, by legislative
31 instrument, make a determination specifying:

EXPOSURE DRAFT

Schedule 3 Publication requirements and other amendments

Part 1 Main amendments

- 1 (a) unless the matter in paragraph (b) of this subsection is
2 specified—one or more manners in which a notice mentioned
3 in paragraph 601CL(15)(a) may be published; or
4 (b) that such a notice may be published in the prescribed manner.
- 5 (3) A manner of publication may be specified in the determination
6 under paragraph (2)(a) only if ASIC considers that the manner of
7 publication would result in such a notice being accessible to the
8 public and reasonably prominent.

15 Paragraph 601WDA(1)(b)

9 Repeal the paragraph, substitute:

- 10 (b) publish notice of the cancellation of the licence on the trustee
11 company's website (if any), and in another manner that is in
12 accordance with subsection (4).
13

16 Subsection 601WDA(3)

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

- 15 (3) If a certificate of transfer for a voluntary transfer determination
16 comes into force, the transferring company must, as soon as
17 practicable, publish notice of the transfer of estate assets and
18 liabilities on the transferring company's website (if any), and in
19 another manner that is in accordance with subsection (4).
20

21 17 At the end of section 601WDA

22 Add:

23 *Publishing notices*

- 24 (4) A manner of publishing notice under paragraph (1)(b) or
25 subsection (3) is in accordance with this subsection if the manner:
26 (a) unless paragraph (b) applies—results in the notice being
27 accessible to the public and reasonably prominent; or
28 (b) if a determination in force under subsection (5) specifies one
29 or more manners in which such a notice may be published—
30 is so specified.

EXPOSURE DRAFT

Publication requirements and other amendments **Schedule 3**
Main amendments **Part 1**

1 (5) For the purposes of paragraph (4)(b), ASIC may, by legislative
2 instrument, make a determination specifying one or more manners
3 in which notice under paragraph (1)(b) or subsection (3) may be
4 published.

5 (6) A manner of publication may be specified in the determination
6 only if ASIC considers that the manner of publication would result
7 in such a notice being accessible to the public and reasonably
8 prominent.

9 **18 Paragraph 1070D(6)(a)**

10 Omit “place an advertisement in a daily newspaper circulating in a
11 place specified by the directors”, substitute “publish a notice in a
12 manner specified by the directors”.

13 **19 Paragraph 1071D(6)(b)**

14 Omit all the words after “and”, substitute “by publishing a notice in any
15 other manner the company thinks fit”.

16 **20 After subclause 38(2) of Schedule 4**

17 Insert:

18 (2A) Without limiting paragraph (2)(c), regulations made under this
19 clause may provide for ASIC to make, by legislative instrument, a
20 determination relating to manners in which notice mentioned in
21 that paragraph may be published.

22 ***Income Tax Assessment Act 1936***

23 **21 Subsection 45D(2) (heading)**

24 Omit “*in national newspaper*”.

25 **22 Subsection 45D(2)**

26 Omit “daily newspaper that circulates generally in each State, the
27 Australian Capital Territory and the Northern Territory”, substitute
28 “manner that results in the notice being accessible to the public and
29 reasonably prominent”.

EXPOSURE DRAFT

Schedule 3 Publication requirements and other amendments

Part 1 Main amendments

1 **23 Subsection 177EA(7) (heading)**

2 Omit “*in national newspaper*”.

3 **24 Subsection 177EA(7)**

4 Omit “daily newspaper that circulates generally in each State, the
5 Australian Capital Territory and the Northern Territory”, substitute
6 “manner that results in the notice being accessible to the public and
7 reasonably prominent”.

8 ***Income Tax Assessment Act 1997***

9 **25 Subsection 204-50(3)**

10 Omit “daily newspaper that circulates generally in each State, the
11 Australian Capital Territory and the Northern Territory”, substitute
12 “manner that results in the notice being accessible to the public and
13 reasonably prominent”.

14 ***Insurance Act 1973***

15 **26 Subsection 29(1)**

16 Repeal the subsection, substitute:

- 17 (1) A general insurer who changes its name must publish a notice of
18 that fact:
- 19 (a) unless paragraph (b) applies—in a manner that results in the
20 notice being accessible to the public and reasonably
21 prominent; or
 - 22 (b) if a determination under subsection (2A) is in force—in a
23 manner specified in the determination.

24 **27 After subsection 29(2)**

25 Insert:

- 26 (2A) For the purposes of paragraph (1)(b), APRA may, by legislative
27 instrument, make a determination specifying one or more manners
28 in which a notice mentioned in subsection (1) may be published.

EXPOSURE DRAFT

Publication requirements and other amendments **Schedule 3**
Main amendments **Part 1**

1 (2B) A manner of publication may be specified in the determination
2 only if APRA considers that the manner of publication would
3 result in such a notice being accessible to the public and reasonably
4 prominent.

5 **28 Subsection 29(3)**

6 Omit “placed”, substitute “published”.

7 ***Life Insurance Act 1995***

8 **29 Paragraph 191(2)(b)**

9 Repeal the paragraph, substitute:

10 (b) notice of intention to make the application has been
11 published in accordance with subsection (2A); and

12 **30 After subsection 191(2)**

13 Insert:

14 (2A) A notice referred to in paragraph (2)(b) is published in accordance
15 with this subsection if:

16 (a) the form of the notice is approved by APRA in accordance
17 with subsection (2B); and

18 (b) the applicant publishes the notice in a manner that:

19 (i) unless subparagraph (ii) of this paragraph applies—
20 results in the notice being accessible to the public and
21 reasonably prominent; or

22 (ii) if a determination under subsection (2C) is in force—is
23 specified in the determination; and

24 (c) any other requirements set out in regulations made for the
25 purposes of this paragraph are satisfied.

26 (2B) For the purposes of paragraph (2A)(a), APRA may approve, in
27 writing, the form of a notice referred to in paragraph (2)(b).

28 (2C) For the purposes of subparagraph (2A)(b)(ii), APRA may, by
29 legislative instrument, make a determination specifying one or
30 more manners in which a notice referred to in paragraph (2)(b)
31 may be published.

EXPOSURE DRAFT

Schedule 3 Publication requirements and other amendments

Part 1 Main amendments

1 (2D) A manner of publication may be specified in the determination
2 only if APRA considers that the manner of publication would
3 result in such a notice being accessible to the public and reasonably
4 prominent.

5 **31 Subsection 191(3)**

6 Omit “(2)(b)”, substitute “(2A)(c)”.

7 **32 Section 223 (heading)**

8 Repeal the heading, substitute:

9 **223 Other matters relating to certain replacement policy documents**

10 **33 Subsections 223(3) and (4)**

11 Repeal the subsections.

12 **34 Subsection 224(1)**

13 Omit “(1)”.

14 **35 Subparagraph 224(1)(b)(i)**

15 Repeal the subparagraph.

16 **36 Subparagraph 224(1)(b)(ii)**

17 Omit “after giving notice,”.

18 **37 Subsections 224(2) and (3)**

19 Repeal the subsections.

20 **38 Application provision—publishing notices**

21 The amendments of section 191 of the *Life Insurance Act 1995* made by
22 this Part apply in relation to the publishing of notice of intention under
23 that section on or after the commencement of this Part.

24 **39 Saving provision—approved form of notice**

25 (1) This item applies if an approval by APRA of a form of a notice
26 mentioned in paragraph 191(2)(b) of the *Life Insurance Act 1995* is in

EXPOSURE DRAFT

Publication requirements and other amendments **Schedule 3**
Main amendments **Part 1**

1 force immediately before the commencement of this Part under
2 regulations made for the purposes of that paragraph.

3 (2) The approval continues in force (and may be dealt with) on and after
4 that commencement as if it were an approval of a form by APRA under
5 subsection 191(2B) of the *Life Insurance Act 1995*, as amended by this
6 Part.

7 **40 Saving provision—regulations**

8 Despite the amendment of paragraph 191(2)(b) of the *Life Insurance*
9 *Act 1995* by this Part, regulations made for the purposes of that
10 paragraph in force immediately before this Part commences continue in
11 force (and may be dealt with) on and after that commencement as if
12 they had been made for the purposes of paragraph 191(2A)(c) of that
13 Act as inserted by this Part.

14 ***National Consumer Credit Protection Act 2009***

15 **41 Subsection 64(2) of the *National Credit Code***

16 Omit “in a newspaper circulating throughout each State and Territory”,
17 substitute “in accordance with subsection (8)”.

18 **42 Subsection 64(3) of the *National Credit Code***

19 Omit “in a newspaper circulating throughout each State and Territory”,
20 substitute “by publishing a notice in accordance with subsection (8)”.

21 **43 At the end of section 64 of the *National Credit Code***

22 Add:

23 *Publishing notices*

24 (8) A notice under subsection (1) or (3) is published in accordance
25 with this subsection if it is published:

26 (a) unless paragraph (b) of this subsection applies—in a manner
27 that results in the notice being accessible to the public and
28 reasonably prominent; or

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1 (b) if a determination in force under subsection (9) specifies one
2 or manners in which such a notice may be published—in a
3 manner so specified.

4 (9) For the purposes of paragraph (8)(b), ASIC may, by legislative
5 instrument, make a determination specifying one or more manners
6 in which a notice under subsection (1) or (3) may be published.

7 (10) A manner of publication may be specified in the determination
8 only if ASIC considers that the manner of publication would result
9 in such a notice being accessible to the public and reasonably
10 prominent.

11 **44 Subsection 66(2) of the *National Credit Code***

12 Omit “in a newspaper circulating throughout each State and Territory”,
13 substitute “in accordance with subsection (6)”.

14 **45 At the end of section 66 of the *National Credit Code***

15 Add:

16 *Publishing notices*

17 (6) A notice under subsection (2) is published in accordance with this
18 subsection if it is published:

19 (a) unless paragraph (b) of this subsection applies—in a manner
20 that results in the notice being accessible to the public and
21 reasonably prominent; or

22 (b) if a determination under subsection (7) is in force—in a
23 manner specified in the determination.

24 (7) For the purposes of paragraph (6)(b), ASIC may, by legislative
25 instrument, make a determination specifying one or more manners
26 in which a notice under subsection (2) may be published.

27 (8) A manner of publication may be specified in the determination
28 only if ASIC considers that the manner of publication would result
29 in such a notice being accessible to the public and reasonably
30 prominent.

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Publication requirements and other amendments **Schedule 3**
Main amendments **Part 1**

1 **46 Subsection 119(2) of the *National Credit Code***

2 Omit “in a newspaper circulating throughout one or more States or
3 Territories, as the court determines”, substitute “and in a manner
4 determined by the court”.

5 ***Private Health Insurance (Prudential Supervision) Act 2015***

6 **47 Paragraph 20(4)(a)**

7 Omit “national newspaper, or in a newspaper circulating in each
8 jurisdiction where the insurer has its registered office or carries on
9 business”, substitute “manner that results in the notice being accessible
10 to the public and reasonably prominent”.

11 **48 Paragraph 40(2)(b)**

12 Repeal the paragraph, substitute:

13 (b) notify the termination day by publishing a notice:

14 (i) unless subparagraph (ii) applies—in a manner that
15 results in the notice being accessible to the public and
16 reasonably prominent; or

17 (ii) if a determination under subsection (2A) is in force—in
18 a manner specified in the determination.

19 **49 After subsection 40(2)**

20 Insert:

21 (2A) For the purposes of subparagraph (2)(b)(ii), APRA may, by
22 legislative instrument, make a determination specifying one or
23 more manners in which a notice mentioned in paragraph (2)(b)
24 may be published.

25 (2B) A manner of publication may be specified in the determination
26 only if APRA considers that the manner of publication would
27 result in such a notice being accessible to the public and reasonably
28 prominent.

29 **50 Paragraph 75(2)(b)**

30 Repeal the paragraph, substitute:

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1 (b) after the external management or terminating management
2 began but on or before the day on which the manager gives to
3 the ADI written notice of the appointment that began the
4 external management or terminating management.

5 ***Productivity Commission Act 1998***

6 **51 Sections 13 and 14**

7 Omit “in each State and internal Territory, by advertisement published
8 in a newspaper circulating in the State or Territory”, substitute “, by
9 publishing a notice in a manner that results in the notice being
10 accessible to the public and reasonably prominent”.

11 ***Superannuation Industry (Supervision) Act 1993***

12 **52 Subsection 10(1) (definition of *licensing transition period*)**

13 Repeal the definition.

14 **53 Section 29CB**

15 Repeal the section.

16 **54 Section 29CC (heading)**

17 Omit “other”.

18 **55 Subsection 29CC(1)**

19 Repeal the subsection, substitute:

20 (1) APRA must decide an application for an RSE licence within 90
21 days after receiving it, unless APRA extends the period for
22 deciding the application under subsection (2).

23 **56 Subsection 29CC(2)**

24 Omit “an application covered by paragraph (1)(a) or (b)”, substitute
25 “the application”.

26 **57 Paragraph 29D(1)(h)**

27 Omit “, refused consideration under subsection 29CB(3)”.

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Publication requirements and other amendments **Schedule 3**
Main amendments **Part 1**

1 **58 Subsections 142(7) and (9)**

2 Repeal the subsections, substitute:

3 *Publishing notice*

4 (7) The Regulator must publish notice of the making of each
5 instrument under subsection (1) in a manner that results in the
6 notice being accessible to the public and reasonably prominent.

7 ***Taxation Administration Act 1953***

8 **59 Subsection 260-145(3) in Schedule 1**

9 Omit “twice in a daily newspaper circulating in the State or Territory in
10 which the person resided at the time of death”, substitute “in a manner
11 that results in the notice being accessible to the public and reasonably
12 prominent”.

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Schedule 3 Publication requirements and other amendments

Part 2 Contingent amendments

1 **Part 2—Contingent amendments**

2 *Corporations Act 2001*

3 **60 Subsections 254Q(5B) and (5C)**

4 Omit “ASIC”, substitute “the Registrar”.

5 **61 Subsections 601CCA(2) and (3)**

6 Omit “ASIC”, substitute “the Registrar”.

7 **62 Subsections 601CLA(2) and (3)**

8 Omit “ASIC”, substitute “the Registrar”.

9 **63 In the appropriate position in Chapter 10**

10 Insert:

11 **Part 10.64—Transitional provisions relating to**
12 **Schedule 3 to the Treasury Laws**
13 **Amendment (Modernising Business**
14 **Communications) Act 2021**
15

16 **1694 Definitions**

17 In this Part:

18 *amending Schedule* means Schedule 3 to the *Treasury Laws*
19 *Amendment (Modernising Business Communications) Act 2021*.

20 **1694A Savings—determinations made by ASIC**

21 (1) Subsection (2) applies if:

22 (a) a determination made by ASIC under subsection 254Q(5B)
23 of this Act (as inserted by Part 1 of the amending Schedule)

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Publication requirements and other amendments **Schedule 3**
Contingent amendments **Part 2**

- 1 (the *empowering provision*) is in force immediately before
2 the commencement of this Part; or
3 (b) a determination made by ASIC under subsection 601CCA(2)
4 of this Act (as inserted by Part 1 of the amending Schedule)
5 (also the *empowering provision*) is in force immediately
6 before the commencement of this Part; or
7 (c) a determination made by ASIC under subsection 601CLA(2)
8 of this Act (as inserted by Part 1 of the amending Schedule)
9 (also the *empowering provision*) is in force immediately
10 before the commencement of this Part.
- 11 (2) Treat the determination as having been made by the Registrar, and
12 being in force under the empowering provision, on the
13 commencement of this Part.
- 14 (3) However, if the Registrar has not amended or repealed the
15 determination before the end of the period of 6 months after that
16 commencement, the determination is repealed at the end of that
17 period.

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