

EXPOSURE DRAFT



EXPOSURE DRAFT (06/02/2023)

Treasury Laws Amendment (Modernising Business Communications) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2023

David Hurley
Governor-General

By His Excellency's Command

Dr Jim Chalmers [DRAFT ONLY—NOT FOR SIGNATURE]
Treasurer

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1 Name

This instrument is the *Treasury Laws Amendment (Modernising Business Communications) Regulations 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1	The day after this instrument is registered.	
3. Schedule 2	The later of: (a) the start of the day after this instrument is registered; and (b) the same time as Part 4 of Schedule 1 to the <i>Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023</i> commences.	
4. Schedule 3	The day after this instrument is registered.	
5. Schedule 4	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

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

3 Authority

This instrument is made under the following:

- the *Corporations Act 2001*;
- the *Life Insurance Act 1995*;
- the *National Consumer Credit Protection Act 2009*;
- the *Superannuation Industry (Supervision) Act 1993*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Sending documents under the Corporations Act 2001

Schedule 1—Sending documents under the Corporations Act 2001

Corporations Regulations 2001

1 Regulation 5.1.02

Repeal the regulation.

Schedule 2—Publication requirements

Corporations Regulations 2001

1 Paragraph 5.6.75(1)(a)

Omit “or 5A.1”, substitute “, 5A.1 or 5B.2”.

2 Regulation 5D.1.01

Repeal the regulation.

3 At the end of Chapter 5D

Add:

Part 5D.5—ASIC-approved transfers of estate assets and liabilities

5D.5.01 Notice of certificate

For the purposes of paragraph 601WBH(1)(c) of the Act, ASIC must publish a notice mentioned in that paragraph on the ASIC website.

4 Subregulation 7.5.30(5)

Omit “in each State and Territory in a daily newspaper circulating in that State or Territory”, substitute “in accordance with subregulation (5A)”.

5 After subregulation 7.5.30(5)

Insert:

- (5A) The notice is published in accordance with this subregulation if it is published in a manner that results in the notice being accessible to the public and reasonably prominent.

6 Subregulations 7.5.30(6) and (7)

Repeal the subregulations, substitute:

- (6) The applicable period must be a period that starts and ends before the day on which the notice is first published.
- (7) The last application day must be at least 3 months after the day on which the notice is first published.

7 Subregulation 7.5.56(4)

Omit “in each State and Territory in a daily newspaper circulating in that State or Territory”, substitute “in accordance with subregulation (4A)”.

8 After subregulation 7.5.56(4)

Insert:

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Schedule 2 Publication requirements

- (4A) The notice is published in accordance with this subregulation if it is published in a manner that results in the notice being accessible to the public and reasonably prominent.

9 Subregulations 7.5.56(5) and (6)

Repeal the subregulations, substitute:

- (5) The applicable period must be a period that starts and ends before the day on which the notice is first published.
- (6) The last application day must be at least 3 months after the day on which the notice is first published.

10 Subregulation 7.5.61(4)

Omit “in each State and Territory in a daily newspaper circulating in that State or Territory”, substitute “in accordance with subregulation (4A)”.

11 After subregulation 7.5.61(4)

Insert:

- (4A) The notice is published in accordance with this subregulation if it is published in a manner that results in the notice being accessible to the public and reasonably prominent.

12 Subregulations 7.5.61(5) and (6)

Repeal the subregulations, substitute:

- (5) The applicable period must be a period that starts and ends before the day on which the notice is first published.
- (6) The last application day must be at least 3 months after the day on which the notice is first published.

13 Subregulation 7.5.70(1)

Omit “in each State and Territory, in a daily newspaper circulating generally in that State or Territory”, substitute “in accordance with subregulation (1A)”.

14 After subregulation 7.5.70(1)

Insert:

- (1A) The notice is published in accordance with this subregulation if it is published in a manner that results in the notice being accessible to the public and reasonably prominent.

15 Paragraph 7.6.02AA(4)(b)

Omit “on its internet website, and in a daily newspaper having national circulation”, substitute “, in accordance with subregulation (5)”.

16 At the end of regulation 7.6.02AA

Add:

- (5) A proposal and direction mentioned in paragraph (4)(b) are published in accordance with this subregulation if they are published in a manner that results in the proposal and direction being accessible to the public and reasonably prominent.

17 Regulation 12.4.04 (heading)

Omit “in press”.

18 Subregulation 12.4.04(2)

Repeal the subregulation, substitute:

- (2) The notice must be published, at least 21 days before the day on which the meeting is to be held:
- (a) unless paragraph (b) applies—in a manner that results in the notice being accessible to the public and reasonably prominent; or
 - (b) if a determination under subregulation (4) is in force—in a manner specified in the determination.

19 At the end of regulation 12.4.04

Add:

- (4) For the purposes of paragraph (2)(b), ASIC may, by legislative instrument, make a determination specifying one or more manners in which a notice under this regulation may be published.
- (5) A manner of publication may be specified in the determination only if ASIC considers that the manner of publication would result in such a notice being accessible to the public and reasonably prominent.

Life Insurance Regulations 1995

20 Regulation 9.01

Omit “regulation 9.02”, substitute “subsection 191(2A) of the Act”.

21 Subregulation 9.02(1)

Repeal the subregulation.

22 Subregulation 9.02(2)

Omit “A notice under subregulation (1)”, substitute “For the purposes of paragraph 191(2A)(c) of the Act, a notice of intention to make an application for confirmation of a scheme”.

23 Subregulation 9.02(3)

After “published”, insert “by the applicant under paragraph 191(2A)(b) of the Act”.

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Schedule 3 National Consumer Credit Protection amendments

Schedule 3—National Consumer Credit Protection amendments

National Consumer Credit Protection Regulations 2010

1 Form 5 of Schedule 1

Omit “in a newspaper”, substitute “by your credit provider”.

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Superannuation Industry (Supervision) amendments Schedule 4

Schedule 4—Superannuation Industry (Supervision) amendments

Superannuation Industry (Supervision) Regulations 1994

1 Regulation 3A.05

Repeal the following definitions:

- (a) definition of *asset*;
- (b) definition of *asset value*;
- (c) definition of *statement of financial position*.

2 Regulation 3A.05 (note)

Repeal the note, substitute:

Note: The definition of *public offer entity licence* is contained in subsection 10(1) of the Act.

3 Regulation 3A.06 (table item 1, column headed “Application”)

Omit “items 2 to 7”, substitute “item 4, 6 or 7”.

4 Regulation 3A.06 (table items 2 and 3)

Repeal the items.

5 Regulation 3A.06 (table item 4, column headed “Application”, paragraph (b))

Omit “withdrawn; and”, substitute “withdrawn.”.

6 Regulation 3A.06 (table item 4, column headed “Application”, paragraph (c))

Repeal the paragraph.

7 Regulation 3A.06 (table item 5)

Repeal the item.

8 Regulation 3A.06 (table item 8, column headed “Application”, paragraph (a))

Omit “, and item 9 does not apply”.

9 Regulation 3A.06 (table item 9)

Repeal the item.