





# **Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024**

**No. 67, 2024**

**An Act to amend the law relating to superannuation, taxation, corporations, financial services and multilateral development banks, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)



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## Contents

1	Short title.....	2
2	Commencement .....	2
3	Schedules .....	3
<b>Schedule 1—Delivering better financial outcomes—reducing red tape</b>		4
Part 1—Superannuation		4
Division 1—Amendment of the Superannuation Industry (Supervision) Act 1993		4
<i>Superannuation Industry (Supervision) Act 1993</i>		4
Division 2—Amendment of the Income Tax Assessment Act 1997		7
<i>Income Tax Assessment Act 1997</i>		7
Part 2—Ongoing fee arrangements		9
<i>Corporations Act 2001</i>		9
Part 3—Financial Services Guides		20
<i>Corporations Act 2001</i>		20
Part 4—Conflicted remuneration		35
<i>Corporations Act 2001</i>		35
Part 5—Insurance commissions		38
<i>Corporations Act 2001</i>		38
<b>Schedule 2—Petroleum resource rent tax anti-avoidance rules</b>		43
<i>Petroleum Resource Rent Tax Assessment Act 1987</i>		43
<b>Schedule 3—Capital allowances for mining, quarrying or prospecting rights and clarifying the meaning of exploration for petroleum</b>		46
Part 1—Capital allowances for mining, quarrying or prospecting rights		46
<i>Income Tax Assessment Act 1997</i>		46
Part 2—Clarifying the meaning of exploration for petroleum		49
<i>Petroleum Resource Rent Tax Assessment Act 1987</i>		49

---

<b>Schedule 4—Multilateral development banks</b>	50
<i>Asian Development Bank Act 1966</i>	50
<i>Asian Development Bank (Additional Subscription) Act 1972</i>	50
<i>Asian Development Bank (Additional Subscription) Act 1977</i>	51
<i>Asian Development Bank (Additional Subscription) Act 1983</i>	52
<i>Asian Development Bank (Additional Subscription) Act 1995</i>	52
<i>Asian Development Bank (Additional Subscription) Act 2009</i>	53
<i>European Bank for Reconstruction and Development Act 1990</i>	53
<i>International Bank for Reconstruction and Development (General Capital Increase) Act 1989</i>	54
<i>International Bank for Reconstruction and Development (Share Increase) Act 1988</i>	55
<i>International Financial Institutions (Share Increase) Act 1982</i>	55
<i>International Financial Institutions (Share Increase) Act 1986</i>	55
<i>International Monetary Agreements Act 1947</i>	55
<i>International Monetary Agreements Act 1974</i>	56
<i>International Monetary Agreements (Quota Increase) Act 1980</i>	57
<i>Official Development Assistance Multilateral Replenishment Obligations (Special Appropriation) Act 2020</i>	57
<b>Schedule 5—Miscellaneous and technical amendments</b>	58
Part 1—Amendments commencing day after Royal Assent	58
Division 1—Audit firm’s and audit company’s rotation obligations	58
<i>Corporations Act 2001</i>	58
Division 2—Insolvency safe harbour	58
<i>Corporations Act 2001</i>	58
Division 3—Financial services law	59
<i>Corporations Act 2001</i>	59
Division 4—Correcting duplicated section number	60
<i>Corporations Act 2001</i>	60
Division 5—Benefits provided by taking out insurance	60
<i>Superannuation Industry (Supervision) Act 1993</i>	60
Division 6—Actuaries and auditors of superannuation entities	62

---

---

<i>Superannuation Industry (Supervision) Act 1993</i>	62
Division 7—Financial reporting for superannuation entities	64
<i>Superannuation Industry (Supervision) Act 1993</i>	64
<b>Part 2—Amendments commencing first day of next quarter</b>	68
Division 1—A New Tax System (Goods and Services Tax) Act 1999	68
<i>A New Tax System (Goods and Services Tax) Act 1999</i>	68
Division 2—CDEP Scheme	68
<i>Income Tax Assessment Act 1936</i>	68
<i>Income Tax Rates Act 1986</i>	68
<i>Small Superannuation Accounts Act 1995</i>	69
<i>Taxation Administration Act 1953</i>	69
Division 3—Value shifting	69
<i>Income Tax Assessment Act 1997</i>	69
Division 4—Transfer Pricing Guidelines	70
<i>Income Tax Assessment Act 1997</i>	70
<b>Part 3—Other amendments: duty of superannuation trustees to notify the Regulator of significant adverse events</b>	71
<i>Superannuation Industry (Supervision) Act 1993</i>	71
<b>Schedule 6—Location offset and producer offset for films</b>	72
<b>Part 1—Location offset amount</b>	72
<i>Income Tax Assessment Act 1997</i>	72
<b>Part 2—Location offset conditions</b>	73
Division 1—Amendments	73
<i>Income Tax Assessment Act 1997</i>	73
Division 2—Application provisions	80
<b>Part 3—Producer offset</b>	82
<i>Income Tax Assessment Act 1997</i>	82

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**No. 67, 2024**

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**An Act to amend the law relating to superannuation, taxation, corporations, financial services and multilateral development banks, and for related purposes**

*[Assented to 9 July 2024]*

The Parliament of Australia enacts:

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*No. 67, 2024 Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024 1*

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## 1 Short title

This Act is the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024*.

## 2 Commencement

- (1) Each provision of this Act 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 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	9 July 2024
2. Schedule 1, Part 1, Division 1	The day after this Act receives the Royal Assent.	10 July 2024
3. Schedule 1, Part 1, Division 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 October 2024
4. Schedule 1, Parts 2 and 3	The day after this Act receives the Royal Assent.	10 July 2024
5. Schedule 1, Part 4	Immediately after the commencement of the provisions covered by table item 4.	10 July 2024
6. Schedule 1, Part 5	The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent.	10 July 2025
7. Schedules 2 and 3	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 October 2024
8. Schedule 4	The day after this Act receives the Royal Assent.	10 July 2024
9. Schedule 5, Part 1	The day after this Act receives the Royal Assent.	10 July 2024

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
10. Schedule 5, Part 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 October 2024
11. Schedule 5, Part 3	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.	
12. Schedule 6	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 October 2024

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

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

### 3 Schedules

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

## Schedule 1—Delivering better financial outcomes—reducing red tape

### Part 1—Superannuation

#### Division 1—Amendment of the Superannuation Industry (Supervision) Act 1993

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

##### **1 Subsection 6(1) (table item 32, column 1)**

Omit “Section 99F”, substitute “Sections 99F and 99FA”.

##### **2 Section 99FA**

Repeal the section, substitute:

##### **99FA Cost of financial product advice—fees charged to member concerned**

- (1) The trustee or the trustees of a regulated superannuation fund must not charge against a member’s interest in the fund the cost of financial product advice provided to the member unless:
  - (a) the financial product advice is personal advice; and
  - (c) the trustee or trustees charge the cost in accordance with the terms of a written request or written consent of the member; and
  - (d) if the arrangement under which the advice is provided is an ongoing fee arrangement—any applicable requirements of Division 3 of Part 7.7A of the *Corporations Act 2001* are met in relation to the arrangement and, if relevant, the deduction of ongoing fees; and
  - (e) if the arrangement under which the advice is provided is not an ongoing fee arrangement—the request or consent satisfies the requirements in subsection (2); and
  - (f) the trustee or trustees have the request or consent, or a copy of it.

- Note 1: The other obligations under this Act, including to act in the best financial interests of the beneficiaries (see paragraph 52(2)(c)) and to comply with the sole purpose test (see section 62), continue to apply to trustees.
- Note 2: See also Division 5 of Part 2C of this Act for fee rules for MySuper products.

*Payment of advice fees under an arrangement other than an ongoing fee arrangement*

- (2) For the purposes of paragraph (1)(e), the written request or written consent must include the following:
- (a) the name and contact details of the member;
  - (b) the name and contact details of the provider of the financial product advice;
  - (c) the name of the fund from which the cost of the advice is requested to be paid;
  - (d) a brief description of the services the member is entitled to receive under the arrangement;
  - (e) a request from, or consent by, the member for the cost of the advice to be paid by the trustee and charged against the member's interest in the fund;
  - (f) either:
    - (i) the amount to be paid for the advice; or
    - (ii) if the amount to be paid for the advice cannot be determined at the time the request is made, or the consent is given, a reasonable estimate of that amount and an explanation of the method used to work out the estimate;
  - (g) either:
    - (i) the amount to be charged against the member's interest in the fund; or
    - (ii) if the amount to be charged against the member's interest in the fund cannot be determined at the time the request is made, or the consent is given, a reasonable estimate of that amount and an explanation of the method used to work out the estimate;
  - (h) the member's signature;
  - (i) the date the request is made;
-

- (j) any other information prescribed by the regulations.
- (3) For the purposes of paragraph (2)(e), the Minister may, in writing, approve a form.
- (4) If the Minister has approved a form under subsection (3), a request or consent for the purposes of paragraph (2)(e) must be in the approved form.

*Collectively charged fees not covered*

- (5) Subsection (1) does not apply if the cost of providing financial product advice is shared between the member mentioned in subsection (1) and other members of the fund.

Note: For rules on collectively charged fees for the provision of financial product advice, see section 99F.

### 3 Application—financial product advice fees charged to a member

- (1) In this item:
  - new section 99FA* means section 99FA of the *Superannuation Industry (Supervision) Act 1993*, as in force immediately after the commencement of this Division.
  - old section 99FA* means section 99FA of the *Superannuation Industry (Supervision) Act 1993*, as in force immediately before the commencement of this Division.
  - Recommendation 7 amendments* means the amendments made by this Division.
  - start day* means the day that is 6 months after the day this Division commences.
- (2) The Recommendation 7 amendments apply to costs charged on and after the start day, regardless of whether the arrangement under which the relevant financial product advice is provided is entered into before, on, or after the start day.
- (3) Despite subitem (2), if, immediately before the start day:
  - (a) an arrangement entered into by a member of a regulated superannuation fund under which financial product advice is provided in relation to the member is in force; and

(b) a written consent of the member that meets the requirements of old section 99FA is in place;

then that written consent is taken to satisfy the requirements of new section 99FA from the start day until the earlier of:

- (c) the end of the period of 12 months beginning on the start day; and
- (d) the day the arrangement is terminated, renewed, or varied.

## **Division 2—Amendment of the Income Tax Assessment Act 1997**

### *Income Tax Assessment Act 1997*

#### **4 Section 12-5 (at the end of the table item headed “superannuation and related business”)**

Add:

financial product advice

subsection 295-490(1)  
(table item 5)

#### **5 Subsection 295-490(1) (at the end of the table)**

Add:

5	CSF N-CSF	An amount paid by the *superannuation provider of the CSF or N-CSF to the extent: (a) the amount is for a cost incurred because of the provision of personal advice (within the meaning of the <i>Corporations Act 2001</i> ) to a member of the fund about the member’s interest in the fund (regardless of whether that cost was incurred by the provider, the member or another entity); and (b) the amount is paid at the request, or with the consent, of the member; and (c) the provider has a copy of the	The superannuation provider paid the amount
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- written request or consent; and
- (d) the amount is not incurred in relation to gaining or producing the fund's \*exempt income or \*non-assessable non-exempt income

**6 At the end of section 307-10**

Add:

; (e) a payment that:

- (i) is paid by the \*superannuation provider of a \*superannuation fund at your direction or request; and
- (ii) relates directly to personal advice (within the meaning of the *Corporations Act 2001*) provided to you in relation to your interest in the fund.

**7 Application**

The amendments made by this Division apply in relation to the 2019-20 income year and later income years.

## **Part 2—Ongoing fee arrangements**

### ***Corporations Act 2001***

#### **8 Section 9**

Repeal the following definitions:

- (a) definition of *anniversary day*;
- (b) definition of *fee disclosure statement*;
- (c) definition of *renewal period*.

#### **9 After paragraph 110C(3)(d)**

Insert:

- (da) Division 3 of Part 7.7A; or

#### **10 Subdivision B of Division 3 of Part 7.7A**

Repeal the Subdivision, substitute:

### **Subdivision B—Client consent required for ongoing fee arrangements**

#### **962F Ongoing fee arrangement terminates without consent**

- (1) It is a condition of an ongoing fee arrangement that the arrangement terminates if:
  - (a) the client has not given a written consent in relation to the arrangement that complies with the requirements in section 962G; or
  - (b) all of the following apply:
    - (i) the client has given a written consent in relation to the arrangement that complies with the requirements in section 962G;
    - (ii) that consent has ceased to have effect under section 962H;
    - (iii) the client has not given a new consent that meets the requirements in section 962G in relation to the

arrangement in the period specified in paragraph 962H(1)(b).

- (2) The client is not taken to have waived the client's rights under the condition in subsection (1) (subject to subsection (3)), or to have entered into a new ongoing fee arrangement, if the client makes a payment of an ongoing fee after the arrangement terminates under subsection (1).
- (3) However, if the client makes a payment of an ongoing fee after the arrangement terminates under subsection (1), the fee recipient is not obliged to refund the payment.

Note: A Court may order that the fee recipient refund the amount (see section 1317GA).

### **962G Requirements for consent**

- (1) A written consent given in relation to an ongoing fee arrangement complies with the requirements in this section if:
  - (a) before obtaining the consent, the fee recipient disclosed to the client, in writing, the matters set out in subsection (2); and
  - (b) the consent is for:
    - (i) the ongoing fee arrangement to be entered into, or renewed (as the case requires); and
    - (ii) the ongoing fees disclosed as required under paragraph (2)(e) to be charged to the client; and
  - (c) the consent is signed by the client; and
  - (d) the consent is dated; and
  - (e) the fee recipient has the consent or a copy of the consent.
- (2) The matters that must be disclosed are as follows:
  - (a) the name and contact details of the person who is the fee recipient under the ongoing fee arrangement;
  - (b) an explanation of why the fee recipient is seeking the consent;
  - (c) the maximum period until the consent will cease to have effect under section 962H;
  - (d) information about the services that the client will be entitled to receive under the arrangement during that period;

- (e) for each ongoing fee that the client will be required to pay under the arrangement during that period:
  - (i) the amount of the fee; or
  - (ii) if the amount of the fee cannot be determined at the time of disclosure, a reasonable estimate of the amount of the ongoing fee and an explanation of the method used to work out the estimate;
- (f) the frequency of the ongoing fees during that period;
- (g) a statement that the ongoing fee arrangement can be terminated by the client at any time;
- (h) a statement that the arrangement will terminate, and no further advice will be provided or fee charged under it, if the consent is not given;
- (i) the date on which the arrangement will terminate if the consent is not given;
- (j) information about any other matters prescribed by the regulations.

#### **962H When consent ceases to have effect**

- (1) A consent given in relation to an ongoing fee arrangement for the purposes of this Subdivision ceases to have effect:
  - (a) unless paragraph (b) applies—at the end of the period of 150 days after the day determined under subsection (2); or
  - (b) if a new consent that complies with the requirements in section 962G is given in relation to the arrangement in the period that starts 60 days before the day determined under subsection (2) and ends 150 days after that day—at the time that new consent is given.

*Reference date for determining renewal period and cessation of consent*

- (2) The day determined under this subsection for a consent (the **current consent**) given in relation to an ongoing fee arrangement is the earlier of:
  - (a) if the current consent specifies a day—that day; and
  - (b) the anniversary of:

- (i) if the current consent is the first consent given in relation to the arrangement—the day on which the ongoing fee arrangement was entered into; or
- (ii) if the current consent is not the first consent given in relation to the arrangement—the day determined under this subsection for the previous consent.

**962J Client may terminate ongoing fee arrangement at any time**

- (1) It is a condition of the ongoing fee arrangement that the client may terminate the arrangement at any time.
- (2) A client may terminate the ongoing fee arrangement by giving notice to the fee recipient in relation to the ongoing fee arrangement, in writing, that the client wishes to terminate the arrangement.
- (3) If the client gives a notice under subsection (2) to terminate the ongoing fee arrangement, the arrangement terminates on the day on which the notice is given.
- (4) Any condition of the ongoing fee arrangement, or any other arrangement, that requires the client to pay an amount on terminating the ongoing fee arrangement is void to the extent that the amount exceeds the sum of:
  - (a) any liability that the client has accrued but not satisfied under the ongoing fee arrangement before the termination; and
  - (b) the costs of the current fee recipient incurred solely and directly because of the termination.

**11 Subdivision C of Division 3 of Part 7.7A (heading)**

Repeal the heading, substitute:

**Subdivision C—Account holder consent required for deducting ongoing fees from accounts**

**12 Paragraph 962R(2)(b)**

Repeal the paragraph, substitute:

- (b) the consent complies with the requirements in section 962T;

### **13 Paragraph 962S(3)(b)**

Repeal the paragraph, substitute:

- (b) the consent complies with the requirements in section 962T;

### **14 Section 962T**

Repeal the section, substitute:

#### **962T Requirements for consent—deduction of fees from accounts**

The requirements for the consent are:

- (a) before obtaining the consent, the fee recipient disclosed to the account holder, in writing, the matters set out in subsection 962G(2); and
- (b) the consent is given by the account holder for the ongoing fees disclosed under paragraph (a), to be deducted from the account; and
- (c) the consent specifies the name of the account holder and the account number; and
- (d) for each amount to be deducted, the consent specifies:
  - (i) the amount to be deducted; or
  - (ii) if the amount to be deducted cannot be determined at the time the consent is given, a reasonable estimate of that amount and an explanation of the method used to work out the estimate; and
- (e) the consent is signed by the account holder; and
- (f) the consent is dated; and
- (g) any other requirements prescribed by the regulations.

Note: If the account is held jointly, these paragraphs must be satisfied in relation to each account holder: see subsections 962R(3) and 962S(4).

### **15 Subsection 962U(3)**

Repeal the subsection (including the note).

### **16 Paragraph 962V(1)(a)**

Repeal the paragraph, substitute:

- (a) unless paragraph (b) or (c) applies—at the end of the period of 150 days after the anniversary of the day on which the ongoing fee arrangement was entered into; or

**17 Subsection 962V(3)**

Repeal the subsection (including the note).

**18 At the end of Subdivision C of Division 3 of Part 7.7A**

Add:

**962WA Ongoing fee arrangement terminates if fee deducted without consent**

- (1) It is a condition of the ongoing fee arrangement that the arrangement terminates if any of the following provisions have not been complied with in relation to the arrangement, whether by the current or a previous fee recipient:
  - (a) section 962R (fee recipient must not deduct ongoing fees without consent);
  - (b) section 962S (fee recipient must not arrange for deduction of ongoing fees without consent or accept such deductions).
- (2) The client is not taken to have waived the client's rights under the condition in subsection (1) (subject to subsection (3)), or to have entered into a new ongoing fee arrangement, if the client gives consent that covers the deduction of ongoing fees from the account, after the arrangement terminates under subsection (1).
- (3) However, if the client gives consent for deduction of ongoing fees from the account after the arrangement terminates under subsection (1), the fee recipient is not obliged to refund an amount deducted, or received as a result of a deduction made, in accordance with that consent.

Note: A Court may order that the fee recipient refund amounts deducted without consent (see section 1317GB).

**19 Subdivision D of Division 3 of Part 7.7A (heading)**

Repeal the heading, substitute:

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## **Subdivision D—Common rules for consents under this Division**

### **20 At the end of Subdivision D of Division 3 of Part 7.7A**

Add:

#### **962Y Form for consents**

- (1) For the purposes of this Division, the Minister may approve one or more forms for giving consent in relation to one or more of the following:
  - (a) entering into an ongoing fee arrangement;
  - (b) renewing an ongoing fee arrangement;
  - (c) deducting an amount in respect of ongoing fees from an account;
  - (d) arranging to deduct an amount in respect of ongoing fees from an account.

Note: Despite consent being given in an approved form, an account provider (other than the fee recipient) may request additional information from the fee recipient before deducting ongoing fees from an account.

- (2) If the Minister has approved a form under subsection (1), a consent given for the purposes of this Division must be in the approved form.

#### **962YA Combining information in a single notice or form**

- (1) If, under this Division, a person is required to give more than one notice or form to the same person, the information may be combined and given in a single notice or form.
- (2) If a single notice or form is given under subsection (1), the single notice or form must satisfy all of the requirements for giving each notice or form and clearly state the purposes for which it is being given.

**Subdivision E—Common rules for terminations under this Division**

**962Z Civil penalty provision—charging ongoing fees after arrangement terminated**

If an ongoing fee arrangement terminates for any reason, the fee recipient must not charge a fee that purports to be an ongoing fee under the arrangement.

Note: This section is a civil penalty provision (see section 1317E).

**962ZA Effect of termination**

To avoid doubt, if, under an ongoing fee arrangement, the continued provision of a service to the client by the fee recipient in relation to the arrangement is dependent on the continued payment of an ongoing fee, on termination of the arrangement, the obligation to continue to provide the service also terminates.

**21 Subsection 1317E(3) (table items dealing with subsection 962G(4) and section 962P)**

Repeal the items.

**22 Subsection 1317E(3) (table items dealing with subsections 962U(3) and 962V(3))**

Repeal the items.

**23 In the appropriate position in subsection 1317E(3)**

Insert:

section 962Z	charging an ongoing fee after arrangement has terminated	uncategorised
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**24 Subsection 1317G(1A) (table items 4 to 9)**

Repeal the items.

**25 Section 1317GA (heading)**

Repeal the heading, substitute:

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**1317GA Refund orders—charging ongoing fee after termination of arrangement**

**26 Paragraph 1317GA(1)(a)**

Omit “section 962P”, substitute “section 962Z”.

**27 In the appropriate position in Chapter 10**

Insert:

**Part 10.78—Provisions relating to Schedule 1 to the Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024**

**Division 1—Ongoing fee arrangements**

**1708 Definitions**

In this Part:

***amending Part*** means Part 2 of Schedule 1 to the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024*.

***start day*** means the day that is 6 months after the commencement of the amending Part.

***transition day*** for an ongoing fee arrangement means the first anniversary day (within the meaning of this Act as in force immediately before the commencement of the amending Part) for the arrangement to occur after the start day.

**1708A Application—new ongoing fee arrangements**

The amendments made by the amending Part apply in relation to an ongoing fee arrangement entered into on or after the start day.

**1708B Application—existing ongoing fee arrangements**

- (1) This section applies in relation to an ongoing fee arrangement that is in force immediately before the start day.
- (2) Subject to this section, the amendments made by the amending Part apply in relation to the ongoing fee arrangement on and after the transition day for the arrangement.

*Modified period for giving consent to ongoing fee arrangements*

- (3) Section 962F applies in relation to the ongoing fee arrangement as if paragraph (1)(a) of that section instead required the client to have given a written consent that meets the requirements in section 962G in relation to the arrangement in the period that:
  - (a) starts at the later of:
    - (i) the start day; and
    - (ii) 60 days before the transition day for the arrangement; and
  - (b) ends 150 days after the transition day for the arrangement.

*Changes relating to deductions of fees from accounts apply from 150 days after transition day*

- (4) The repeal of section 962FA and the amendments of Subdivision C of Division 3 of Part 7.7A made by the amending Part apply in relation to the ongoing fee arrangement on and after the period of 150 days after the transition day for the arrangement.

*Form requirements*

- (5) The amendments of Subdivision D of Division 3 of Part 7.7A made by the amending Part apply in relation to consents being given for the purposes of that Division as amended by the amending Part.

*Certain contraventions apply from the start day*

- (6) The following apply in relation to conduct occurring wholly on or after the start day:
  - (a) the repeal of section 962P;
  - (b) the repeal of subsections 962U(3) and 962V(3);

(c) the insertion of section 962Z.

## Part 3—Financial Services Guides

### *Corporations Act 2001*

#### 28 Section 9

Insert:

*website disclosure information* has the meaning given by section 943J.

#### 29 Subsection 923A(1) (note 3)

After “Financial Services Guide”, insert “or website disclosure information”.

#### 30 After subsection 941C(5)

Insert:

*Financial product advice—information is publicly available on providing entity’s website*

- (5A) The providing entity does not have to give the client a Financial Services Guide if:
- (a) the financial service provided to the client is financial product advice; and
  - (b) by the time the providing entity would otherwise be required to give the client a Financial Services Guide:
    - (i) the providing entity has made website disclosure information (see Division 2A), or something purporting to be website disclosure information, available on its website; and
    - (ii) the providing entity has not given (within the meaning of section 940C) the client a Financial Services Guide, or something purporting to be a Financial Services Guide.

#### 31 Section 941F

Omit all the words after subparagraph (b)(ii), substitute:

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the providing entity must, before the service is provided:

- (c) give the client:
  - (i) another Financial Services Guide that contains the up to date information before the service is provided; or
  - (ii) a Supplementary Financial Services Guide (see Subdivision C) that updates the information in the Financial Services Guide; or
- (d) make website disclosure information available on its website in accordance with Division 2A.

### **32 After Division 2 of Part 7.7**

Insert:

## **Division 2A—Website disclosure for financial product advice provided to a retail client**

### **943G Obligation on financial services licensee to make website disclosure information available**

- (1) A financial services licensee (the *providing entity*) must make website disclosure information available on its website in accordance with this Division if the providing entity provides financial product advice to a person as a retail client.
- (2) However, subsection (1) does not apply if:
  - (a) disregarding subsection 941C(5A), the providing entity is not required by a provision of this Part to give the client a Financial Services Guide in accordance with Division 2 in relation to the financial product advice; or
  - (b) the providing entity gives (within the meaning of section 940C) the client a Financial Services Guide, or something purporting to be a Financial Services Guide, by the time they are required by this Part to do so.
- (3) A person contravenes this subsection if the person contravenes subsection (1).

Note: This subsection is a civil penalty provision (see section 1317E).

*Interaction with section 941A*

- (4) If conduct constitutes a contravention of subsection (3) and subsection 941A(3), proceedings may be started against a person in relation to the contravention of either or both of those subsections.
- (5) However, the person is not liable to more than one pecuniary penalty in relation to the same conduct.

**943H Obligation on authorised representative to make website disclosure information available**

- (1) An authorised representative (the *providing entity*) of a financial services licensee (the *authorising licensee*), or of 2 or more financial services licensees (the *authorising licensees*), must make website disclosure information available on its website in accordance with this Division if the providing entity, as a representative of the authorising licensee, or one or more of the authorising licensees, provides financial product advice to a person (the *client*) as a retail client.

Note: If the providing entity is the authorised representative of 2 or more financial services licensees, each of those licensees is, for the purposes of this Division, an authorising licensee in relation to the financial service provided to the client, even though the providing entity may not have been acting as representative of each of those licensees in providing the service to the client.

- (2) However, subsection (1) does not apply if:
  - (a) disregarding subsection 941C(5A), the providing entity is not required by a provision of this Part to give the client a Financial Services Guide in accordance with Division 2 in relation to the financial product advice; or
  - (b) the providing entity gives (within the meaning of section 940C) the client a Financial Services Guide, or something purporting to be a Financial Services Guide, by the time they are required by this Part to do so.
- (3) An authorised representative must not make website disclosure information available on its website unless the authorising licensee, or each of the authorising licensees, has authorised its distribution by the authorised representative.

- (4) A person contravenes this subsection if the person contravenes subsection (1) or (3).

Note: This subsection is a civil penalty provision (see section 1317E).

*Interaction with section 941B*

- (5) If conduct constitutes a contravention of subsection (4) and subsection 941B(4), proceedings may be started against a person in relation to the contravention of either or both of those subsections.
- (6) However, the person is not liable to more than one pecuniary penalty in relation to the same conduct.

**943J Meaning of *website disclosure information***

*Website disclosure information*, in relation to a financial services licensee or an authorised representative of a financial services licensee, means the statements and information:

- (a) in the case of a financial services licensee—that would be required by section 942B to be in a Financial Services Guide given by the licensee; and
- (b) in the case of an authorised representative—that would be required by section 942C to be in a Financial Services Guide given by the authorised representative.

**943K Website disclosure information must be readily accessible**

- (1) This section applies if the providing entity makes website disclosure information, or something purporting to be website disclosure information, available on its website.
- (2) The providing entity must ensure that the website disclosure information on its website is kept readily accessible by the public.

Note: This subsection is a civil penalty provision (see section 1317E).

**943L Website disclosure information must be kept up to date**

- (1) This section applies if the providing entity makes website disclosure information, or something purporting to be website disclosure information, available on its website.

- (2) The providing entity must ensure that the website disclosure information on its website:
- (a) is kept up to date; and
  - (b) specifies the day on which it was prepared or last updated.

Note 1: This subsection is a civil penalty provision (see section 1317E).

Note 2: Website disclosure information must not be updated unless doing so is authorised by the relevant financial services licensee: see section 943M.

### **943M Altering website disclosure information after it has been made available**

A financial services licensee, or an authorised representative of a financial services licensee, must not, in purported compliance with a provision of this Part, alter website disclosure information on its website, unless:

- (a) the distribution of the altered website disclosure information was authorised by:
  - (i) if the website disclosure information relates to a financial services licensee—that licensee; or
  - (ii) if the website disclosure information relates to an authorised representative of a financial services licensee or financial services licensees—the financial services licensee, or each of the financial services licensees, who authorised the distribution of the website disclosure information as required by subsection 943H(3); and
- (b) if the alteration is a material alteration—the day specified as required by paragraph 943L(2)(b) has been changed to the date on which the alteration was made.

Note: Failure to comply with this section is an offence (see subsection 1311(1)).

### **943N Record of advice must be provided in certain circumstances**

If:

- (a) the website disclosure information includes a statement to the effect that a client may request a record of further market-related advice or advice to which subsection 946B(7) applies; and

- (b) the client is provided with advice to which that statement applies; and
- (c) the client has not already been provided with a record of that advice;

the providing entity must comply with a request made in accordance with that statement for a record of that advice.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

### **33 Subsection 952B(1) (paragraph (a) of the definition of *defective*)**

After “a Supplementary Financial Services Guide,”, insert “website disclosure information,”.

### **34 Subsection 952B(1) (after subparagraph (a)(iii) of the definition of *defective*)**

Insert:

- ; or (iiia) if it is website disclosure information—there is an omission from the document or statement of information that falls within the definition of *website disclosure information* in section 943J; or

### **35 Subsection 952B(1) (after paragraph (b) of the definition of *disclosure document or statement*)**

Insert:

- ; or (ba) website disclosure information; or

### **36 After subsection 952B(1A)**

Insert:

- (1B) For the avoidance of doubt, if section 943L (obligation to keep website disclosure information up to date) is not complied with in relation to website disclosure information, then, for the purposes of the definition of *defective* in subsection (1):
  - (a) if the circumstance constituting the non-compliance is that particular information included in the website disclosure information is not as up to date as section 943L requires it to

- be—the information so included constitutes a misleading statement in the website disclosure information; and
- (b) if the circumstance constituting the non-compliance is a failure to include particular information that was not previously required to be included in the website disclosure information—the failure to include the information constitutes an omission from the website disclosure information.

Note: Whether the inclusion of out of date information, or the failure to include information, results in website disclosure information being defective as defined in subsection (1) depends on whether the materiality test set out in that definition is satisfied.

**37 Subparagraph 952D(1)(a)(i)**

After “disclosure document or statement”, insert “(other than website disclosure information)”.

**38 Subparagraph 952D(1)(a)(ii)**

Omit “; and”, substitute “; or”.

**39 At the end of paragraph 952D(1)(a)**

Add:

- (iii) makes available a disclosure document or statement, being website disclosure information, in circumstances in which it is required by a provision of this Part to do so; or
- (iv) makes available on its website a disclosure document or statement, being website disclosure information, reckless as to whether a person will or may rely on the information; and

**40 Subparagraph 952D(2)(a)(i)**

After “disclosure document or statement”, insert “(other than website disclosure information)”.

**41 Subparagraph 952D(2)(a)(ii)**

Omit “; and”, substitute “; or”.

**42 At the end of paragraph 952D(2)(a)**

Add:

- (iii) makes available a disclosure document or statement, being website disclosure information, in circumstances in which it is required by a provision of this Part to do so; or
- (iv) makes available on its website a disclosure document or statement, being website disclosure information, reckless as to whether a person will or may rely on the information; and

**43 Subparagraph 952E(1)(a)(i)**

After “disclosure document or statement”, insert “(other than website disclosure information)”.

**44 Subparagraph 952E(1)(a)(ii)**

Omit “; and”, substitute “; or”.

**45 At the end of paragraph 952E(1)(a)**

Add:

- (iii) makes available a disclosure document or statement, being website disclosure information, in circumstances in which it is required by a provision of this Part to do so; or
- (iv) makes available on its website a disclosure document or statement, being website disclosure information, reckless as to whether a person will or may rely on the information; and

**46 Paragraph 952F(1)(a)**

Omit “or a Supplementary Financial Services Guide”, substitute “, a Supplementary Financial Services Guide or website disclosure information”.

**47 Paragraph 952G(1)(a)**

Omit “or a Supplementary Financial Services Guide”, substitute “, a Supplementary Financial Services Guide or website disclosure information”.

**48 Paragraph 952H(1)(a)**

After “give”, insert “, or make available,”.

**49 Paragraph 952H(1)(b)**

After “give”, insert “, or make available,”.

**50 Section 952I (heading)**

Repeal the heading, substitute:

**952I Offences if a Financial Services Guide, Supplementary FSG or website disclosure information does not comply with certain requirements**

**51 After subsection 952I(4)**

Insert:

(4A) A financial services licensee commits an offence if:

(a) the licensee:

(i) makes available, on its website, website disclosure information, in circumstances in which it is required by a provision of this Part to do so; or

(iv) makes available, on its website, website disclosure information, reckless as to whether a person will or may rely on the information; and

(b) the website disclosure information does not comply with paragraph 943L(2)(b) or 943M(b).

(4B) A financial services licensee commits an offence if:

(a) the financial services licensee authorises the distribution of website disclosure information by an authorised representative of the licensee; and

(b) the website disclosure information does not comply with paragraph 943L(2)(b) or 943M(b).

**52 Subsection 952I(5)**

Omit “(3) or (4)”, substitute “(3), (4), (4A) or (4B)”.

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**53 Section 952K (heading)**

Repeal the heading, substitute:

**952K Offence if authorised representative gives out unauthorised  
Financial Services Guide, Supplementary FSG or website  
disclosure information**

**54 Subparagraph 952K(a)(ii)**

Omit “; and”, substitute “; or”.

**55 At the end of paragraph 952K(a)**

Add:

- (iii) makes available on its website a disclosure document or statement, being website disclosure information, in circumstances in which it is required by a provision of this Part to do so; or
- (iv) makes available on its website a disclosure document or statement, being website disclosure information, reckless as to whether a person will or may rely on the information; and

**56 Paragraph 952K(b)**

Omit “or the Supplementary Financial Services Guide”, substitute “, the Supplementary Financial Services Guide or the website disclosure information”.

**57 Section 952L (heading)**

Repeal the heading, substitute:

**952L Offences if financial services licensee or authorised  
representative becomes aware that a Financial Services  
Guide, Supplementary FSG or website disclosure  
information is defective**

**58 Paragraph 952L(1)(a)**

Omit “or a Supplementary Financial Services Guide”, substitute “, a Supplementary Financial Services Guide or website disclosure information”.

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**59 Paragraph 952L(1)(b)**

Omit “or the Supplementary Financial Services Guide,”, substitute “the Supplementary Financial Services Guide, or the website disclosure information”.

**60 At the end of paragraph 952L(1)(c)**

Add:

- ; or (iv) a direction to alter the website disclosure information on its website in a way that is specified in the direction, being a way that corrects the deficiency and that complies with section 943M.

**61 Paragraph 952L(3)(a)**

Omit “or a Supplementary Financial Services Guide”, substitute “, a Supplementary Financial Services Guide or website disclosure information”.

**62 Paragraph 952L(3)(b)**

Omit “or the Supplementary Financial Services Guide,”, substitute “the Supplementary Financial Services Guide, or the website disclosure information”.

**63 Subsection 952L(4)**

Repeal the subsection, substitute:

- (4) In this section, a reference to distributing a Financial Services Guide, a Supplementary Financial Services Guide or website disclosure information includes (but is not limited to) giving, reading or making available the document or statement to another person in purported compliance with a requirement of this Part.

**64 Section 952M (heading)**

Repeal the heading, substitute:

**952M Offence of unauthorised alteration of Financial Services Guide, Supplementary Financial Services Guide or website disclosure information**

**65 Paragraph 952M(a)**

Omit “or a Supplementary Financial Services Guide”, substitute “, a Supplementary Financial Services Guide or website disclosure information”.

**66 Paragraph 952M(b)**

Omit “or Supplementary Financial Services Guide”, substitute “, Supplementary Financial Services Guide or website disclosure information”.

**67 Paragraph 952M(d)**

Repeal the paragraph, substitute:

- (d) the person, in purported compliance with a provision of this Part:
- (i) gives the altered Financial Services Guide or Supplementary Financial Services Guide to another person; or
  - (ii) makes available, on its website, the altered website disclosure information.

**68 Subsection 953A(1) (paragraph (a) of the definition of *defective*)**

After “a Supplementary Financial Services Guide,”, insert “website disclosure information,”.

**69 Subsection 953A(1) (after subparagraph (a)(iii) of the definition of *defective*)**

Insert:

- (iiia) if it is website disclosure information—there is an omission from the document or statement of information that falls within the definition of *website disclosure information* in section 943J; or

**70 Subsection 953A(1) (after paragraph (b) of the definition of *disclosure document or statement*)**

Insert:

; or (ba) website disclosure information; or

**71 After subsection 953A(1A)**

Insert:

(1B) For the avoidance of doubt, if section 943L (obligation to keep website disclosure information up to date) is not complied with in relation to website disclosure information, then, for the purposes of the definition of *defective* in subsection (1):

- (a) if the circumstance constituting the non-compliance is that particular information included in the website disclosure information is not as up to date as section 943L requires it to be—the information so included constitutes a misleading statement in the website disclosure information; and
- (b) if the circumstance constituting the non-compliance is a failure to include particular information that was not previously required to be included in the website disclosure information—the failure to include the information constitutes an omission from the website disclosure information.

**72 Subparagraph 953B(1)(a)(i)**

After “(the *required disclosure document or statement*)”, insert “, other than website disclosure information”.

**73 Subparagraph 953B(1)(b)(i)**

After “disclosure document or statement”, insert “(other than website disclosure information)”.

**74 After paragraph 953B(1)(b)**

Insert:

(ba) a person:

- (i) makes available a disclosure document or statement, being website disclosure information, that is defective in

circumstances in which it is required by a provision of this Part to do so; or

- (ii) makes available on its website a disclosure document or statement, being website disclosure information, that is defective, reckless as to whether a person will or may rely on the information; or

**75 Paragraph 953B(2)(b)**

Repeal the paragraph, substitute:

- (b) if paragraph (1)(b) or (ba) applies—because the disclosure document or statement that was given, or made available, to the client was defective; or

**76 Paragraphs 953B(3)(a), (b) and (c)**

After “, (b)” (wherever occurring), insert “, (ba)”.

**77 Paragraph 953B(4)(a)**

After “(1)(b)”, insert “or (ba)”.

**78 Paragraph 953B(4)(b)**

After “given”, insert “, or made available,”.

**79 Subsection 953B(6)**

After “(1)(b)”, insert “or (ba)”.

**80 In the appropriate position in subsection 1317E(3)**

Insert:

subsection 943G(3)	obligation on financial services licensee to make website disclosure information available if financial product advice is provided to a person as a retail client and no Financial Services Guide is given	uncategorised
subsection 943H(4)	obligation on authorised representative to make website disclosure information available if financial product advice is provided	uncategorised

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**Schedule 1** Delivering better financial outcomes—reducing red tape  
**Part 3** Financial Services Guides

---

	to a person as a retail client and no Financial Services Guide is given	
subsection 943K(2)	obligation to keep website disclosure information readily accessible	uncategorised
subsection 943L(2)	obligation to keep website disclosure information up to date	uncategorised

**81 In the appropriate position in Schedule 3**

Insert:

Section 943M	2 years imprisonment
Section 943N	1 year imprisonment

**82 In the appropriate position in Schedule 3**

Insert:

Subsections 952I(4A) and (4B)	30 penalty units
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## **Part 4—Conflicted remuneration**

### ***Corporations Act 2001***

#### **83 Section 9 (definition of *conflicted remuneration*)**

Omit “, 963C and 963D”, substitute “and 963C”.

#### **84 Section 963A**

Repeal the section, substitute:

#### **963A Meaning of conflicted remuneration—general**

- (1) ***Conflicted remuneration*** means any benefit, whether monetary or non-monetary, given to a financial services licensee, or a representative of a financial services licensee, who provides financial product advice to persons as retail clients that:
  - (a) because of the nature of the benefit or the circumstances in which it is given:
    - (i) could reasonably be expected to influence the choice of financial product recommended by the licensee or representative to retail clients; or
    - (ii) could reasonably be expected to influence the financial product advice given to retail clients by the licensee or representative; and
  - (b) is not given to the licensee or representative by a person who is a retail client in relation to a financial product or financial service provided by the licensee or representative to the client.
- (2) For the purposes of this Subdivision, a reference to giving a benefit includes a reference to causing or authorising the benefit to be given.

#### **85 After paragraph 963B(1)(ba)**

Insert:

- (bb) each of the following is satisfied in relation to the benefit:

- (i) the benefit is given to the licensee or representative by a trustee or trustees of a regulated superannuation fund;
- (ii) the benefit is given in relation to financial product advice that is personal advice, which is provided by the licensee or representative to a retail client, about the client's interest in the fund;
- (iii) the benefit is charged against the client's interest in the fund, or against the interests of the client and other members of the fund;

**86 Paragraph 963B(1)(c)**

Repeal the paragraph.

**87 Paragraph 963B(1)(d)**

Repeal the paragraph.

**88 Paragraph 963B(1)(e) (note)**

Repeal the note.

**89 Subsection 963B(5) (note)**

Repeal the note.

**90 Paragraph 963C(1)(e)**

Repeal the paragraph.

**91 Section 963D**

Repeal the section.

**92 At the end of Part 10.78**

Add:

**Division 2—Conflicted remuneration**

**1708C Benefits given by a retail client**

The amendments made by Part 4 of Schedule 1 to the *Treasury Laws Amendment (Delivering Better Financial Outcomes and*

*Other Measures) Act 2024* apply to benefits given on or after the commencement of that Part.

### **1708D Benefits for employees of ADIs**

- (1) The repeal of section 963D by item 91 of Part 4 of Schedule 1 to the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024* applies to a benefit given to a financial services licensee, or a representative of a financial services licensee, under an arrangement if:
  - (a) the arrangement was entered into on or after the day (the ***deferred start day***) that is 6 months after the commencement of that Part; or
  - (b) all of the following apply:
    - (i) the arrangement was varied on or after the deferred start day;
    - (ii) the variation related to the giving of benefits under the arrangement;
    - (iii) the benefit is given on or after the deferred start day.
- (2) The repeal of that section also applies to a benefit if:
  - (a) the benefit is given to a financial services licensee, or a representative of a financial services licensee, otherwise than under an arrangement; and
  - (b) the benefit is given on or after the deferred start day.

## Part 5—Insurance commissions

### *Corporations Act 2001*

#### **93 Paragraph 963B(1)(a)**

Before “the benefit”, insert “subject to section 963BB (which is about informed consent for commissions)”.

#### **94 Paragraph 963B(1)(b)**

Before “each of the following”, insert “subject to section 963BB (which is about informed consent for commissions)”.

#### **95 Paragraph 963B(1)(ba)**

Before “the benefit”, insert “subject to section 963BB (which is about informed consent for commissions)”.

#### **96 After section 963BA**

Insert:

#### **963BB Informed consent for certain insurance commissions**

- (1) If a financial services licensee or a representative of a financial services licensee provides, or is likely to provide, personal advice to a retail client in relation to a financial product (the **relevant product**) that is a general insurance product, a life risk insurance product, or consumer credit insurance, paragraphs 963B(1)(a), (b) and (ba) do not apply to a monetary benefit given in connection with the issue or sale of the relevant product to the client unless:
  - (b) before the issue or sale of the relevant product, the client consented to the monetary benefit being given; and
  - (c) before the consent was given, the following information was disclosed to the client:
    - (i) the name of the insurer under the relevant product (if known);
    - (ii) for a general insurance product—the rate of the monetary benefit, expressed as a percentage range of the policy cost for the product;

- (iii) for a life risk insurance product or consumer credit insurance—the rate of the monetary benefit, expressed as a percentage of the policy cost payable for the product;
  - (iv) if more than one monetary benefit will be given in connection with the issue or sale of the relevant product—the frequency of giving those monetary benefits and the period over which monetary benefits covered by the consent could be given, including any renewals; and
  - (v) the nature of any services that the financial services licensee or representative will provide the client (if any) in relation to the relevant product; and
  - (vi) a statement that it is a requirement of the law that client consent must be obtained before the payment of an insurance commission;
  - (vii) the fact that the consent is irrevocable; and
- (d) the licensee or representative has:
- (i) the client’s written consent or a copy of the client’s written consent; or
  - (ii) if the consent was not obtained in writing—a written record of the client’s consent; and
- (e) the licensee or representative gives a copy of the written consent, or a copy of the record of the consent, to the client as soon as reasonably practicable after the consent is obtained.
- (2) To avoid doubt:
- (a) if information meeting the requirements of paragraph (1)(c) has already been disclosed to the client, that paragraph does not require the information to be disclosed again; and
  - (b) a consent to a particular rate or frequency of a monetary benefit given for the purposes of subsection (1) is taken to also be a consent to a rate or frequency that is less than that disclosed to the client before that consent was given, as mentioned in subparagraph (1)(c)(ii), (iii) or (iv).

*Renewals of general insurance products*

- (3) For the purposes of subsection (1), a consent (the **original consent**) to a monetary benefit given in connection with the issue or sale to a retail client of a general insurance product is taken to also be a consent to a monetary benefit (a **renewal benefit**) being given in connection with a renewal of that product if:
- (a) the information disclosed to the client before the original consent was given included the fact that the original consent would cover renewals of the general insurance product; and
  - (b) the rate of the renewal benefit is equal to or less than that disclosed to the client before the original consent was given, as mentioned in subparagraph (1)(c)(ii).

*Transfer of financial product advice business*

- (4) For the purposes of subsection (1), a consent to a monetary benefit being given to a financial services licensee (the **original recipient**) or a representative of a financial services licensee (also the **original recipient**) is taken to also be a consent to the monetary benefit being given to another person (the **new recipient**) if:
- (a) the original recipient's financial product advice business is wholly or partly sold or transferred to:
    - (i) another financial services licensee; or
    - (ii) a representative of another financial services licensee; or
    - (iii) another representative of the financial services licensee that is the original recipient; and
  - (b) the new recipient is:
    - (i) if subparagraph (a)(i) applies—that other licensee; or
    - (ii) if subparagraph (a)(ii) applies—that representative of another licensee; or
    - (iii) if subparagraph (a)(iii) applies—that other representative of the licensee that is the original recipient.

*Variation of consent*

- (5) If a client has given a consent for the purposes of subsection (1), the financial services licensee or representative may:
-

- (a) disclose to the client proposed variations to one or more of the matters mentioned in subparagraphs (1)(c)(i) to (v); and
- (b) request the client to consent to those variations.

(6) If:

- (a) the client consents to those variations; and
- (b) paragraphs (1)(d) and (e) are satisfied in relation to that variation;

then the consent has effect as varied for the purposes of this section.

### **97 Section 963K**

Before “An”, insert “(1)”.

### **98 Section 963K (note)**

Omit “section”, substitute “subsection”.

### **99 At the end of section 963K**

Add:

*Exception for insurance products*

- (2) In determining whether an issuer or seller of a financial product contravenes subsection (1), disregard section 963BB (which is about informed consent for certain insurance commissions).

### **100 Subsection 1317E(3) (table item dealing with section 963K)**

Omit “section 963K”, substitute “subsection 963K(1)”.

### **101 At the end of Part 10.78**

Add:

## **Division 3—Insurance commissions**

### **1708E Informed consent for certain insurance commissions**

- (1) The amendments made by Part 5 of Schedule 1 to the *Treasury Laws Amendment (Delivering Better Financial Outcomes and*

**Schedule 1** Delivering better financial outcomes—reducing red tape  
**Part 5** Insurance commissions

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*Other Measures) Act 2024* apply to benefits given on or after the commencement of that Part in relation to the issue or sale of general insurance products, life risk insurance products or consumer credit insurance on or after that commencement.

- (2) However, those amendments do not apply to benefits given in connection with the issue or sale of a general insurance product if:
- (a) the product is a renewal of another general insurance product; and
  - (b) that other general insurance product was issued or sold before the commencement of Part 5 of Schedule 1 to the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024*.

## **Schedule 2—Petroleum resource rent tax anti-avoidance rules**

### ***Petroleum Resource Rent Tax Assessment Act 1987***

#### **1 Section 52**

Repeal the section, substitute:

#### **51A The bases for identifying tax benefits**

- (1) This section applies to deciding, under section 51, whether any of the following (*tax effects*) would have occurred, or might reasonably be expected to have occurred, if an arrangement had not been entered into or carried out:
  - (a) an amount of assessable receipts being derived by the person in relation to a petroleum project;
  - (b) an amount of deductible expenditure not being incurred by the person in relation to a petroleum project.
- (2) A decision that a tax effect would have occurred if the arrangement had not been entered into or carried out must be based on a postulate that comprises only the events or circumstances that actually happened or existed (other than those that form part of the arrangement).
- (3) A decision that a tax effect might reasonably be expected to have occurred if the arrangement had not been entered into or carried out must be based on a postulate that is a reasonable alternative to entering into or carrying out the arrangement.
- (4) In determining for the purposes of subsection (3) whether a postulate is such a reasonable alternative:
  - (a) have particular regard to:
    - (i) the substance of the arrangement; and
    - (ii) any result or consequence for the person that is or would be achieved by the arrangement (other than a result in relation to the operation of this Act); but

- (b) disregard any result in relation to the operation of this Act that would be achieved by the postulate for any person (whether or not a party to the arrangement).

## 52 Arrangements to which this Subdivision applies

### *Arrangement for purpose of obtaining a tax benefit*

- (1) This Subdivision applies to an arrangement if it would be concluded (having regard to the matters in subsection (2)) that the person, or one of the persons, who entered into or carried out the arrangement or any part of the arrangement did so for the sole or dominant purpose of:
  - (a) enabling a person (an **eligible person**) to obtain a tax benefit or tax benefits in connection with the arrangement; or
  - (b) enabling the eligible person and another person or other persons each to obtain a tax benefit or tax benefits in connection with the arrangement;whether or not that person who entered into or carried out the arrangement or any part of the arrangement is the eligible person or is the other person or one of the other persons.

### *Have regard to certain matters*

- (2) For the purposes of subsection (1), have regard to the following matters:
  - (a) the manner in which the arrangement was entered into or carried out;
  - (b) the form and substance of the arrangement;
  - (c) the time at which the arrangement was entered into and the length of the period during which the arrangement was carried out;
  - (d) the result in relation to the operation of this Act that, but for this Subdivision, would be achieved by the arrangement;
  - (e) any change in the financial position of the eligible person that has resulted, will result, or may reasonably be expected to result, from the arrangement;
  - (f) any change in the financial position of any person who has, or has had, any connection (whether of a business, family or other nature) with the eligible person, being a change that has

resulted, will result or may reasonably be expected to result, from the arrangement;

- (g) any other consequence for the eligible person, or for any person referred to in paragraph (f), of the arrangement having been entered into or carried out;
- (h) the nature of any connection (whether of a business, family, or other nature) between the eligible person and any person referred to in paragraph (f).

*Tax benefit*

- (3) Despite subsection (1), this Subdivision applies to the arrangement only if the eligible person has obtained, or would but for section 53 obtain, a tax benefit in connection with the arrangement.

**2 Subsection 53(1)**

Omit “a tax benefit has been obtained, or would but for this section be obtained, by a person in connection with an arrangement to which this Subdivision applies”, substitute “this Subdivision applies to an arrangement in connection with which a tax benefit has been obtained, or would but for this section be obtained”.

**3 Application of amendments**

The amendments made by this Schedule apply in relation to an arrangement that:

- (a) has been or is entered into on or after 1 July 2023; or
- (b) has been or is carried out or commenced to be carried out on or after that date (other than an arrangement that was entered into before that date).

**Schedule 3** Capital allowances for mining, quarrying or prospecting rights and clarifying the meaning of exploration for petroleum

**Part 1** Capital allowances for mining, quarrying or prospecting rights

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## **Schedule 3—Capital allowances for mining, quarrying or prospecting rights and clarifying the meaning of exploration for petroleum**

### **Part 1—Capital allowances for mining, quarrying or prospecting rights**

*Income Tax Assessment Act 1997*

#### **1 Paragraph 40-30(6)(b)**

Repeal the paragraph, substitute:

(b) any of the following conditions are satisfied:

- (i) the new right and the other right relate to the same area, or any difference in area is not significant;
- (ii) the new right relates to an area that is a part of the area that the other right relates to.

Note: If the other right does not end, it may be taken to be split into 2 assets: see section 40-122.

#### **2 At the end of section 40-30**

Add:

- (7) For the purposes of subsection (6), it does not matter whether the new right begins immediately after the other right ends or later (including in a later income year).

#### **3 After section 40-40**

Insert:

#### **40-42 When mining, quarrying or prospecting rights are used**

- (1) This Division and Subdivision 328-D (capital allowances for small business entities) apply to a \*depreciating asset you \*hold that is a \*mining, quarrying or prospecting right as if a reference to using

the asset were a reference to engaging in activity that involves exercising rights conferred on you by the asset.

- (2) If the asset is an interest covered by paragraph (c) of the definition of **mining, quarrying or prospecting right** in subsection 995-1(1), the reference in subsection (1) of this section to rights conferred on you by the asset is taken to be a reference to rights conferred on you by the authority, licence, permit, right or lease referred to in paragraph (c) of that definition.

#### **4 After section 40-120**

Insert:

#### **40-122 Partial conversions of mining, quarrying or prospecting rights**

- (1) This section applies if:
- (a) a \*depreciating asset you \*hold is a \*mining, quarrying or prospecting right (the **old right**) that relates to an area; and
  - (b) you begin to hold another depreciating asset (the **partial new right**) that:
    - (i) is a mining, quarrying or prospecting right; and
    - (ii) relates to an area that is a part of the area that the old right relates to; and
  - (c) the old right does not end when you begin to hold the partial new right.
- (2) This Division applies as if:
- (a) when you begin to hold the partial new right, the old right is split into:
    - (i) an asset that is the partial new right; and
    - (ii) an asset that is the old right; and
  - (b) the assets mentioned in subparagraphs (a)(i) and (ii) are both continuations of the old right.

Note: For the cost of the split assets, see section 40-205.

#### **5 After section 40-215**

Insert:

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**Schedule 3** Capital allowances for mining, quarrying or prospecting rights and clarifying the meaning of exploration for petroleum

**Part 1** Capital allowances for mining, quarrying or prospecting rights

---

**40-217 Cost of partial continuations of mining, quarrying or prospecting rights**

If:

- (a) because of subsection 40-30(6), this Division applies to a \*mining, quarrying or prospecting right (the ***new right***) as if it were a continuation of another mining, quarrying or prospecting right you \*held; and
- (b) the new right satisfies the condition in subparagraph (b)(ii) of that subsection because it relates to an area that is a part of the area that the other right relates to;

the first element of the ***cost*** of the new right is a reasonable proportion of the \*adjustable value of other right at the time just before the other right ends.

**6 Subsection 995-1(1) (at the end of the definition of *installed ready for use*)**

Add “However, a \*mining, quarrying or prospecting right is not ***installed ready for use***.”.

**7 Application of amendments**

- (1) Subject to subitems (2) and (3), the amendments made by this Part apply to a mining, quarrying or prospecting right that you start to hold after 7:30 pm, by legal time in the Australian Capital Territory, on 9 May 2023.
- (2) The amendments of section 40-30 of the *Income Tax Assessment Act 1997* made by this Part apply if you begin to hold the new right after 7:30 pm, by legal time in the Australian Capital Territory, on 9 May 2023.
- (3) Section 40-122 of the *Income Tax Assessment Act 1997*, as inserted by this Part, applies if you begin to hold the partial new right after 7:30 pm, by legal time in the Australian Capital Territory, on 9 May 2023.

## **Part 2—Clarifying the meaning of exploration for petroleum**

### ***Petroleum Resource Rent Tax Assessment Act 1987***

#### **8 At the end of section 37**

Add:

- (4) Subject to subsection (5), for the purposes of paragraph (1)(a), *exploration for petroleum* means:
  - (a) discovering petroleum; or
  - (b) identifying the extent of discovered petroleum; or
  - (c) identifying the nature of discovered petroleum.
- (5) For the purposes of paragraph (1)(a), *exploration for petroleum* does not include determining:
  - (a) any of the following in relation to the recovery of petroleum:
    - (i) commercial viability;
    - (ii) economic feasibility;
    - (iii) technical feasibility; or
  - (b) how to recover any petroleum;
- (6) Paragraphs (5)(a) and (b) do not limit each other.

#### **9 Application of amendments**

The amendment made by this Part applies to payments made on or after 21 August 2013.

#### **10 No retrospective criminal liability**

The amendment made by this Part is taken not to make a person criminally liable in respect of acts or omissions of the person before the day on which this item commences, if the person would not have been so liable had this Part not been enacted.

## Schedule 4—Multilateral development banks

### *Asian Development Bank Act 1966*

#### 1 Section 3

Repeal the section, substitute:

#### 3 Definitions

In this Act:

**Bank** means the Asian Development Bank.

**Bank Agreement** means the Agreement establishing the Asian Development Bank, done at Manila on 4 December 1965, as in force for Australia from time to time.

Note: The Agreement establishing the Asian Development Bank is in Australian Treaty Series 1966 No. 13 ([1966] ATS 13) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

#### 2 Paragraph 4(a)

Before “Agreement”, insert “Bank”.

#### 3 Schedule

Repeal the Schedule.

### *Asian Development Bank (Additional Subscription) Act 1972*

#### 4 Section 3

Repeal the section, substitute:

#### 3 Definitions

In this Act:

**Bank** means the Asian Development Bank.

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**Bank Agreement** means the Agreement establishing the Asian Development Bank, done at Manila on 4 December 1965, as in force for Australia on the commencement of this Act.

Note: The Agreement establishing the Asian Development Bank is in Australian Treaty Series 1966 No. 13 ([1966] ATS 13) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**callable shares** has the same meaning as in the Bank Agreement.

**paid-in shares** has the same meaning as in the Bank Agreement.

**United States dollar** means a dollar in the currency of the United States of America of the weight and fineness that was in effect on 31 January 1966.

## ***Asian Development Bank (Additional Subscription) Act 1977***

### **5 Section 3**

Repeal the section, substitute:

### **3 Definitions**

In this Act:

**Bank** means the Asian Development Bank.

**Bank Agreement** means the Agreement establishing the Asian Development Bank, done at Manila on 4 December 1965, as in force for Australia on the commencement of this Act.

Note: The Agreement establishing the Asian Development Bank is in Australian Treaty Series 1966 No. 13 ([1966] ATS 13) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**callable shares** has the same meaning as in the Bank Agreement.

**paid-in shares** has the same meaning as in the Bank Agreement.

**United States dollar** means a dollar in the currency of the United States of America of the weight and fineness that was in effect on 31 January 1966.

***Asian Development Bank (Additional Subscription) Act 1983***

**6 Section 3**

Repeal the section, substitute:

**3 Definitions**

In this Act:

***Bank*** means the Asian Development Bank.

***Bank Agreement*** means the Agreement establishing the Asian Development Bank, done at Manila on 4 December 1965, as in force for Australia on the commencement of this Act.

Note: The Agreement establishing the Asian Development Bank is in Australian Treaty Series 1966 No. 13 ([1966] ATS 13) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

***callable shares*** has the same meaning as in the Bank Agreement.

***paid-in shares*** has the same meaning as in the Bank Agreement.

***United States dollar*** means a dollar in the currency of the United States of America of the weight and fineness that was in effect on 31 January 1966.

***Asian Development Bank (Additional Subscription) Act 1995***

**7 Section 3**

Repeal the section, substitute:

**3 Definitions**

In this Act:

***Bank*** means the Asian Development Bank.

***Bank Agreement*** means the Agreement establishing the Asian Development Bank, done at Manila on 4 December 1965, as in force for Australia on the commencement of this Act.

Note: The Agreement establishing the Asian Development Bank is in Australian Treaty Series 1966 No. 13 ([1966] ATS 13) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

*callable shares* has the same meaning as in the Bank Agreement.

*paid-in shares* has the same meaning as in the Bank Agreement.

## ***Asian Development Bank (Additional Subscription) Act 2009***

### **8 Section 3**

Repeal the section, substitute:

### **3 Definitions**

In this Act:

***Bank*** means the Asian Development Bank.

***Bank Agreement*** means the Agreement establishing the Asian Development Bank, done at Manila on 4 December 1965, as in force for Australia on the commencement of this Act.

Note: The Agreement establishing the Asian Development Bank is in Australian Treaty Series 1966 No. 13 ([1966] ATS 13) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

*callable shares* has the same meaning as in the Bank Agreement.

*paid-in shares* has the same meaning as in the Bank Agreement.

## ***European Bank for Reconstruction and Development Act 1990***

### **9 Section 3**

Insert:

***Bank Agreement*** means the Agreement establishing the European Bank for Reconstruction and Development, done at Paris on 29 May 1990, as in force for Australia from time to time.

Note: The Agreement establishing the European Bank for Reconstruction and Development is in Australian Treaty Series 1991 No. 15 ([1991] ATS 15) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**10 Section 3 (definition of *modifying*)**

Repeal the definition.

**11 Paragraph 4(a)**

Omit “Agreement establishing the European Bank for Reconstruction and Development as set out in Schedule 1”, substitute “Bank Agreement”.

**12 Section 6**

Repeal the section.

**13 Schedule 1**

Repeal the Schedule.

***International Bank for Reconstruction and Development  
(General Capital Increase) Act 1989***

**14 Section 3 (definition of *Bank*)**

Omit “established under the Articles of Agreement set out in Schedule 2 to the *International Monetary Agreements Act 1947*”.

**15 Section 3**

Insert:

*Bank Agreement* has the same meaning as in the *International Monetary Agreements Act 1947*.

**16 At the end of paragraphs 7(2)(a) and (b)**

Add “and”.

**17 Paragraph 7(2)(c)**

Omit “Articles of Agreement set out in Schedule 2 to the *International Monetary Agreements Act 1947*”; substitute “Bank Agreement; and”.

---

***International Bank for Reconstruction and Development  
(Share Increase) Act 1988***

**18 Section 3**

Repeal the section, substitute:

**3 Definitions**

In this Act:

**Bank** means the International Bank for Reconstruction and Development.

***International Financial Institutions (Share Increase) Act  
1982***

**19 Section 3 (definition of Bank)**

Omit “established under the Articles of Agreement set out in Schedule 2 to the *International Monetary Agreements Act 1947*”.

***International Financial Institutions (Share Increase) Act  
1986***

**20 Section 3 (definition of Bank)**

Omit “established under the Articles of Agreement set out in Schedule 2 to the *International Monetary Agreements Act 1947*”.

***International Monetary Agreements Act 1947***

**21 Section 3 (definition of Asian Development Bank)**

Repeal the definition.

**22 Section 3 (definition of Bank)**

Omit “referred to in the Bank Agreement”.

**23 Section 3 (definition of Bank Agreement)**

Repeal the definition, substitute:

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**Bank Agreement** means the Articles of Agreement of the International Bank for Reconstruction and Development, done at Washington on 27 December 1945, as in force for Australia from time to time.

Note: The Articles of Agreement of the International Bank for Reconstruction and Development are in Australian Treaty Series 1947 No. 15 ([1947] ATS 15) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**24 Section 3 (definition of *Fund*)**

Omit “referred to in the Fund Agreement”.

**25 Section 3 (definition of *Fund Agreement*)**

Repeal the definition, substitute:

**Fund Agreement** means the Articles of Agreement of the International Monetary Fund, done at Washington on 27 December 1945, as in force for Australia from time to time.

Note: The Articles of Agreement of the International Monetary Fund are in Australian Treaty Series 1947 No. 11 ([1947] ATS 11) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

**26 Section 3 (paragraph (a) of the definition of *World Bank organisation*)**

omit “referred to in the Bank Agreement”.

**27 Schedules 1, 2 and 3**

Repeal the Schedules.

***International Monetary Agreements Act 1974***

**28 Section 3 (definition of *Bank*)**

Omit “established under the Articles of Agreement set out in the Second Schedule to the *International Monetary Agreements Act 1974*”.

***International Monetary Agreements (Quota Increase) Act  
1980***

**29 Section 3**

Repeal the section.

***Official Development Assistance Multilateral Replenishment  
Obligations (Special Appropriation) Act 2020***

**30 Section 3**

Repeal the following definitions:

- (a) definition of *Asian Development Bank*;
- (b) definition of *International Bank for Reconstruction and Development*.

## **Schedule 5—Miscellaneous and technical amendments**

### **Part 1—Amendments commencing day after Royal Assent**

#### **Division 1—Audit firm’s and audit company’s rotation obligations**

##### *Corporations Act 2001*

**1 Paragraph 324DC(1)(a)**

After “listed company’s”, insert “auditor”.

**2 Paragraph 324DC(2)(a)**

After “listed company’s”, insert “auditor”.

**3 Paragraph 324DD(1)(a)**

After “listed company’s”, insert “auditor”.

**4 Paragraph 324DD(2)(a)**

After “listed company’s”, insert “auditor”.

**5 Paragraph 324DD(3)(a)**

After “listed company’s”, insert “auditor”.

**6 Schedule 3 (table item dealing with subsections 322(1), (1A) (2) and (2A), column headed “Provision”)**

Omit “(1A)”, substitute “(1A),”.

#### **Division 2—Insolvency safe harbour**

##### *Corporations Act 2001*

**7 Section 9 (definition of restructuring)**

After “meaning”, insert “(except in paragraph 588GA(2)(e))”.

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**8 Paragraph 588GA(1)(b)**

Omit all the words before subparagraph (i), substitute:

(b) the debt is incurred, or the disposition is made:

(ia) directly or indirectly in connection with any such course of action; or

(ib) in the ordinary course of the company's business; during the period starting at that time, and ending at the earliest of any of the following times:

**9 Subsection 588GA(2)**

Omit "the person".

**10 Paragraphs 588GA(2)(a) and (b)**

Before "is", insert "the person".

**11 Paragraph 588GA(2)(c)**

Before "is" (first occurring), insert "the person".

**12 Paragraph 588GA(2)(d)**

Before "is", insert "the company or the person".

**13 Paragraph 588GA(2)(e)**

Before "is", insert "the person".

**14 Subparagraph 588GA(4)(a)(i)**

Omit "by the time they fall due", substitute "that are payable".

**Division 3—Financial services law**

***Corporations Act 2001***

**15 Paragraph 912D(3)(b)**

Omit "(ba) and (c)", substitute "(c) and (d)".

**16 Paragraph 912D(3)(c)**

Omit "paragraph (d)", substitute "paragraph (e)".

**17 Paragraph 912D(3)(d)**

Omit “paragraph (d) or (e)”, substitute “paragraph (e) or (f)”.

**18 Paragraph 912D(3)(e)**

Omit “(ba) and (c)”, substitute “(c) and (d)”.

**19 Subparagraph 915B(3)(ca)(ii)**

Omit “paragraph (e)”, substitute “paragraph (f)”.

**Division 4—Correcting duplicated section number**

*Corporations Act 2001*

**20 Section 1684 (the section 1684 inserted by item 176 of Schedule 6 to the *Treasury Laws Amendment (2022 Measures No. 4) Act 2023*)**

Renumber as section 1685.

**Division 5—Benefits provided by taking out insurance**

*Superannuation Industry (Supervision) Act 1993*

**21 After subsection 68AAB(3A)**

Insert:

(3B) Subsection (3C) applies if:

- (a) the benefits of a member of a regulated superannuation fund (the *original fund*) are transferred from the original fund to another regulated superannuation fund (the *successor fund*); and
- (b) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits.

(3C) Subsection (1) does not apply in relation to the successor fund providing a benefit to, or in respect of, the member if, immediately before the transfer:

- (a) the original fund provided a benefit to, or in respect of, the member under a choice product or MySuper product held by the member by taking out or maintaining insurance; and
- (b) subsection (1):
  - (i) did not apply in relation to the original fund providing that benefit to, or in respect of, the member; but
  - (ii) would have applied if paragraphs (1)(a) and (b) were disregarded.

## **22 After subsection 68AAC(3A)**

Insert:

- (3B) Subsection (3C) applies if:
  - (a) the benefits of a member of a regulated superannuation fund (the *original fund*) are transferred from the original fund to another regulated superannuation fund (the *successor fund*); and
  - (b) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits.
- (3C) Subsection (1) does not apply in relation to the successor fund providing a benefit to, or in respect of, the member if, immediately before the transfer:
  - (a) the original fund provided a benefit to, or in respect of, the member under a choice product or MySuper product held by the member by taking out or maintaining insurance; and
  - (b) subsection (1):
    - (i) did not apply in relation to the original fund providing that benefit to, or in respect of, the member; but
    - (ii) would have applied if paragraph (1)(a) were disregarded.

## **23 Application of amendments**

### *Application of amendments*

- (1) The amendments made by this Division apply in relation to a transfer from a regulated superannuation fund to another regulated

superannuation fund that occurs on or after the commencement of this item.

*Transitional provision*

- (2) For the purposes of paragraph 68AAC(3C)(b) of the *Superannuation Industry (Supervision) Act 1993*, as inserted by this Division, treat the reference in item 9 of Schedule 1 to the *Treasury Laws Amendment (Putting Members' Interests First) Act 2019* to 1 April 2020 as being a reference to the day on which the member began to hold the choice product or MySuper product mentioned in paragraph 68AAC(3C)(a), if that day occurred before 1 April 2020.

**Division 6—Actuaries and auditors of superannuation entities**

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

**24 After paragraph 130(1)(aa)**

Insert:

- (ab) the person is an auditor or actuary of the superannuation entity; and

**25 Paragraph 130(1)(b)**

Repeal the paragraph, substitute:

- (b) the person formed the opinion in the course of, or in connection with, the performance by the person of any of the following functions under this Act, the regulations, the prudential standards or the *Financial Sector (Collection of Data) Act 2001* in relation to the entity:
- (i) actuarial or audit functions;
  - (ii) any other functions if, in the course of, or in connection with, the performance of the functions by the person, the person obtained sufficient information to enable the person to assess the financial position of the entity.

**26 After the heading to subsection 130(7)**

Insert:

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(6) For the purposes of this section, in forming an opinion whether the financial position of an entity may be about to become unsatisfactory, a person must consider any matters prescribed by the regulations for the purposes of this subsection.

(6A) Subsection (6) does not limit the matters that a person may consider in forming such an opinion.

## **27 Paragraph 130AA(1)(b)**

Repeal the paragraph, substitute:

- (b) the lead auditor formed the opinion in the course of, or in connection with, the performance by the RSE audit company of any of the following functions under this Act, the regulations, the prudential standards or the *Financial Sector (Collection of Data) Act 2001* in relation to the entity:
  - (i) audit functions;
  - (ii) any other functions if, in the course of, or in connection with, the performance of the functions by the RSE audit company, the lead auditor obtained sufficient information to enable the lead auditor to assess the financial position of the entity; and

## **28 Paragraph 130AA(2)(b)**

Repeal the paragraph, substitute:

- (b) the lead auditor formed the opinion in the course of, or in connection with, the performance by the RSE audit firm of any of the following functions under this Act, the regulations, the prudential standards or the *Financial Sector (Collection of Data) Act 2001* in relation to the entity:
  - (i) audit functions;
  - (ii) any other functions if, in the course of, or in connection with, performance of the functions by the RSE audit firm, the lead auditor obtained sufficient information to enable the lead auditor to assess the financial position of the entity; and

## **29 Paragraph 130AA(4)(c)**

Repeal the paragraph, substitute:

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- (c) the person formed the opinion in the course of, or in connection with, the performance by an RSE audit firm or RSE audit company of any of the following functions under this Act, the regulations, the prudential standards or the *Financial Sector (Collection of Data) Act 2001* in relation to the entity:
  - (i) audit functions;
  - (ii) any other functions if, in the course of, or in connection with, the performance of the functions by the RSE audit firm or RSE audit company, the person obtained sufficient information to enable the person to assess the financial position of the entity; and

### **30 After the heading to subsection 130AA(12)**

Insert:

- (11A) For the purposes of this section, in forming an opinion whether the financial position of an entity may be about to become unsatisfactory, a person must consider any matters prescribed by the regulations for the purposes of this subsection.
- (11B) Subsection (11A) does not limit the matters that a person may consider in forming such an opinion.

### **31 Application of amendments**

The amendments made by this Division apply in relation to performing a function under the *Superannuation Industry (Supervision) Act 1993*, the regulations made under that Act, the prudential standards or the *Financial Sector (Collection of Data) Act 2001* on or after the commencement of this item.

## **Division 7—Financial reporting for superannuation entities**

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

#### **32 Section 253 (note 1)**

After “Sections 254”, insert “, 254A”.

### **33 Section 254 (heading)**

Omit “to Regulator”, substitute “on establishment of superannuation entity”.

### **34 Subsections 254(1) to (3)**

Repeal the subsections, substitute:

- (1) After a superannuation entity is established, each trustee of the superannuation entity must ensure that the information (if any) mentioned in subsection (2A) is given to the person or body mentioned in subsection (2B) in accordance with subsection (2).

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) of this section in relation to a self managed superannuation fund.

- (2) The information must be given:
- (a) in the approved form (if any); and
  - (b) no later than:
    - (i) the end of the period, starting immediately after the establishment of the superannuation entity, prescribed by the regulations for the purposes of this subparagraph; or
    - (ii) if no period is prescribed—7 days after the establishment of the superannuation entity.

- (2A) The information that must be given is:

- (a) the information that the approved form (if any) requires to be included; or
- (b) if there is no approved form—the information prescribed by the regulations for the purposes of this paragraph in relation to the superannuation entity.

Note: The information may include the tax file number of the entity. See subsections 299U(8) and (8A).

- (2B) The information must be given to:

- (a) the person or body prescribed by the regulations for the purposes of this paragraph in relation to the superannuation entity; or
- (b) if no person or body is prescribed in relation to the superannuation entity—the Commissioner of Taxation.

*Receipt*

- (3) If a trustee of a superannuation entity gives information to a person or body under subsection (1), the person or body must give to the trustee a written statement that the information has been received.

*Offences*

**35 After section 254**

Insert:

**254A Information to be given to Regulator**

The Regulator or an authorised person may, by written notice given to a trustee of a superannuation entity, require each trustee of the entity to ensure that, within a specified period, the Regulator or an authorised person is given, in relation to a specified year of income of the entity:

- (a) such information; or
- (b) a report on such matters;

as is set out in the notice.

Note 1: The information may include the tax file number of the entity. See subsection 299U(9).

Note 2: Failure to comply with the requirement is an offence. See section 285.

**36 After subsection 299U(8)**

Insert:

- (8A) Information prescribed for the purposes of paragraph 254(2A)(b) in relation to an entity may include the tax file number of the entity.

**37 Subsection 299U(9)**

Omit “subsection 254(2)”, substitute “section 254A”.

**38 Application of amendments**

- (1) Section 254 of the *Superannuation Industry (Supervision) Act 1993*, as amended by this Division, applies in relation to superannuation entities established on or after the commencement of this item.

- (2) The amendments made by this Division do not apply in relation to a notice given under subsection 254(2) of the *Superannuation Industry (Supervision) Act 1993* before the commencement of this item.

### **39 Transitional provision—authorised persons**

An authorisation:

- (a) made under section 298A of the *Superannuation Industry (Supervision) Act 1993* for the purposes of subsection 254(2) of that Act; and
  - (b) in force immediately before the commencement of this item;
- has effect, from that commencement, as if it had been made for the purposes of section 254A of that Act, as inserted by this Division.

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

**Division 1—A New Tax System (Goods and Services Tax) Act 1999**

*A New Tax System (Goods and Services Tax) Act 1999*

**40 Subsection 48-15(2)**

Omit “of Schedule 2F”, substitute “in Schedule 2F”.

**Division 2—CDEP Scheme**

*Income Tax Assessment Act 1936*

**41 Subsection 160AAA(1) (paragraph (a) of the definition of *rebtable benefit*)**

Omit “, 2.23B or 3.15A”, substitute “or 2.23B”.

**42 Subsection 160AAA(1) (paragraphs (c) and (d) of the definition of *rebtable benefit*)**

Repeal the paragraphs.

**43 Paragraphs 202CB(6)(a) and 202CE(7)(a)**

Omit “a CDEP Scheme Participant Supplement,”.

*Income Tax Rates Act 1986*

**44 Section 16 (paragraph (c) of the definition of *eligible pensioner*)**

Omit “, 2.15 or 3.15A”, substitute “or 2.15”.

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***Small Superannuation Accounts Act 1995***

**45 Subsection 64(7) (paragraph (d) of the definition of  
*Commonwealth income support payment*)**

Repeal the paragraph.

***Taxation Administration Act 1953***

**46 Paragraph 12-110(1)(ca) in Schedule 1**

Omit “pay; or”, substitute “pay.”.

**47 Paragraph 12-110(1)(d) in Schedule 1**

Repeal the paragraph.

**48 Application of amendments**

Despite any amendment made by this Division of a particular provision, the provision, as in force immediately before the commencement of the amendment, continues to apply on and after that commencement in relation to a payment made before that commencement.

**Division 3—Value shifting**

***Income Tax Assessment Act 1997***

**49 Subsection 727-250(2)**

Omit “or exempt income”, substitute “, \*exempt income or \*non-assessable non-exempt income”.

**50 Application of amendments**

The amendment made by this Division applies in relation to an indirect value shift that arises on or after the day after this Act receives the Royal Assent.

## **Division 4—Transfer Pricing Guidelines**

### ***Income Tax Assessment Act 1997***

#### **51 Paragraph 815-135(2)(a)**

Omit “19 May 2017”, substitute “20 January 2022”.

#### **52 Application of amendments**

The amendment made by this Division applies:

- (a) in respect of tax other than withholding tax—in relation to income years starting on or after 1 July 2022; and
- (b) in respect of withholding tax—in relation to income derived, or taken to be derived, in income years starting on or after 1 July 2022.

## **Part 3—Other amendments: duty of superannuation trustees to notify the Regulator of significant adverse events**

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

#### **53 Subsection 106(2)**

Repeal the subsection, substitute:

- (1A) Subsection (2) applies if a trustee of a superannuation entity is required by regulations made for the purposes of paragraph 1017DA(1)(a) of the *Corporations Act 2001* to provide fund information (within the meaning of regulations made for the purposes of this subsection) to holders of interests in the entity.
- (2) An event has a significant adverse effect on the financial position of the entity if:
  - (a) the event occurs before that fund information is provided;  
and
  - (b) as a result of the event, a trustee of the entity will not, or may not, be able, at a time occurring before the entity gives the fund information, to make payments to beneficiaries as and when the obligation to make those payments arises.

## **Schedule 6—Location offset and producer offset for films**

### **Part 1—Location offset amount**

#### ***Income Tax Assessment Act 1997***

##### **1 Paragraph 376-2(3)(b)**

Omit “16.5%”, substitute “30%”.

##### **2 Section 376-15**

Omit “16.5%”, substitute “30%”.

##### **3 Application provision—films**

The amendments made by this Part apply in relation to a film for which:

- (a) for a film that is predominantly a digital animation or other animation—the making of the film; or
- (b) otherwise—the principal photography for the film;

commenced on or after 1 July 2023.

## **Part 2—Location offset conditions**

### **Division 1—Amendments**

#### ***Income Tax Assessment Act 1997***

##### **4 Section 376-1**

Omit “media”.

##### **5 Subsection 376-20(1)**

Omit “and (5)”, substitute “, (5), (7) and (8)”.

##### **6 At the end of subsection 376-20(1)**

Add:

Note: The Minister may require the company to provide information to the Minister before issuing the certificate: see section 376-32.

##### **7 Paragraph 376-20(3)(c)**

Omit “\$1 million”, substitute “\$1.5 million”.

##### **8 Paragraph 376-20(5)(a)**

Omit “\$15 million”, substitute “\$20 million”.

##### **9 At the end of section 376-20**

Add:

*Use of resident entities for post, digital and visual effects production*

(7) The condition in this subsection is that:

- (a) the company has entered into a contract for the provision of some or all of the \*post, digital and visual effects production for the \*film with an entity that:
  - (i) is an Australian resident; or
  - (ii) is a foreign resident but does have a \*permanent establishment in Australia and does have an \*ABN; and

- (b) all or part of the post, digital and visual effects production (the *contracted post, digital and visual effects production*) to which that contract relates has, under the contract, been provided by the entity to the company; and
- (c) if the entity is a foreign resident—all or part of the contracted post, digital and visual effects production that has been provided by the entity to the company was provided at or through the entity's permanent establishment in Australia; and
- (d) all or part of the company's expenditure on the contracted post, digital and visual effects production is \*qualifying Australian production expenditure of the company on the film.

*Minimum training expenditure requirement*

- (8) The condition in this subsection is that the company:
  - (a) satisfies the minimum training expenditure requirement for the \*film under subsection 376-27(1); or
  - (b) is exempt from that requirement for the film under:
    - (i) section 376-28 (the permanent film infrastructure exemption); or
    - (ii) section 376-29 (the training programs exemption).

**10 After section 376-25**

Insert:

**376-27 Minimum training expenditure requirement**

- (1) A company satisfies the minimum training expenditure requirement for a \*film under this subsection if the company incurs expenditure (the *training expenditure*) that satisfies the conditions in subsections (2), (3) and (5).
- (2) The amount of the training expenditure must be at least the \*minimum training expenditure amount for the \*film.
- (3) Each part of the training expenditure must be:
  - (a) expenditure that is both:

- (i) \*qualifying Australian production expenditure of the company on the \*film; and
    - (ii) incurred for, or reasonably attributable to, eligible training that is provided to an individual that has worked on, or is working on, the \*making of the film; or
  - (b) expenditure that consists of payments made (for any purpose) to an eligible provider (other than an eligible provider that is an \*associate of the company):
    - (i) after the production commencement day for the film; and
    - (ii) before either the making of the film ceases or the company's qualifying Australian production expenditure on the film ceases being incurred (whichever is earlier).
- (4) To avoid doubt, the expenditure referred to in paragraph (3)(b) need not be \*qualifying Australian production expenditure of the company on the \*film.
- (5) The amount of the training expenditure that is \*qualifying Australian production expenditure of the company on the \*film must be at least 50% of the \*minimum training expenditure amount for the film.

*Meaning of minimum training expenditure amount*

- (6) The **minimum training expenditure amount** is:
- (a) for a \*film with a production commencement day that is on or after 1 July 2024 but before 1 July 2025—either:
    - (i) unless subparagraph (ii) applies—the lesser of \$250,000 and 0.5% of the company's total QAPE on the film; or
    - (ii) if regulations have been made for the purposes of subsection (7)—the lesser of the prescribed monetary amount and the prescribed percentage of the company's total QAPE on the film; or
  - (b) for a film with a production commencement day that is on or after 1 July 2025—either:
    - (i) unless subparagraph (ii) applies—the lesser of \$500,000 and 1% of the company's total QAPE on the film; or

- (ii) if regulations have been made for the purposes of subsection (7)—the lesser of the prescribed monetary amount and the prescribed percentage of the company’s total QAPE on the film.

*Prescribed amount and prescribed percentage*

- (7) Subject to subsection (8), regulations made for the purposes of this subsection may prescribe:
  - (a) a monetary amount (the **prescribed monetary amount**) not exceeding \$750,000; and
  - (b) a percentage (the **prescribed percentage**) not exceeding 1%.
- (8) If the regulations prescribe a monetary amount or a percentage, the regulations must prescribe both a monetary amount and a percentage.

*Definitions*

- (9) In this section:

**eligible provider** means an entity that either:

- (a) offers \*tertiary courses; or
- (b) is an NVR registered training organisation (within the meaning of the *National Vocational Education and Training Regulator Act 2011*) that offers VET accredited courses (within the meaning of that Act);

provided that one or more of those courses include eligible training.

**eligible training** means training or education provided in Australia that contributes to the knowledge, skills or experience of an individual in relation to the \*making of \*films.

**prescribed monetary amount**: see paragraph (7)(a).

**prescribed percentage**: see paragraph (7)(b).

**production commencement day**, for a \*film, means the day that the following commenced:

- (a) for a film that is predominantly a digital animation or other animation—the \*making of the film;

(b) otherwise—the principal photography for the film.

**total QAPE**, of a company on a \*film, means the total of the company's \*qualifying Australian production expenditure on the film (as determined by the \*Arts Minister under section 376-30).

**376-28 Minimum training expenditure exemption—permanent film infrastructure**

- (1) A company is exempt under this section from the minimum training expenditure requirement (see subsection 376-20(8) and section 376-27) for a \*film if:
- (a) the company has materially contributed to the establishment or upgrading of a piece of film infrastructure in Australia (whether or not the establishment or upgrading is complete); and
  - (b) the film infrastructure is or will be, or the upgrades are or will be:
    - (i) permanent; and
    - (ii) reasonable in scale and cost, having regard to the scale and cost of the film; and
    - (iii) reasonably located, having regard to the needs of the Australian screen industry; and
  - (c) the establishment or upgrading of the film infrastructure occurs wholly or partly after the commencement of:
    - (i) for a film that is predominantly a digital animation or other animation—the \*making of the film; or
    - (ii) otherwise—the principal photography for the film; and
  - (d) if the establishment or upgrading of the film infrastructure is not complete—the establishment or upgrading will be completed within a reasonable period of time; and
  - (e) the film infrastructure has, or the upgrades have, materially contributed to alleviating capacity constraints in the Australian screen industry.
- (2) In this section, **film infrastructure** means buildings or other physical structures that can be used in the \*making of \*films.

**376-29 Minimum training expenditure exemption—training programs**

- (1) A company is exempt under this section from the minimum training expenditure requirement (see subsection 376-20(8) and section 376-27) for a \*film (the *relevant film*) if:
    - (a) an individual (the *trainee*) that has worked on the \*making of the relevant film has undertaken training under a training program; and
    - (b) all or part of that training was undertaken by the trainee during the period when the trainee worked on the making of the relevant film; and
    - (c) the company or an \*associate of the company has incurred expenditure that is for, or that is reasonably attributable to, the training undertaken by the trainee; and
    - (d) the training program has materially contributed to the making of the relevant film; and
    - (e) the training program has materially contributed, or will materially contribute, to the making of at least 2 films, each of which satisfies or will satisfy subsection (2) (and one of which may be the relevant film); and
    - (f) the training program has materially contributed to alleviating capacity constraints in the Australian screen industry.
  - (2) A \*film satisfies this subsection if a substantial proportion of the activities involved in the \*making of the film take place in Australia.
  - (3) In determining whether a training program has contributed to a thing mentioned in paragraph (1)(f), the matters to which consideration may be given include, but are not limited to, the following:
    - (a) mentoring, industry partnerships and work experience placements facilitated by the training program;
    - (b) skills shortages in the Australian screen industry that are addressed by the training program;
    - (c) activities connected with the training program that contribute to improving health and safety, and diversity and inclusion, in the Australian screen industry;
    - (d) any matters specified in rules made under subsection (4).
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- (4) Subject to subsection (5), the \*Arts Minister may, by legislative instrument, make rules specifying matters for the purposes of paragraph (3)(d), including matters of a kind referred to in any of paragraphs (3)(a) to (c).
- (5) Before making rules under subsection (4), the \*Arts Minister must consult the Minister.

## **11 After section 376-30**

Insert:

### **376-32 Minister may require information**

- (1) Either:
  - (a) before determining a company's \*qualifying Australian production expenditure on a \*film under subsection 376-30(1) for the purposes of the location offset; or
  - (b) before issuing a certificate to the company for the film under section 376-20 (certificate for the location offset);the \*Arts Minister may, by written notice given to the company, require that the company provide to the Arts Minister information specified in the notice.
- (2) The information specified in the notice must be information that the \*Arts Minister considers relevant to:
  - (a) determining the company's \*qualifying Australian production expenditure or issuing the certificate to the company; or
  - (b) assessing the benefit of the film to the Australian screen industry.
- (3) The notice must specify the time by which the information is to be provided (which must be at least 30 business days after the notice is given).
- (4) The \*Arts Minister may, on request by the company, extend the time by written notice given to the company.
- (5) If the information is not provided by the specified time (including any extensions), the \*Arts Minister may refuse to determine the

**Schedule 6** Location offset and producer offset for films

**Part 2** Location offset conditions

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company's \*qualifying Australian production expenditure or issue the certificate to the company.

**12 After paragraph 376-247(2)(b)**

Insert:

- (ba) section 376-32 (power to require information for the purposes of the location offset);

**13 Subsection 995-1(1)**

Insert:

*minimum training expenditure amount* has the meaning given by subsection 376-27(6).

**Division 2—Application provisions**

**14 Application provision—films**

- (1) Subject to subitems (2) and (3), the amendments made by this Part apply in relation to a film for which:
  - (a) for a film that is predominantly a digital animation or other animation—the making of the film; or
  - (b) otherwise—the principal photography for the film;commenced on or after 1 July 2023.
- (2) Subsection 376-20(8) of the *Income Tax Assessment Act 1997*, as added by this Part, applies in relation to a film for which:
  - (a) for a film that is predominantly a digital animation or other animation—the making of the film; or
  - (b) otherwise—the principal photography for the film;commenced on or after 1 July 2024.

Note: Subsection 376-20(8) deals with the minimum training expenditure requirement and exemptions from that requirement.

- (3) To avoid doubt, the reference to subsection 376-20(8) of the *Income Tax Assessment Act 1997* in subsection 376-20(1) of that Act (as amended by this Part) is to be disregarded for the purposes of applying subsection 376-20(1) of that Act in relation to a film for which the making of the film or the principal photography for the film (whichever applies) commenced on or after 1 July 2023 but before 1 July 2024.
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**15 Application provision—use of resident entities for post, digital and visual effects production**

Subsection 376-20(7) of the *Income Tax Assessment Act 1997*, as added by this Part, applies in relation to post, digital and visual effects production provided under a contract on or after 1 July 2023, whether the contract was entered into before, on or after that date.

**16 Application provision—minimum training expenditure requirement**

Section 376-27 of the *Income Tax Assessment Act 1997*, as inserted by this Part, applies in relation to expenditure incurred before, on or after the commencement of this Part.

**17 Application provision—infrastructure exemption**

Section 376-28 of the *Income Tax Assessment Act 1997*, as inserted by this Part, applies in relation to film infrastructure for which the establishment or upgrading is completed on or after 1 July 2024.

**18 Application provision—training programs exemption**

- (1) Paragraphs 376-29(1)(a) and (b) of the *Income Tax Assessment Act 1997*, as inserted by this Part, apply in relation to the undertaking of training by an individual if the individual began to undertake the training on or after 1 July 2024.
- (2) Paragraph 376-29(1)(c) of the *Income Tax Assessment Act 1997*, as inserted by this Part, applies in relation to expenditure incurred before, on or after 1 July 2024.
- (3) Paragraphs 376-29(1)(d), (e) and (f) of the *Income Tax Assessment Act 1997*, as inserted by this Part, apply in relation to contributions made before, on or after 1 July 2024.

**19 Application provision—power to request information**

Section 376-32 of the *Income Tax Assessment Act 1997*, as inserted by this Part, applies in relation to information obtained by a company before, on or after the commencement of this Part.

## Part 3—Producer offset

### *Income Tax Assessment Act 1997*

#### **20 Subsection 376-65(6)**

Omit “The conditions”, substitute “Subject to subsection (6A), the conditions”.

#### **21 Subsection 376-65(6) (after table item 7)**

Insert:

7A	A *film where:	\$35 million	not applicable
	(a) the application for the certificate is for a season of a series; and		
	(b) the series is a drama series; and		
	(c) the series is not a *documentary; and		
	(d) the season meets the conditions in subsection (6B)		

#### **22 After subsection 376-65(6)**

Insert:

- (6A) A \*film that is both of the type referred to in item 7, and of the type referred to in item 7A, of the table in subsection (6) meets the conditions in that subsection if the film meets the conditions set out in one or both of those items.
- (6B) The conditions in this subsection are that:
- (a) the season is made up of 2 or more episodes that are produced wholly or principally for exhibition together under a single title; and
  - (b) the season is produced for:

- (i) exhibition to the public by way of television broadcasting (including broadcasting by way of the delivery of a television program by a broadcasting service within the meaning of the *Broadcasting Services Act 1992*); or
- (ii) distribution to the public as a video recording (whether on video tapes, digital video disks or otherwise); and
- (c) either:
  - (i) for a season that is predominantly a digital animation or other animation—the \*making of the season (other than a pilot episode, if any) takes place within a period of not longer than 36 months; or
  - (ii) otherwise—all principal photography for the season (other than a pilot episode, if any) takes place within a period of not longer than 12 months.

### **23 Application provision—films**

The amendments made by this Part apply in relation to a film for which:

- (a) for a film that is predominantly a digital animation or other animation—the making of the film; or
- (b) otherwise—the principal photography for the film;

commenced on or after 1 July 2024.

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[*Minister's second reading speech made in—  
House of Representatives on 27 March 2024  
Senate on 24 June 2024*]

(46/24)

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