

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

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

A New Tax System (Wine Equalisation Tax) Act 1999

Fringe Benefits Tax Assessment Act 1986

Income Tax Assessment Act 1936

Product Grants and Benefits Administration Act 2000

Superannuation Contributions Tax (Assessment and Collection) Act 1997

Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997

Superannuation (Government Co-contribution for Low Income Earners) Act 2003

Superannuation Guarantee (Administration) Act 1992

Superannuation (Unclaimed Money and Lost Members) Act 1999

Taxation Administration Act 1953

Tax and Superannuation Legislation Amendment (Sunsetting Measures) Regulation 2014

Section 177-15 of the *A New Tax System (Goods and Services Tax) Act 1999*, section 27-35 of the *A New Tax System (Wine Equalisation Tax) Act 1999*, section 135 of the *Fringe Benefits Tax Assessment Act 1986*, section 266 of the *Income Tax Assessment Act 1936*, section 60 of the *Product Grants and Benefits Administration Act 2000*, section 42 of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*, section 37 of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*, section 55 of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*, section 80 of the *Superannuation Guarantee (Administration) Act 1992*, section 50 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, and section 18 of the *Taxation Administration Act 1953* (the Taxation and Superannuation Acts) each provide that the Governor-General may make regulations prescribing matters required or permitted by each of the Taxation and Superannuation Acts to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to each of the Taxation and Superannuation Acts.

The *Tax and Superannuation Legislation Amendment (Sunsetting Measures) Regulation 2014* (the Amending Regulation) amends various taxation and superannuation regulations to:

- repeal spent or redundant taxation and superannuation laws;
- consolidate duplicated taxation administration provisions contained in regulations under various taxation Acts into a single set of regulations made under the *Taxation Administration Act 1953* (TAA 1953);
- update the regulations to reflect changes proposed by Schedules 2 and 4 to the Treasury Legislation Amendment (Repeal Day) Bill 2014.

Sunset provisions in legislation provide that the Act or legislative instruments generally cease to have effect after a specific date unless further legislative action is taken to extend the operation of that legislative instrument or Act. The legislative action taken is usually to remake the instrument or Act.

Most jurisdictions in Australia have automatic sunset regimes for legislative instruments. The Commonwealth legislative instrument sunset regime is set out in Part 6 of the *Legislative Instruments Act 2003*. This regime provides for instruments to sunset 10 years after their registration on the Federal Register of Legislative Instruments unless the instrument falls within certain special categories of legislative instruments, the relevant Act modifies the sunset regime or Parliament passes a motion to extend the life of the instrument ('rolling over' the instrument).

Sunset is an important mechanism for the Australian Government to implement policies to reduce red tape, deliver clearer laws, and align existing legislation with current government policy by requiring ongoing review of legislative instruments.

In most cases, Australian Government agencies must plan for sunset well in advance of an instrument's sunset date, as the process to review an instrument and implement any review recommendations for each instrument can be lengthy.

An initial review of instruments that are due to sunset is an essential part of the process. The review is to inform the rule-maker's decision about whether the instrument should be left to sunset, be remade with amendments, be remade without amendments or be rolled over by the Parliament.

While instruments that are clearly spent or redundant do not require a thorough review, where it is not immediately apparent that an instrument serves no further function, a more comprehensive examination needs to be undertaken.

As part of Treasury's initial review of the *Income Tax Regulations 1936*, a number of provisions in the principal law and regulations were identified as duplicative, inoperative or spent. A number of provisions contained in the regulations were also identified as being more appropriately incorporated into the primary law.

The Government introduced the Treasury Legislation Amendment (Repeal Day) Bill 2014 to implement the first tranche of reforms resulting from the review. The Bill simplifies the taxation laws by:

- consolidating duplicated taxation administration provisions contained in various taxation Acts into a single set of provisions in Schedule 1 to the TAA 1953;
- repealing spent or redundant taxation laws; and
- moving longstanding regulations into the primary law.

These regulations make similar changes to those contained in the Bill by consolidating duplicated regulations, repealing spent or redundant regulations and updating and modernising older regulations.

Details of the Amending Regulation are set out in the [Attachment](#).

[Statement on consultation to be added after consultation]

The Amending Regulation commences at the same time as Schedules 2 and 4 to the Treasury Legislation Amendment (Repeal Day) Bill 2014 (but not before the date of registration).

The changes made by the Amending Regulation have no impact on revenue over the forward estimates.

All of the changes made by the Amending Regulation are minor and machinery in nature and result in an unquantifiable but expected small reduction in compliance costs.

EXPOSURE DRAFT

ATTACHMENT

Details of the Tax and Superannuation Laws Amendment (Sunsetting Measures) Regulation 2014

Section 1 – Name of Regulation

This section provides that the name of the Regulation is the *Tax and Superannuation Laws Amendment (Sunsetting Measures) Regulation 2014* (the Amending Regulation).

Section 2 – Commencement

This section provides that the Amending Regulation commences the day following registration. Schedules 1 and 2 to the Amending Regulation commence at the same time as Schedules 2 and 4 to the Treasury Legislation Amendment (Repeal Day) Bill 2014 (respectively).

Section 3 – Authority

This section provides that the Regulation is made under the:

- *A New Tax System (Goods and Services Tax) Act 1999;*
- *A New Tax System (Wine Equalisation Tax) Act 1999;*
- *Fringe Benefits Tax Assessment Act 1986;*
- *Income Tax Assessment Act 1936;*
- *Product Grants and Benefits Administration Act 2000;*
- *Superannuation Contributions Tax (Assessment and Collection) Act 1997;*
- *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997;*
- *Superannuation (Government Co-contribution for Low Income Earners) Act 2003;*
- *Superannuation Guarantee (Administration) Act 1992;*
- *Superannuation (Unclaimed Money and Lost Members) Act 1999;* and
- *Taxation Administration Act 1953.*

Section 4 – Schedules

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

Schedule 1 – Amendments commencing at the same time as Division 2 of Schedule 2 to the Treasury Legislation Amendment (Repeal Day) Act 2014

Schedule 1 amends the *Fringe Benefits Tax Regulations 1992*, the *Income Tax (Excluded STBs) Regulations*, the *Income Tax Regulations 1936*, the *Product Grants and Benefits Administration Regulations 2000*, the *Superannuation Contributions Tax (Assessment and Collection) Regulations 1997*, the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Regulations 1997*, the *Superannuation (Government Co-contribution for Low Income Earners) Regulations 2004*, the *Superannuation Guarantee (Administration) Regulations 1993*, the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999* and the *Taxation Administration Regulations 1976* to:

- repeal existing spent or redundant regulations;
- repeal regulations that will become spent or redundant following the commencement of the Treasury Legislation Amendment (Repeal Day) Bill 2014;
- consolidate duplicated taxation administration provisions into the *Taxation Administration Regulations 1976*; and
- update and modernise regulations to reflect modern drafting practices and the modern commercial environment.

Repeal of existing spent or redundant regulations

Schedule 1 repeals a number of spent or redundant regulations. [items 4, 7, 9 to 11, 13 to 15, 18 to 22, 32, 33, 36, 38, 45, 48, 52, 53, 55 and 69 in Schedule 1 (in whole or in part)]

Repeal of regulations that will become spent or redundant following the commencement of the Treasury Legislation Amendment (Repeal Day) Bill 2014

Schedule 1 also repeals a number of regulations that will become spent or redundant upon the commencement of Schedule 2 to the Treasury Legislation Amendment (Repeal Day) Bill 2014. . [items 7, 8, 10, 12, 15, 17, 29, 31, 34 to 39, 43, 45, 46, 48 to 51, 54, 66 and 71 in Schedule 1 (in whole or in part)]

Further, Schedule 1 also updates the *Taxation Administration Regulations 1976* to reflect the consolidation of a number of duplicated taxation administration provisions made by the Treasury Legislation Amendment (Repeal Day) Bill 2014. [items 54, and 70 to 72 in Schedule 1 (in whole or in part)]

Consolidated duplicated taxation administration provisions into the Taxation Administration Regulations 1976

Schedule 1 consolidates a number of duplicated taxation administration provisions contained in various regulations into the *Taxation Administration Regulations 1976*. These provisions include rules about approved forms and address for service. [items 4, 7, 10, 16, 27, 36, 38, 41, 44, 45, 47, 48, 53, 56 to 65 and 71 in Schedule 1 (in whole or in part)]

Updated and modernised regulations

Finally, Schedule 1 updates and modernises various regulations that are out of date or do not reflect current drafting practice. *[items 1 to 3, 67 and 68 in Schedule 1 (in whole or in part)]*

Schedule 2 – Amendments commencing at the same time as Schedule 4 to the Treasury Legislation Amendment (Repeal Day) Act 2014

Schedule 2 amends the *A New Tax System (Goods and Services Tax) Regulations 1999*, the *A New Tax System (Wine Equalisation Tax) Regulations 2000* and the *Taxation Administration Regulations 1976* to update terminology to reflect changes proposed by the Treasury Legislation Amendment (Repeal Day) Bill 2014 and to update cross-referencing to reflect previous changes to the taxation laws.

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

Tax and Superannuation Laws Amendment (Sunsetting Measures) Regulation 2014

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Tax and Superannuation Legislation Amendment (Sunsetting Measures) Regulation 2014* (the Amending Regulation) amends various taxation and superannuation regulations to:

- repeal spent or redundant taxation and superannuation laws;
- consolidate duplicated taxation administration provisions contained in various taxation Acts into a single set of provisions in Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953);
- update the regulations to reflect changes proposed by Schedules 2 and 4 to the Treasury Legislation Amendment (Repeal Day) Bill 2014.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

APPENDIX

FINDING TABLES

This Explanatory Statement includes finding tables to assist in identifying which provision in the Amending Regulation corresponds to a provision in the old law that has been rewritten or consolidated, and vice versa.

References to old law in the finding tables are to the provisions in the existing taxation regulations as set out in the tables below.

References to the new law are to provisions of the *Taxation Administration Regulations 1976*, unless otherwise indicated. Also, in the finding tables:

- *No equivalent* means that this is a new provision that has no equivalent in the old law. Typically, these would be guide material.
- *Omitted* means that the provision of the old law has not been rewritten into the new regulations (however, it may have been moved into the primary law – see Treasury Legislation Amendment (Repeal Day) Bill 2014).

Finding table — old law to new law

<i>Old law</i>	<i>New law</i>
<i>Fringe Benefits Tax Regulations 1992</i>	
11	Omitted
13	11
18 to 22	Part 2A
23	45
Schedule 1	Omitted
Schedule 2	Schedule 2
<i>Income Tax (Excluded STBs) Regulations</i>	
All provisions	Omitted
<i>Income Tax Regulations 1936</i>	
7	Omitted
13	Omitted
14AA	Omitted
19	Omitted
Part 4A	Part 2A
Part 6	Omitted
171	45
172	45
174	11
175	Omitted
Schedule 5	Schedule 2
<i>Product Grants and Benefits Administration Regulations 2000</i>	

<i>Old law</i>	<i>New law</i>
4	Omitted
4A	Omitted
4AA	Omitted
4AB	Omitted
5	Omitted
7	11
8	Omitted
Schedule 1	Schedule 2
<i>Superannuation Contributions Tax (Assessment and Collection) Regulations 1997</i>	
6 to 8	Part 2A
11	Omitted
13	Omitted
14	Part 2A
15	45
18	11
Schedule 10	Schedule 2
<i>Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Fund) Assessment and Collection Regulations 1997</i>	
8 and 9	Part 2A
12	Omitted
14	Omitted
15	Part 2A
16	45
19	11
Schedule 5	Schedule 2
<i>Superannuation (Government Co-contribution for Low Income Earners) Regulations 2004</i>	
6	Omitted
13 to 16	Part 2A
19	Omitted
20	Omitted
21	Omitted
22	Part 2A
23	45
Schedule 1	Omitted
<i>Superannuation Guarantee (Administration) Regulations 1993</i>	
8	Omitted

<i>Old law</i>	<i>New law</i>
9	18
12	11
13 to 13E	Part 2A
14	Omitted
15	45
Schedule 3	Schedule 2
<i>Superannuation (Unclaimed Money and Lost Members) Regulations 1999</i>	
10	11
Schedule 1	Schedule 2
<i>Taxation Administration Regulations 1976</i>	
3	Omitted
9	45
10	Part 2A
12	Omitted
32 and 33	Omitted

EXPOSURE DRAFT