

EXPOSURE DRAFT

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Inserts for
Treasury Laws Amendment Bill 2025:
Minor and technical amendments
(Autumn 2026)

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
2. Schedule 1, Part 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	

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Schedule 1—Minor and technical amendments

Part 1—Amendments commencing day after Royal Assent

Division 1—Treasury Laws Amendment (More Competition, Better Prices) Act 2022

Treasury Laws Amendment (More Competition, Better Prices) Act 2022

1 Paragraph 80(1)(a) of Schedule 2

Omit “Part IX”, substitute “Part XI”.

Division 2—SMSF Public Trustee director appointments

Superannuation Industry (Supervision) Act 1993

2 After paragraph 17A(3)(a)

Insert:

(aa) all of the following apply:

- (i) a member of the fund has died;
- (ii) the legal personal representative of the member is the Public Trustee of a State or Territory;
- (iii) an agent of the Public Trustee is, in place of the member, a director of the body corporate that is the trustee of the fund during the period described in subparagraphs (a)(i) and (ii);
- (iv) the agent is appropriately qualified, and holds all necessary licences, to perform their duties or services as a director of that body corporate; or

3 After paragraph 17A(3)(b)

Insert:

(ba) all of the following apply:

- (i) a member of the fund is under a legal disability;
- (ii) the legal personal representative of the member is the Public Trustee of a State or Territory;

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- (iii) an agent of the Public Trustee is, in place of the member, a director of the body corporate that is the trustee of the fund during the period described in subparagraph (b)(i) or (ii);
- (iv) the agent is appropriately qualified, and holds all necessary licences, to perform their duties or services as a director of that body corporate; or

4 Subsection 17B(2)

Repeal the subsection, substitute:

- (2) Paragraphs 17A(1)(g) and (2)(d) do not apply to remuneration for any duties or services performed by a director of a body corporate that is a trustee of a fund if:
- (a) all of the following apply:
- (i) the director performs the duties or services other than in the capacity of director and in connection with the body corporate's capacity of trustee;
 - (ii) the director is appropriately qualified, and holds all necessary licences, to perform the duties or services;
 - (iii) the director performs the duties or services in the ordinary course of a business, carried on by the director, of performing similar duties or services for the public;
 - (iv) the remuneration is no more favourable to the director than that which it is reasonable to expect would apply if the director were dealing with the relevant other party at arm's length in the same circumstances; or
- (b) the director is performing the duties and services only in the circumstances described in paragraph 17A(3)(aa) or (ba).

Division 3—Correcting cross-reference in review of operation provision

Australian Securities and Investments Commission Act 2001

5 Subsection 14(1)

Omit “he or she may by writing”, substitute “the Minister may, by writing”.

6 Subsection 43(3)

Omit “give,”, substitute “give”.

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1 **7 At the end of the Act**
2 Add:

3 **Part 43—Application provision relating to**
4 **Schedule 1 to the [Treasury Laws**
5 **Amendment Bill 2025]**
6

7 **348 Application of amendments**

8 The amendment of subsection 14(1) of this Act made by Division 3
9 of Part 1 of Schedule 1 to the [*Treasury Laws Amendment Bill*
10 2025] applies in relation to a direction given on or after the
11 commencement of this section.

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Part 2—Amendments commencing first quarter after Royal Assent

Division 1—Tax credits relating to capital proceeds involving foreign residents and taxable Australian property

Taxation Administration Act 1953

8 At the end of section 18-15 in Schedule 1

Add:

- (3) For the purposes of subsection (1), if Subdivision 14-D applies to a *withholding payment:

(a) made to the entity; and

(b) relating to an *acquisition of a *CGT asset;

then the withholding payment is taken to have been made to the entity at the time of the acquisition of the CGT asset.

Note 1: Broadly, this subsection ensures that the entity's entitlement to the credit is determined in relation to the same income year in which the transaction (being the transaction under which the acquisition of the CGT asset occurs) is recognised for income tax purposes (see Division 109 of the *Income Tax Assessment Act 1997*).

Note 2: This subsection just provides deeming in relation to the timing of the withholding payment (if any).

9 After subsection 18-20(1) in Schedule 1

Insert:

- (1A) For the purposes of subsection (1), if Subdivision 14-D applies to a *withholding payment:

(a) made to the partnership; and

(b) relating to an *acquisition of a *CGT asset;

then the withholding payment is taken to have been made to the partnership at the time of the acquisition of the CGT asset.

Note 1: Broadly, this subsection ensures that the entity's entitlement to the credit is determined in relation to the same income year in which the transaction (being the transaction under which the acquisition of the CGT asset occurs) is recognised for income tax purposes (see Division 109 of the *Income Tax Assessment Act 1997*).

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Note 2: This subsection just provides deeming in relation to the timing of the withholding payment (if any).

10 After subsection 18-25(1) in Schedule 1

Insert:

(1A) For the purposes of subsection (1), if Subdivision 14-D applies to a *withholding payment:

(a) made to the trustee; and

(b) relating to an *acquisition of a *CGT asset;

then the withholding payment is taken to have been made to the trustee at the time of the acquisition of the CGT asset.

Note 1: Broadly, this subsection ensures that the entity's entitlement to the credit is determined in relation to the same income year in which the transaction (being the transaction under which the acquisition of the CGT asset occurs) is recognised for income tax purposes (see Division 109 of the *Income Tax Assessment Act 1997*).

Note 2: This subsection just provides deeming in relation to the timing of the withholding payment (if any).

11 Application provision

The amendments made by items 8 to 10 apply in relation to withholding payments that are made on or after the day this Part commences.

Taxation Administration (Remedial Power—Foreign Resident Capital Gains Withholding) Determination 2017

12 The whole of the instrument

Repeal the instrument.

13 Application provision

Despite the repeal of the *Taxation Administration (Remedial Power—Foreign Resident Capital Gains Withholding) Determination 2017* by item 12, that instrument continues to apply in relation to withholding payments that are made before the day this Part commences as if that instrument had not been repealed.