

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Productivity, Competition, Charities and Treasury and Parliamentary Secretary to the Treasurer

Superannuation Industry (Supervision) Act 1993

Retirement Savings Accounts Act 1997

Corporations Act 2001

Treasury Laws Amendment Instrument 2025: Minor and technical amendments (Autumn 2026)

The following provisions provide that the Governor-General may make regulations prescribing matters required or permitted by the relevant Acts to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to that Act (collectively, the Authorising Acts): section 353 of the *Superannuation Industry (Supervision) Act 1993*, section 200 of the *Retirement Savings Accounts Act 1997*, and section 951C of the *Corporations Act 2001*.

The purpose of the *Treasury Laws Amendment Instrument 2025: Minor and technical amendments (Autumn 2026)* (the Regulations) is to make minor and technical amendments within Treasury portfolio legislation. The amendments ensure that Treasury portfolio legislation remains fit for purpose and continues to work for relevant stakeholders and the broader public. These amendments reflect the Government's ongoing commitment to the care and maintenance of Treasury laws. This process was first supported by a recommendation of the 2008 Tax Design Review Panel, which considered ways to improve the quality of tax legislation. It has since been expanded to all Treasury legislation.

The amendments contained in the Regulations: updated the reference to the MSCI Australia Quarterly Private Infrastructure Fund Index in the *Superannuation Industry (Supervision) Regulations 1994* (the SIS Regulations) to reflect that the Index was frozen in September 2024, corrected a typographical error in *Retirement Savings Accounts Regulation 1997* so that the provision cross-references to the correct provision, amended the SIS Regulations to allow the regulated superannuation fund to accept Paid Parental Superannuation Contributions payments even if the member's Tax File Number has not been quoted for superannuation purposes to the trustee of the fund, and fixed an incorrect cross-referencing in *Corporations Regulations 2001*.

The Authorising Acts do not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

Items 59A, 56B and 18 of section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* together exempt the Regulations from the sunset provisions in Part 4 of Chapter 3 of the *Legislation Act 2003*. The items exempt amendments made to the SIS Regulations, the RSA Regulations and the Corporations Regulations respectively.

EXPOSURE DRAFT

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

The Regulations are subject to the disallowance regime under section 41 of the Legislation Act.

Once the amendments within the Regulations are made, the Regulations will be automatically repealed under section 48A of the Legislation Act.

The Regulations commenced the day after the Regulations are registered on the Federal Register of Legislation.

Details of the Regulations are set out under Attachment A.

The *Superannuation (Objective) Act 2024* (the Superannuation Objective Act) requires that regulations relating to superannuation include a statement assessing compatibility with the legislated objective of superannuation, unless an exception applies. Whilst the Regulations contained amendments relating to superannuation, these Regulations are exempt from this requirement under paragraph 7(3)(b) of the Superannuation Objective Act because those amendments are of a minor and technical nature. Accordingly, a Statement of Compatibility was not prepared for these Regulations.

Details of the Treasury Laws Amendment Instrument 2025: Minor and technical amendments (Autumn 2026)

Section 1 – Name

This section provides that the name of the Regulations is the *Treasury Laws Amendment Instrument 2025: Minor and technical amendments (Autumn 2026)* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commenced on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Regulations made under the *Superannuation Industry (Supervision) Act 1999*, the *Retirement Savings Accounts Act 1997*, and the *Corporations Act 2001* (the Corporations Act) (collectively, the Authorising Act).

Section 4 – Schedule

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

Schedule 1 – Minor and technical amendments

Legislative references are made to Schedule 1 to the Regulations unless otherwise stated.

Part 1 – MSCI Australia Quarterly Private Infrastructure Fund Index

Item [1] – Subregulation 9AB.17(7) (table items 14 and 15, column headed “Assumed index”

Item 1 of Part 1 of Schedule 1 to the Regulations updates the references to the MSCI Australia Quarterly Private Infrastructure Fund Index in the *Superannuation Industry (Supervision) Regulations 1994* (the SIS Regulations) to reflect that the Index was frozen in September 2024.

Subsection 9AB.17(7) of the SIS Regulations lists covered asset classes, assumed indices, assumed annual fees and assumed tax rates for quarters starting on or after 1 July 2014. The MSCI Australia Quarterly Private Infrastructure Fund Index (Unfrozen) is referenced twice in items 14 and 15 of the table. However, the Index was frozen in September 2024 and its name has been changed accordingly to the MSCI Australia Quarterly Private Infrastructure Fund Index.

This item amended two references to the MSCI Australia Quarterly Private Infrastructure Fund Index (Unfrozen) to its current name, the MSCI Australia Quarterly Private Infrastructure Fund Index.

Part 2 – Correcting reference in the Retirement Savings Account Regulations 1997

Item [2] – Regulation 1.08AA

Item 2 of Part 1 of Schedule 1 to the Regulations corrects a typographical error in *Retirement Savings Accounts Regulation 1997* (the RSA Regulations) so that the provision cross-references to the correct provision

Regulation 1.08AA of the RSA Regulations contained a typographical error. The provision referenced subparagraph 1.07A(3A)(e)(iva) of the RSA Regulations which does not exist. This item corrects this typographical error in the RSA Regulations to refer to the intended subparagraph 1.07(3A)(e)(iva) of the RSA Regulations. By doing so, it ensured market linked pension holders are able to fully commute market linked pensions as intended.

Subparagraph 1.07(3A)(e)(iva) of the RSA Regulations ensures that market linked pensions can be commuted if the circumstances in regulation 1.08AA of the RSA Regulations are satisfied, which require that commutation occurs during the 5 years beginning on the commencement of the regulation, and the whole of the benefit is commuted. This allows individuals still using these products to exit them if they are no longer suitable for their circumstances.

Part 3 – Administration of Paid Parental Leave superannuation contributions

Items [3] and [4] – Subregulation 7.04(2) and Subregulation 7.04(7)

Items [3] and [4] of Part 3 of Schedule 1 to the Regulations amends the SIS Regulations to allow the regulated superannuation funds to accept Paid Parental Superannuation Contribution (PPLSC) payments even if the member's Tax File Number (TFN) has not been quoted for superannuation purposes to the trustee of the fund.

Regulation 7.04 of the SIS Regulations enables regulated superannuation funds to accept contributions provided they comply with relevant conditions outlined in subregulations 7.04(1A), (2), (4) and (6) of the SIS Regulations. One condition is that funds can only accept member contributions if the member's TFN has been quoted to the trustee of the fund. If a TFN has not been quoted to the fund, the fund is required to return the payment within 30 days under subregulation 7.04(4) of the SIS Regulations.

In contrast, funds can accept employer contributions even without a TFN not being quoted. PPLSC, which is defined in Chapter 3A of the *Paid Parental Leave Act 2010* (the PPL Act), are member contributions, which are defined as any contributions that are not employer contributions and are either made by or on behalf of a member. Therefore, funds cannot accept PPLSC payments unless a TFN has been quoted to them by the member.

Items [3] and [4] exempt PPLSC from the requirement that members must have quoted their TFN for superannuation purposes in order for the regulated fund to accept the PPLSC under subregulation 7.04(2) of the SIS Regulations. This ensures that funds do not breach the conditions under the SIS Regulations by accepting PPLSC payments for members without holding their TFN and may allocate the payment to that member's account rather than returning it.

Subregulation 7.04(7) of the SIS Regulations has also been amended to insert the definition of PPLSC which has the same meaning as in the PPL Act.

Part 4 – Financial services guides

Items [5] Subregulation 7.7.02A(1)

Item [5] of Part 4 of Schedule 1 to the Regulations fixes an incorrect cross-referencing in *Corporations Regulations 2001* (the Corporations Regulations).

Regulation 7.7.02A of the Corporations Regulations specifies situations when Financial Services Guides do not need to be provided. It does this by modifying section 941C of the Corporations Act.

Regulation 7.7.02A of the Corporations Regulations inserts a subsection (1A), which refers to ‘paragraphs (7A)(b) and (c)’. This reference is intended to refer to paragraphs (7AA)(b) and (c), which is a subsection inserted by subsection 7.702A(2) of the Corporations Regulations. This item corrected that. The item ensured that the law operates as intended, that a providing entity does not have to provide a Financial Services Guide if the client has received documents referred to in (7AA)(b) and (c).