

# EXPOSURE DRAFT

## EXPOSURE DRAFT

1

2 Inserts for

3 **Treasury Laws Amendment (Victims of  
4 Crime) Bill 2026: Access to  
5 superannuation for victims of child  
6 sexual abuse crimes**

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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Schedule 1	The day after this Act receives the Royal Assent.	
2.		
3.		

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## 1 Schedule 1

### 2 Part 1—Amendments

#### 3 Division 1—Main amendments

##### 4 *Taxation Administration Act 1953*

###### 5 **1 Section 8AAZA (at the end of the definition of *credit*)**

6 Add:

7 ; and (c) a credit that arises under paragraph 131-65(5)(b) in  
8 Schedule 1.

###### 9 **2 At the end of section 8AAZL**

10 Add:

11 (5) The Commissioner must not treat a credit that arises under  
12 paragraph 131-65(5)(a) or (b) in Schedule 1 using the method set  
13 out in section 8AAZLA or 8AAZLB.

###### 14 **3 After subsection 8AAZLF(3)**

15 Insert:

16 *No refund for perpetrator of credit arising from release of amounts*  
17 *of superannuation under perpetrator contributions orders*

18 (3A) The Commissioner is not required to refund a credit that arises  
19 because of the operation of paragraph 131-65(5)(a) in Schedule 1.

###### 20 **4 Section 131-1 in Schedule 1 (after the paragraph beginning** 21 **“Released amounts”)**

22 Insert:

23 Following the making of a court order under Division 139, the  
24 Commissioner may also require providers to release amounts from  
25 the superannuation interests of perpetrators of specified child  
26 sexual abuse offences.

27 The Commissioner pays these amounts directly to the victims.

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1 There are some circumstances when providers may not be required  
2 to release the amounts.

## 3 5 At the end of section 131-15 in Schedule 1

4 Add:

5 *Issuing following perpetrator contributions release orders*

6 (6) If order under section 139-50 in respect of a \*specified child sexual  
7 abuse offence is given to the Commissioner, the Commissioner  
8 must issue one or more release authorities to one or more  
9 \*superannuation providers that hold \*superannuation interests for  
10 the perpetrator.

11 (7) The Commissioner must issue release authorities under  
12 subsection (6) until the earlier of the following:  
13 (a) the total amount paid to the Commissioner under the release  
14 authorities reaches the amount specified in the order;  
15 (b) the Commissioner is satisfied that there are no further  
16 \*superannuation interests of the perpetrator from which  
17 money can be released.

18 (8) The Commissioner cannot be satisfied under paragraph (7)(b)  
19 unless:  
20 (a) the Commissioner has issued at least one release authority to  
21 each \*superannuation provider that the Commissioner knows  
22 holds a \*superannuation interest for the perpetrator; and  
23 (b) in respect of each release authority issued, the  
24 Commissioner:  
25 (i) has received an amount under subsection 131-35(3); or  
26 (ii) has been given a notice under subsection 131-50(4).

27 (9) The Commissioner must not issue a release authority under  
28 subsection (6) to either of the following:  
29 (a) an \*RSA provider that is not a \*constitutional corporation;  
30 (b) a trustee of a \*superannuation fund that is not a regulated  
31 superannuation fund.

## 32 6 Subsection 131-20(1) in Schedule 1

33 After “under section 131-15”, insert “(other than a release authority  
34 issued under subsection 131-15(6))”.

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## 7 At the end of section 131-20 in Schedule 1

1  
2 Add:

3 (3) The amount to be released from one or more \*superannuation  
4 interests under a release authority issued under  
5 subsection 131-15(6) must be worked out so that the total amount  
6 stated for all release authorities issued following an order under  
7 section 139-50 does not exceed the amount specified in the order.  
8 (4) For the purposes of working out the total amount stated for all  
9 release authorities under subsection (3), disregard an amount stated  
10 in another release authority to the extent that a notice given under  
11 subsection 131-50(4) states that the amount will not be paid or that  
12 part of the amount will not be paid.

## 8 After paragraph 131-25(c) in Schedule 1

13 Insert:

14 (ca) if the release authority is issued under  
15 subsection 131-15(6)—identify that it is a release authority of  
16 that kind; and

## 9 After subsection 131-30(5) in Schedule 1

18 Insert:

20 *Release authority issued following perpetrator contributions order*

21 (5A) For a release authority issued under subsection 131-15(6), the  
22 Commissioner may decide to revoke or vary the release authority  
23 at any time before the Commissioner is given notice under  
24 section 131-50 relating to the release authority.

## 10 Subsection 131-35(1) in Schedule 1

26 After “under section 131-15”, insert “(other than a release authority  
27 issued under subsection 131-15(6))”.

## 11 At the end of section 131-35 in Schedule 1

28 Add:

30 *Release authority issued following perpetrator contributions order*

31 (3) A \*superannuation provider issued with a release authority under  
32 subsection 131-15(6) following the making of an order under  
33 section 139-50 in respect of a \*specified child sexual abuse offence

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1 must, within 10 \*business days after the release authority is issued  
2 (or a further period allowed by the Commissioner), pay to the  
3 Commissioner the lesser of:

4 (a) the amount stated in the release authority; and  
5 (b) the sum of the \*maximum available release amounts for each  
6 superannuation interest held by the superannuation provider  
7 in \*superannuation plans for the perpetrator in respect of  
8 whom the order was made.

9 (4) However, the \*maximum available release amount for a  
10 \*superannuation interest is not to be included in the sum worked  
11 out under paragraph (3)(b) if the interest is a \*defined benefit  
12 interest.

13 (5) A \*superannuation provider issued with a release authority under  
14 subsection 131-15(6) is not required to pay the Commissioner the  
15 amount mentioned in subsection (3) to the extent that doing so  
16 would be inconsistent with any of the following orders:

17 (a) a forfeiture order mentioned in subregulation 5.08(1A) of the  
18 *Superannuation Industry (Supervision) Regulations 1994*;  
19 (b) a restraining order within the meaning of the *Bankruptcy*  
20 *Act 1966*;  
21 (c) a superannuation order under Part 2 of the *Crimes*  
22 *(Superannuation Benefits) Act 1989*;  
23 (d) a superannuation order under Division 2 of Part VA of the  
24 *Australian Federal Police Act 1979*.

25 (6) A \*superannuation provider issued with a release authority under  
26 subsection 131-15(6) is also not required to pay the Commissioner  
27 the amount mentioned in subsection (3) if:

28 (a) a payment flag (within the meaning of Part VIIIB or  
29 Part VIIIC of the *Family Law Act 1975*) is operating on the  
30 superannuation interest; or  
31 (b) the superannuation provider is required to give the  
32 perpetrator a payment split notice under regulation 7A.03 of  
33 the *Superannuation Industry (Supervision) Regulations 1994*  
34 and, at the time the release authority is issued:  
35 (i) the superannuation provider has not given the notice; or  
36 (ii) the superannuation provider has given the notice and  
37 any of the circumstances mentioned in subsection (7)  
38 apply; or  
39 (c) the superannuation provider:

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- (i) has been given a request under regulation 7A.03C, 7A.03D, 7A.03E, 7A.05, 7A.06 or 7A.07 of the *Superannuation Industry (Supervision) Regulations 1994*; and
- (ii) is required under regulation 7A.03G or 7A.09 of those Regulations to give effect to the request; and
- (iii) has not given effect to the request.

(7) For the purposes of subparagraph (6)(c)(i), the circumstances are:

- (a) the period by which a request mentioned in subparagraph (6)(c)(i) must be made has not ended; or
- (b) the period by which a request mentioned in subparagraph (6)(c)(i) must be made has ended and the superannuation provider:
  - (i) has not been given a request; and
  - (ii) intends to take an action mentioned in subregulation 7A.03H(1) or (4) or 7A.10(1) of the *Superannuation Industry (Supervision) Regulations 1994*.

## **12 Subsection 131-40(1) in Schedule 1**

After “under section 131-15”, insert “(other than a release authority issued under subsection 131-15(6))”.

### **13 Subsection 131-40(2) in Schedule 1**

Omit “section 131-35”, substitute “subsection 131-35(1)”.

## **14 After subsection 131-40(2) in Schedule 1**

Insert:

## *Release authority issued following perpetrator contributions release order*

(3) A \*superannuation provider issued with a release authority under section 131-15(6) may, within 10 \*business days after the release authority is issued (or a further period allowed by the Commissioner), pay to the Commissioner the lesser of:

- (a) the amount stated in the release authority; and
- (b) the sum of the \*maximum available release amounts for each \*defined benefit interest held by the superannuation provider in \*superannuation plans for the perpetrator in respect of whom the order was made.

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(4) For the purposes of paragraph (3)(a), reduce the amount mentioned in that paragraph by any amount the provider pays under subsection 131-35(3) in relation to the release authority.

## **15 Subsection 131-50(3) in Schedule 1**

Omit “subsection 131-35(1) or 131-40(1)”, substitute “subsection 131-35(1) or (3) or 131-40(1) or (3)”.

## 16 After subsection 131-50(3) in Schedule 1

Insert:

(4) If a <sup>\*</sup>superannuation provider is not required to pay an amount under section 131-35 because of subsection 131-35(4), or is not required to pay the whole of the amount because of that subsection, a notice under subsection (2) must also state:

- (a) the reason why the provider is not required to pay the amount or is not required to pay the whole of the amount; and
- (b) in the case where the provider is not required to pay the amount because of paragraph 131-35(6)(b)—the date on which the provider expects that it will have completed arrangements to give effect to the payment split.

## 17 Before subsection 131-55(1) in Schedule 1

Insert:

*Release authorities other than those issued following perpetrator contributions release orders*

## **18 Subsection 131-55(1) in Schedule 1**

After “in relation to you”, insert “(other than a release authority issued under subsection 131-15(6))”.

## 19 After subsection 131-55(2) in Schedule 1

Insert:

### *Release authorities issued following perpetrator contributions release orders*

(3) The Commissioner must notify the perpetrator and the victim in respect of whom an order under section 139-50 has been made as soon as practicable after:

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## **20 Subsection 131-65(1) in Schedule 1**

After “section 131-15”, insert “(other than a release authority issued under subsection 131-15(6))”.

## 21 At the end of section 131-65 in Schedule 1

Add:

*Amounts paid in relation to release authorities issued following perpetrator contributions release orders*

(5) If a <sup>1</sup>superannuation provider pays an amount in relation to a release authority issued under subsection 131-15(6), then:

- (a) the perpetrator to whom the release authority relates:
  - (i) is entitled to a credit equal to that amount that arises on the day the Commissioner receives the amount; and
  - (ii) immediately after the credit arises—is no longer entitled to that credit; and

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(b) once the perpetrator is no longer entitled to the credit, the victim in respect of whom the order under section 139-50 was made becomes entitled to a credit equal to that amount.

Note: Division 3 of Part IIB provides for the treatment of credits that you are entitled to under a taxation law.

## **22 After section 131-70 in Schedule 1**

Insert:

## 131-71 Amounts under perpetrator contributions release orders

- (1) If a victim becomes entitled to a credit under paragraph 131-65(5)(b), the Commissioner must, under section 8AAZLF, refund an amount equal to the amount of the credit into the account nominated by the victim.
- (2) The perpetrator's liability to pay the victim compensation under an order mentioned in subsection 139-45(1)(b) is reduced by the amount mentioned in subsection (1).
- (3) If:
  - (a) an amount mentioned in subsection (1) is to be paid to the credit of an account nominated by the victim; and
  - (b) a court order in the nature of a garnishee order comes into force in relation to the account;the court order does not apply to the amount before it is paid in the account.

## 23 After Division 138 in Schedule 1

Insert:

## **Division 139—Access to perpetrators' superannuation for victims of child sexual abuse**

## Table of Subdivisions

## Guide to Division 139

- 139-A Requesting information about perpetrator's superannuation
- 139-B Perpetrator contributions release order

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## 1      **Guide to Division 139**

### 2      **139-1 What this Division is about**

3      Victims of specified child sexual abuse offences may access the  
4      superannuation of perpetrators in certain circumstances.

5      Victims may request the Commissioner to provide certain  
6      information about the superannuation interests of perpetrators.

7      If the information is provided, victims may apply to the Federal  
8      Circuit and Family Court of Australia (Division 2) for an order  
9      requiring the Commissioner, under Division 131, to require the  
10     release of amounts from those superannuation interests.

### 11     **Subdivision 139-A—Requesting information about 12     perpetrator's superannuation**

#### 13     **Guide to Subdivision 139-A**

#### 14     **139-5 What this Subdivision is about**

15     Victims of specified child sexual abuse offences may request that  
16     the Commissioner provide certain information about the  
17     superannuation interests of the perpetrators if there has been a  
18     finding of guilt and an order for compensation that is unpaid.

### 19     **Operative provisions**

#### 20     **139-10 Requesting perpetrator superannuation information**

- 21       (1) On or after [date TBA], a victim of a \*specified child sexual abuse  
22       offence may request the Commissioner to provide the information  
23       mentioned in subsection 139-35(1) about the \*superannuation  
24       interests of the perpetrator of the offence if the victim believes on  
25       reasonable grounds that the circumstances mentioned in  
26       paragraphs 139-45(1)(a) to (e) exist.
- 27       (2) The following persons may make the request on behalf of the  
28       victim:
  - 29           (a) a \*legal practitioner representing the victim;

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- 1 (b) the victim's \*legal personal representative;
- 2 (c) in the case of a victim who is under 18 years of age on the
- 3 date on which the request is made:
  - 4 (i) the victim's parent; or
  - 5 (ii) a person who has been granted (whether alone or jointly
  - 6 with another person or persons) guardianship of the
  - 7 victim under a law of the Commonwealth or of a State
  - 8 or Territory; or
- 9 (d) a person who provides the victim with financial and
- 10 counselling services for the predominant purpose of assisting
- 11 the victim to resolve financial difficulties; or
- 12 (e) the victim's \*registered tax agent.

### **139-15 Meaning of specified child sexual abuse offence**

14 (1) An offence is a *specified child sexual abuse offence* if it is a child  
15 sexual abuse offence within the meaning of subsection 3(1) of the  
16 *Crimes Act 1914*.

17 (2) An offence against a provision of Division 270 or 271 of the  
18 *Criminal Code* (other than an offence against any of the provisions  
19 mentioned in subsection (3)) is also a *specified child sexual abuse*  
20 *offence* if the victim is under 18 years of age at the time the  
21 offence is committed.

22 (3) For the purposes of subsection (2), the provisions are the  
23 following:

24 (a) subsection 271.2(1), (1A), (1B), (1C), (2), (2A), (2B) or (2C)  
25 (trafficking in persons);

26 (b) subsection 271.3(1) (trafficking in persons—aggravated  
27 offence);

28 (c) subsection 271.5(1), (2), (2A) or (2B) (domestic trafficking  
29 in persons);

30 (d) subsection 271.6(1) (domestic trafficking in persons—  
31 aggravated offence);

32 (e) subsection 271.7B(1) or (2) (organ trafficking—entry into  
33 and exit from Australia);

34 (f) subsection 271.7C(1) (organ trafficking—aggravated  
35 offence);

36 (g) section 271.7D (domestic organ trafficking);

37 (h) subsection 271.7E(1) (domestic organ trafficking—  
38 aggravated offence);

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(i) subsection 271.7F(1) (harbouring a victim).

## 139-20 Requirements for requests

A request under section 139-10 must:

- (a) be in the \*approved form; and
- (b) be accompanied by a statutory declaration by the person making the request stating that:
  - (i) the person believes on reasonable grounds that the circumstances mentioned in paragraphs 139-45(1)(a) to (e) exist; and
  - (ii) the person understands that disclosing any information given by the Commissioner on request under subsection 139-25(1) other than for the purposes of making an application for an order under section 139-50 or in a proceeding for an order under that section is an offence against section 355-155; and
  - (iii) the person understands that making a false statement in a statutory declaration is an offence against section 11 of the *Statutory Declarations Act 1959*; and
- (c) if the perpetrator has been convicted of the \*specified child sexual abuse offence—be accompanied by evidence of the conviction; and
- (d) be accompanied by a copy of the order mentioned in paragraph 139-45(1)(b); and
- (e) state the date on which the victim alleges that the conduct constituting the offence first occurred.

## 139-25 Decision on request

- (1) If the Commissioner is satisfied that a request made under section 139-10 (or a request purported to be made under that section) meets the requirements in section 139-20, the Commissioner must disclose the requested information to the person who made the request.
- (2) The disclosure is for either or both of the following purposes:
  - (a) making an application under section 139-45;
  - (b) a proceeding for an order under section 139-50.
- (3) If the Commissioner discloses information under subsection (1), the Commissioner must also give the person who made the request

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1 a notice stating the dates that the eligible period mentioned in  
2 subsection 139-35(2) begins and ends on.

3 **139-30 Perpetrator superannuation information to be disclosed by**  
4 **Commissioner following request under section 139-10**

5 (1) For the purposes of subsection 139-10(1), the information to be  
6 provided by the Commissioner upon request is:

7 (a) the total of any of the following contributions (other than  
8 excepted contributions mentioned in subsection (3)) made to  
9 a \*superannuation plan during the eligible period mentioned  
10 in subsection (2) for the benefit of the perpetrator:

11 (i) a member contribution (within the meaning of Part 5 of  
12 the *Superannuation Industry (Supervision)*  
13 *Regulations 1994*);

14 (ii) a \*reportable employer superannuation contribution  
15 made in relation to the financial year beginning on  
16 1 July 2009 or a later financial year;

17 (iii) an employer contribution made in relation to the  
18 financial year beginning on 1 July 2008 or an earlier  
19 financial year that is not a mandated employer  
20 contribution (within the meaning of Part 5 of the  
21 *Superannuation Industry (Supervision)*  
22 *Regulations 1994*); and

23 (b) if the most recent \*total superannuation balance of the  
24 perpetrator that is known to the Commissioner is lower than  
25 the sum of any contributions mentioned in paragraph (a)—  
26 that total superannuation balance.

27 (2) For the purposes of paragraph (1)(a), the eligible period is the  
28 period:

29 (a) beginning on the first day on which the victim alleges that  
30 the conduct constituting the \*specified child sexual abuse  
31 offence occurred; and

32 (b) ending on the day on which the request is given to the  
33 Commissioner.

34 (3) However, in working out the total of the contributions in  
35 paragraph (1)(a), the amount of any contributions that are  
36 \*concessional contributions is to be worked out using the following  
37 formula:

38  $0.85 \times \text{the amount of the *concessional contribution}$

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(4) For the purposes of paragraph (1)(a), excepted contributions are the following:

- (a) a contribution to the extent that it is required to be made because of a law of the Commonwealth or of a State or Territory, or the rules of the relevant superannuation fund;
- (b) a contribution made in respect of a \*defined benefit interest;
- (c) a Government co-contribution made under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;
- (d) a contribution that is an amount transferred from a \*KiwiSaver scheme to a \*complying superannuation fund that is:
  - (i) an \*Australian-sourced amount; or
  - (ii) a \*returning New Zealand-sourced amount;
- (e) a contribution that is a \*contributions-splitting benefit;
- (f) a contribution made in relation to a financial year before the financial year beginning on 1 July 2002.

### 139-35 Commissioner must notify perpetrator of disclosure

- (1) If the Commissioner discloses information to a person under subsection 139-25(1), the Commissioner must give notice to the perpetrator to whom the disclosure relates.
- (2) The Commissioner must give notice as soon as practicable after making the disclosure.
- (3) The notice:
  - (a) must include a copy of the information that has been disclosed; and
  - (b) must not state the name of the person who made the request or the victim.

## **Subdivision 139-B—Perpetrator contributions release order**

## Guide to Subdivision 139-B

## 139-40 What this Subdivision is about

If information is provided under Subdivision 139-A, victims may apply to the Federal Circuit and Family Court of Australia

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1	(Division 2) to order the Commissioner to require the release of
2	amounts from the superannuation interests of perpetrators.
3	Proceedings for these orders must be stayed if perpetrators are also
4	subject to certain applications or bankruptcy (which may affect
5	superannuation interests) until the applications are finally
6	determined or bankruptcy is discharged.
7	Perpetrators are required to notify the Court about these
8	applications, restraining orders and bankruptcy.

## 9 **Operative provisions**

### 10 **139-45 Application for perpetrator contributions release order**

11 (1) A victim of a \*specified child sexual abuse offence may apply to  
12 the Federal Circuit and Family Court of Australia (Division 2) for  
13 an order under section 139-50 if:

14 (a) the perpetrator of the offence has been convicted or found  
15 guilty of the offence; and

16 (b) a court has made an order requiring the perpetrator to pay  
17 compensation to the victim of the offence for injury, loss or  
18 damage suffered by the victim as a direct result of conduct  
19 that constituted the offence, whether:

20 (i) the order was made before or after the conviction or  
21 finding of guilt; and

22 (ii) the order was made by the court that convicted the  
23 perpetrator or made the finding of guilt or a different  
24 court in civil proceedings; and

25 (c) a period of at least 12 months has passed since the day on  
26 which the order was made; and

27 (d) the perpetrator has not paid in full the amount of  
28 compensation specified in the order; and

29 (e) the period within which recovery of the amount may be  
30 pursued in a court in the jurisdiction where the order was  
31 made has not expired; and

32 (f) the Commissioner has disclosed information under  
33 subsection 139-25(1) to the victim.

34 (2) The application must:

35 (a) state:

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1 (i) the amount of compensation that the perpetrator is  
2 required to pay the victim under the order mentioned in  
3 paragraph (1)(b); and  
4 (ii) the amount of compensation that the perpetrator has  
5 paid the victim (if any); and  
6 (iii) the date on which the victim alleges that the conduct  
7 constituting the <sup>\*</sup>specified child sexual abuse offence  
8 first occurred; and  
9 (b) be accompanied by a copy of:  
10 (i) the order mentioned in paragraph (1)(b); and  
11 (ii) the information disclosed to the applicant; and  
12 (c) name the Commissioner and the perpetrator as respondents.

## 139-50 Court may make perpetrator contributions release order

(1) On application under subsection 139-45(1), the Federal Circuit and Family Court of Australia (Division 2) may order that the Commissioner is authorised to exercise the power under subsection 131-15(6) in relation to any \*superannuation interest of the perpetrator up to a specified amount if:

- (a) the Court is satisfied that the circumstances mentioned in paragraphs 139-45(1)(a) to (e) exist; and
- (b) the Court has not been made aware by a party to the proceeding that there are any applications mentioned in subsection (4) in relation to the perpetrator that have been made and not finally determined; and
- (c) the Court has not been made aware by a party to the proceeding that the perpetrator is a bankrupt under the *Bankruptcy Act 1966* in respect of a bankruptcy from which the perpetrator has not been discharged; and

Note: The perpetrator must give the Court notice about the status of applications mentioned in paragraphs (4)(a) to (e), restraining orders mentioned in paragraph (4)(f) and bankruptcy: see section 139-60.

(d) the Court has not been made aware by a party to the proceeding that a restraining order (within the meaning of the *Bankruptcy Act 1966*) in relation to the perpetrator is in force.

(2) The amount specified in the order must not exceed the lesser of the following:

- (a) the total of contributions disclosed by the Commissioner under subsection 139-25(1);

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1 (b) the outstanding amount of compensation the perpetrator is  
2 required to pay the victim under the order mentioned in  
3 paragraph 139-45(1)(b).

4 (3) An order under subsection (1) must require the applicant to  
5 nominate, in the \*approved form, an account into which the  
6 Commissioner is to pay any amounts released.

7 (4) For the purposes of paragraph (1)(b), the applications are:

8 (a) an application for an order under the *Bankruptcy Act 1966*  
9 that relates to:

10 (i) the bankruptcy of the perpetrator; or  
11 (ii) the perpetrator's capacity as a debtor subject to a  
12 personal insolvency agreement; or  
13 (iii) a debt agreement to which the perpetrator is a party (as  
14 a debtor); or

15 (b) an application for an order under section 79, 90SM, 90YY or  
16 90YY of the *Family Law Act 1975* in relation to the  
17 perpetrator; or

18 (c) an application for an order under section 205ZG of the  
19 *Family Court Act 1997* (WA) in relation to the perpetrator; or

20 (d) an application for a forfeiture order mentioned in  
21 subregulation 5.08(1A) of the *Superannuation Industry*  
22 (*Supervision*) *Regulations 1994* in relation to the perpetrator;  
23 or

24 (e) an application for a superannuation order under Part 2 of the  
25 *Crimes (Superannuation Benefits) Act 1989* or Division 2 of  
26 Part VA of the *Australian Federal Police Act 1979* in relation  
27 to the perpetrator; or

28 (f) an application for a restraining order (within the meaning of  
29 the *Bankruptcy Act 1966*) in relation to the perpetrator.

30 (5) If the Court has been made aware by a party to the proceeding of  
31 an application mentioned in subsection (4), the Court may order  
32 that the proceeding for an order under subsection (1) be stayed  
33 until the proceeding for the application mentioned in subsection (4)  
34 is finally determined.

35 (6) If the Court has been made aware by a party to the proceeding that  
36 the perpetrator is a bankrupt under the *Bankruptcy Act 1966* in  
37 respect of a bankruptcy from which the perpetrator has not been  
38 discharged, the Court may order that the proceeding for an order

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1 under subsection (1) be stayed until the perpetrator is discharged  
2 from the bankruptcy.

3 (7) If the Court has been made aware by a party to the proceeding that  
4 a restraining order (within the meaning of the *Bankruptcy*  
5 *Act 1966*) in relation to the perpetrator is in force, the Court may  
6 order that the proceeding for an order under subsection (1) be  
7 stayed until the restraining order is no longer in force.

8 (8) Without limiting paragraph (1)(b) or subsection (5), an application  
9 referred to in subsection (4) is finally determined:

10 (a) when the application is withdrawn; or  
11 (b) if the application is dismissed and an appeal against the  
12 decision to dismiss the application is made—when the appeal  
13 is withdrawn or determined; or  
14 (c) if the application is dismissed and an appeal against the  
15 decision to dismiss the application is not made—when the  
16 appeal period in respect of the decision to dismiss the  
17 application has ended; or  
18 (d) if an order (other than an interim order) is made as a result of  
19 the application—when the appeal period in respect of the  
20 order has ended.

## 21 **139-55 Grounds on which perpetrator may oppose making of order**

22 (1) A perpetrator who is a respondent to an application made under  
23 section 139-45 cannot oppose the making of an order under  
24 section 139-50 on any grounds other than the following:

25 (a) one or more of the circumstances mentioned in  
26 paragraphs 139-45(1)(a) to (e) do not exist;  
27 (b) that the total of contributions disclosed by the Commissioner  
28 under subsection 139-25(1) was incorrect;  
29 (c) that the date on which the victim alleges that the conduct  
30 constituting the \*specified child sexual abuse offence first  
31 occurred is incorrect and, that because the date is incorrect,  
32 the total of contributions released by the Commissioner under  
33 subsection 139-25(1) is incorrect;  
34 (d) any of the other matters stated in the application for the order  
35 are incorrect;  
36 (e) any other matter to which the Court grants the perpetrator  
37 leave to object.

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- 1 (2) A perpetrator who wishes to oppose to the making of an order on
- 2 the ground mentioned in paragraph (1)(b) has the burden of
- 3 proving that the amount of contributions disclosed was incorrect.
- 4 (3) A perpetrator who wishes to oppose to the making of an order on
- 5 the ground mentioned in paragraph (1)(c) has the burden of
- 6 proving:
  - 7 (a) that the date on which the victim alleges that the conduct
  - 8 constituting the \*specified child sexual abuse offence first
  - 9 occurred is incorrect; and
  - 10 (b) that, because of the incorrect date, the total of contributions
  - 11 disclosed by the Commissioner under subsection 139-25(1) is
  - 12 incorrect.

## 139-60 Perpetrator must notify Court about certain applications

14  
15 (1) If:

16 (a) a perpetrator is a respondent named in an application made  
17 under section 139-45 (*first application*); and

18 (b) an application mentioned in paragraphs 139-50(4)(a) to (e)  
19 (*second application*) which has not been finally determined  
20 was made in relation to the perpetrator before the perpetrator  
21 was given notice of the first application;  
22 the perpetrator must, as soon as practicable after being given notice  
23 of the first application, notify the Court of the second application.

24 (2) If:

25 (a) a perpetrator is a respondent named in an application made  
26 under section 139-45; and

27 (b) before the Court decides whether to make the order under  
28 section 139-50, an application mentioned in  
29 paragraphs 139-50(4)(a) to (e) is made in relation to the  
30 perpetrator;  
31 the perpetrator must, as soon as practicable after being given notice  
32 of the application mentioned in paragraph (b), notify the Court of  
33 that application.

34 (3) If:

35 (a) a perpetrator is a respondent to a proceeding for an order  
36 under section 139-50; and

37 (b) the proceeding has been stayed because an application  
38 mentioned in paragraphs 139-50(4)(a) to (e) was made in  
39 relation to the perpetrator;

# EXPOSURE DRAFT

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1 the perpetrator must, as soon as practicable after the application  
2 mentioned in paragraph (b) is finally determined, notify the Court  
3 that it has been finally determined.

4 (4) A perpetrator commits an offence if the perpetrator contravenes  
5 subsection (1), (2) or (3).

6 Penalty: 50 penalty units.

7 **139-65 Perpetrator must notify Court about applications for**  
8 **restraining orders**

9 (1) If:

10 (a) a perpetrator is a respondent named in an application made  
11 under section 139-45 (*first application*); and  
12 (b) the perpetrator is aware that an application for a restraining  
13 order (within the meaning of the *Bankruptcy Act 1966*) which  
14 has not been finally determined was made in relation to the  
15 perpetrator before the perpetrator was given notice of the first  
16 application;

17 the perpetrator must, as soon as practicable after being given notice  
18 of the first application, notify the Court of the application for the  
19 restraining order.

20 (2) If:

21 (a) a perpetrator is a respondent named in an application made  
22 under section 139-45; and  
23 (b) before the Court decides whether to make the order under  
24 section 139-50, the perpetrator becomes aware that an  
25 application for a restraining order (within the meaning of the  
26 *Bankruptcy Act 1966*) was made in relation to the  
27 perpetrator;

28 the perpetrator must, as soon as practicable after becoming aware  
29 of the application for the restraining order, notify the Court of that  
30 application.

31 (3) If:

32 (a) a perpetrator is a respondent to a proceeding for an order  
33 under section 139-50; and  
34 (b) the proceeding has been stayed because an application for a  
35 restraining order (within the meaning of the *Bankruptcy*  
36 *Act 1966*) was made in relation to the perpetrator;

# EXPOSURE DRAFT

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1 the perpetrator must, as soon as practicable after the application for  
2 the restraining order is finally determined, notify the Court that it  
3 has been finally determined.

4 (4) A perpetrator commits an offence if the perpetrator contravenes  
5 subsection (1), (2) or (3).

6 Penalty: 50 penalty units.

## 7 **139-70 Perpetrator must notify Court about restraining orders**

8 (1) If:

9 (a) a perpetrator is a respondent named in an application made  
10 under section 139-45; and  
11 (b) there is a restraining order (within the meaning of the  
12 *Bankruptcy Act 1966*) in force in relation to the perpetrator;  
13 the perpetrator must, as soon as practicable after being given notice  
14 of the application, notify the Court of the restraining order.

15 (2) If:

16 (a) a perpetrator is a respondent named in an application made  
17 under section 139-45; and  
18 (b) before the Court decides whether to make the order under  
19 section 139-50, a restraining order (within the meaning of the  
20 *Bankruptcy Act 1966*) is made in relation to the perpetrator;  
21 the perpetrator must, as soon as practicable after the restraining  
22 order is made, notify the Court that it has been made.

23 (3) If:

24 (a) a perpetrator is a respondent to a proceeding for an order  
25 under section 139-50; and  
26 (b) the proceeding has been stayed because a restraining order  
27 (within the meaning of the *Bankruptcy Act 1966*) is in force  
28 in relation to the perpetrator;  
29 the perpetrator must, as soon as practicable after the restraining  
30 order is no longer in force, notify the Court that the restraining  
31 order is no longer in force.

32 (4) A perpetrator commits an offence if the perpetrator contravenes  
33 subsection (1), (2) or (3).

34 Penalty: 50 penalty units.

# EXPOSURE DRAFT

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## 139-75 Perpetrator must notify Court about bankruptcy

2 (1) If:

3 (a) a perpetrator is a respondent named in an application made  
4 under section 139-45; and  
5 (b) the perpetrator is a bankrupt under the *Bankruptcy Act 1966*  
6 in respect of a bankruptcy from which the perpetrator has not  
7 been discharged;

8 the perpetrator must, as soon as practicable after being given notice  
9 of the application, notify the Court of the bankruptcy.

10 (2) If:

11 (a) a perpetrator is a respondent named in an application made  
12 under section 139-45; and  
13 (b) before the Court decides whether to make the order under  
14 section 139-50, the perpetrator becomes a bankrupt under the  
15 *Bankruptcy Act 1966*;

16 the perpetrator must, as soon as practicable after becoming a  
17 bankrupt, notify the Court of the bankruptcy.

18 (3) If:

19 (a) a perpetrator is a respondent to a proceeding for an order  
20 under section 139-50; and  
21 (b) the proceeding has been stayed because the perpetrator was a  
22 bankrupt under the *Bankruptcy Act 1966* in respect of a  
23 bankruptcy from which the perpetrator had not been  
24 discharged;

25 the perpetrator must, as soon as practicable after the bankruptcy is  
26 discharged, notify the Court that the bankruptcy has been  
27 discharged.

28 (4) A perpetrator commits an offence if the perpetrator contravenes  
29 subsection (1), (2) or (3).

30 Penalty: 50 penalty units.

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## 139-80 Applicant must give Commissioner a copy of perpetrator contributions order

33 If the Court makes an order under section 139-50, the applicant  
34 must give the Commissioner a copy of the order as soon as  
35 practicable.

# EXPOSURE DRAFT

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1      **Division 2—Other amendments**

2      ***Bankruptcy Act 1966***

3      **24 After paragraph 153(2)(b)**

4      Insert:

5            (ba) release the bankrupt from a debt incurred under an order  
6            mentioned in section 139-45(1)(b) in Schedule 1 to the  
7            *Taxation Administration Act 1953*; or

8      ***Child Support (Registration and Collection) Act 1988***

9      **25 At the end of section 72**

10     Add:

11            (4) This section does not apply to a credit under  
12            paragraph 131-65(5)(b) in Schedule 1 to the *Taxation*  
13            *Administration Act 1953* that the Commissioner is required to  
14            refund under section 8AAZLF of that Act.

15     ***Income Tax Assessment Act 1997***

16     **26 Section 11-55 (table item headed “superannuation”)**

17     After:

member benefits	301-10
.....	301-15
	301-30
	301-225

18     Insert:

payment to victim following perpetrator contributions	59-110
release order	.....

19     **27 At the end of section 59-105**

20     Add:

21     **59-110 Payment to victim following perpetrator contributions**  
22            **release order**

23     A refund made by the Commissioner of the amount of a credit  
24            mentioned in subsection 131-71(1) in Schedule 1 to the *Taxation*

# EXPOSURE DRAFT

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1                   *Administration Act 1953* is not assessable income and is not  
2                   \*exempt income.

## 28 Subsection 995-1(1)

3                   Insert:

5                   *specified child sexual abuse offence* has the meaning given by  
6                   section 139-15 in Schedule 1 to the *Taxation Administration*  
7                   *Act 1953*.

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

## 9                   29 At the end of subsection 120(1)

10                  Add:

11                  ; or (d) the person is a trustee of a self managed superannuation fund  
12                  who, or a director of a corporate trustee of a self managed  
13                  superannuation fund that:  
14                   (i) has contravened subsection 131-35(3) in Schedule 1 to  
15                   the *Taxation Administration Act 1953*; or  
16                   (ii) has contravened subsection 131-50(4) in Schedule 1 to  
17                   the *Taxation Administration Act 1953* by failing to  
18                   notify the Commissioner of Taxation that the trustee  
19                   was not required to comply with a release authority  
20                   because of subsection 131-35(5) or (6) of that Schedule.

## 21                  Part 2—Application

### 22                  30 Application

23                  (1) The amendments made by this Schedule apply on and after the day on  
24                  which this Act receives the Royal Assent.

25                  (2) A request under section 139-10 in Schedule 1 to the Taxation  
26                  Administration Act 1953 may be made for information about a period  
27                  before the amendments in this Schedule came into operation.

28                  (3) The Commissioner may, under section 139-25 in Schedule 1 to the  
29                  Taxation Administration Act 1953, disclose information about a period  
30                  before the amendments in this Schedule came into operation.