

EXPLANATORY STATEMENT

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

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

Corporations (Fees) Act 2001

Life Insurance Act 1995

Corporations Act 2001

Income Tax Assessment Act 1997

Commonwealth Inscribed Stock Act 1911

Treasury Laws Amendment (Minor and Technical Amendments) Regulations 2026

The following provisions provide that the Governor-General may make regulations prescribing matters required or permitted by the Acts to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act (collectively, the Authorising Acts): section 177-15 of the *A New Tax System (Goods and Services Tax) Act 1999*, section 8 of the *Corporations (Fees) Act 2001*, section 253 of the *Life Insurance Act 1995*, section 1364 of the *Corporations Act 2001*, section 909-1 of *Income Tax Assessment Act 1997* (the ITAA 1997), and section 58 of the *Commonwealth Inscribed Stock Act 1911*.

The purpose of the *Treasury Laws Amendment (Minor and Technical Amendments) Regulations 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 are as follow: amended subsection 38-25.01(1) of the *A New Tax System (Goods and Services Tax) Regulations 2019* to remove the carve-out for GST-free treatment where a higher everyday living fee is charged by a supplier, amended regulation 1B of the *Corporations (Fees) Regulations 2001* (the Corporation (Fees) Regulations) to address a typographical error by removing a duplicate colon, amended section 4 of the *Life Insurance Regulation 2004* to update the reference to *Statutory Declaration Act 1959*, inserted Adelaide University into the table in regulation 9.2.02 of the *Corporations Regulations 2001* (the Corporations Regulations), corrected drafting in subsection 307-230A.10(7) of the *Income Tax Assessment (1997 Act) Regulations 2021*, and amended the notes in section 14 of the *Commonwealth Inscribed Stock Regulations 2025*.

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

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Items 18 and 18A of section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015* together exempt Division 2 and Division 4 to Part 1 of the Regulations from the sunset provisions in Part 4 of Chapter 3 of the *Legislation Act 2003*. The items exempt amendments made to the Corporations Regulations and Corporation (Fees) Regulations respectively.

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 42 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.

Part 1 of the Regulations commenced the day after the Regulations are registered on the Federal Register of Legislation. Part 2 of the Regulations commenced at the same time as Part 3 of Schedule 1 to *Treasury Laws Amendment Act 2026* commences (however, the provisions do not commence at all if that Part does not commence).

Division 1 to Part 1 of the Regulations apply to the supply of services made on or after 1 November 2025. This ensures that services covered by a provision of Division 8 of the aged care service list receive the same GST treatment as similar services did under the former aged care framework, consistent with the original policy intent. The retrospective application is beneficial to affected parties as it provides the correct GST-free treatment that was always intended following the making of the *Aged Care Legislation Consequential Amendments Regulations 2025*.

Division 5 to Part 1 of the Regulations applies in relation to determining a total superannuation balance, or the total superannuation balance value of a superannuation interest, at a particular time if that time occurs: just before 1 July 2026, or on or after 1 July 2026. The retrospective application ensures that the amendments apply from the time that the original provision applied, in accordance with item 10 of schedule 2 to the *Treasury Laws Amendment (Building a Stronger and Fairer Super System) Act 2026*. The total superannuation balance value of a superannuation interest plays a key role in determining liability for taxation under Division 296 of the ITAA 1997, which applies to income years on and after 1 July 2026. The change in the total superannuation balance value of an interest from just before the start of an income year to the end of that income year is used to work out the amount of Division 296 tax that is payable for the types of interests covered by this provision. Therefore, the amendments need to apply from just before 1 July 2026 to ensure that such an interest is correctly valued and avoid the outcome where the start year value is nil (because of the current drafting), but the end year value reflects the correct value, resulting in a higher tax liability than should be the case. This is not expected to have a detrimental impact on any individuals. As outlined above, the retrospective application is specifically necessary to avoid detrimental outcomes.

Details of the Regulations are set out in [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

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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.

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Details of the Treasury Laws Amendment (Minor and Technical Amendments) Regulations 2026

Section 1 – Name

This section provides that the name of the regulations is the *Treasury Laws Amendment (Minor and Technical Amendments) Regulations 2026* (the Regulations).

Section 2 – Commencement

Part 1 of the Regulations commenced the day after the Regulations is registered on the Federal Register of Legislation.

Part 2 of the Regulations commenced at the same time as Part 3 of Schedule 1 to Treasury Laws Amendment Act 2026 commences (however, the provisions do not commence at all if that Part does not commence).

Section 3 – Authority

The Regulations are made under the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act), *Corporations (Fees) Act 2001*, *Life Insurance Act 1995*, *Corporations Act 2001* (the Corporations Act), *Income Tax Assessment Act 1997* (the ITAA 1997), and *Commonwealth Inscribed Stock Act 1911* (the CIS Act) (collectively, the Authorising Act).

Section 4 – Schedules

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

Part 1 – Amendments commencing day after registration

Division 1 – GST treatment of residential care

Items [1] to [2] – Subsection 38-25.01(1)

Items 1 to 2 in Part 1, Division 1 of the Regulations amends subsection 38-25.01(1) of the *A New Tax System (Goods and Services Tax) Regulations 2019* (GST Regulations) to remove the carve-out for GST-free treatment where a higher everyday living fee is charged by a supplier. This ensures that a supply of a service is GST-free if it is a service covered by a provision of Division 8 of the aged care service list.

Paragraphs 38-25(1)(a), 38-25(2)(b) and 38-25(3)(b) of the GST Act enable the regulations to specify which provisions of the aged care service list cover supplies that are GST-free. The amendments remove the carve-out inserted by the *Aged Care Legislation Consequential Amendments Regulations 2025* for supplies of services covered by a provision of Division 8 of the aged care service list that are specified where a higher

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everyday living fee (within the meaning of the section 284 of the *Aged Care Act 2024*) is charged by the supplier.

As a result of this amendment, subsection 38-25.01(1) of the GST Regulations provides for the purposes of paragraphs 38-25(1)(a), 38-25(2)(b) and 38-25(3)(b) of the GST Act a provision of Division 8 of the aged care service list is specified.

Item [3] – In the appropriate position in Chapter 7

The amendments set out in items 1 and 2 commence the day after the Regulations is registered on the Federal Register for Legislation and apply retrospectively from 1 November 2025.

The retrospective application ensures that services covered by a provision of Division 8 of the aged care service list that are specified receive the same GST treatment as services that were covered by Schedule 1 to the former Quality of Care Principles under the former aged care framework, consistent with the original policy intent. The retrospective application is beneficial to affected parties as it maintains the GST-free treatment that was always intended following the making of the *Aged Care Legislation Consequential Amendments Regulations 2025*.

A supply of a service covered by a provision of Division 8 of the aged care service will be GST-free where the other requirements of subsections 38-25(1), 38-25(2), and 38-25(3) of the GST Act are satisfied.

Division 2 – Corporations (Fees) Regulations 2001

Item [4] – Regulation 1B

Item 4 of the Regulations amends regulation 1B of the *Corporations (Fees) Regulations 2001* (the Corporations (Fees) Regulations) to address a typographical error by removing a duplicate colon.

Regulation 1B of the Corporations (Fees) Regulations lists the definitions to be used in those regulations. Excluding the note to Regulation 1B, the secondly occurring colon in that regulation is a typographical error in the provision and therefore does not reflect current drafting conventions. Item 4 removes the secondly occurring colon.

Division 3 – Life Insurance Regulations 2004

Item [5] – Section 4 (definition of *certified copy*)

Item 5 of the Regulations amends section 4 of the *Life Insurance Regulation 2004* (the Life Insurance Regulations) to update the reference to *Statutory Declaration Act 1959* (the Statutory Declaration Act) as the current reference to that Act is out of date.

Section 4 of the Life Insurance Regulations defines the term ‘certified copy’ as a document that has been certified in writing by a person prescribed for the purposes of paragraph 8(b) of the Statutory Declarations Act, to be a true copy of the document.

The reference to paragraph 8(b) of the Statutory Declarations Act is outdated as that paragraph no longer empowers the Life Insurance Regulations to prescribe certain persons.

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Rather, section 4 of that Statutory Declarations Act generally defines a prescribed person as any person prescribed by the regulations to be a prescribed person. Paragraph 8(a) of the Statutory Declarations Act, supported by section 9, provides that one of the ways a statutory declaration complies with law is by obtaining observation by prescribed person.

Updating the reference to instead rely on the meaning of ‘prescribed person’ in the Statutory Declarations Act ensures clarity and consistency across the legislation.

Division 4 – Updating list of prescribed universities

Item [6] – Regulation 9.2.02 (before table item 101)

Item 6 in Part 1, Division 4 of the Regulations inserts Adelaide University into the table in regulation 9.2.02 of the *Corporations Regulations 2001* (the Corporations Regulations), updating the list of prescribed universities, to reflect the establishment of Adelaide University, following the merger of the University of Adelaide and the University of South Australia.

Regulation 9.2.02 of the Corporations Regulations prescribes universities and institutions for the purposes of subsection 1280(2A) of the Corporations Act. The prescribed list is relevant to the educational qualifications that may be recognised for auditor registration purposes.

Division 5 – Total superannuation balance value

Item [7] – Paragraph 307-230A.10(7)(b)

Item 7 in Part 1, Division 5 of the Regulations corrects current drafting in relation to the total superannuation balance value of a notional superannuation interest identified in subsection 307-230A.10(7) of the *Income Tax Assessment (1997 Act) Regulations 2021*.

Section 307-230A.10 sets out the method for determining the total superannuation balance value of a notional superannuation interest where, due to a family law payment splitting order, the spouse of a member who holds a superannuation interest (otherwise known as a non-member spouse) is deemed to have a notional interest in that interest. Subsection 307-230A.10(7) incorrectly applies where ‘neither Division 2 of Part 4, nor Division 3 of Part 5, of the *Family Law (Superannuation) Regulations 2025* applies to the payment split’. However, it is clear from the Explanatory Statement that this should have referred to when ‘either Division 2 of Part 4, or Division 3 of Part 5, of the *Family Law (Superannuation) Regulations 2025* applies to the payment split’.

Item [8] – In the appropriate position in Chapter 7

The amendments will apply in relation to determining a total superannuation balance, or the total superannuation balance value of a superannuation interest, at a particular time if that time occurs:

- just before 1 July 2026; or
- on or after 1 July 2026.

The retrospective application ensures that the amendments apply from the time that the original provision applied, in accordance with item 10 of schedule 2 to the *Treasury Laws Amendment (Building a Stronger and Fairer Super System) Act 2026*. The total superannuation balance value of a superannuation interest plays a key role in determining

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liability for taxation under Division 296 of the ITAA 1997, which applies to income years on and after 1 July 2026. The change in the total superannuation balance value of an interest from just before the start of an income year to the end of that income year is used to work out the amount of Division 296 tax that is payable for the types of interests covered by this provision. Therefore, the amendments need to apply from just before 1 July 2026 to ensure that such an interest is correctly valued and avoid the outcome where the start year value is nil (because of the current drafting), but the end year value reflects the correct value, resulting in a higher tax liability than should be the case.

This is not expected to have a detrimental impact on any individuals. As outlined above, the retrospective application is specifically necessary to avoid detrimental outcomes.

Part 2 – Amendments with other commencement

Item [9] – Section 14 (note)

Item 9 in Part 2 of the Regulations amends the notes in section 14 of the *Commonwealth Inscribed Stock Regulations 2025* (the CIS Regulations) to support changes proposed to be made to section 29 of the CIS Act in the Treasury Laws Amendment Bill 2026: Minor and technical amendments (Spring 2026).

The amendments to the CIS Act remove the requirement for a statutory declaration when transmitting government stock from deceased estates.

This amendment to the CIS Regulations is a consequential amendment resulting from the amendments to the CIS Act as when those amendments commence, the notes in section 14 of the CIS Regulations will no longer be accurate.

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