

The Senate

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Standing  
Committee on  
Regulations and  
Ordinances

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Delegated legislation monitor

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# Membership of the committee

## Current members

Senator Sean Edwards (Chair)	South Australia, LP
Senator Gavin Marshall (Deputy Chair)	Victoria, ALP
Senator the Hon Ron Boswell	Queensland, NAT
Senator Sam Dastyari	New South Wales, ALP
Senator Nova Peris OAM	Northern Territory, ALP
Senator Zed Seselja	Australian Capital Territory, LP

## Secretariat

Mr Ivan Powell, Secretary  
Ms Janice Paull, Senior Research Officer  
Dr Patrick Hodder, Senior Research Officer

## Committee legal adviser

Mr Stephen Argument

## Committee contacts

PO Box 6100  
Parliament House  
Canberra ACT 2600  
Ph: 02 6277 3066

Email: [regords.sen@aph.gov.au](mailto:regords.sen@aph.gov.au)

Website: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Regulations\\_and\\_Ordinances](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances)



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# Delegated legislation monitor

## Introduction

The *Delegated legislation monitor* (the monitor) is the regular report of the Senate Standing Committee on Regulations and Ordinances (the committee). The monitor is published at the conclusion of each sitting week of the Parliament, and provides an overview of the committee's scrutiny of instruments of delegated legislation for the preceding period.<sup>1</sup>

### The committee's terms of reference

Senate Standing Order 23 contains a general statement of the committee's terms of reference:

- (1) A Standing Committee on Regulations and Ordinances shall be appointed at the commencement of each Parliament.
- (2) All regulations, ordinances and other instruments made under the authority of Acts of the Parliament, which are subject to disallowance or disapproval by the Senate and which are of a legislative character, shall stand referred to the committee for consideration and, if necessary, report.

The committee shall scrutinise each instrument to ensure:

- (a) that it is in accordance with the statute;
- (b) that it does not trespass unduly on personal rights and liberties;
- (c) that it does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal;  
and
- (d) that it does not contain matter more appropriate for parliamentary enactment.

### Work of the committee

The committee scrutinises all disallowable instruments of delegated legislation, such as regulations and ordinances, to ensure their compliance with non-partisan principles of personal rights and parliamentary propriety.

The committee's longstanding practice is to interpret its scrutiny principles broadly, but as relating primarily to technical legislative scrutiny. The committee therefore does not generally examine or consider the policy merits of delegated legislation. In cases where an instrument is considered not to comply with the committee's scrutiny

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1 Prior to 2013, the monitor provided only statistical and technical information on instruments scrutinised by the committee in a given period or year. This information is now most easily accessed via the authoritative Federal Register of Legislative Instruments (FRLI), at [www.comlaw.gov.au](http://www.comlaw.gov.au).

principles, the committee's usual approach is to correspond with the responsible minister or instrument-maker seeking further explanation or clarification of the matter at issue, or seeking an undertaking for specific action to address the committee's concern.

The committee's work is supported by processes for the registration, tabling and disallowance of legislative instruments, which are established by the *Legislative Instruments Act 2003*.<sup>2</sup>

## **Structure of the report**

The report is comprised of the following parts:

- Chapter 1, 'New and continuing matters', sets out new and continuing matters about which the committee has agreed to write to the relevant minister or instrument-maker seeking further information or appropriate undertakings;
- Chapter 2, 'Concluded matters', sets out any previous matters which have been concluded to the satisfaction of the committee, including by the giving of an undertaking to review, amend or remake a given instrument at a future date; related (non-confidential) correspondence is included at Appendix 3;
- Appendix 1 provides an index listing all instruments scrutinised in the period covered by the report;
- Appendix 2 contains the committee's guideline on addressing the consultation requirements of the *Legislative Instruments Act 2003*.
- Appendix 3 contains correspondence relating to concluded matters.

## **Acknowledgement**

The committee wishes to acknowledge the cooperation of the ministers, instrument-makers and departments who assisted the committee with its consideration of the issues raised in this report.

**Senator Sean Edwards**

**Chair**

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2 For further information on the disallowance process and the work of the committee see *Odger's Australian Senate Practice*, 13<sup>th</sup> Edition (2012), Chapter 15.

# Chapter 1

## New and continuing matters

This chapter lists new matters identified by the committee at its meeting on **4 December 2013**, and continuing matters in relation to which the committee has received recent correspondence. The committee will write to relevant ministers or instrument makers in relation to substantive matters seeking further information or an appropriate undertaking within the disallowance period.

Matters which the committee draws to the attention of the relevant minister or instrument maker are raised on an advice-only basis and do not require a response.

### **Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation—1.2) Methodology Determination 2013 [F2013L01210]**

<b>Purpose</b>	Determines a method for implementing and monitoring an offsets project under the Carbon Farming Initiative
<b>Last day to disallow<sup>1</sup></b>	4 March 2014
<b>Authorising legislation</b>	<i>Carbon Credits (Carbon Farming Initiative) Act 2011</i>
<b>Department</b>	Environment

#### **ISSUE:**

#### *Interaction of instrument with instruments still in force*

This instrument determines a method for implementing and monitoring an offsets project under the Carbon Farming Initiative. However, the instrument does not expressly revoke two previous determinations, and those determinations do not contain a ceasing mechanism. That being so, all three determinations appear to be in force and are listed on the Federal Register of Legislative Instruments (FRLI) as 'current'. It is therefore unclear whether and how the three instruments are intended to operate together. **The committee therefore requests further information from the minister.**

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1 'Last day to disallow' refers to the last day on which notice may be given of a motion for disallowance in the Senate.

### Family Law Amendment (Fees) Regulation 2013 [Select Legislative Instrument No. 136, 2013] [F2013L01243]

<b>Purpose</b>	Exempts independent children's lawyers from paying court fees relating to subpoenas and interim orders
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Family Law Act 1975</i> and <i>Federal Circuit Court of Australia Act 1999</i>
<b>Department</b>	Attorney-General's

#### ISSUE:

##### *No information provided regarding consultation*

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The explanatory statement (ES) which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES for the instrument contains no reference to consultation. **The committee therefore requests further information from the Attorney-General; and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

### Fisheries Management Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 132, 2013] [F2013L01291]

<b>Purpose</b>	Repeals and updates fees that apply to dealings with permits, statutory fishing rights, logbooks and other miscellaneous services
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Fisheries Management Act 1991</i>
<b>Department</b>	Agriculture

#### ISSUE:

##### *Whether any person disadvantaged by previous error*

The ES for this instrument states that (among other things) it corrects two typographical errors in the Fisheries Management Regulations 1992, where the term 'Fishing Permit' was incorrectly referenced as 'statutory fishing rights'. However, no information is provided as to whether these typographical errors have affected any person. The committee's usual expectation in such cases is that the ES for the instrument address the question of whether any person was disadvantaged by the error

and, if so, whether and what steps have been taken to address that disadvantage. **The committee therefore requests further information from the minister.**

**Migration Regulations 1994 - Specification under paragraphs 2.61(3A)(b), 2.61(3A)(c), 2.61(3B), subregulations 2.66(3), 2.66(4), 2.66(5), 2.73(3), 2.73(5) and 2.73(9), and paragraphs 1223A(1)(bb), 1223A(1)(b), 1223A(1)(ba) and 1223A(1)(bc) - Forms, Fees, Circumstances and Different Way of Making an Application - June 2013 [F2013L01242]**

<b>Purpose</b>	Sets various fees that may be charged in relation to an application for approval as a standard business sponsor under the Migration Regulations 1994
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Migration Act 1958</i>
<b>Department</b>	Immigration and Border Protection

**ISSUE:**

***Unclear basis for determining fees***

This instrument sets various fees that may be charged in relation to an application for approval as a standard business sponsor under the Migration Regulations 1994. However, the ES gives no indication as to the basis on which the fees have been calculated or set. The committee's usual expectation where an instrument of delegated legislation introduces or changes a fee (or charge, levy or scale of costs as the case may be) is that the relevant ES makes clear the basis on which the new or changed fee has been calculated. **The committee therefore requests further information from the minister.**

**Australian Public Service Commissioner's Amendment Direction 2013 (No. 1) [F2013L01212]**

<b>Purpose</b>	Makes various amendments to the Australian Public Service Commissioner's Directions 2013, including in relation to the RecruitAbility Scheme
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Public Service Act 1999</i>
<b>Department</b>	Australian Public Service Commission

**ISSUE:**

***Whether any person disadvantaged by previous error***

The ES for this instrument states that one of its purposes is to correct a drafting error in the Australian Public Service Commissioner's Directions 2013, relating to the subsequent employment of persons who have resigned to contest an election. The

instrument removes a reference to any such person being entitled to being engaged 'at a lower classification' as this does not reflect the longstanding policy and practice. However, no information is provided in relation to how (if at all) the error corrected by the instrument may have affected any person. The committee's usual approach where an instrument makes corrections, as in this case, is that the ES for the instrument address the question of whether any person was disadvantaged by the omission and, if so, whether and what steps have been taken to address that disadvantage. **The committee therefore requests further information from the Commissioner.**

### **Complaints Amendment (Living Longer Living Better) Principle 2013 [F2013L01348]**

<b>Purpose</b>	Amends the Complaints Principles 2011 to strengthen the power of the Aged Care Commissioner in examining the decisions and processes of the Secretary in relation to a complaint
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Aged Care Act 1997</i>
<b>Department</b>	Social Services

#### **ISSUE:**

##### ***Broadly defined discretion***

The instrument makes amendments to the Complaints Principles 2011, which are made under section 96-1 of the *Aged Care Act 1997*. The ES notes that the intent of the relevant amendments is to 'improve the quality and regulation of aged care...[including] strengthening the independence of the [Aged Care Commissioner (ACC)] to improve consumer and industry confidence in Commonwealth aged care complaints handling mechanisms'. In two cases, the instrument effectively preserves the broad discretion of the ACC as to the manner in which it may undertake examination of decisions of the Secretary of the Department of Health. While it may be that the flexibility provided by such a broad discretion as to the manner of investigation of a complaint is desirable, it may be argued that a complainant's knowledge of how a matter was examined by the ACC could be relevant to their confidence in its outcome. It may be desirable, for example, to include a requirement in the relevant notification provisions (13A.25(4) and 13A.31) that the ACC also provide advice to the prescribed persons and bodies on the manner in which an investigation was conducted. **The committee therefore requests further information from the minister.**

## Income Tax Assessment (Infrastructure Project Designation) Rule 2013 [F2013L01335]

<b>Purpose</b>	Sets out processes and conditions relating to applications for designated infrastructure project status
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Income Tax Assessment Act 1997</i>
<b>Department</b>	Treasury

### ISSUE:

#### *Unclear basis for determining fee*

This instrument sets out processes and conditions relating to applications for designated infrastructure project status. Designated projects are able to access tax incentives intended to promote and support private expenditure on nationally significant infrastructure. Rule 7 of the instrument provides that an application for the designation of a project must be accompanied by an application fee of \$20 000. However, no information is provided as to the basis for, or factors considered in relation to, determining the level of this fee. The committee's usual expectation where an instrument of delegated legislation introduces or changes a fee (or charge, levy or scale of costs as the case may be) is that the relevant ES makes clear the basis on which the new or changed fee has been calculated. **The committee therefore requests further information from the Assistant Treasurer.**

## Australian Sports Anti-Doping Authority Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 189, 2013] [F2013L01443]

<b>Purpose</b>	Implements changes to Australia's anti-doping arrangements that are contained in the <i>Australian Sports Anti-Doping Authority Amendment Act 2013</i>
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Australian Sports Anti-Doping Authority Act 2006</i>
<b>Department</b>	Health

### ISSUE:

#### *No information provided regarding consultation*

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES for this instrument contains

no reference to consultation. **The committee therefore requests further information from the minister; and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

**Autonomous Sanctions Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 198, 2013] [F2013L01447]**

<b>Purpose</b>	Implements additional autonomous sanctions measures in relation to Iran
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Autonomous Sanctions Act 2011</i>
<b>Department</b>	Foreign Affairs and Trade

**ISSUE:**

***No information provided regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES for this instrument contains no reference to consultation. **The committee therefore requests further information from the minister; and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

**Corporations and Australian Securities and Investments Commission Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 192, 2013] [F2013L01431]**

<b>Purpose</b>	Amends procedures relating to the proceedings and conferences undertaken by the Takeovers Panel, requires the Australian Securities and Investments Commission to disclose to the minister its use of specified information gathering powers, and specifies the date from which directors' reports become subject to Corporations Regulations relating to certain disclosure requirements
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Australian Securities and Investments Commission Act 2001</i> and <i>Corporations Act 2001</i>
<b>Department</b>	Treasury

**ISSUE:*****Provision of reasons for decisions***

The ES for the instrument states that one of its purposes is to remove the requirement for the Takeovers Panel to include reasons with any notice that the panel has decided not to conduct proceedings in relation to an application (under sections 656A, 657C or 657EA of the *Corporations Act 2001*, which generally relate to review of decisions). The ES states that the current requirement 'may cause undue delay to the communication of a decision', and notes that (a) 'it is not intended to alter the general practice of the panel to provide reasons for its decisions' and (b) 'the panel will continue to be subject to the requirement to provide reasons under the *Administrative Decisions (Judicial Review) Act 1977*' (ADJR Act). However, the ES does not make clear how in practice the current requirement may lead to undue delay in notifying decisions, and it is also unclear why complete removal of the requirement is necessary (as opposed to, say, providing an exemption for the requirement to provide reasons where undue delay might arise), particularly if it is not intended to alter the general practice of providing reasons. While the committee acknowledges that the right to request reasons under the ADJR Act will remain, this would presumably require a party to make application to the decision maker, and to this extent the amendment may reduce transparency by increasing the formalities for a person affected by a decision who wishes to know the reasons for that decision. **The committee therefore requests further information from the Assistant Treasurer.**

**CASA 158/13 - Direction - number of cabin attendants in Boeing 737-800 series aircraft, Qantas Airways Limited [F2013L01491]**

<b>Purpose</b>	Permits Qantas Airways Limited to operate, subject to conditions, an Australian registered Boeing 737-800 series aircraft engaged in regular public transport or charter operations with one cabin attendant for every 50 passenger seats
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	Civil Aviation Safety Regulations 1988
<b>Department</b>	Infrastructure and Regional Development

**ISSUE:*****Insufficient information regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for

the instrument states that consultation has taken place but does not identify who was consulted and the nature of the consultation. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003*. **The committee therefore requests further information from the minister; and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

**Crimes Amendment (X-ray) Regulation 2013 [Select Legislative Instrument No. 199, 2013] [F2013L01448]**

<b>Purpose</b>	Amends the principal regulations to remove the reference to wrist X-rays to accord with current practice in procedures for determining whether people smuggling crew are minors
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Crimes Act 1914</i>
<b>Department</b>	Attorney-General's

**ISSUE:**

***No information provided regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES for this instrument contains no reference to consultation. **The committee therefore requests further information from the Minister for Justice; and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

## Electronic Transactions Amendment (Exemptions) Regulation 2013 [Select Legislative Instrument No. 169, 2013] [F2013L01389]

<b>Purpose</b>	Repeals several exceptions to the operation of the Act
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Electronic Transactions Act 1999</i>
<b>Department</b>	Attorney-General's

### ISSUE:

#### *No information provided regarding consultation*

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES for this instrument contains no reference to consultation. **The committee therefore requests further information from the Attorney-General; and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

## Financial Management and Accountability Amendment Regulation 2013 (No. 5) [Select Legislative Instrument No.174, 2013] [F2013L01386]

<b>Purpose</b>	Amends Schedule 1AA to the principal regulations to establish legislative authority for the Government to spend on a range of new or existing activities across eight portfolios
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Financial Management and Accountability Act 1997</i>
<b>Department</b>	Finance

### ISSUE:

#### *Addition and amendment of programs under Schedule 1AA of Financial Management and Accountability Regulations 1997*

This instrument relies on section 32B of the *Financial Management and Accountability Act 1997*, which provides legislative authority for the Government to spend monies on programs listed in Schedule 1AA to the Financial Management and Accountability Regulations 1997. Section 32B was introduced in response to the decision of the High Court in *Williams v Commonwealth* ([2012] HCA 23) in June 2012. Schedule 1 of this instrument adds 28 new programs to Schedule 1AA. While the ES is generally helpful in providing information about the background, objectives and proposed administration of the new programs, only limited or no

information is provided as to whether the individual programs possess the relevant characteristics that would justify the exclusion of decisions under each program from merits review.

The committee notes previous correspondence with the minister regarding this issue, and acknowledges the minister's advice that certain types of programs and decisions are unsuitable for merits review; and that decisions under programs listed in Schedule 1AA are excluded from ADJR Act review. However, in order to assess whether a program listed in Schedule 1AA possesses the characteristics justifying the exclusion of the ADJR Act, the committee's expectation is that ESs specifically address this question in relation to each new and/or amended program added to Schedule 1AA, including a description of the policy considerations and program characteristics that are relevant to the question of whether or not decisions should be subject to merits review. **The committee therefore requests further information from the minister in respect of each listed program (where not already provided).**

Further, the committee notes the concerns of the Senate Standing Committee for the Scrutiny of Bills regarding the limited justification for excluding such decisions from the *Administrative Decisions (Judicial Review) Act 1997* (ADJR), and questions as to whether the exclusion of ADJR would be appropriate in relation to all decisions pursuant to programs authorised by Schedule 1AA. **The committee therefore draws to the attention of senators the comments of that committee on the Financial Framework Legislation Amendment Bill (No. 3) 2012 in the Scrutiny of Bills Eleventh Report of 2012 (19 September 2012).**<sup>2</sup>

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2 The committee's comment on the Financial Management and Accountability Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 70, 2013] [F2013L00802] in Monitor No. 6 of 2013 contained an incorrect reference to the Financial Framework Legislation Amendment Bill (No. 2) 2013. This should have been a reference to the Financial Framework Legislation Amendment Bill (No. 3) 2012.

**Financial Management and Accountability Amendment Regulation 2013 (No. 6) [Select Legislative Instrument No. 219, 2013] [F2013L01511]; and  
Financial Management and Accountability Amendment Regulation 2013 (No. 7) [Select Legislative Instrument No. 229, 2013] [F2013L01512]**

<b>Purpose</b>	These instruments amend the principal regulations to establish legislative authority for the Government to spend money on activities in the Agriculture, Fisheries and Forestry and Immigration and Citizenship portfolios
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Financial Management and Accountability Act 1997</i>
<b>Department</b>	Finance

**ISSUE:**

***Addition of new programs to Schedule 1AA of Financial Management and Accountability Regulations 1997***

These instruments rely on section 32B of the *Financial Management and Accountability Act 1997*, which provides legislative authority for the Government to spend monies on programs listed in Schedule 1AA to the Financial Management and Accountability Regulations 1997. Section 32B was introduced in response to the decision of the High Court in *Williams v Commonwealth* ([2012] HCA 23) in June 2012. The first instrument adds two new programs to Schedule 1AA. While the ES is generally helpful in providing information about the background, objectives and proposed administration of the new programs, no information is provided as to whether or not spending decisions under the 'Caring for our country – Sustainable Agriculture stream' program will be subject to external merits review. In relation to the 'Building Multicultural Communities Program', the ES notes only that decisions of the Minister for Multicultural Affairs are 'final' and 'non-reviewable'. The second instrument adds 14 new programs to Schedule 1AA and amends entries relating to two existing programs. Again, while the ES is generally helpful in providing information about the background, objectives and proposed administration of the new programs, no information is provided as to whether the individual programs possess the relevant characteristics that would justify the exclusion of decisions under each program from merits review.

The committee notes previous correspondence with the minister regarding this issue, and acknowledges the minister's advice that certain types of programs and decisions are unsuitable for merits review; and that decisions under programs listed in Schedule 1AA are excluded from ADJR Act review. However, in order to assess whether a program listed in Schedule 1AA possesses the characteristics justifying the exclusion of the ADJR Act, the committee's expectation is that ESs specifically address this question in relation to each new and/or amended program added to Schedule 1AA, including a description of the policy considerations and program characteristics that are relevant to the question of whether or not decisions should be

subject to merits review. **The committee therefore requests further information from the minister in respect of each listed program (where not already provided).**

Further, the committee notes the concerns of the Senate Standing Committee for the Scrutiny of Bills regarding the limited justification for excluding such decisions from the *Administrative Decisions (Judicial Review) Act 1997* (ADJR), and questions as to whether the exclusion of ADJR would be appropriate in relation to all decisions pursuant to programs authorised by Schedule 1AA. **The committee therefore draws to the attention of senators the comments of that committee on the Financial Framework Legislation Amendment Bill (No. 3) 2012 in the Scrutiny of Bills Eleventh Report of 2012 (19 September 2012).**<sup>3</sup>

### **Migration Amendment (Visa Application Charge) Regulation 2013 [Select Legislative Instrument No. 228, 2013] [F2013L01534]**

<b>Purpose</b>	Increases the Visa Application Charge for all visa applications except Student (Temporary) (Class TU) and Tourist (Class TR) visas
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Migration Act 1958</i>
<b>Department</b>	Immigration and Border Protection

#### **ISSUE:**

##### ***Unclear basis for determining fees***

This instrument increases the Visa Application Charge (VAC) for all visa applications except Student (Temporary) (Class TU) and Tourist (Class TR) visas. While the ES explains that the instrument effects increases that were outlined in the Government's Economic Statement for 2013-13, it does not itself explain the basis on which the increased fees have been calculated or set. The committee's usual expectation where an instrument of delegated legislation introduces or changes a fee (or charge, levy or scale of costs as the case may be) is that the relevant ES makes clear the basis on which the new or changed fee has been calculated. **The committee therefore requests further information from the minister.**

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3 The committee's comment on the Financial Management and Accountability Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 70, 2013] [F2013L00802] in Monitor No. 6 of 2013 contained an incorrect reference to the Financial Framework Legislation Amendment Bill (No. 2) 2013. This should have been a reference to the Financial Framework Legislation Amendment Bill (No. 3) 2012.

## Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 2) [F2013L01504]

<b>Purpose</b>	Corrects a 'drafting error' noted in the denominator used to calculate the Council Administration Levy
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Private Health Insurance (Council Administration Levy) Act 2003</i>
<b>Department</b>	Health

### ISSUE:

#### *Whether any person disadvantaged by previous error*

This instrument corrects a 'drafting error' noted in the 'denominator used to calculate the Council Administration Levy' (CAL), which is intended to meet the general administrative costs of the Private Health Insurance Administration Council (PHIAC). While the exact nature of the error is not described, the ES states that the instrument is intended to 'properly increase the CAL for the next three financial years'. Given this, it appears unlikely that any person has been disadvantaged by the error being corrected. However, the committee's usual approach where an instrument corrects a previous error, as in this case, is that the ES for the instrument address the question of whether any person was disadvantaged by the error and, if so, whether and what steps have been taken to address that disadvantage. **The committee therefore requests further information from the minister.**

## Amendment of Statement of Principles concerning lumbar spondylosis No. 69 of 2013 [F2013L01657]; and Amendment of Statement of Principles concerning lumbar spondylosis No. 70 of 2013 [F2013L01658]

<b>Purpose</b>	(1) Amends each statement to insert new factors and a definition for 'extreme forward flexion of the lumbar spine'; and (2) specifies the date of effect of each amendment
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Veterans' Entitlements Act 1988 and Military Rehabilitation and Compensation Act 2004</i>
<b>Department</b>	Veterans' Affairs

### ISSUE:

#### *No information provided regarding consultation*

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such

consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ESs for the instruments contain no reference to consultation. **The committee therefore requests further information from the minister; and requests that the ESs be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

### **Higher Education Support Act 2003 - OS-HELP Guidelines 2013 [F2013L01680]**

<b>Purpose</b>	Revokes and remakes the OS-HELP Guidelines
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Higher Education Support Act 2003</i>
<b>Department</b>	Education

#### **ISSUE:**

##### ***Incorporation of extrinsic material***

This instrument revokes and remakes the OS-HELP Guidelines, which set out procedures that higher education providers must follow in deciding whether to select students for receipt of OS-HELP assistance (which provides loans to Commonwealth supported students to undertake study overseas). Paragraph 3.5.1 of the instrument provides that a student is undertaking overseas study in 'Asia' if they are undertaking study in a country listed in the Australian Bureau of Statistics Standard Australian Classification of Countries. While the *Legislative Instruments Act 2003* allows for extrinsic material to be incorporated into instruments, non-legislative material (as in this case) can generally be incorporated only as in force or existing at a particular date (as opposed to being incorporated as in force or existing 'from time to time').<sup>4</sup> In this case, neither the instrument nor the ES provides sufficient detail to determine the basis on which the material is intended to be incorporated into the instrument. **The committee therefore requests further information from the minister.**

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<sup>4</sup> See section 14, *Legislative Instruments Act 2003*.

## Private Health Insurance (Health Benefits Fund Administration) Amendment Rule 2013 (No. 1) [F2013L01684]

<b>Purpose</b>	Replaces and updates the solvency and capital adequacy standards
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Private Health Insurance Act 2007</i>
<b>Department</b>	Health

### ISSUE:

#### *Incorporation of extrinsic material*

This instrument makes a number of amendments to the Private Health Insurance (Health Benefits Fund Administration) Rules 2007, and incorporates certain extrinsic material, including the Private Health Insurance (Risk Equalisation Policy) Rules 2007. While the *Legislative Instruments Act 2003* allows for extrinsic material to be incorporated into instruments, the provisions of disallowable legislative instruments (as in this case) can be incorporated either (a) as in force or existing at a particular date or (b) as in force or existing 'from time to time'.<sup>5</sup> In this case, neither the instrument nor the ES provides sufficient detail to determine the basis on which the material is intended to be incorporated into the instrument. **The committee therefore requests further information from the minister.**

## Migration Amendment (Temporary Protection Visas) Regulation 2013 [Select Legislative Instrument No. 234, 2013] [F2013L01811]

<b>Purpose</b>	Re-introduces Temporary Protection Visas (TPVs) for persons who arrive in Australia by unauthorised means
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Migration Act 1958</i>
<b>Department</b>	Immigration and Border Protection

### ISSUES:

#### *(a) Retrospective effect of instrument*

This instrument re-introduces Temporary Protection Visas (TPVs) for persons who arrive in Australia by unauthorised means. The ES for the instrument states that people within the TPV cohort (ie holders of the newly introduced TPVs) will not be eligible to apply for or be granted a protection visa (which allows the holder to remain in Australia indefinitely). Further, the ES states that 'any existing application from the [TPV] cohort is unable to meet the requirements for grant' of a permanent protection visa. This suggests that otherwise potentially valid applications are to be invalidated, giving the instrument an element of retrospectivity in its effect. The ES provides no

<sup>5</sup> See section 14, *Legislative Instruments Act 2003*.

justification for this apparent removal of pre-existing entitlements in relation to applications for a permanent protection visa. **The committee therefore requests further information from the minister.**

*(b) Undue trespass on personal rights*

In addition, the effect of the instrument is that a person who is granted a TPV is ineligible to apply for any other visa types including, for example, family reunion visas. While the committee does not usually consider the policy merits of delegated legislation, scrutiny principle (b) requires the committee to ensure that an instrument does not 'unduly trespass' on personal rights and liberties. In this case, it is unclear to the committee whether the existing discretion to allow a TPV holder to apply for another visa type sufficiently accommodates consideration of personal rights and liberties, such as family considerations and rights of the child. **The committee therefore requests further information from the minister.**

*(c) Insufficient information regarding consultation*

The ES for the instrument states that consultation was not undertaken in this case because the regulation was required as a 'matter of urgency'. However, there is no information provided as to the facts or circumstances from which the condition of urgency arises. The committee generally seeks further justification in response to otherwise unsupported claims of urgency. **The committee therefore requests further information from the minister.**

The committee notes that this instrument was disallowed on 2 December 2013.<sup>6</sup> The effect of disallowance is that the instrument ceases to have effect from the time of disallowance. The committee's inquiries therefore remain relevant in respect of any TPVs granted in the period of the instrument's operation.

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6 For further information see the Disallowance Alert 2013 webpage at [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Regulations\\_and\\_Ordinances/Alerts](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances/Alerts).

**Social Security (Declared Overseas Terrorist Act) Declaration 2013 [F2013L01801];**

**Social Security (Declared Overseas Terrorist Act) Declaration 2013 – Jakarta [F2013L01830]; and**

**Social Security (Declared Overseas Terrorist Act) Declaration 2013 – Nairobi [F2013L01799]**

<b>Purpose</b>	These instruments declare a number of terrorist acts for the purposes of allowing compensation payments to be made to victims of such acts
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Social Security Act 1991</i>
<b>Department</b>	Social Services

**ISSUE:**

***No information provided regarding consultation***

These instruments are made by the Prime Minister, and declare a number of terrorist acts for the purposes of allowing compensation payments to be made to victims of such acts (under section 36B(1) of the *Social Security Act 1991*). Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ESs for the instruments contain no reference to consultation. **The committee therefore requests further information from the Minister for Social Services (as the minister administering the *Social Security Act 1991*).**

**Private Health Insurance (Prostheses) Amendment Rules 2013 (No. 4)  
[F2013L01839]**

<b>Purpose</b>	Corrects drafting errors in the principal rules
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Private Health Insurance Act 2007</i>
<b>Department</b>	Health

**ISSUE:**

***Whether any person disadvantaged by drafting error***

This instrument was made to correct a number of drafting errors in the Private Health Insurance (Prostheses) Rules 2013 (No.1) (the principal rules), which lists the kinds of prostheses in relation to which specified (minimum and maximum) benefits will be paid. The ES for the instrument states that these include:

- the correcting of errors in the product details for billing code WC312;
- the correcting of the amount of minimum benefit payable by insurers for billing codes BS082, MH014, MH015, BS171, OL009, WC213, OL010, ST884, BR005, BR006, SHV01, SHV02 and SHV03;
- the reinsertion of a number of billing codes inadvertently deleted from the principal rules;
- the moving of billing code HW517 to its correct product group; and
- the addition of a number of billing codes incorrectly omitted from the principal rules.

The committee's usual approach where an instrument corrects drafting errors of this nature is that the ES address the question of whether any person was disadvantaged by any of the errors and, if so, whether and what steps have been taken to address that disadvantage. **The committee therefore requests further information from the minister.**

## Court Martial and Defence Force Magistrate Amendment (Travel Expenses) Rules 2013 [F2013L01832]

<b>Purpose</b>	Amends the principal rules in relation to the payment of witnesses expenses to a person who has been summonsed to appear as a witness at a court martial or Defence Force magistrate tribunal
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Defence Force Discipline Act 1982</i>
<b>Department</b>	Defence

### ISSUE:

#### *Insufficient information regarding consultation*

This instrument makes an amendment to the Court Martial and Defence Force Magistrate Rules 2009 (the principal rules) to provide greater flexibility in relation to the payment of expenses to a person who has been summonsed to appear as a witness at a court martial or Defence Force magistrate trial.

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states that consultation was considered unnecessary as the rule 'relates to the service of members of the ADF'. While the committee does not usually interpret section 26 as requiring a highly detailed explanation of why consultation was not undertaken, it considers that an overly bare or general explanation, as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003*. Further, noting that the amended subrule 6(4) applies specifically to persons 'other than a defence member', the committee questions whether this justification in fact reflects the reasoning of the rule maker regarding the necessity or otherwise of consultation in this case. **The committee therefore requests further information from the Judge Advocate General of the Australian Defence Force.**

## Social Security (Deeming Threshold Rates) Determination 2013 (No. 2) [F2013L01854]

<b>Purpose</b>	Reduces the below threshold rate to 2 per cent and the above threshold rate to 3.5 per cent, from 4 November 2013
<b>Last day to disallow</b>	4 March 2013
<b>Authorising legislation</b>	<i>Social Security Act 1991</i>
<b>Department</b>	Social Services

### ISSUE:

#### *No information provided regarding consultation*

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES accompanying each of the instruments mentioned above contains no reference to consultation. **The committee therefore requests further information from the minister; and requests that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

## Migration Regulations 1994 - Specification of Access to Movement Records - IMMI 13/107 [F2013L01896]

<b>Purpose</b>	Extends the minimum subscription requirement in the principal class order by a further six months pending any further regulatory developments relating to retail corporate bonds
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Migration Act 1958</i> ; Migration Regulations 1994
<b>Department</b>	Immigration and Border Protection

### ISSUE:

#### *No information provided regarding consultation*

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The explanatory statement (ES) which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES

for the instrument contains no reference to consultation. **The committee therefore requests further information for the minister; and requests that the ES be amended in accordance with the requirements of the *Legislative Instruments Act 2003*.**

**International Organisations (Privileges and Immunities) (International Committee of the Red Cross) Regulation 2013 [Select Legislative Instrument 2013 No. 237] [F2013L01916]**

<b>Purpose</b>	Confers such privileges and immunities on the ICRC as are required to give effect to the ICRC Arrangement and to confer upon the ICRC in Australia legal status and such legal capacities as are necessary for the exercise of its powers and the performance of its functions
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>International Organisations (Privileges and Immunities) Act 1963</i>
<b>Department</b>	Foreign Affairs and Trade

**ISSUE:**

***No information regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES accompanying each of this instrument contains no reference to consultation. **The committee therefore requests further information for the minister; and requests that the ES be amended in accordance with the requirements of the *Legislative Instruments Act 2003*.**

**Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Iran) Amendment List 2013 (No. 1) [F2013L01312]; and**

**Autonomous Sanctions (Export Sanctioned Goods - Syria) Designation Amendment 2013 [F2013L01311]**

<b>Purpose</b>	These instruments amend existing instruments made under the Autonomous Sanctions Regulations 2011, under which various persons, entities, goods, et cetera are declared or designated for the purpose of imposing sanctions
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	Autonomous Sanctions Regulations 2011
<b>Department</b>	Foreign Affairs and Trade

**ISSUE:**

*Drafting*

In each of these instruments, section 3 states that Schedule 1 of the instrument amends the principal instrument. However, in both cases Schedule 1 contains no amendment instruction to indicate how the principal instrument is to be amended. While it seems clear that the intention in each case is for Schedule 1 of the instrument to replace Schedule 1 of the principal instrument, it would be preferable for the instruments to contain amending words that made this intention clear. **The committee therefore draws this issue to the attention of the minister.**

**Agriculture, Fisheries and Forestry (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 159, 2013] [F2013L01404];**

**Customs and Border Protection (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 166, 2013] [F2013L01401];**

**Human Services (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 171, 2013] [F2013L01402]; and**

**Resources, Energy and Tourism (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 172, 2013] [F2013L01403]**

<b>Purpose</b>	These instruments repeal spent and redundant instruments administered by three departments and the Australian Customs and Border Protection Service
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Legislative Instruments Act 2003</i>
<b>Department</b>	Attorney-General's

**ISSUE:*****Repeal of redundant instruments under the Legislative Instruments Act 2003***

The committee notes that the four instruments above repeal 949, 2161, 53 and 37 instruments, respectively, that are either spent or not otherwise required. Mass repeal of such instruments was enabled by amendments to the *Legislative Instruments Act 2003* in 2012. **The committee draws the attention of senators to the mass repeal of redundant instruments of delegated legislation; and commends such measures to improve the maintenance of FRLI.**

**Broadband, Communications and the Digital Economy (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 207, 2013] [F2013L01530];**

**Industry, Innovation, Climate Change, Science, Research and Tertiary Education (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 211, 2013] [F2013L01531];**

**Prime Minister and Cabinet (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 214, 2013] [F2013L01528]; and**

**Treasury (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 215, 2013] [F2013L01535]**

<b>Purpose</b>	These instruments repeal spent and redundant instruments administered by four departments
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Legislative Instruments Act 2003</i>
<b>Department</b>	Attorney-General's

**ISSUE:*****Mass repeal of redundant instruments under the Legislative Instruments Act 2003 (LIA)***

The committee notes that the four instruments mentioned above repeal 748, 282, 227 and 2266 instruments, respectively, that are either spent or not otherwise required. Mass repeal of such instruments was enabled by amendments to the *Legislative Instruments Act 2003* in 2012. **The committee draws the attention of senators to the mass repeal of redundant instruments of delegated legislation; and commends such measures to improve the maintenance of FRLI.**

## Parliamentary Service Determination 2013 [F2013L01201]

<b>Purpose</b>	Repeals Parliamentary Service Determination 2003/2 and makes a new determination to reflect amendments made to the Act in 2013
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Parliamentary Service Act 1999</i>
<b>Department</b>	Parliamentary Services

### ISSUE:

#### *Late provision of explanatory statement (ES)*

This instrument was not accompanied by an ES, as required by section 39 of the *Legislative Instruments Act 2003* (LIA). The committee has since received the ES, along with a written statement in relation to why it was not provided at the same time the instrument was delivered to the Parliament. That explanation states:

Because of an extremely tight timetable necessary to complete the drafting of the Determination to enable it to come into effect on 1 July 2013, it was not possible to have an explanatory statement for consideration by the Presiding Officer at the time that they made the Determination during the last sitting week of the Parliament.

While the failure to provide an ES does not affect the validity of the instrument (subsection 26(2)), the ES is fundamental to the committee's ability to properly conduct its scrutiny of an instrument. Indeed, the committee imposed the requirement for the provision of ESs prior to the enactment of the *Legislative Instruments Act 2003*, and in this respect that Act incorporates the committee's long-established approach. **The committee draws the attention of ministers and instrument makers to the importance of ensuring that ESs are provided to the committee at the same time as the instrument to which they relate.**

## Legislative Instruments Amendment (Sunsetting Exemptions) Regulation 2013 [Select Legislative Instrument No. 212, 2013] [F2013L01537]

<b>Purpose</b>	Substitutes a new Schedule 3 of the Legislative Instruments Regulations 2004, setting out the instruments not subject to the sunsetting regime under the <i>Legislative Instruments Act 2003</i>
<b>Last day to disallow</b>	4 March 2014
<b>Authorising legislation</b>	<i>Legislative Instruments Act 2003</i>
<b>Department</b>	Attorney-General's

### ISSUE:

#### *Exemption of instruments from sunsetting*

This instrument substitutes a new Schedule 3 of the Legislative Instruments Regulations 2004. That schedule sets out the instruments that are not subject to the sunsetting regime provided for by the *Legislative Instruments Act 2003*. The new schedule exempts 51 classes of instruments. The old Schedule 3 exempted 12 classes of instruments.

The ES states that a whole-of-government process was undertaken to identify classes of instruments to be retained/added to the schedule of exempted instruments. The ES notes that there is 'a longstanding principle that exemptions should only be granted where...[an] instrument is not suitable for regular review', which is ascertained by reference to the following criteria:

- the rule-maker has been given a statutory role independent of the Government, or is operating in competition with the private sector;
- the instrument is designed to be enduring and not subject to regular review;
- commercial certainty would be undermined by sunsetting;
- the instrument is part of an intergovernmental scheme; and
- the instrument is subject to a more rigorous statutory review process.

In the committee's view, each of the classes of instrument included in the new schedule appears not to be suitable for regular review and sunsetting when assessed against the above criteria. **The committee draws the attention of senators to the addition of further classes of instrument to the schedule of instruments exempt from sunsetting under the *Legislative Instruments Act 2003*.**

### Multiple instruments identified in Appendix 1

The committee notes that 199 instruments, identified by an asterisk (\*) in Appendix 1, appear to rely on subsection 33(3) of the *Acts Interpretation Act 1901*, which provides that the power to make an instrument includes the power to vary or revoke the instrument. If that is the case, the committee considers that it would be preferable for

the ES for any such instrument to identify the relevance of subsection 33(3), in the interests of promoting the clarity and intelligibility of the instrument to anticipated users. The committee notes and agrees with the views of the First Parliamentary Counsel (FPC) in relation to subsection 33(3), and thanks the FPC for his correspondence on this matter (see Appendix 3). **The committee therefore draws this issue to the attention of ministers and instrument-makers responsible for the instruments identified in Appendix 1. The committee provides the following example of a form of words which may be included in an ES where subsection 33(3) of the *Acts Interpretation Act 1901* is relevant:**

Under subsection 33 (3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

**Veterans' Entitlements (Actuarial Certificate – Life Expectancy Income Stream Guidelines) Determination 2013 [F2013L00671]; and Veterans' Entitlements (Actuarial Certificate – Lifetime Income Stream Guidelines) Determination 2013 [F2013L00670]**

<b>Purpose</b>	The instruments set out the means by which a life expectancy income stream (superannuation) and a lifetime income stream (superannuation) can be determined to be asset-test exempt for the purposes of the <i>Veterans' Entitlements Act 1986</i>
<b>Last day to disallow</b>	2 December 2013
<b>Authorising legislation</b>	<i>Veterans' Entitlements Act 1986</i>
<b>Department</b>	Veterans' Affairs

**ISSUE:**

***Incorporation of extrinsic material***

The instruments set out the means by which a life expectancy income stream (superannuation) and a lifetime income stream (superannuation) can be determined to be asset-test exempt. Both of the instruments incorporate by reference the Institute of Actuaries of Australia Guidance Note 465 and require that actuarial certificates be prepared in accordance with that guidance note. The *Legislative Instruments Act 2003* provides that extrinsic material may be incorporated into instruments of delegated legislation; however, non-legislative material can generally only be incorporated as in force or existing at a particular date (as opposed to being incorporated as in force or existing 'from time to time').<sup>7</sup> However, neither the instruments nor their ESs provide

<sup>7</sup> See Section 14, *Legislative Instruments Act 2003*.

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sufficient detail to determine the basis on which the guidance note is incorporated into the instruments **[the committee sought further information from the former minister]**.

#### **MINISTER'S RESPONSE:**

The Minister for Veterans' Affairs acknowledging that the instruments incorporate by reference the Institute of Actuaries of Australia Guidance Note 465, and expressing the view that the *Legislative Instruments Act 2003* does not require an instrument or its ES to specify whether an incorporated document is the version existing at a particular date or a version as in force from time to time. While the minister noted the committee's comments, and provided an undertaking that future instruments would set out the basis on which a document is incorporated, no information was provided regarding the manner of incorporation in relation to the instruments in question.

#### **COMMITTEE RESPONSE:**

The committee thanks the minister for his response. However, in the committee's view, section 14 of the *Legislative Instruments Act 2003* provides two ways in which extrinsic material may be prescribed by reference: as at either paragraph 14(1)(a) or 14(1)(b). The committee therefore considers that, as made, the instruments do not comply with the requirements of that Act. Further, the committee regards the instruments as potentially uncertain in their operation, as a person subject to the determinations may find it difficult, or may not be able, to ascertain which version of the referenced material was intended to be prescribed by the instruments. **The committee therefore requests that the minister take steps to amend the instruments in accordance with the requirements of the *Legislative Instruments Act 2003*.**

In relation to ESs, the minister correctly states that ESs are not strictly required to specify the manner in which referenced material has been incorporated. However, the committee regards the inclusion of such information as a best-practice approach in fulfilling the requirement that an ES explain the purpose and operation of the instrument (paragraph 26(1A)(b)).

In addition, the committee notes that paragraph 26(1A)(c) requires an ES to provide information on how an instrument prescribed by reference may be obtained. As the ESs for the two instruments did not contain this information, the committee considers that the ESs do not comply with the requirements of the *Legislative Instruments Act 2003*. **The committee therefore requests that the ESs be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

The committee gave notice of motion to disallow the two instruments on 2 December 2013, as the relevant disallowance period was due to expire on that day. The giving of a 'protective' notice in this way preserves the ability of the Senate to disallow an instrument while there remain issues under consideration.<sup>8</sup>

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8 For further information on the committee's use of notices see *Odgers' Australian Senate Practice*, 13<sup>th</sup> Edition (2012), p. 432.



## Chapter 2

### Concluded matters

This chapter lists matters previously raised by the committee and considered at its meeting on **4 December 2013**. The committee has concluded its interest in these matters on the basis of responses received from ministers or relevant instrument-makers.

Correspondence relating to these matters is included at Appendix 3.

#### **Defence Determination 2013/19, Class of travel, remote location leave travel, aide-de-camp allowance and compulsory tuition fees – amendment**

<b>Purpose</b>	Clarifies the class of rail travel that should be used when an Australian Defence Force (ADF) member or dependant is required to travel by rail, removes unhelpful examples in the ADF remote location leave travel provisions, adds a new position to the list of those eligible for aide-de-camp allowance and renumbers a subclause relating to education costs for ADF members posted overseas
<b>Last day to disallow<sup>1</sup></b>	2 December 2013
<b>Authorising legislation</b>	<i>Defence Act 1903</i>
<b>Department</b>	Defence

#### **ISSUE**

##### ***Uncertain term***

The determination makes a number of amendments to Defence Determination 2005/15, which is the main determination of ADF conditions of service within Australia and overseas. One of the amendments is intended to clarify that where a member or dependent is required to travel by rail they are entitled to travel first class, or in the highest class available. The amendment also provides that the member or dependent is entitled to a sleeping berth if the travel is expected to extend over 'a major portion of the night'. The concept of a 'major portion' of the night does not appear to be defined in the principal determination and it is potentially unclear how the term might be interpreted or understood in practice **[the committee sought further information from the former minister]**.

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<sup>1</sup> 'Last day to disallow' refers to the last day on which notice may be given of a motion for disallowance in the Senate.

**MINISTER'S RESPONSE:**

The former Minister for Defence Science and Personnel acknowledged that the concept of a 'major portion' of the night was not defined and was potentially unclear. The minister advised that the Department of Defence would amend the determination to remove the term 'major portion of the night' from the travel provision wording, and that entitlement to a sleeper berth would be provided if any part of an overnight rail journey occurred after midnight.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

**National Health (Pharmaceutical Benefits) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 53, 2013] [F2013L00650]**

<b>Purpose</b>	Amends the National Health (Pharmaceutical Benefits) Regulations 1960 to reflect changes to the provisions in Part 6A reflecting the reasons in the December 2012 <i>Sanofi-Aventis Australia Pty Limited v Minister for Health</i> Federal Court judgment
<b>Last day to disallow</b>	2 December 2013
<b>Authorising legislation</b>	<i>National Health Act 1953</i>
<b>Department</b>	Health and Ageing

**ISSUE:*****Insufficient description regarding consultation undertaken***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The explanatory statement (ES) which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states, in part, that 'representatives of the medicines industry, consumer, pharmacy and wholesaler organisations were briefed' in relation to the making of the instrument. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description of consultation undertaken, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* [the committee sought further information from the minister and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*].

**MINISTER'S RESPONSE:**

The former Minister for Health advised that the ES would be updated in accordance with the committee's request. However, the minister's letter did not provide any information regarding consultation **[the committee therefore again requested that the minister provide information regarding consultation]**.

The former minister subsequently advised that all pharmaceutical companies with Pharmaceutical Benefits Scheme listed medicines, and representative stakeholder organisations including Medicines Australia, the Generic Medicines Industry Association, Consumers Health Forum, the Pharmacy Guild of Australia, the National Pharmaceutical Services Association and Australian Pharmaceutical Industries, were consulted in relation to the amendments. These bodies were advised of the outcome and implications of the court's judgement and provided with information regarding the details and timing of the proposed changes. The First Assistant Secretary of the Pharmaceutical Benefits Division of the department also discussed the proposed amendments with each organisation. Companies affected by the transitional provisions in the regulations were also consulted, with no significant questions or issues being raised.

The minister further advised that the ES had been amended to include the information provided on consultation.

**COMMITTEE RESPONSE:**

**The committee thanks the former minister for her response and has concluded its interest in the matter.**

### **National Capital Plan – Amendment 81 – Removal of Outdated and Unnecessary Policy Material [F2013L00782]**

<b>Purpose</b>	Amends the National Capital Plan (December 1990) to remove redundant and out-of-date material and increase the clarity of the plan
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Australian Capital Territory (Planning and Land Management) Act 1988</i>
<b>Department</b>	Regional Australia, Local Government, Arts and Sport

**ISSUE:*****Drafting***

The instrument amends the National Capital Plan to remove outdated and redundant material. Schedule 1 (Amendment B) provides for the deletion of 'the following annotation on Figure 17':

For details of proposed widening of Morshead Drive refer to Appendix R.

The committee notes, however, that there is no apparent annotation on Figure 17 [the committee drew this issue to the attention of the minister].

#### **CHIEF EXECUTIVE'S RESPONSE:**

The Chief Executive of the National Capital Authority responded, advising that Appendix R and the related annotation were originally incorporated into the plan through Amendment 2 (gazetted in 1991) to show the (then) proposed widening of Morshead Drive and associated bridge across the Molonglo River. Construction of Morshead Drive widening and the bridge were complete and the plan at Appendix R was no longer required. Following gazettal of Amendment 2, and prior to approval of Amendment 81, there had been no changes to the Plan in relation to Appendix R and the related annotation on Figure 17.

#### **COMMITTEE RESPONSE:**

The committee thanks the Chief Executive for his response. The committee's comments on this instrument were made on an advice-only basis.

### **Charter of the United Nations Legislation Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 72, 2013] [F2013L00791]; and Charter of the United Nations (Sanctions - the Taliban) Regulation 2013 [Select Legislative Instrument No. 73, 2013] [F2013L00787]**

<b>Purpose</b>	(1) Amends several regulations implementing United Nations Security Council sanctions in order to give effect to recent changes, but principally amends the Charter of the United Nations (Sanctions - Al Qaida and the Taliban) Regulations 2008 to create a stand-alone regime for Al Qaida; and (2) gives effect to the decision to split the Al-Qaida and Taliban sanctions regimes into separate instruments currently governed by the Charter of the United Nations (Sanctions - Al-Qaida and the Taliban) Regulations 2008
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Charter of the United Nations Act 1945</i>
<b>Department</b>	Foreign Affairs and Trade

#### **ISSUE:**

##### ***Insufficient information regarding strict liability offences***

The instruments amend several regulations implementing United Nations Security Council sanctions in order to give effect to recent changes. One of these is that, where authorisation by the Minister for Foreign Affairs is required to make a sanctioned supply, perform a sanctioned service or make available or deal with an asset, the element of the offence for unsanctioned behaviour relating to 'not authorised by a permit' is subject to a strict liability test. While the ES states that this change reflects the strict liability provisions set out in Part 4 of the *Charter of the United Nations Act*

1945, the committee's usual expectation is that an ES for an instrument providing for offences (particularly offences of strict liability) provide adequate information regarding the justification for the framing of the offence [**the committee sought further information from the minister**].

**MINISTER'S RESPONSE:**

The former Minister for Foreign Affairs advised that the *Charter of the United Nations Act 1945* provides that offences of contravening a sanction law, or contravening a condition of an authorisation under a sanction law, are strict liability offences for a body corporate (although not for the equivalent offences applying to an individual). The instruments in question do not in fact provide for any new strict liability offences, but merely apply strict liability to one physical element of the offence of contravening certain sanctions measures, being the existence or otherwise of a sanctions permit. This is a question of fact, meaning there should be no corresponding fault element for this element of the offence. The former minister noted that the *Criminal Code* provides that the defence of mistake of fact applies to any physical element of an offence to which strict liability applies.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

**National Portrait Gallery of Australia Regulation 2013 [Select Legislative Instrument No. 99, 2013] [F2013L00914]**

<b>Purpose</b>	Supports the <i>National Portrait Gallery of Australia Act 2012</i> to establish the National Portrait Gallery of Australia as a body corporate and a Commonwealth statutory authority from 1 July 2013
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>National Portrait Gallery of Australia Act 2012</i>
<b>Department</b>	Regional Australia, Local Government, Arts and Sport

**ISSUE:**

***Insufficient description regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that:

Extensive consultation was undertaken during the drafting of the National Portrait Gallery of Australia Act 2012. Subsequent consultation was also undertaken with the Portrait Gallery and central agencies in regard to the National Portrait Gallery of Australia Regulation 2013.

While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* [**the committee sought further information from the minister and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003***].

#### **MINISTER'S RESPONSE:**

The former Minister for the Arts advised that consultation was undertaken across the range of issues addressed in the *National Portrait Gallery of Australia Act 2012* and the regulation. This included consultation with the Department of Finance and Deregulation, Australian Public Service Commission, Remuneration Tribunal, National Capital Authority, National Archives of Australia, Attorney-General's Department (AGD), National Portrait Gallery Advisory Board (NPGAB) and Director and staff of the National Portrait Gallery. Further consultation was undertaken on specific aspects of the regulation with members of the NPGAB and with AGD.

The minister further advised that the ES had been amended to include the information provided on consultation.

#### **COMMITTEE RESPONSE:**

**The committee thanks the former minister for his response and has concluded its interest in the matter.**

### **Financial Management and Accountability Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 70, 2013] [F2013L00802]**

<b>Purpose</b>	Amends the Financial Management and Accountability Regulations 1997 to add a new program to Schedule 1AA relating to the proposed referendum on the recognition of local government in the Constitution
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Financial Management and Accountability Act 1997</i>
<b>Department</b>	Finance and Deregulation

#### **ISSUE:**

#### ***Addition of new program to Schedule 1AA of Financial Management and Accountability Regulations 1997***

The amendment relies on section 32B of the *Financial Management and Accountability Act 1997*, which provides legislative authority for the Government to spend monies on programs listed in Schedule 1AA to Financial Management and

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Accountability Regulations 1997. Section 32B was introduced in response to the decision of the High Court in *Williams v Commonwealth* ([2012] HCA 23) in June 2012. The new program is described as providing legislative authority for the Government to spend on activities related to a referendum on the financial recognition of local government. The objectives of the referendum are to provide for (a) a national civics education campaign and (b) the implementation of a communications campaign by non-government bodies and those with various views on the referendum question. The ES to the instrument notes that spending decisions under the program will not be subject to judicial merits review (ADJR), an issue about which the committee has previously made inquiries [**the committee noted the concerns of the Senate Standing Committee for the Scrutiny of Bills regarding the justification for excluding such decisions from the *Administrative Decisions (Judicial Review) Act 1997*, and drew the attention of senators to the comments of that committee on the Financial Framework Legislation Amendment Bill (No. 3) 2012 in the Scrutiny of Bills Eleventh Report of 2012 19 September 2012.**]<sup>2</sup>

#### **MINISTER'S RESPONSE:**

The former Minister for Finance and Deregulation advised that the item added to Schedule 1AA of the regulations established legislative authority for the Government to spend monies on activities related to a referendum on the financial recognition of local government. In accordance with provisions in the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act), spending decisions that are authorised by the *Financial Management and Accountability Act 1997* and the *Financial Management and Accountability Regulations 1997* are not subject to judicial review under the ADJR Act.

The minister drew the committee's attention to her previous responses on the issue of exempting spending decisions from review under the ADJR Act published in the committee's *Delegated legislation monitor, Monitor No. 1 of 2013* (7 February 2013).

#### **COMMITTEE RESPONSE:**

**The committee thanks the minister for her response. The committee's comments on this instrument were provided for the information of senators.**

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2 The committee's comment in Monitor No. 6 of 2013 contained an incorrect reference to the Financial Framework Legislation Amendment Bill (No. 2) 2013. This should have been a reference to the Financial Framework Legislation Amendment Bill (No. 3) 2012.

## **Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries–1.1) Methodology Determination 2013 [F2013L00856]**

<b>Purpose</b>	Sets out rules for implementing and monitoring an agricultural emissions avoidance project under the Carbon Farming Initiative to reduce the methane generated from manure lagoons in intensive piggeries
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Carbon Credits (Carbon Farming Initiative) Act 2011</i>
<b>Department</b>	Industry, Innovation, Climate Change, Science, Research and Tertiary Education

### **ISSUE:**

#### ***Uncertain operation***

This instrument 'provides updates' to the Carbon Farming (Destruction of Methane Generated from Manure in Piggeries) Methodology Determination 2012 [F2012L01501], referred to in the ES for the instrument as 'the original determination'. However, the instrument does not expressly revoke the original determination and the original determination does not contain a ceasing mechanism. That being so, both determinations appear to be in force and both are listed on the Federal Register of Legislative Instruments (FRLI) as 'current' from the same commencement date (1 July 2010). It is therefore unclear whether and how the two instruments are intended to operate together [**the committee sought further information from the minister**].

### **PARLIAMENTARY SECRETARY'S RESPONSE:**

The former Parliamentary Secretary for Climate Change, Innovation and Industry advised that a *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) methodology determination continues to apply to offsets projects after the determination expires, or is varied or revoked. Where a methodology determination containing updates to an original methodology determination is made, it is optional whether the original methodology determination is revoked. To date, where new methodology determinations containing updates have been made, the original determinations have not yet been revoked, and this is the case for the piggeries determination. New piggeries project proponents therefore have the option of using either of the methodology determinations in force.

The former parliamentary secretary indicated that the 20 methodology determinations made under the Act to date would be reviewed to assess if any may be revoked.

The former parliamentary secretary further advised that the department would be asked to take the committee's concerns into account when preparing ESs for future updates to methodology determinations, and particularly to set out clearly how the instruments are intended to operate together.

**COMMITTEE RESPONSE:**

**The committee thanks the former parliamentary secretary for her response and has concluded its interest in the matter.**

**Taxation Administration Act 1953 – Tax table for back payments, commissions, bonuses and similar payments [F2013L00654]**

<b>Purpose</b>	Specifies a table to assist employers and other payers calculate withholding on back payments, commissions, bonuses and similar payments
<b>Last day to disallow</b>	2 December 2013
<b>Authorising legislation</b>	<i>Taxation Administration Act 1953</i>
<b>Department</b>	Treasury

**ISSUE:*****Insufficient information regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonable practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business or to restrict competition. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES for the instrument does not clearly address the question of whether consultation was undertaken or else considered to be unnecessary or inconvenient in this case [**the committee sought further information from the minister and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003***].

**COMMISSIONER'S AND DEPUTY COMMISSIONER'S RESPONSES:**

The Deputy Commissioner, Australian Taxation Office, advised that the ES would be amended to include information about the consultation process, which had taken the form of a series of workshops with software developers, payroll specialists and employers.

The Commissioner of Taxation subsequently advised that the ES had been amended to include the information provided on consultation.

**COMMITTEE RESPONSE:**

**The committee thanks the Commissioner and Deputy Commissioner for their responses and has concluded its interest in the matter.**

## Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Syria) Amendment List 2013 [F2013L00884]

<b>Purpose</b>	Amends the Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Syria) List 2012
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	Autonomous Sanctions Regulations 2011
<b>Department</b>	Foreign Affairs and Trade

### ISSUES:

#### *(a) Drafting*

This instrument states that it amends the Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Syria) List 2012 (the principal instrument). Section 3 of the instrument provides that Schedule 1 amends the Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Syria) List 2012. However, Schedule 1 of the instrument contains no amendment instruction (such as 'substitute' or 'omit Schedule 1, insert...'). While it appears that Schedule 1 of this instrument is intended to replace Schedule 1 of the principal instrument, there is nothing to indicate that this is the case **[the committee drew this issue to the attention of the minister]**.

#### *(b) Insufficient description regarding consultation*

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that:

The current legal framework for the imposition of autonomous sanctions by Australia, of which the Regulations and the Syria Amendment List are part, has been the subject of extensive consultation with governmental and non-governmental stakeholders since May 2010.

While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* **[the committee sought further information from the minister and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*]**.

### MINISTER'S RESPONSE:

In relation to issue (a), the former Minister for Foreign Affairs noted the committee's concerns regarding the lack of clarity in the drafting of the amending instructions and

advised that the department has been asked to ensure that all future instruments clearly outline the amendment instructions.

In relation to issue (b), the minister advised that no specific consultation was undertaken in relation to the amending instrument, because the removal of one individual from the sanctions list in relation to Syria is part of the established sanctions processes and does not substantially alter existing regulatory arrangements. The individual was removed from the list as the minister was no longer satisfied that the individual met the criteria required for listing under the Autonomous Sanction Regulations 2011.

The minister further advised that the ES would be updated to include the information provided on consultation.

#### **COMMITTEE RESPONSE:**

**The committee thanks the former minister for his response and has concluded its interest in the matter.**

#### **Determination to Reduce Appropriations Upon Request (No. 11 of 2011-2012) [F2012L01927]**

<b>Purpose</b>	Reduces departmental appropriation items for the Department of Foreign Affairs and Trade by specified amounts
<b>Last day to disallow</b>	5 February 2013
<b>Authorising legislation</b>	<i>Appropriation Act (No. 1) 2009-2010</i> ; and <i>Appropriation Act (No. 1) 2010-2011</i>
<b>Department</b>	Finance and Deregulation

#### **ISSUE:**

##### ***Drafting***

The committee raises the following matters in the interests of ensuring the highest quality of standards of drafting in legislative instruments in accordance with subsection 3(c) of the *Legislative Instruments Act 2003*, which states that one of its objects is 'encouraging high standards in the drafting of legislative instruments to promote their legal effectiveness, their clarity and their intelligibility to anticipated users'. First, the committee notes that amending instruments generally contain an amendment instruction in the place of the heading in Schedule 1 of this instrument, which reads: [1] DEFENCE PORTFOLIO. While section 7 of the instrument provides for the effect of Schedule 1, it is not clear to the committee how the amendment in Schedule 1 is actually effected via the drafting construction of the instrument. Second, the committee notes that section 8 of the instrument also refers to Schedule 1 of the instrument. It is not clear to the committee whether this should in fact be a reference to Schedule 2 (and, if so, whether this would lead to any undermining of the legal effect of the instrument). Last, and what may be a related question, the committee has not been able to identify what the reference in Schedule 2 to 'the other departmental item' in fact relates [**the committee sought further information from the minister**].

**MINISTER'S RESPONSE:**

The former Minister for Finance and Deregulation advised that the instruments were clearly intended to deal with matters in relation to the Department of Foreign Affairs (DFAT) and that the typographical errors did not affect the legal effect of the determination.

However, the minister noted that the committee's request for information on the appropriation determination had raised important issues leading to detailed analysis of, and improvements to, the department's administration of relevant legislation. Notably, the annual appropriation Acts had previously prevented amendments being made to appropriation reduction determinations, in order to ensure that the reduction of appropriations was permanent (insofar as the relevant determination could not simply be rescinded to revive the relevant appropriation). Following the committee's inquiries, the 2013 Budget Appropriation Bills were drafted to include provision for reduction determinations to be amended for the purpose of correcting an error.<sup>3</sup>

The minister advised that, in addition, the government had developed a more comprehensive statutory mechanism to extinguish excess appropriations. The *Statute Stocktake (Appropriations) Act 2013* repealed 84 annual Appropriations Acts which commenced between 1 July 1999 and 30 June 2010.

The minister advised that the department had also adopted a significantly simplified instrument template to ensure information would not be unnecessarily set out, or duplicated, in both determinations and ESs.

**COMMITTEE RESPONSE:**

**The committee thanks the former minister for her response and commends the measures adopted to improve the making and revocation of determinations of appropriations.**

### **High Court Amendment (Vexatious Proceedings and Other Matters) Rules 2013 [Select Legislative Instrument No. 107, 2013] [F2013L00924]**

<b>Purpose</b>	These rules bring the High Court Rules into conformity with the new Part XAB of the <i>Judiciary Act 1903</i>
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Judiciary Act 1903</i> ; <i>Commonwealth Electoral Act 1918</i> ; <i>Nauru (High Court Appeals) Act 1976</i> ; and <i>High Court of Australia Act 1979</i>
<b>Department</b>	Attorney-General's

3 See subsections 10(5) and 12(5) of the *Appropriation Act (No. 1) 2013-2014*; subsections 13(5) and 14(5) of *Appropriation Act (No. 2) 2013-2014*; and subsection 11(5) of *Appropriation (Parliamentary Departments) Act (No. 1) 2013-2014*.

**ISSUE:*****Insufficient description regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that consultation has been undertaken with 'relevant professional organisations'. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* [**the committee sought further information from the Chief Justice; and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*].**

**CHIEF EXECUTIVE'S RESPONSE:**

The Chief Executive and Principal Registrar of the High Court of Australia advised that the rules made procedural changes to align the Court's procedures with the substantive changes introduced by the *Access to Justice (Federal Jurisdiction) Amendment Act 2012*. The Court wrote to the Law Council of Australia and the Australian Bar Association about the proposed changes. No responses were received.

**COMMITTEE RESPONSE:**

**The committee thanks the Chief Executive for his response and has concluded its interest in the matter.**

**Lodgment of Private Health Insurance Information in Accordance with the *Private Health Insurance Act 2007* [F2013L00627]**

<b>Purpose</b>	Determines the private health insurance statement information which is to be reported and states the period by which the information is required to be lodged
<b>Last day to disallow</b>	2 December 2013
<b>Authorising legislation</b>	<i>Private Health Insurance Act 2007</i>
<b>Department</b>	Health and Ageing

**ISSUES:*****(a) Insufficient description regarding consultation undertaken***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in

relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states 'there has been significant consultation in relation to this instrument with both Medicare and the health industry'. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description of consultation undertaken, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* [**the committee sought further information from the minister and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003***].

**(b) Drafting**

Section 2 of this instrument states that it is 'taken to commence' on 1 June 2013. The formulation 'taken to commence' or 'taken to have commenced' is used for retrospective commencement of instruments and appears to be incorrectly used in this case [**the committee drew this issue to the attention of the minister**].

**RESPONSE:**

The committee notes that the Deputy Commissioner of Taxation revoked and remade the instrument on 13 August 2013.<sup>4</sup> The ES accompanying the instrument advised that the original ES contained an insufficient description of the consultation undertaken and that the ambiguous use of words incorrectly suggested a retrospective commencement date for the revoked instrument.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for taking steps to address the committee's concerns via the revocation and remaking of the instrument. However, the committee requests the minister to ensure that written advice is provided in response to matters raised by the committee.**

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4 Lodgement of Private Health Insurance Information in Accordance with the *Private Health Insurance Act 2007*, dated 13 August 2013.

**Safety, Rehabilitation and Compensation Act 1988 – Section 34E – Variation of Operational Standards for Workplace Rehabilitation Providers (Rehabilitation Program Providers) [F2012L02074]; and three related instruments<sup>5</sup>**

<b>Purpose</b>	Revoke and replace previous operational standards for Workplace Rehabilitation Providers, previous criteria of approval or renewal of approval as a Workplace Rehabilitation Provider and the previous forms for applying for renewal of approval or approval as a Workplace Rehabilitation Provider
<b>Last day to disallow</b>	25 February 2013
<b>Authorising legislation</b>	<i>Safety, Rehabilitation and Compensation Act 1988</i>
<b>Department</b>	Employment

**ISSUE:**

*Uncertain operation or purpose*

Section 26 of the *Legislative Instruments Act 2003* requires an ES accompanying an instrument of delegated legislation to provide, inter alia, an explanation of the purpose and operation of the instrument. With reference to this requirement, the committee considers that the ESs for the instruments in question do not adequately explain their operation or purpose. In particular, while the ESs state that the instruments align more closely with the Heads of Workers Compensation Authorities national framework than did the previous instruments, there is no explanation of how they differ from, or what was their intended purpose and effect relative to, the previous instruments [**the committee sought further information from the former Minister for Employment and Workplace Relations and requested that the ESs be amended to include information on the purpose and operation of the instruments in accordance with the requirements of the *Legislative Instruments Act 2003***].

**MINISTER'S RESPONSE:**

The Minister for Employment advised that Comcare had simplified and consolidated parts of the criteria and operational standards for the approval and renewal of workplace rehabilitation providers. As a consequence of these changes, the operational standards had needed to be reorganised, and now included outcome and service delivery standards relating to providers. These requirements had not changed substantially from the revoked standards.

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5 Safety, Rehabilitation and Compensation Act 1988 – Section 34 D – Variation of Criteria for Approval or Renewal of Approval as Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02075]; Safety, Rehabilitation and Compensation Act 1988 – Section 34S – Approval of Form of Application for Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02078]; and Safety, Rehabilitation and Compensation Act 1988 – Section 34S – Approval of Form of Application for Approval as Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02079].

The purpose of issuing new approval and renewal application forms was to ensure that the content and submission details remained current. This would allow providers to submit a renewal application to Comcare by 31 December 2012, and new providers to apply to Comcare as an initial applicant after 1 January 2013.

The minister further advised that Comcare had amended the ESs to include the requested information on the purpose and operation of the instruments.

#### **COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

#### **ASIC Market Integrity Rules (ASX Market) Amendment 2013 (No. 1) [F2013L00561]**

<b>Purpose</b>	Amends the ASIC Market Integrity Rules (ASX Market) 2010 to extend the scope of the rules to apply to trading in Commonwealth Government Securities (CGS) depository interests on the Australian Securities Exchange (ASX)
<b>Last day to disallow</b>	2 December 2013
<b>Authorising legislation</b>	<i>Corporations Act 2001</i>
<b>Department</b>	Treasury

#### **ISSUE:**

##### ***Insufficient description regarding consultation undertaken***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that 'wrote to stakeholders seeking feedback on the amendments'. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* [**the committee sought further information from the former Parliamentary Secretary to the Treasurer and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003***].

#### **MINISTER'S RESPONSE:**

The Assistant Treasurer advised that the Australian Securities and Investments Commission (ASIC) sought feedback on the proposed amendments, and on a marked-up amendment to the rules, from all interested stakeholders (including those who had

engaged in a related consultation process on the ASIC Market Integrity Rules (Competition)). ASIC received three responses, with all respondents supporting the amendments.

The Assistant Treasurer further advised that ASIC had amended the ES to include the requested information on consultation.

**COMMITTEE RESPONSE:**

**The committee thanks the Assistant Treasurer for his response and has concluded its interest in the matter.**

**AASB 2013-2 - Amendments to AASB 1038 – Regulatory Capital - March 2013 [F2013L00579]**

<b>Purpose</b>	Amends the AASB 1038 - Life Insurance Contracts - July 2004 as a consequence of changes to the Australian Prudential Regulation Authority's reporting requirements relating to life insurers
<b>Last day to disallow</b>	2 December 2013
<b>Authorising legislation</b>	<i>Corporations Act 2001</i>
<b>Department</b>	Treasury

**ISSUE:**

***Insufficient description regarding consultation undertaken***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that the AASB conducted 'targeted outreach with industry participants' in relation to the amendments. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* **[the committee sought further information from the former Parliamentary Secretary to the Treasurer and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

**MINISTER'S RESPONSE:**

The Assistant Treasurer advised that the Australian Accounting Standards Board (AASB) undertook targeted consultation with representatives of the Australian Prudential Regulation Authority, financial statement preparers in the life insurance industry and members of the accounting profession involved in the life insurance

industry to confirm that the amendments to AASB 1038 were appropriate to achieve the purpose of aligning the requirements with the changed prudential regulations.

The Assistant Treasurer further advised that the AASB had amended the ES to include the requested information on consultation.

#### **COMMITTEE RESPONSE:**

**The committee thanks the Assistant Treasurer for his response and has concluded its interest in the matter.**

### **Corporations Amendment Regulation 2012 (No. 8) [Select Legislative Instrument 2012 No. 234] [F2012L01989]**

<b>Purpose</b>	Provides that the conflicted remuneration provisions in the <i>Corporations Act 2001</i> do not apply to a benefit given by a platform operator under an arrangement that was entered into before the application day
<b>Last day to disallow</b>	5 February 2013
<b>Authorising legislation</b>	<i>Corporations Act 2001</i>
<b>Department</b>	Treasury

#### **ISSUE:**

##### ***Insufficient description regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The explanatory statement (ES) which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that 'relevant stakeholders' were consulted, and that there was 'targeted consultations with key stakeholders in the financial services industry'. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* **[the committee sought further information from the former Minister for Financial Services and Superannuation and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

#### **MINISTER'S RESPONSE:**

The Assistant Treasurer advised that draft regulations relating to the grandfathering arrangements for the ban on conflicted remuneration were released for a two-week consultation period from 14 June 2012. Stakeholder feedback largely related to technical aspects of the drafting and the regulations, specifically requesting clarity on

the grandfathering arrangements for benefits given by platforms operators (the draft regulations did not extend to these benefits). Additional targeted consultation on this matter was undertaken with key stakeholders in the financial services industry. As a result of these consultations, the previous Government decided not to proceed with the draft regulations and instead made regulations specifically in relation to the grandfathering arrangements. Subsequent regulations repealed these regulations and implemented revised grandfathering arrangements.

The Assistant Treasurer further advised that the ES would be amended to include the requested information on consultation.

#### **COMMITTEE RESPONSE:**

**The committee thanks the Assistant Treasurer for his response and has concluded its interest in the matter.**

#### **Corporations Amendment Regulation 2012 (No. 6) Amendment Regulation 2012 (No. 1) [Select Legislative Instrument 2012 No. 308] [F2012L02414]**

<b>Purpose</b>	Amends the Corporations Amendment Regulation 2012 (No. 6) to correct a number of deficiencies
<b>Last day to disallow</b>	15 May 2013
<b>Authorising legislation</b>	<i>Corporations Act 2001</i>
<b>Department</b>	Treasury

#### **ISSUE:**

##### ***No information provided regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES accompanying the instrument contains no reference to consultation [**the committee sought further information from the former Minister for Financial Services and Superannuation and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

#### **MINISTER'S RESPONSE:**

The Assistant Treasurer advised that targeted consultation was undertaken with key stakeholders after concerns were raised that the original regulations may have been ineffective for technical drafting reasons. This consultation followed previous public consultations in August and December 2011 on an earlier version of the regulation.

The Assistant Treasurer further advised that the ES would be amended to include the requested information on consultation.

**COMMITTEE RESPONSE:**

**The committee thanks the Assistant Treasurer for his response and has concluded its interest in the matter.**

**Retirement Savings Accounts Amendment Regulation 2012 (No. 3) [Select Legislative Instrument 2012 No. 315] [F2012L02403]; and**

**Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 4) [Select Legislative Instrument 2012 No. 316] [F2012L02386]**

<b>Purpose</b>	These instruments amend the Retirement Savings Accounts Regulations 1997 and the Superannuation Industry (Supervision) Regulations 1994 to introduce a 12-month inactivity test for uncontactable members of a super fund
<b>Last day to disallow</b>	15 May 2013
<b>Authorising legislation</b>	<i>Retirement Savings Accounts Act 1997</i> ; and <i>Superannuation Industry (Supervision) Act 1993</i>
<b>Department</b>	Treasury

**ISSUE:**

***Insufficient information regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the instrument addresses the issue of consultation only indirectly (and apparently seeks to rely on an inquiry into the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012 conducted by the Senate Standing Committee on Economics). In the committee's view, the information provided in the ES is not sufficient to satisfy the requirement that an ES describe the nature of consultation undertaken in relation to the making of an instrument **[the committee sought further information from the former Treasurer and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

**MINISTER'S RESPONSE:**

The Assistant Treasurer advised that these regulations were introduced in response to comments received by the Senate Standing Committee on Economics during its inquiry into the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012 (the Bill). The Bill increased the threshold under which small lost

superannuation accounts would be transferred to the Australian Taxation Office (ATO). Submissions to the inquiry from the Association of Superannuation Funds in Australia, the Australia Institute of Superannuation Trustees, Mercer and the Financial Services Council suggested that, without an inactivity test, the proposed changes would inadvertently increase the number of active accounts being transferred to the ATO. The regulations were subsequently amended to prevent an outcome that would have been inconsistent with the policy intent of the Bill.

The Assistant Treasurer further advised that the ES would be amended to include the requested information on consultation.

#### **COMMITTEE RESPONSE:**

**The committee thanks the Assistant Treasurer for his response and has concluded its interest in the matter.**

#### **Crimes Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 57, 2013] [F2013L00702]**

<b>Purpose</b>	Amends the Crimes Regulations 1990 to prescribe the <i>Criminal Investigation (Covert Powers) Act 2012</i> (WA) as a corresponding law on controlled operations, assumed identities and witness identity protection for the purposes of the <i>Crimes Act 1914</i>
<b>Last day to disallow</b>	2 December 2013
<b>Authorising legislation</b>	<i>Crimes Act 1914</i>
<b>Department</b>	Attorney-General's

#### **ISSUE:**

##### ***Insufficient description regarding consultation undertaken***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states only that 'relevant agencies were consulted on the development of these Regulations'. While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description, such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* **[the committee sought further information from the former Attorney-General and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*.**

**MINISTER'S RESPONSE:**

The Minister for Justice advised that the Australian Federal Police, the Australian Security and Intelligence Organisation and the Western Australian Police were consulted in the development of the regulation.

The minister further advised that the ES would be updated to include the requested information on consultation.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

**Customs Legislation Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 42, 2013] [F2013L00598]**

<b>Purpose</b>	Amends the Customs (Prohibited Exports) Regulations 1958 and the Customs (Prohibited Imports) Regulations 1956 to extend the export controls on goods that are the subject of the Autonomous Sanctions Regulations 2011 and to introduce new import controls on goods that are also the subject of new controls under the Sanctions Regulations
<b>Last day to disallow</b>	2 December 2013
<b>Authorising legislation</b>	<i>Customs Act 1901</i>
<b>Department</b>	Attorney-General's

**ISSUE:*****Insufficient description regarding consultation undertaken***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES for the instrument states:

No consultation was undertaken in relation to the amending Regulation. However, industry consultation was undertaken in relation to the Sanctions Regulations.

While the committee does not usually interpret section 26 as requiring a highly detailed description of consultation undertaken, it considers that an overly bare or general description of consultation undertaken (or explanation as to why it has not occurred), such as in this case, is not sufficient to satisfy the requirements of the *Legislative Instruments Act 2003* [**the committee sought further information from**

the former minister and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*].

**MINISTER'S RESPONSE:**

The Minister for Immigration and Border Protection advised that the department conducted two phases of consultation. Outreach sessions were held between 28 May and 1 June 2012 in each mainland state capital city. Public consultation was undertaken in late June 2012 in which comment was sought on an exposure draft of the amending regulations published on the departmental website. Registered participants at the outreach sessions, subscribers to DFAT's sanction alter service and all persons with an account on the Online Sanctions Administration System were also invited to comment on the legislation. The department received four submissions proposing amendments or seeking clarification on the instrument.

The minister further advised that the ES would be amended to include the requested information on consultation.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

**Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Regulation 2013 [Select Legislative Instrument No. 95, 2013] [F2013L00878]**

<b>Purpose</b>	Amends the Migration Regulations 1994 to further implement recommendation 14 in the Report of the Expert Panel on Asylum Seekers
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Migration Act 1958</i>
<b>Department</b>	Immigration and Citizenship

**ISSUE:**

***No information regarding consultation***

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the ES accompanying the instrument contains no reference to consultation [**the committee sought further information from the former minister and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003*].**

**MINISTER'S RESPONSE:**

The Minister for Immigration and Border Protection advised that the department consulted with various Commonwealth agencies, including the Attorney-General's Department, the Department of Prime Minister and Cabinet, the Australian Customs and Border Protection Service, the Department of Defence, the former Department of Infrastructure and Transport and the former Department of Agriculture, Fisheries and Forestry. The Office of Best Practice Regulation advised that the changes would have a minor impact on business or the not-for-profit sector and no further analysis was required in the form of a regulatory impact statement.

The minister further advised that the ES had been amended to include the requested information on consultation.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

**Migration Agents Regulations 1998 - Specification under regulations 9F and 9J - Fees for Performing Assessments - June 2013 [F2013L00982]**

<b>Purpose</b>	Specifies the fees that apply to providers of continuing professional development (CPD) activities or persons who apply to have a CPD activity approved
<b>Last day to disallow</b>	10 December 2013
<b>Authorising legislation</b>	Migration Agents Regulations 1998
<b>Department</b>	Immigration and Citizenship

**ISSUE:*****Unclear basis for determining fees***

This instrument sets various fees that may be charged for the performance of assessments under certain provisions of the Migration Agents Regulations 1998. However, the ES gives no indication as to the basis on which the new fees have been calculated or set. The committee's usual expectation in cases where an instrument of delegated legislation carries financial implications via the imposition or adjustment of a charge, fee, levy or scale of costs (as the case may be) is that the relevant ES makes clear the basis on which the imposition or change has been calculated **[the committee sought further information from the former minister]**.

**MINISTER'S RESPONSE:**

The Minister for Immigration and Border Protection advised that, prior to the commencement of regulation 9F of the Migration Agents Regulations 1998 (the regulations), the legislative basis for charging a fee for performing an assessment of an activity as a continuing professional development activity, and the fee itself, were specified in regulation 6A of the regulations. The regulations provided for a fee of

\$99, which has not changed since 21 July 2003, and which remained the same in the current specification.

Regulation 9J enables the minister to charge a fee for performing an assessment of a person as an approved provider, and allows for the fee to be specified in an instrument in writing. A nil fee is currently specified as the present intention is not to charge a fee for such assessments. If a fee is specified in future, a basis for calculating the fee will be included in the ES accompanying the instrument.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

**Marine Order 11 (Living and working conditions on vessels) 2013 [F2013L00841]**

<b>Purpose</b>	Prescribes matters necessary to give effect to obligations under the International Labour Organization's Maritime Labour Convention 2006. The order also combines subject matter formerly in Marine Orders Part 10 (Medical first aid on ships), Part 11 (Substandard Ships), Part 14 (Accommodation) and Part 53 (Employment of Crews)
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Navigation Act 1912</i>
<b>Department</b>	Infrastructure and Transport

**ISSUE:**

***Insufficient information regarding strict liability offences***

This order prescribes a number of matters necessary to give effect to obligations under the International Labour Organization's Maritime Labour Convention 2006, which Australia ratified on 21 December 2011. These include a number of strict liability offences relating to various matters such as prohibiting the engagement of a person under 16 years to work on a vessel and (subsection 42(2)) and a requirement to make certain records accessible by specified persons (subsection 50(2)). However, no explanation is provided, either in the ES or the statement of compatibility with human rights, regarding the offences. The committee's usual expectation in cases where an instrument makes provision for offences, particularly strict liability offences, is that the ES provide a full justification for the need, scope and framing of those offences **[the committee requested further information from the former minister]**.

**MINISTER'S RESPONSE:**

The Minister for Infrastructure and Regional Development advised that all provisions creating offences in Marine Order 11 are intended to ensure appropriate working conditions to promote the health and welfare of seafarers. Strict liability is warranted for subsection 42(1) as a deterrent and to ensure the integrity of the regulatory regime. The other strict liability offences in the order are imposed to reduce the safety risk that

would arise from the commission of the offences. The provisions are consistent with the principles outlined in the publication, *A Guide on Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

**Marine Order 63 (MASTREP) 2013 [F2013L00837]**

<b>Purpose</b>	Establishes a system for the reporting of movement of vessels that are in the MASTREP area
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Navigation Act 1912</i>
<b>Department</b>	Infrastructure and Transport

**ISSUE:**

***Insufficient information regarding strict liability offences***

Subsection 6(2) of this instrument creates a new strict liability offence for failing to provide position reports. However, no explanation is provided, either in the ES or the statement of compatibility with human rights, regarding the introduction of the offence. The committee's usual expectation in cases where an instrument makes provision for offences, particularly strict liability offences, is that the ES provide a full justification for the need, scope and framing of those offences [**the committee requested further information from the former minister**].

**MINISTER'S RESPONSE:**

The Minister for Infrastructure and Regional Development advised that section 6 of Marine Order 63 is an essential part of a regulatory regime designed for the safety of navigation of vessels operating in Australian waters. Strict liability is warranted for section 6 as a deterrent and to ensure the integrity of the regulatory regime. The offence is imposed to reduce the safety risk that would arise from the commission of the offences. The provision is consistent with the principles outlined in the publication, *A Guide on Framing Commonwealth Offences, Infringement Notices and Enforcement Powers*.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

## Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013 [Select Legislative Instrument No. 97, 2013] [F2013L00900]

<b>Purpose</b>	Prescribes the kinds of community groups whose vessels will not be considered domestic commercial vessels; prescribes vessels that are or are not domestic commercial vessels; and other matters relating to domestic commercial vessels
<b>Last day to disallow</b>	5 December 2013
<b>Authorising legislation</b>	<i>Marine Safety (Domestic Commercial Vessel) National Law Act 2012</i>
<b>Department</b>	Infrastructure and Transport

### ISSUE:

#### *Incorporation of extrinsic material*

This instrument prescribes certain matters for the implementation of the national law for the regulation of domestic commercial vessel safety. It incorporates by reference two instruments—the National Standard for Commercial Vessels and the National Standard for the Administration of Marine Safety—by setting certain requirements with reference to these standards. The *Legislative Instruments Act 2003* provides that extrinsic material may be incorporated into instruments of delegated legislation. However, non-legislative material can generally be incorporated only as in force or existing at a particular date (as opposed to being incorporated as in force or existing 'from time to time').<sup>6</sup> In this case, neither the instrument nor the ES provides sufficient detail to determine the basis on which the standards are intended to be incorporated into the instrument [**the committee therefore requests further information from the former minister**].

### MINISTER'S RESPONSE:

The Minister for Infrastructure and Regional Development advised that section 164 of Schedule 1 to the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (the Act) excludes the operation of section 14 of the *Legislative Instruments Act 2003*, thereby allowing the national law regulations to incorporate any matter contained in any instrument in force or existing from time to time. Section 164 specifically mentions the National Standard for Commercial Vessels as an instrument to which it applies.

### COMMITTEE RESPONSE:

**The committee thanks the minister for his response and has concluded its interest in the matter.**

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<sup>6</sup> See section 14, *Legislative Instruments Act 2003*.

### Australian Federal Police Categories of Conduct Determination 2013 [F2013L01429]

<b>Purpose</b>	Specifies certain categories of conduct which breach the professional standards of the Australian Federal Police
<b>Last day to disallow</b>	
<b>Authorising legislation</b>	<i>Australian Federal Police Act 1979</i>
<b>Department</b>	Attorney-General's

#### ISSUE:

##### *Incorporation of extrinsic material*

This instrument specifies certain categories of conduct which breach the professional standards of the AFP. In numerous instances the instrument relies on material contained in Commissioner's Orders, Australian Federal Police (AFP) National Guidelines and AFP Practical Guides. While the *Legislative Instruments Act 2003* provides for the incorporation of extrinsic material either as in force at a particular time or as in force from time to time, neither the instrument or its ES makes reference to the requirements of the LIA, or to whether the material in question is incorporated as in force at a particular time or as in force from time to time.

**The committee notes that, prior to the instrument being tabled in the Parliament, the ES was amended to provide the required information on incorporation of extrinsic materials. Accordingly, the committee has concluded its interest in the matter.**

### Royal Commissions Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 54, 2013] [F2013L00647]

<b>Purpose</b>	Amends the Royal Commissions Regulations 2001 to make the Attorney-General's Department responsible for handling applications for payment of expenses and allowances for all witnesses appearing before Royal Commissions in future and make the process much easier for witnesses
<b>Last day to disallow</b>	27 August 2013
<b>Authorising legislation</b>	<i>Royal Commissions Act 1902</i>
<b>Department</b>	Prime Minister and Cabinet

#### ISSUE:

##### *No information provided regarding consultation*

Section 17 of the *Legislative Instruments Act 2003* directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business. Section 18, however, provides that in some circumstances such consultation may be unnecessary or inappropriate. The ES which must accompany an

instrument is required to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken (section 26). With reference to these requirements, the committee notes that the ES accompanying the instrument contains no reference to consultation [**the committee sought further information from the minister and requested that the ES be updated in accordance with the requirements of the *Legislative Instruments Act 2003***].

#### **MINISTER'S RESPONSE:**

The Parliamentary Secretary to the Prime Minister advised that consultation was not required as the instrument was of a machinery nature and did not substantially alter existing arrangements.

The parliamentary secretary further advised that the ES had been amended to include the requested information on consultation.

#### **COMMITTEE RESPONSE:**

**The committee thanks the parliamentary secretary for his response and has concluded its interest in the matter.**

### **Public Service Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 110, 2013] [F2013L01002]**

<b>Purpose</b>	Amends the Public Service Amendment Regulation 2013 (No. 1) to prescribe regulation 6.1A for certain purposes and to provide transitional regulations clarifying the operation of certain Merit Protection Commissioner functions
<b>Last day to disallow</b>	10 December 2013
<b>Authorising legislation</b>	<i>Public Service Act 1999</i> ; and <i>Public Service Amendment Act 2013</i>
<b>Department</b>	Prime Minister and Cabinet

#### **ISSUE:**

##### ***Whether any person disadvantaged by administrative error***

The instrument makes various amendments to the principal regulations, including the insertion of a reference to regulation 6.1 in a number of regulations, which was incorrectly omitted from earlier amendments. The effect of this is to provide certain immunities and protections for information obtained in connection with an inquiry into alleged misconduct of a statutory office holder. The committee's usual approach where an instrument corrects an administrative error, as in this case, is that the ES address the question of whether any person was disadvantaged by the error and, if so, whether and what steps have been taken to address that disadvantage [**the committee sought further information from the former minister**].

**MINISTER'S RESPONSE:**

The minister advised that no person had been disadvantaged by the administrative error that led to the need to insert references to regulation 6.1A into the principal regulations. As regulation 6.1A had no operation before 1 July 2013, inquiries could not be made under it, and therefore no person could be disadvantaged by the omission of the reference to the provision.

**COMMITTEE RESPONSE:**

**The committee thanks the minister for his response and has concluded its interest in the matter.**

# Appendix 1

## Index of instruments scrutinised

The following instruments were considered by the committee at its meeting on **4 December 2013**.

The Federal Register of Legislative Instruments (FRLI) website should be consulted for the text of instruments and explanatory statements, as well as associated information.<sup>1</sup> Instruments may be located on FRLI by entering the relevant FRLI number into the FRLI search field (the FRLI number is shown in square brackets after the name of each instrument listed below).

### Instruments received week ending 28 June 2013

#### *A New Tax System (Family Assistance) Act 1999*

- Child Care Benefit (Immunisation Requirements) (DEEWR) Determination 2013 [F2013L01056]
- Child Care Benefit (Vaccination Schedules) (DEEWR) Determination 2013 [F2013L01057]
- Child Care Benefit (Vaccination Schedules) (DEEWR) Amendment Determination 2013 (No. 1) [F2013L01180]

#### *Aged Care Act 1997*

- \* Aged Care (Residential Care Subsidy – Adjusted Subsidy Reduction) Determination 2013 (No. 1) [F2013L01193]
- \* Classification Amendment (Aged Care Funding Instrument) Principle 2013 [F2013L01192]

#### *Australian Capital Territory (Planning and Land Management) Act 1988*

- National Capital Plan - Amendment 77 - Elm Grove campsite (Part Block 624 Gungahlin) [F2013L01149]
- National Capital Plan - Amendment 80 - Yarramundi Reach [F2013L01151]

#### *Australian Citizenship Act 2007*

- \* Australian Citizenship Act 2007 - Specification under section 22C - Special Residence Requirement - June 2013 [F2013L01123]

#### *Australian Hearing Services Act 1991*

- \* Declared Hearing Services Amendment Determination 2013 (No. 1) [F2013L01109]

#### *Australian Prudential Regulation Authority Act 1998*

- Australian Prudential Regulation Authority (confidentiality) determination No. 13 of 2013 [F2013L01113]
- Australian Prudential Regulation Authority (confidentiality) determination No. 14 of 2013 [F2013L01116]

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1 FRLI is found online at <http://www.comlaw.gov.au/>.

***Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011***

Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Determination 2013 (No. 1) [F2013L01156]

***Carbon Credits (Carbon Farming Initiative) Act 2011***

Carbon Credits (Carbon Farming Initiative) (Avoided Deforestation) Methodology Determination 2013 [F2013L01181]

Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest – 1.1) Methodology Determination 2013 [F2013L01189]

Carbon Credits (Carbon Farming Initiative) (Reduction of Greenhouse Gas Emissions through Early Dry Season Savanna Burning – 1.1) Methodology Determination 2013 [F2013L01165]

***Civil Aviation Act 1988***

CASA 119/13 - Directions - under subregulation 235(2) relating to landing weight and landing distance required [F2013L01104]

CASA 129/13 - Authorisation — Category A maintenance authority holder in a CAR 30 organisation - Exemption — from regulation 66.130 of CASR 1998 [F2013L01108]

CASA 130/13 – Approval – for an air display – Permission – for acrobatic flight over a place, flight over a public gathering and low flight [F2013L01178]

\* CASA ADCX 011/13 – Revocation of Airworthiness Directives [F2013L01179]

CASA EX58/13 - Exemption - Unmanned Aerial Vehicles (UAV) Controller's Certificate requirements [F2013L01148]

CASA EX64/13 - Exemption - single operation into and out of Broome conducted by Queensland Recreational Aircraft Association [F2013L01075]

CASA EX67/13 – Exemptions – applicable to Part 42 aircraft [F2013L01163]

CASA EX71/13 – Exemption – defect beyond designated rectification interval [F2013L01186]

\* Civil Aviation Order 100.26 Repeal Instrument 2013 [F2013L01160]

***Clean Energy Act 2011***

Clean Energy (Reference Price Method) Determination 2013 [F2013L01167]

***Competition and Consumer Act 2010***

Competition and Consumer Act 2010 - Declaration No. 93 [F2013L01157]

***Corporations Act 2001***

\* ASIC Class Order [CO 13/518] [F2013L01102]

ASIC Class Order [CO 13/519] [F2013L01100]

ASIC Class Order [CO 13/520] [F2013L01093]

ASIC Class Order [CO 13/521] [F2013L01095]

ASIC Class Order [CO 13/522] [F2013L01101]

ASIC Class Order [CO 13/523] [F2013L01097]

ASIC Class Order [CO 13/524] [F2013L01098]

ASIC Class Order [CO 13/525] [F2013L01099]

ASIC Class Order [CO 13/526] [F2013L01091]

ASIC Class Order [CO 13/527] [F2013L01092]

ASIC Class Order [CO 13/528] [F2013L01094]

\* ASIC Class Order [CO 13/779] [F2013L01084]

***Defence Act 1903***

\* Defence Determination 2013/30, Partial rent allowance – amendment

\* Defence Determination 2013/31, Temporary accommodation allowance – amendment

\* Defence Determination 2013/32, Post indexes and benchmark schools - amendment

***Environment Protection and Biodiversity Conservation Act 1999***

Amendment of List of Exempt Native Specimens - Coral Reef Fin Fish Fishery (12/06/2013) [F2013L01142]

Amendment of List of Exempt Native Specimens - Pilbara Fish Trawl Interim Managed Fishery (03/06/2013) [F2013L01140]

Amendment of List of Exempt Native Specimens - Victorian Abalone Fishery (19/06/2013) [F2013L01079]

Amendment to the list of threatened species under section 178 of the Environment Protection and Biodiversity Conservation Act 1999 (154) (17/06/2013) [F2013L01177]

***Financial Sector (Collection of Data) Act 2001***

Financial Sector (Collection of Data) (reporting standard) determination No. 97 of 2013 [F2013L01072]

***Fisheries Management Act 1991***

Southern and Eastern Scalefish and Shark Fishery (Closures) Direction No. 8 2013 [F2013L01150]

***Health Insurance Act 1973***

- \* Health Insurance (Diabetes Testing in Aboriginal and Torres Strait Islander Primary Health Care Site) Amendment Determination 2013 (No. 1) [F2013L01158]

***Hearing Services Administration Act 1997***

- \* Hearing Services (Eligible Persons) Amendment Determination 2013 (No. 1) [F2013L01105]
- \* Hearing Services (Participants in the Voucher System) Amendment Determination 2013 (No. 1) [F2013L01103]

***Higher Education Support Act 2003***

- \* Higher Education Support Act 2003 – Amendment No. 1 to the Student Services, Amenities, Representation and Advocacy Guidelines 2013 [F2013L01164]

***Industrial Chemicals (Notification and Assessment) Act 1989***

- \* Industrial Chemicals (Notification and Assessment) Act 1989 - Cosmetics Amendment (Sunscreen) Standard 2013 [F2013L01110]

***Marine Safety (Domestic Commercial Vessel) National Law Act 2012***

Marine Order 501 (Administration – national law) 2013 [F2013L01175]

Marine Order 502 (Vessel identifiers – national law) 2013 [F2013L01172]

Marine Order 503 (Certificates of survey – national law) 2013 [F2013L01173]

Marine Order 504 (Certificates of operation – national law) 2013 [F2013L01174]

Marine Order 505 (Certificates of competency – national law) 2013 [F2013L01176]

Marine Order 506 (Approval of training organisations – national law) 2013 [F2013L01170]

Marine Order 507 (Load line certificates – national law) 2013 [F2013L01171]

***Migration Act 1958***

- \* Migration Act 1958 - Determination under section 332A - Collection of the Registration Status Charge - June 2013 [F2013L01145]

***National Disability Insurance Scheme Act 2013***

National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—New South Wales) Rules 2013 [F2013L01153]

National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—South Australia) Rules 2013 [F2013L01155]

National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—Tasmania) Rules 2013 [F2013L01152]  
National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—Victoria) Rules 2013 [F2013L01154]  
National Disability Insurance Scheme – Risk Management Rules 2013 [F2013L01183]  
National Disability Insurance Scheme – Rules for the Scheme Actuary 2013 [F2013L01184]

***National Greenhouse and Energy Reporting Act 2007***

- \* National Greenhouse and Energy Reporting (Measurement) Amendment Determination 2013 (No. 1) [F2013L01191]

***National Health Act 1953***

National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 8) (No. PB 39 of 2013) [F2013L01096]

***National Vocational Education and Training Regulator Act 2011***

Data Provision Requirements 2012 Amendment No. 1 [F2013L01115]

***Personally Controlled Electronic Health Records Act 2012***

PCEHR (Information Commissioner Enforcement Powers) Guidelines 2013 [F2013L01085]

***Personal Property Securities Act 2009***

Personal Property Securities (Fees) Determination 2013 [F2013L01071]

***Private Health Insurance Act 2007***

- \* Private Health Insurance (Benefit Requirements) Amendment Rules 2013 (No. 2) [F2013L01190]
- \* Private Health Insurance (Complying Product) Amendment Rules 2013 (No. 2) [F2013L01187]

***Private Health Insurance (Council Administration Levy) Act 2003***

- \* Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 1) [F2013L01135]

***Radiocommunications Act 1992***

- \* Radiocommunications (Duration of Community Television Transmitter Licences) Determination No. 1 of 2008 (Amendment No. 1 of 2013) [F2013L01077]

***Remuneration Tribunal Act 1973***

- \* Remuneration Tribunal Determination 2013/08 - Specified Statutory offices - Remuneration and Allowances [F2013L01081]
- \* Remuneration Tribunal Determination 2013/09 - Principal Executive Office - Classification Structure and Terms and Conditions [F2013L01087]
- \* Remuneration Tribunal Determination 2013/10 - Remuneration and Allowances for Holders of Full-Time Public Office [F2013L01089]
- \* Remuneration Tribunal Determination 2013/11 - Remuneration and Allowances for Holders of Part-Time Public Office [F2013L01086]
- \* Remuneration Tribunal Determination 2013/12 - Judicial and Related Offices - Remuneration and Allowances [F2013L01088]

***Social Security Act 1991***

Social Security (Exemptions from Non-payment and Waiting Periods – Activities) (DEEWR) Specification 2013 (No. 1) [F2013L01162]  
Social Security (Exempt Lump Sum) (Defence Abuse Reparation Scheme) (DEEWR) Determination 2013 [F2013L01169]

Social Security (Exempt Lump Sum) (Defence Abuse Reparation Scheme) (DIICCSRTE) Determination 2013 [F2013L01106]

Social Security (Personal Care Support - Queensland Your Life Your Choice Self-Directed Support: Host Providers and Direct Payment) (DIICCSRTE) Determination 2013 [F2013L01132]

Social Security (Personal Care Support - Tasmanian Self Directed Funding Pilot) (DIICCSRTE) Determination 2013 [F2013L01111]

Social Security (Special Disability Trust — Discretionary Spending) (DEEWR) Determination 2013 (No. 1) [F2013L01159]

Social Security (Special Disability Trust — Discretionary Spending) (DIICCSRTE) Determination 2013 (No. 1) [F2013L01114]

- \* Social Security (Special Disability Trust — Trust Deed, Reporting and Audit Requirements) (DIICCSRTE) Determination 2013 (No. 1) [F2013L01112]

#### ***Social Security (Administration) Act 1999***

Social Security (Administration) (Relocation Assistance) (DEEWR) Specification 2013 (No. 1) [F2013L01166]

- \* Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013 [F2013L01078]

#### ***Telecommunications Act 1997***

- \* Telecommunications Labelling (Customer Equipment and Customer Cabling) Amendment Notice 2013 (No.2) [F2013L01083]

Telecommunications Technical Standard (Voice frequency performance requirements for Customer Equipment) 2013 [F2013L01082]

#### ***Telecommunications (Consumer Protection and Service Standards) Act 1999***

- \* Telecommunications (Emergency Call Service) Amendment Determination 2013 [F2013L01139]

#### ***Telecommunications (Interception and Access) Act 1979***

Telecommunications (Interception and Access—Independent Commissioner Against Corruption of South Australia) Declaration 2013 [F2013L01146]

#### ***Telecommunications Universal Service Management Agency Act 2012***

Telecommunications Universal Service Management Agency (Approved Auditor) Determination 2013 [F2013L01188]

#### ***Tertiary Education Quality and Standards Agency Act 2011***

- \* Tertiary Education Quality and Standards Agency (Register) Guidelines 2013 [F2013L01143]

#### ***Veterans' Entitlements Act 1986***

Statement of Principles concerning colorectal adenoma No. 35 of 2013 [F2013L01138]

Statement of Principles concerning colorectal adenoma No. 36 of 2013 [F2013L01141]

Statement of Principles concerning familial adenomatous polyposis No. 39 of 2013 [F2013L01126]

Statement of Principles concerning familial adenomatous polyposis No. 40 of 2013 [F2013L01127]

Statement of Principles concerning erectile dysfunction No. 43 of 2013 [F2013L01136]

Statement of Principles concerning erectile dysfunction No. 44 of 2013 [F2013L01137]

Statement of Principles concerning gingivitis No. 45 of 2013 [F2013L01121]

Statement of Principles concerning gingivitis No. 46 of 2013 [F2013L01124]

Statement of Principles concerning malignant neoplasm of the colorectum No. 37 of 2013 [F2013L01134]

Statement of Principles concerning malignant neoplasm of the colorectum No. 38 of 2013 [F2013L01130]

Statement of Principles concerning periodontal abscess No. 49 of 2013 [F2013L01125]  
 Statement of Principles concerning periodontal abscess No. 50 of 2013 [F2013L01131]  
 Statement of Principles concerning periodontitis No. 47 of 2013 [F2013L01128]  
 Statement of Principles concerning periodontitis No. 48 of 2013 [F2013L01122]  
 Statement of Principles concerning sleep apnoea No. 41 of 2013 [F2013L01129]  
 Statement of Principles concerning sleep apnoea No. 42 of 2013 [F2013L01133]

### **Instruments received week ending 5 July 2013**

#### ***A New Tax System (Family Assistance) Act 1999***

Family Tax Benefit (Order of Reduction) Determination 2013 [F2013L01196]

#### ***Aged Care Act 1997***

- \* Advocacy Grant Amendment Principle 2013 [F2013L01270]
- \* Aged Care (Community Care Subsidy Amount) Determination 2013 (No. 1) [F2013L01239]
- \* Aged Care (Amount of Flexible Care Subsidy - Extended Aged Care at Home) Determination 2013 (No. 1) [F2013L01257]
- \* Aged Care (Amount of Flexible Care Subsidy – Extended Aged Care at Home - Dementia) Determination 2013 (No. 1) [F2013L01245]
- \* Aged Care (Amount of Flexible Care Subsidy – Innovative Care Services) Determination 2013 (No. 1) [F2013L01287]
- \* Aged Care (Amount of Flexible Care Subsidy - Transition Care) Determination 2013 (No. 1) [F2013L01261]
- \* Aged Care (Flexible Care Subsidy Amount – Multi-Purpose Services) Determination 2013 (No. 1) [F2013L01281]
- \* Aged Care (Residential Care - Amount of Basic Subsidy) Determination 2013 (No. 1) [F2013L01197]
- \* Aged Care (Residential Care Subsidy — Amount of Enteral Feeding Supplement) Determination 2013 (No. 1) [F2013L01204]
- \* Aged Care (Residential Care Subsidy — Amount of Oxygen Supplement) Determination 2013 (No. 1) [F2013L01206]
- \* Aged Care (Residential Care Subsidy — Amount of Viability Supplement) Determination 2013 (No. 1) [F2013L01205]
- \* Aged Care (Residential Care Subsidy — Transitional Homeless Supplement Amount) Determination 2013 [F2013L01285]
- \* Aged Care (Residential Care Subsidy - Workforce Supplement Amount) Determination 2013 [F2013L01251]
- \* Community Visitors Grant Amendment (ABS Material) Principle 2013 [F2013L01271]
- \* Information Amendment (AIHW) Principle 2013 [F2013L01195]
- \* Residential Care Subsidy Amendment (Transitional Homeless Supplement) Principle 2013 [F2013L01277]
- \* Residential Care Subsidy Amendment (Workforce Supplement) Principle 2013 [F2013L01225]

#### ***Australian Renewable Energy Agency Act 2011***

ARENA Act Subsection 64(3) Determination 2013/01 [F2013L01194]

#### ***Authorised Deposit-taking Institutions Supervisory Levy Imposition Act 1998***

- \* Authorised Deposit-taking Institutions Supervisory Levy Imposition Determination 2013 [F2013L01304]

#### ***Banking Act 1959***

Banking Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 157, 2013] [F2013L01223]

Banking (prudential standard) determination No. 1 of 2013 - Prudential Standard APS 330 - Public Disclosure [F2013L01214]

### ***Carbon Credits (Carbon Farming Initiative) Act 2011***

Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation—1.2) Methodology Determination 2013 [F2013L01210]

### ***Christmas Island Act 1958***

- \* Water and Sewerage Services Fees and Charges (Christmas Island) Determination 2013 [F2013L01207]

### ***Civil Aviation Act 1988***

CASA 87/13 - Direction — number of cabin attendants (Virgin Australia Airlines) [F2013L01215]  
 CASA 88/13 - Direction — number of cabin attendants (Virgin Australia International Airlines) [F2013L01213]  
 CASA 116/13 - Directions under subregulation 235 (2) relating to landing weight and landing distance required [F2013L01276]  
 CASA 121/13 - Direction — number of cabin attendants (Tiger Airways) [F2013L01274]  
 CASA 132/13 - Direction — number of cabin attendants for Airbus A320 and Fokker F100 aircraft (Virgin Australia Regional Airlines) [F2013L01278]  
 CASA 133/13 – Direction – number of cabin attendants (Sunstate Airlines) [F2013L01280]  
 CASA EX68/13 - Exemption — Virgin Australia International Airlines from subregulation 217(2) of CAR 1988 and paragraph 3.3 of CAO 82.5 (flight crew training) [F2013L01200]  
 CASA EX69/13 – Exemption — Virgin Australia International Airlines from subregulation 217(2) of CAR 1988 and paragraph 3.3 of CAO 82.5 (cabin crew training) [F2013L01202]  
 CASA EX70/13 - Exemption — take-off with residual traces of frost and ice [F2013L01203]

### ***Clean Energy Act 2011***

Clean and Renewable Energy Legislation Amendment (Various Measures) Regulation 2013 [Select Legislative Instrument No. 144, 2013] [F2013L01302]

### ***Cocos (Keeling) Islands Act 195***

- \* Water and Sewerage Services Fees and Charges (Cocos (Keeling) Islands) Determination 2013 [F2013L01216]

### ***Competition and Consumer Act 2010***

Competition and Consumer Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 149, 2013] [F2013L01295]

### ***Copyright Act 1968***

Copyright Amendment (International Protection) Regulation 2013 [Select Legislative Instrument No. 134, 2013] [F2013L01220]

### ***Corporations Act 2001***

- \* ASIC Class Order [CO 13-760] [F2013L01267]
- ASIC Class Order [CO 13/761] [F2013L01275]
- \* ASIC Class Order [CO 13/762] [F2013L01282]
- \* ASIC Class Order [CO 13/763] [F2013L01273]
- ASIC Class Order [CO 13/797] [F2013L01286]
- Corporations Amendment (Derivative Trade Repositories) Regulation 2013 [Select Legislative Instrument No. 150, 2013] [F2013L01279]
- Corporations Amendment Regulation 2013 (No. 5) [Select Legislative Instrument No. 151, 2013] [F2013L01227]

Corporations and Related Legislation Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 152, 2013] [F2013L01264]

***Corporations (Fees) Act 2001***

Corporations (Fees) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 153, 2013] [F2013L01224]

***Criminal Code Act 1995***

Criminal Code (Terrorist Organisation—Jabhat al-Nusra) Regulation 2013 [Select Legislative Instrument No. 135, 2013] [F2013L01217]

***Fair Work Act 2009***

Fair Work Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 139, 2013] [F2013L01221]

***Family Law Act 1975***

Family Law Amendment (Fees) Regulation 2013 [Select Legislative Instrument No. 136, 2013] [F2013L01243]

Family Law (Superannuation) Amendment (ABS) Regulation 2013 [Select Legislative Instrument No. 137, 2013] [F2013L01235]

***Financial Management and Accountability Act 1997***

Financial Management and Accountability Amendment Regulation 2013 (No. 4) [Select Legislative Instrument No. 141, 2013] [F2013L01249]

***First Home Saver Account Providers Supervisory Levy Imposition Act 2008***

First Home Saver Account Providers Supervisory Levy Imposition Determination 2013 [F2013L01303]

***Fisheries Management Act 1991***

Fisheries Management Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 132, 2013] [F2013L01291]

***General Insurance Supervisory Levy Imposition Act 1998***

\* General Insurance Supervisory Levy Imposition Determination 2013 [F2013L01305]

***Healthcare Identifiers Act 2010***

Healthcare Identifiers Amendment (PCEHR System Information) Regulation 2013 [Select Legislative Instrument No. 142, 2013] [F2013L01269]

***Health Insurance Act 1973***

Health Insurance (General Medical Services Table) Amendment (Bariatric and Other Measures) Regulation 2013 [Select Legislative Instrument No. 143, 2013] [F2013L01230]

***Law Enforcement Integrity Commissioner Act 2006***

Law Enforcement Integrity Commissioner Amendment (Integrity Agencies and Staff Members) Regulation 2013 [Select Legislative Instrument No., 138, 2013] [F2013L01222]

***Medical Indemnity Act 2002***

\* Premium Support Scheme Amendment 2013 [F2013L01297]

***Migration Act 1958***

Migration Amendment Regulation 2013 (No. 5) [Select Legislative Instrument No. 145, 2013] [F2013L01248]

Migration Amendment (Subclass 050 and Subclass 051 Visas) Regulation 2013 [Select Legislative Instrument No. 156, 2013] [F2013L01218]

Migration Legislation Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 146, 2013] [F2013L01229]

Migration Regulations 1994 - Specification under paragraphs 2.61(3A)(b), 2.61(3A)(c), 2.61(3B), subregulations 2.66(3), 2.66(4), 2.66(5), 2.73(3), 2.73(5) and 2.73(9), and paragraphs 1223A(1)(bb), 1223A(1)(b), 1223A(1)(ba) and 1223A(1)(bc) - Forms, Fees, Circumstances and Different Way of Making an Application - June 2013 [F2013L01242]

- \* Migration Regulations 1994 - Specification under regulation 1.03, subregulations 1.15I(1) and 2.26B(1), paragraphs 2.72(10)(aa) and 2.72I(5)(ba), sub-subparagraph 5.19(4)(h)(i)(A), item 4(a) of the table in subitem 1137(4), item 4(a) of the table in subitem 1138(4) and item 4(a) of the table in subitem 1230(4), paragraph 1229(3)(k) and paragraph 186.234(2)(a) - Specification of Occupations, a Person or Body, a Country or Countries - June 2013 [F2013L01240]

Migration Regulations 1994 - Specification under subregulations 1.15I(1) and 2.26B(1), paragraph 2.72I(5)(ba), sub-subparagraph 5.19(4)(h)(i)(A), item 4(a) of the table in subitem 1137(4), item 4(a) of the table in subitem 1138(4) and item 4(a) of the table in subitem 1230(4), paragraph 1229(3)(k), subparagraphs 1136(4)(b)(ii), 1136(5)(b)(ii), 1136(6)(b)(iii), 1229(3)(e)(ii), 1229(5)(b)(ii), 1229(6)(b)(iii) and 1229(7)(b)(ii) and paragraph 186.234(2)(a) - Specification of Occupations, a Person or Body, a Country or Countries - June 2013 [F2013L01272]

- \* Migration Regulations 1994 - Specification under paragraphs 2.72(10)(cc) and 2.79(1A)(b) and subregulation 2.72(10AB) - Specification of Income Threshold and Annual Earnings - June 2013 [F2013L01231]

- \* Migration Regulations 1994 - Specification under paragraphs 2.59(d), 2.68(e), subregulations 2.87B(2) and 2.87B(3) and sub-sub-subparagraph 5.19(4)(h)(i)(B)(I) - Training Benchmarks and Training Requirements - June 2013 [F2013L01236]

#### ***Military Rehabilitation and Compensation Act 2004***

GARP M (Transitional Impairment Methodology and Interim Permanent Impairment Lifestyle Methodology) Amendment Determination 2013 (No. MRCC 22) [F2013L01293]

Military Rehabilitation and Compensation Act (Section 204A(2) amount) Instrument 2013 [F2013L01289]

#### ***National Consumer Credit Protection Act 2009***

ASIC Class Order [CO 13/818] [F2013L01262]

#### ***National Health act 1953***

- \* Commonwealth price (Pharmaceutical benefits supplied by approved pharmacists) Amendment Determination 2013 (No 1) [F2013L01228]
- \* Contingence Aids Payment Scheme Variation 2013 (No. 1) [F2013L01198]
- \* Contingence Aids Payment Scheme Variation 2013 (No. 2) [F2013L01284]

#### ***National Rental Affordability Scheme Act 2008***

National Rental Affordability Scheme Amendment (Incentive Election) Regulation 2013 [Select Legislative Instrument No. 140, 2013] [F2013L01298]

#### ***Ozone Protection and Synthetic Greenhouse Gas Management Act 1989***

Ozone Protection and Synthetic Greenhouse Gas Management Amendment (SGG for Manufacture) Regulation 2013 [Select Legislative Instrument No. 147, 2013] [F2013L01259]

#### ***Parliamentary Service Act 1999***

- \* Parliamentary Service Determination 2013 [F2013L01201]

***Petroleum Resource Rent Tax Assessment Act 1987***

Petroleum Resource Rent Tax Assessment Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 154, 2013] [F2013L01219]

***Primary Industries (Customs) Charges Act 1999***

Primary Industries Legislation Amendment (Chestnuts and Potted Plants) Regulation 2013 [Select Legislative Instrument No. 133, 2013] [F2013L01255]

***Product Stewardship Act 2011***

Product Stewardship (Televisions and Computers) Amendment (Single Product Class) Regulation 2013 [Select Legislative Instrument No. 148, 2103] [F2013L01252]

***Public Service Act 1999***

\* Australian Public Service Commissioner's Amendment Direction 2013 (No. 1) [F2013L01212]

***Radiocommunications Act 1992***

Radiocommunications (Spectrum Designation) Notice No. 1 of 1998 Instrument of Revocation No. 1 of 2013 [F2013L01283]

***Safety, Rehabilitation and Compensation Act 1988***

Safety, Rehabilitation and Compensation (Weekly Interest on the Lump Sum) Notice 2013(1) [F2013L01258]

***Superannuation Guarantee (Administration) Act 1992***

Superannuation Legislation Amendment (MySuper Measures) Regulation 2013 [Select Legislative Instrument No. 155, 2013] [F2013L01246]

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

ASIC Class Order [CO 13/830] [F2013L01263]

Superannuation (prudential standard) determination No. 2 of 2013 - Prudential Standard SPS 160 - Defined Benefit Matters [F2013L01247]

Superannuation (prudential standard) determination No. 3 of 2013 - Prudential Standard SPS 310 - Audit and Related Matters [F2013L01260]

Superannuation (prudential standard) determination No. 4 of 2013 0 Prudential Standard SPS 520 - Fit and Proper [F2013L01266]

***Telecommunications Act 1997***

Telecommunications (International Mobile Roaming) Industry Standard 2013 [F2013L01301]

***Telecommunications Universal Service Management Agency Act 2012***

Telecommunications (Participating Persons) Determination 2013 (No. 2) [F2013L01299]

Telecommunications Universal Service Management Agency (Eligible Revenue) Determination 2013 [F2013L01199]

***Veterans' Entitlements Act 1986***

Veterans' Entitlements Income (Exempt Lump Sum – Defence Abuse Reparation Scheme) Determination (No. R41/2013) [F2013L01294]

Veterans' Entitlements (Special Disability Trust – Discretionary Spending) Determination 2013 (No. R47/2013) [F2013L01290]

Veterans' Entitlements (Special Disability Trust – Trust Deed, Reporting and Audit Requirements) Determination 2013 (No. R48/2013) [F2013L01292]

## Instruments received week ending 19 July 2013

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

GST-free Supply (National Disability Insurance Scheme Supports) Determination 2013 [F2013L01325]

### *Aged Care Act 1997*

- \* Aged Care (Flexible Care Subsidy Amount - Multi-Purpose Services) Determination 2013 (No. 2) [F2013L01347]
- \* Aged Care (Home Care Subsidy Amount) Determination 2013 [F2013L01339]
- \* Aged Care (Residential Care Subsidy — Dementia and Severe Behaviours and Veterans' Supplement Amounts) Determination 2013 [F2013L01341]
- \* Aged Care Revocation Instrument 2013 [F2013L01350]
- \* Allocation Amendment (Various Measures) Principle 2013 [F2013L01372]
- \* Approval of Care Recipients Amendment (Home Care) Principle 2013 [F2013L01338]
- \* Approved Provider Amendment (Home Care) Principle 2013 [F2013L01349]
- \* Classification Amendment (Dementia and Severe Behaviours Supplement) Principle 2013 [F2013L01340]
- \* Complaints Amendment (Living Longer Living Better) Principle 2013 [F2013L01348]
- \* Flexible Care Subsidy Amendment (Various Measures) Principle 2013 [F2013L01366]
- \* Home Care Subsidy Principles 2013 [F2013L01337]
- \* Quality of Care Amendment (Home Care) Principle 2013 [F2013L01342]
- \* Residential Care Grant Amendment (Various Measures) Principle 2013 [F2013L01368]
- \* Residential Care Subsidy Amendment (New Supplements and Other Measures) Principle 2013 [F2013L01336]
- \* Sanctions Amendment (Various Measures) Principle 2013 [F2013L01346]
- \* User Rights Amendment (Various Measures) Principle 2013 [F2013L01352]

### *Australian Prudential Regulation Authority Act 1998*

- \* Australian Prudential Regulation Authority (Commonwealth Costs) Determination 2013 [F2013L01309]

### *Australian Securities and Investments Commission Act 2001*

- \* ASA 2013-3 - Amendments to Australian Auditing Standards - July 2013 [F2013L01326]

### *Authorised Non-operating Holding Companies Supervisory Levy Imposition Act 1998*

Authorised Non-operating Holding Companies Supervisory Levy Imposition Determination 2013 [F2013L01310]

### *Autonomous Sanctions Act 2011*

- \* Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Iran) Amendment List 2013 (No. 1) [F2013L01312]
- \* Autonomous Sanctions (Export Sanctioned Goods - Syria) Designation Amendment 2013 [F2013L01311]

### *Civil Aviation Act 1988*

- AD/B767/178 Amdt 1 — Auto-Speedbrake Control System [F2013L01313]
- AD/CL-600/36 Amdt 1 - Elevator Flutter Damper Shear Pins [F2013L01332]
- \* CASA ADCX 012/13 - Revocation of Airworthiness Directives [F2013L01333]
- \* Civil Aviation Order 100.5 Amendment Instrument 2013 (No. 1) [F2013L01330]
- Civil Aviation Order 108.56 Repeal Instrument 2013 [F2013L01331]

***Corporations Act 2001***

- \* AASB 2013-3 - Amendments to AASB 136 – Recoverable Amount Disclosures for Non-Financial Assets [F2013L01351]  
ASIC Derivative Trade Repository Rules 2013 [F2013L01344]  
ASIC Derivative Transaction Rules (Reporting) 2013 [F2013L01345]

***Criminal Code Act 1995***

- Criminal Code (Terrorist Organisation—Abu Sayyaf Group) Regulation 2013 [Select Legislative Instrument No. 160, 2013] [F2013L01353]
- Criminal Code (Terrorist Organisation—Al-Qa'ida) Regulation 2013 [Select Legislative Instrument No. 161, 2013] [F2013L01357]
- Criminal Code (Terrorist Organisation—Al-Qa'ida in Iraq) Regulation 2013 [Select Legislative Instrument No. 162, 2013] [F2013L01358]
- Criminal Code (Terrorist Organisation—Al-Qa'ida in the Lands of the Islamic Maghreb) Regulation 2013 [Select Legislative Instrument No. 163, 2013] [F2013L01354]
- Criminal Code (Terrorist Organisation—Jamiat ul-Ansar) Regulation 2013 [Select Legislative Instrument No. 164, 2013] [F2013L01356]
- Criminal Code (Terrorist Organisation—Jemaah Islamiyah) Regulation 2013 [Select Legislative Instrument No. 165, 2013] [F2013L01355]

***Energy Efficiency Opportunities Act 2006***

- Energy Efficiency Opportunities Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 176, 2013] [F2013L01371]

***Environment Protection and Biodiversity Conservation Act 1999***

- Environment Protection and Biodiversity Conservation Act 1999 - section 269a - Instrument making a recovery plan (Recovery Plan for the Australian Sea Lion (*Neophoca cinerea*)) (11/06/2013) [F2013L01314]
- Mawson's Huts Historic Site Management Plan 2013-2018 [F2013L01343]

***Fuel Quality Standards Act 2000***

- \* Fuel Standard (Autogas) Amendment Determination 2013 [F2013L01364]

***Higher Education Support Act 2003***

- \* Higher Education (Disclosure of Information to Other Bodies) Determination 2013 [F2013L01320]
- Higher Education Support Act 2003 - Revocation of Approval as a VET Provider (Careers Australia Institute of Training Pty Ltd) [F2013L01323]
- Higher Education Support Act 2003 - Revocation of Approval as a VET Provider (Careers Australia College of Healthcare Pty Ltd) [F2013L01324]
- Higher Education Support Act 2003 - VET Provider Approval (No. 24 of 2013) [F2013L01317]
- Higher Education Support Act 2003 - VET Provider Approval (No. 25 of 2013) [F2013L01318]
- Higher Education Support Act 2003 - VET Provider Approval (No. 26 of 2013) [F2013L01316]
- Higher Education Support Act 2003 - VET Provider Approval (No. 27 of 2013) [F2013L01327]
- Higher Education Support Act 2003 - VET Provider Approval (No. 28 of 2013) [F2013L01319]
- Higher Education Support Act 2003 - VET Provider Approval (No. 29 of 2013) [F2013L01373]

***Income Tax Assessment Act 1997***

- Income Tax Assessment (Infrastructure Project Designation) Rule 2013 [F2013L01335]

***Life Insurance Supervisory Levy Imposition Act 1998***

- \* Life Insurance Supervisory Levy Imposition Determination 2013 [F2013L01306]

***Military Superannuation and Benefits Act 1991***

- \* Military Superannuation Legislation Amendment (Sustaining the Superannuation Contribution Concession) Instrument 2013 [F2013L01334]

***National Health Act 1953***

- \* National Health (Weighted average disclosed price - supplementary disclosure cycle A) Amendment Determination 2013 (No. 1) (No. PB 38 of 2013) [F2013L01328]
- \* National Health (Weighted average disclosed price - main disclosure cycle) Amendment Determination 2013 (No. 2) (No. PB 37 of 2013) [F2013L01329]

***Private Health Insurance Act 2007***

- \* Private Health Insurance (Benefit Requirements) Amendment Rules 2013 (No. 3) [F2013L01321]

***Retirement Savings Account Providers Supervisory Levy Imposition Act 1998***

- \* Retirement Savings Account Providers Supervisory Levy Imposition Determination 2013 [F2013L01307]

***Superannuation Supervisory Levy Imposition Act 1998***

- \* Superannuation Supervisory Levy Imposition Determination 2013 [F2013L01308]

**Instruments received week ending 26 July 2013*****Aged Care Act 1997***

- \* Aged Care (Flexible Care Subsidy Amount - Innovative Care) Determination 2013 (No. 2) [F2013L01381]
- \* Aged Care (Flexible Care Subsidy Amount - Transition Care) Determination 2013 (No. 2) [F2013L01382]

***Australian Federal Police Act 1979***

Australian Federal Police Categories of Conduct Determination 2013 [F2013L0142]

***Banking Act 1959***

Banking (prudential standard) determination No. 2 of 2013 - Prudential Standard APS 910 - Financial Claims Scheme [F2013L01392]

***Broadcasting Services Act 1992***

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 9 of 2013) [F2013L01417]

***Charter of the United Nations Act 1945***

Charter of the United Nations (Sanctions—Democratic People's Republic of Korea) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 173, 2013] [F2013L01384]

***Civil Aviation Act 1988***

- \* CASA ADCX 013/13 - Revocation of Airworthiness Directives [F2013L01411]
- \* CASA EX73/13 - Exemption – from standard landing minima – Boeing 737 fail-passive aircraft – Virgin Australia Airlines Pty Ltd [F2013L01400]
- \* CASA EX74/13 - Exemption — certificate of release to service – foreign approved maintenance organisations [F2013L01378]
- \* CASA EX80/13 - Exemption - carriage of flight data recorder - Pel-Air Aviation [F2013L01393]
- \* Part 147 Manual of Standards Amendment Instrument 2013 (No. 1) [F2013L01397]
- \* Part 66 Manual of Standards Amendment Instrument 2013 (No. 1) [F2013L01399]

***Competition and Consumer Act 2010***

- \* Competition and Consumer (Tobacco) Amendment (Rotation of Health Warnings) Information Standard 2013 [F2013L01427]  
Competition and Consumer Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 177, 2013] [F2013L01387]

***Corporations Act 2001***

- \* ASIC Class Order [CO 13/752] [F2013L01385]
- \* ASIC Class Order [CO 13/898] [F2013L01376]

***Currency Act 1965***

Currency (Royal Australian Mint) Determination 2013 (No. 3) [F2013L01420]

***Customs Act 1901***

Customs (Prohibited Imports) Amendment (Firearms) Regulation 2013 [Select Legislative Instrument No. 168, 2013 ] [F2013L01380]  
Customs Legislation Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 167, 2013 ] [F2013L01379]

***Electronic Transactions Act 1999***

Electronic Transactions Amendment (Exemptions) Regulation 2013 [Select Legislative Instrument No. 169, 2013 ] [F2013L01389]  
Electronic Transactions Amendment (Migration Exemptions) Regulation 2013 [Select Legislative Instrument No. 170, 2013 ] [F2013L01388]

***Environment Protection and Biodiversity Conservation Act 1999***

Amendment of List of Exempt Native Specimens - New South Wales Estuary General Fishery (21/06/2013) [F2013L01419]  
Amendment of List of Exempt Native Specimens - New South Wales Ocean Hauling Fishery (21/06/2013) [F2013L01418]  
Amendment of List of Exempt Native Specimens - Torres Strait Finfish Fishery (09/07/2013) (deletion) [F2013L01396]  
Amendment of List of Exempt Native Specimens - Torres Strait Finfish Fishery (09/07/2013) (inclusion) [F2013L01395]

***Financial Management and Accountability Act 1997***

Financial Management and Accountability Amendment Regulation 2013 (No. 5) [Select Legislative Instrument No.174, 2013 ] [F2013L01386]

***Fisheries Management Act 1991***

Northern Prawn Fishery (Closures) Direction No. 165 [F2013L01413]

***Greenhouse and Energy Minimum Standards Act 2012***

Greenhouse and Energy Minimum Standards (Authorisation Requirements for Testing GEMS Products) Instrument 2013 [F2013L01398]

***Higher Education Support Act 2003***

Higher Education Support Act 2003 - Revocation of Approval as a Higher Education Provider (Australian Lutheran College) [F2013L01409]  
Higher Education Support Act 2003 - VET Provider Approval (No. 30 of 2013) [F2013L01375]  
Higher Education Support Act 2003 - VET Provider Approval (No. 31 of 2013) [F2013L01410]  
Higher Education Support Act 2003 - VET Provider Approval (No. 32 of 2013) [F2013L01377]  
Higher Education Support Act 2003 - VET Provider Approval (No. 33 of 2013) [F2013L01406]  
Higher Education Support Act 2003 - VET Provider Approval (No. 34 of 2013) [F2013L01424]

***Legislative Instruments Act 2003***

Agriculture, Fisheries and Forestry (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 159, 2013] [F2013L01404]

Customs and Border Protection (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 166, 2013] [F2013L01401]

Human Services (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 171, 2013] [F2013L01402]

Resources, Energy and Tourism (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 172, 2013] [F2013L01403]

***National Consumer Credit Protection Act 2009***

- \* ASIC Class Order [CO 13/897] [F2013L01374]

***National Disability Insurance Scheme Act 2013***

National Disability Insurance Scheme (Supports for Participants—Accounting for Compensation) Rules 2013 [F2013L01414]

***National Greenhouse and Energy Reporting Act 2007***

National Greenhouse and Energy Reporting Amendment (Streamlining Reporting) Regulation 2013 [Select Legislative Instrument No. 175, 2013] [F2013L01391]

***National Health Act 1953***

- \* Contingence Aids Payment Scheme Variation 2013 (No. 3) [F2013L01383]
- \* National Health (Residential Medication Chart) Amendment Determination 2013 (No. 1) (No. PB 52 of 2013) [F2013L01416]
- \* National Health (Subsection 84C(7)) Amendment Determination 2013 (No. 1) [F2013L01408]

***Primary Industries (Excise) Levies Act 1999***

Primary Industries (Excise) Levies Amendment (Bananas) Regulation 2013 [Select Legislative Instrument No. 158, 2013] [F2013L01390]

***Protection of the Sea (Harmful Anti-fouling Systems) Act 2006***

- \* Marine Order 98 (Marine pollution - anti-fouling systems) 2013 [F2013L01422]

***Remuneration Tribunal Act 1973***

- \* Remuneration Tribunal Determination 2013/15 - Remuneration and Allowances for Holders of Public Office including Judicial and Related Offices [F2013L01425]

***Social Security Act 1991***

Social Security (Special Disability Trust - Trust Deed, Reporting and Audit Requirements) (DEEWR) Determination 2013 (No. 1) [F2013L01421]

- \* Social Security Foreign Currency Exchange Rate Determination 2013 (No. 1) [F2013L01407]

***Tertiary Education Quality and Standards Agency Act 2011***

- \* Tertiary Education Quality and Standards Agency Act 2011 - Determination of Fees No. 2 of 2013 [F2013L01405]

***Torres Strait Fisheries Act 1984***

Torres Strait Finfish Fishery Management Plan 2013 [F2013L01394]

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## **Instruments received week ending 2 August 2013**

### ***Aged Care Act 1997***

Committee Principles 2013 [F2013L01464]

### ***Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994***

Agricultural and Veterinary Chemical Products (Collection of Levy) Amendment (2012-2013 Leivable Disposals) Regulation 2013 [Select Legislative Instrument No. 178, 2013] [F2013L01434]

### ***Agricultural and Veterinary Chemicals Legislation Amendment Act 2013***

Agricultural and Veterinary Chemicals Legislation Amendment (2013 Measures No. 2) Regulation 2013 [Select Legislative Instrument No. 179, 2013] [F2013L01458]

### ***Australian Education Act 2013***

Australian Education Regulation 2013 [Select Legislative Instrument No. 195, 2013] [F2013L01476]

### ***Australian Human Rights Commission Act 1986***

Australian Human Rights Commission Amendment (Grounds of Discrimination) Regulation 2013 [Select Legislative Instrument No. 196, 2013] [F2013L01479]

### ***Australian Prudential Regulation Authority Act 1998***

Australian Prudential Regulation Authority (confidentiality) determination No. 15 of 2013 [F2013L01449]

### ***Australian Securities and Investments Commission Act 2001***

Corporations and Australian Securities and Investments Commission Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 192, 2013] [F2013L01431]

### ***Australian Sports Anti-Doping Authority Act 2006***

Australian Sports Anti-Doping Authority Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 189, 2013] [F2013L01443]

### ***Autonomous Sanctions Act 2011***

Autonomous Sanctions Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 198, 2013] [F2013L01447]

### ***Broadcasting Services Act 1992***

Broadcasting Services (Exempt Digital Transmission Areas) Determination (No. 3) 2013 [F2013L01499]

### ***Charter of the United Nations Act 1945***

Charter of the United Nations Legislation Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 185, 2013] [F2013L01446]

### ***Civil Aviation Act 1988***

AD/BELL 204/6 Amdt 13 - Main Rotor Mast and Trunnion - Retirement Index Number (RIN) Recount/Inspection [F2013L01470]

AD/BELL 205/1 Amdt 33 - Main Rotor Mast and Trunnion - Retirement Index Number (RIN) Recount/Inspection [F2013L01472]

AD/GENERAL/86 - Darwin Inspection and Testing Service Ultrasonic Inspection [F2013L01490]

CASA 158/13 - Direction - number of cabin attendants in Boeing 737-800 series aircraft, Qantas Airways Limited [F2013L01491]

CASA 164/13 - Direction - number of cabin attendants for Fokker F70 and Fokker F100 aircraft [F2013L01489]

CASA 170/13 - Direction - number of cabin attendants (National Jet Systems) [F2013L01501]

CASA ADCX 014/13 - Revocation of Airworthiness Directives [F2013L01494]

CASA EX81/13 - Exemption - from having training and checking organisation [F2013L01493]

CASA EX86/13 - Exemption – from standard landing minima – Boeing 737 fail-passive aircraft – Virgin Australia Airlines Pty Ltd [F2013L01496]

CASA EX87/13 - Exemption - initial NVG pilot flight training prerequisites [F2013L01488]

Civil Aviation Legislation Amendment (Subpart 21.J) Regulation 2013 [Select Legislative Instrument No. 188, 2013] [F2013L01444]

- \* Civil Aviation Order 100.5 Amendment Instrument 2013 (No. 2) [F2013L01486]

### ***Coal Mining Industry (Long Service Leave) Legislation Amendment Act 2011***

Coal Mining Industry (Long Service Leave) Legislation Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 181, 2013] [F2013L01437]

### ***Corporations Act 2001***

- \* AASB 2013-4 - Amendments to Australian Accounting Standards – Novation of Derivatives and Continuation of Hedge Accounting - July 2013 [F2013L01461]  
Corporations Amendment (Compensation Arrangements) Regulation 2013 [Select Legislative Instrument No. 190, 2013] [F2013L01436]  
Corporations Amendment (Derivatives Transactions) Regulation 2013 [Select Legislative Instrument No. 191, 2013] [F2013L01440]

### ***Crimes Act 1914***

Crimes Amendment (X-ray) Regulation 2013 [Select Legislative Instrument No. 199, 2013] [F2013L01448]

### ***Currency Act 1965***

- \* Currency (Royal Australian Mint) Amendment Determination 2013 (No. 3) [F2013L01430]

### ***Customs Administration Act 1985***

Customs (Drug and Alcohol Testing) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 180, 2013] [F2013L01451]

### ***Environment Protection and Biodiversity Conservation Act 1999***

Amendment of List of Exempt Native Specimens - Northern Territory Timor Reef Fishery (21/06/2013) [F2013L01471]

### ***Extradition Act 1988***

Extradition (Vietnam) Regulation 2013 [Select Legislative Instrument No. 194, 2013] [F2013L01473]

### ***Fair Entitlements Guarantee Act 2012***

Fair Entitlements Guarantee (Indexation of Maximum Weekly Wage) Regulation 2013 [Select Legislative Instrument No. 182, 2013] [F2013L01439]

### ***Greenhouse and Energy Minimum Standards (Registration Fees) Act 2012***

Greenhouse and Energy Minimum Standards (Registration Fees) Instrument 2013 (No. 2) [F2013L01492]

### ***Greenhouse and Energy Minimum Standards Act 2012***

Greenhouse and Energy Minimum Standards (Television) Determination 2013 (No. 2) [F2013L01500]

**Health Insurance Act 1973**

Health Insurance Amendment (Midwives) Regulation 2013 [Select Legislative Instrument No. 186, 2013] [F2013L01432]

**Higher Education Support Act 2003**

- \* Amendment No. 1 to the VET Guidelines 2013 [F2013L01467]  
Higher Education Support Act 2003 - VET Provider Approval (No. 35 of 2013) [F2013L01497]

**National Health Act 1953**

- \* National Health (Collaborative arrangements for midwives) Amendment Determination 2013 [F2013L01485]  
National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2013 (No. 7) (No. PB 43 of 2013) [F2013L01453]  
National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2013 (No. 4) (No. PB 42 of 2013) [F2013L01483]  
National Health (IVF/GIFT Program) Special Arrangement Amendment Instrument 2013 (No. 1) (No. PB 44 of 2013) [F2013L01484]  
National Health (Listed drugs on F1 or F2) Amendment Determination 2013 (No. 3) (No. PB 46 of 2013) [F2013L01454]  
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 9) (No. PB 40 of 2013) [F2013L01460]  
National Health (Paraplegic and Quadriplegic Program) Special Arrangement Amendment Instrument 2013 (No. 1) (No. PB 51 of 2013) [F2013L01481]  
National Health (Pharmaceutical Benefits - Therapeutic Groups) Amendment Determination 2013 (No. 3) (PB No. 47 2013) [F2013L01455]  
National Health (Price and Special Patient Contribution) Amendment Determination 2013 (No. 4) (No. PB 41 of 2013) [F2013L01457]  
National Health Act (Pharmaceutical Benefits - Early Supply) Amendment August 2013 - specification under subsection 84AAA(2) [F2013L01456]  
National Health Act 1953 - Amendment determination under paragraph 98C(1)(b) (No. PB 49 of 2013) [F2013L01459]

**National Vocational Education and Training Regulator (Charges) Act 2012**

- \* National Vocational Education and Training Regulator (Charges) Determination 2013 (No. 1) [F2013L01468]

**Private Health Insurance Act 2007**

Private Health Insurance (Notifications Under the Premiums Reduction Scheme) Determination 2013 [F2013L01450]

**Road Safety Remuneration Act 2012**

Road Safety Remuneration Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 183, 2013] [F2013L01438]

**Sex Discrimination Act 1984**

Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Regulation 2013 [Select Legislative Instrument No. 197, 2013] [F2013L01480]

**Social Security (Administration) Act 1999**

- \* Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2013 [F2013L01466]

***Stronger Futures in the Northern Territory Act 2012***

Stronger Futures in the Northern Territory Regulation 2013 [Select Legislative Instrument No. 184, 2013] [F2013L01442]

***Terrorism Insurance Act 2003***

Terrorism Insurance Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 193, 2013] [F2013L01441]

***Tradespersons' Rights Regulation Act 1946***

Tradespersons' Rights Regulation 2013 (Select Legislative Instrument No. 187, 2013) [F2013L01463]

**Instruments received week ending 9 August 2013*****Admiralty Act 1988***

\* Admiralty Amendment Rules 2013 [Select Legislative Instrument No. 206, 2013] [F2013L01524]

***Australia Council Act 2013***

Australia Council Rule 2013 [F2013L01513]

***Broadcasting Services Act 1992***

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 10 of 2013) [F2013L01521]

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 11 of 2013) [F2013L01505]

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 12 of 2013) [F2013L01522]

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 13 of 2013) [F2013L01532]

***Civil Aviation Act 1988***

Civil Aviation Legislation Amendment (Part 117) Regulation 2013 [Select Legislative Instrument No. 222, 2013] [F2013L01539]

***Corporations Act 2001***

\* ASIC Market Integrity Rules (APX Market) 2013 [F2013L01502]

\* ASIC Market Integrity Rules (APX Market) Amendment 2013 (No. 1) [F2013L01503]

***Customs Act 1901***

Customs Amendment Regulation 2013 (No. 2) [Select Legislative Instrument No. 209, 2013] [F2013L01514]

Customs Amendment (Restricted Goods) Regulation 2013 [Select Legislative Instrument No. 210, 2013] [F2013L01517]

***Customs Administration Act 1985***

Customs Administration Amendment (Permitted Entities) Regulation 2013 [Select Legislative Instrument No. 208, 2013] [F2013L01518]

***Energy Efficiency Opportunities Act 2006***

Energy Efficiency Opportunities Amendment (Assessments and Reporting) Regulation 2013 [Select Legislative Instrument No. 227, 2013] [F2013L01526]

***Environment Protection and Biodiversity Conservation Act 1999***

Environment Protection and Biodiversity Conservation Act 1999 - section 269A - Instrument revoking and making a recovery plan (White Shark (*Carcharodon carcharias*)) (18/07/2013) [F2013L01506]

***Financial Management and Accountability Act 1997***

Financial Management and Accountability Amendment Regulation 2013 (No. 6) [Select Legislative Instrument No. 219, 2013] [F2013L01511]

Financial Management and Accountability Amendment Regulation 2013 (No. 7) [Select Legislative Instrument No. 229, 2013] [F2013L01512]

***Higher Education Support Act 2003***

- \* Amendment No. 1 to the Higher Education Provider Guidelines 2012 [F2013L01508]
- \* Amendment No. 2 to the Administration Guidelines 2012 [F2013L01510]
- \* Higher Education Support Act 2003 - VET Guidelines 2013 [F2013L01509]

***Income Tax Assessment Act 1936***

Income Tax Amendment Regulation 2013 (No. 3) [Select Legislative Instrument No. 201, 2013] [F2013L01515]

***Legislative Instruments Act 2003***

Legislative Instruments Amendment (Sunsetting Exemptions) Regulation 2013 [Select Legislative Instrument No. 212, 2013] [F2013L01537]

***Migration Act 1958***

Migration Amendment (Visa Application Charge) Regulation 2013 [Select Legislative Instrument No. 228, 2013] [F2013L01534]

***Passenger Movement Charge Collection Act 1978***

Passenger Movement Charge Collection (Recovery and Refund of Charges) Regulation 2013 [Select Legislative Instrument No. 213, 2013] [F2013L01520]

***Private Health Insurance (Council Administration Levy) Act 2003***

- \* Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 2) [F2013L01504]

***Product Stewardship Act 2011***

Product Stewardship (Televisions and Computers) Amendment (Import or Manufacture Share) Regulation 2013 [Select Legislative Instrument No. 200, 2013] [F2013L01525]

***Radiocommunications Act 1992***

Radiocommunications Amendment (Datacasting Transmitter Licence) Regulation 2013 [Select Legislative Instrument No. 218, 2013] [F2013L01538]

Radiocommunications Amendment (Cellular Mobile Repeaters Supply—Specified Particulars) Regulation 2013 [Select Legislative Instrument No. 217, 2013] [F2013L01540]

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

Superannuation and Corporations Legislation Amendment (Low Income Superannuation Contribution) Regulation 2013 [Select Legislative Instrument No 202, 2013] [F2013L01523]

***Superannuation (Unclaimed Money and Lost Members) Act 1999***

Superannuation (Unclaimed Money and Lost Members) Amendment (Prescribed Public Sector Superannuation Schemes and Other Measures) Regulation 2013 [Select Legislative Instrument No. 203, 2013] [F2013L01529]

***Therapeutic Goods Act 1989***

Therapeutic Goods Amendment (Advisory Committees) Regulation 2013 [Select Legislative Instrument No. 220, 2013] [F2013L01516]

***Trans-Tasman Mutual Recognition Act 1997***

Trans-Tasman Mutual Recognition Legislation Amendment (Tobacco Plain Packaging) Regulation 2013 [Select Legislative Instrument No. 225, 2013] [F2013L01527]

***Wine Australia Corporation Act 1980***

Wine Australia Corporation (Labelling of Grape Products) Amendment Regulation 2013 [Select Legislative Instrument No. 205, 2013] [F2013L01519]

**Instruments received week ending 16 August 2013*****Airspace Act 2007***

Airspace Amendment Regulation 2013 [Select Legislative Instrument No. 221, 2013] [F2013L01547]

***Annual Appropriation Acts***

Instrument to Reduce Appropriations (No. 1 of 2013-2014) [F2013L01569]

***Broadcasting Services Act 1992***

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 14 of 2013) [F2013L01548]  
Broadcasting Services (Regional Commercial Radio) Regulation 2013 [Select Legislative Instrument No. 216, 2013] [F2013L01546]

***Carbon Credits (Carbon Farming Initiative) Act 2011***

Carbon Credits (Carbon Farming Initiative) (Reducing Greenhouse Gas Emissions by Feeding Dietary Additives to Milking Cows) Methodology Determination 2013 [F2013L01554]  
Carbon Credits (Carbon Farming Initiative) Amendment (Additionality Test and Other Measures) Regulation 2013 [Select Legislative Instrument No. 223, 2013] [F2013L01544]

***Civil Aviation Act 1998***

CASA ADCX 015/13 - Revocation of Airworthiness Directives [F2013L01566]

***Corporations Act 2001***

- \* ASIC Market Integrity Rules (ASX 24 Market) Amendment 2013 (No. 2) [F2013L01559]
- \* ASIC Market Integrity Rules (ASX Market) Amendment 2013 (No. 2) [F2013L01555]
- \* ASIC Market Integrity Rules (Chi-X Australia Market) Amendment 2013 (No. 1) [F2013L01560]
- \* ASIC Market Integrity Rules (Competition in Exchange Markets) Amendment 2013 (No. 2) [F2013L01558]

***Currency Act 1965***

Currency (Perth Mint) Determination 2013 (No. 3) [F2013L01543]

***Environment Protection and Biodiversity Conservation Act 1999***

Inclusion of ecological communities in the list of threatened ecological communities under section 181 of the Environment Protection and Biodiversity Conservation Act 1999 - Eyre Peninsula Blue Gum (*Eucalyptus petiolaris*) Woodland (EC 124) (05/08/2013) [F2013L01565]

Inclusion of ecological communities in the list of threatened ecological communities under section 181 of the Environment Protection and Biodiversity Conservation Act 1999 - River Murray and associated wetlands, floodplains and groundwater systems, from the junction with the Darling River to the sea (EC 92) (05/08/2013) [F2013L01562]

Inclusion of ecological communities in the list of threatened ecological communities under section 181 of the Environment Protection and Biodiversity Conservation Act 1999 - Subtropical and Temperate Coastal Saltmarsh (EC 118) (05/08/2013) [F2013L01563]

Inclusion of ecological communities in the list of threatened ecological communities under section 181 of the Environment Protection and Biodiversity Conservation Act 1999 - Wetlands and inner floodplains of the Macquarie Marshes (EC 93) (05/08/2013) [F2013L01564]

### ***Fisheries Management Act 1991***

Bass Strait Central Zone Scallop Fishery Total Allowable Catch Determination 2013 [F2013L01549]

Fisheries Management (International Agreements) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 204, 2013] [F2013L01541]

### ***Higher Education Support Act 2003***

Higher Education Support Act 2003 - VET Provider Approval (No. 36 of 2013) [F2013L01550]

### ***Legislative Instruments Act 2003***

Broadband, Communications and the Digital Economy (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 207, 2013] [F2013L01530]

Industry, Innovation, Climate Change, Science, Research and Tertiary Education (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 211, 2013] [F2013L01531]

Prime Minister and Cabinet (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 214, 2013] [F2013L01528]

Treasury (Spent and Redundant Instruments) Repeal Regulation 2013 [Select Legislative Instrument No. 215, 2013] [F2013L01535]

### ***Motor Vehicle Standards Act 1989***

Vehicle Standard (Australian Design Rule 35/04 – Commercial Vehicle Brake Systems) 2013 [F2013L01570]

### ***Mutual Recognition Act 1992***

Mutual Recognition (Amendment of Act—Container Deposit Scheme) Regulation 2013 [Select Legislative Instrument No. 224, 2013] [F2013L01542]

### ***National Health Act 1953***

- \* National Health (Continued Dispensing) Amendment Determination 2013 (No. 1) (No. PB 45 of 2013) [F2013L01561]

### ***Navigation Act 2012***

Marine Order 64 (Vessel traffic services) 2013 [F2013L01545]

### ***Northern Territory (Self-Government) Act 1978***

Northern Territory (Self-Government) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 226, 2013] [F2013L01572]

### ***Safety, Rehabilitation and Compensation Act 1988***

Safety, Rehabilitation and Compensation (Declared Places - Afghanistan and Iraq) Notice 2013 [F2013L01573]

### ***Social Security (Administration) Act 1999***

- \* Social Security (Administration) (Public Interest Certificate Guidelines) (DEEWR) Determination 2013 [F2013L01553]

### ***Student Assistance Act 1973***

Student Assistance (Public Interest Certificate Guidelines) Determination 2013 [F2013L01556]

***Superannuation Act 1990***

Thirty-Eighth Amendment of the Public Sector Superannuation Scheme Trust Deed  
[F2013L01568]

***Water Efficiency Labelling and Standards (Registration Fees) Act 2013***

Water Efficiency Labelling and Standards (Registration Fees) Determination 2013 [2013L01575]

***Water Efficiency Labelling and Standards Act 2005***

- \* Water Efficiency Labelling and Standards Determination 2013 (No. 2) [F2013L01574]

**Instruments received week ending 23 August 2013*****A New Tax System (Goods and Services Tax) Act 1999***

A New Tax System (Goods and Services Tax) Waiver of Adjustment Note Requirement  
(Decreasing Adjustments Relating to Reimbursements of an Employee etc) Legislative Instrument  
2013 [F2013L01600]

A New Tax System (Goods and Services Tax) Waiver of Adjustment Note Requirement  
(Decreasing Adjustments Relating to Supplies made by or to a Partnership) Legislative Instrument  
2013 [F2013L01601]

- \* Goods and Services Tax: Adjustment Note Information Requirements Amendment Determination  
2013 [F2013L01602]

***Australian Prudential Regulation Authority Act 1998***

Australian Prudential Regulation Authority (confidentiality) determination No. 16 of 2013  
[F2013L01577]

***Civil Aviation Act 1988***

AD/TSA-600/38 Amdt 2 - Fatigue Critical Components - Retirement Lives [F2013L01597]  
CASA ADCX 016/13 - Revocation of Airworthiness Directives [F2013L01596]

***Competition and Consumer Act 2010***

Competition and Consumer Act 2010 - Consumer Protection Notice No. 5 of 2013 - Extension of  
the Ban Period for the Interim Ban on Certain Consumer Goods Containing Synthetic Drug  
Substances [F2013L01584]

***Consular Privileges and Immunities Act 1972***

- \* Consular Privileges and Immunities (Indirect Tax Concession Scheme) Amendment  
Determination 2013 (No. 1) [F2013L01604]

***Corporations Act 2001***

ASIC Class Order [CO 13/1050] [F2013L01613]

- \* ASIC Class Order [CO 13/1051] [F2013L01614]  
ASIC Class Rule Waiver [CW 13/972] [F2013L01603]

***Currency Act 1965***

Currency (Perth Mint) Determination 2013 (No. 4) [F2013L01583]

***Defence Act 1903***

- \* Defence Determination 2013/33, Reserve employer support - amendment
- \* Defence Determination 2013/34, Resident child carer  
Defence Determination 2013/35, Short-term duty overseas travel, post indexes and hardship posts  
– amendment

Defence Determination 2013/36, Part-time leave without pay - amendment  
Defence Determination 2013/37, Purchased recreation leave  
Defence Determination 2013/38, Post indexes and approved clubs - amendment  
Defence Determination 2013/39, Travelling allowance - amendment  
Defence Determination 2013/40, District allowance – amendment  
Defence Determination 2013/41, Star rank officers – amendment  
Defence Determination 2013/42, Travelling allowance - amendment  
Defence Determination 2013/43, Post indexes – amendment

#### ***Diplomatic Privileges and Immunities Act 1967***

- \* Diplomatic Privileges and Immunities (Indirect Tax Concession Scheme) Amendment Determination 2013 (No. 1) [F2013L01605]

#### ***Fisheries Management Act 1991***

Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 1 2013 [F2013L01588]  
Fisheries Management (Bass Strait Central Zone Scallop Fishery Management Plan 2002)  
Temporary Order 2013 No. 1 [F2013L01582]

#### ***Higher Education Support Act 2003***

Higher Education Support Act 2003 - VET Provider Approval (No. 37 of 2013) [F2013L01611]  
Higher Education Support Act 2003 - VET Provider Approval (No. 38 of 2013) [F2013L01590]  
Higher Education Support Act 2003 - VET Provider Approval (No. 39 of 2013) [F2013L01592]  
Higher Education Support Act 2003 - VET Provider Approval (No. 40 of 2013) [F2013L01612]

#### ***National Health Act 1953***

National Health (Listed drugs on F1 or F2) Amendment Determination 2013 (No. 4) (No. PB 58 of 2013) [F2013L01585]  
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 10) (No. PB 53 of 2013) [F2013L01580]  
National Health (Price and Special Patient Contribution) Amendment Determination 2013 (No. 5) (No. PB 54 of 2013) [F2013L01579]  
National Health (Weighted average disclosed price - supplementary disclosure cycle B) Determination 2013 (No. PB 55 of 2013) [F2013L01593]  
National Health Act (Pharmaceutical Benefits - Early Supply) Amendment September 2013 - specification under subsection 84AAA(2) (No. PB 60 of 2013) [F2013L01581]  
National Health Act 1953 - Amendment determination under paragraph 98C(1)(b) (No. PB 59 of 2013) [F2013L01578]

#### ***Navigation Act 2012***

- \* Marine Order 11 (Living and working conditions on vessels) Amendment 2013 (No. 1) [F2013L01589]

#### ***Private Health Insurance Act 2007***

- \* Lodgment of Private Health Insurance Information in Accordance with the Private Health Insurance Act 2007 - August 2013 [F2013L01587]
- \* Private Health Insurance (Prostheses) Rules 2013 (No. 1) [F2013L01576]

#### ***Radiocommunications Act 1992***

Radiocommunications (Spectrum Access Charges — 2.5 GHz Mid-band Gap) Determination 2013 [F2013L01591]

#### ***Remuneration Tribunal Act 1973***

- \* Remuneration Tribunal Determination 2013/16 - Official Travel by Office Holders [F2013L01606]

***Social Security Act 1991***

Social Security (Personal Care Support - ACT Government Enhanced Service Offer) (DEEWR) Determination 2013 [F2013L01598]

Social Security (Personal Care Support - ACT Government Enhanced Service Offer) (DIICCSRTE) Determination 2013 [F2013L01610]

**Instruments received week ending 30 August 2013*****Australian Prudential Regulation Authority Act 1998***

Australian Prudential Regulation Authority (confidentiality) determination No. 17 of 2013 [F2013L01619]

Australian Prudential Regulation Authority (confidentiality) determination No. 18 of 2013 [F2013L01634]

***Civil Aviation Act 1988***

CASA 181/13 - Directions under subregulation 235(2) relating to landing weight and landing distance required [F2013L01629]

CASA 186/13 - Instructions — GNSS primary means navigation (A330 and B737NG aircraft) [F2013L01627]

CASA 187/13 - Instructions — GNSS primary means navigation (B737NG and B777-300ER aircraft) [F2013L01626]

- \* CASA 165/13 - Amendment of instrument CASA 125/09 — Drug and alcohol testing by CASA under Subpart 99.C of CASR 1998 [F2013L01616]

CASA ADCX 017/13 - Revocation of Airworthiness Directives [F2013L01637]

CASA EX90/13 - Exemption — recency requirements for night flying (Virgin Australia Airlines Pty Ltd) [F2013L01628]

***Corporations Act 2001***

- \* AASB 2013-5 - Amendments to Australian Accounting Standards – Investment Entities - August 2013 [F2013L01623]

- \* ASIC Class Order [CO 13/1026] [F2013L01624]

***Currency Act 1965***

Currency (Royal Australian Mint) Determination 2013 (No. 4) [F2013L01617]

***Environment Protection and Biodiversity Conservation Act 1999***

Amendment of List of Exempt Native Specimens - Queensland Gulf of Carpentaria Line Fishery (22/08/2013) [F2013L01633]

Amendment of List of Exempt Native Specimens - South Australian (SA) Abalone Fishery (21/08/2013) [F2013L01632]

***Higher Education Support Act 2003***

Higher Education Provider Approval No. 4 of 2013 [F2013L01641]

- \* Higher Education Support Act 2003 - Other Grants Guidelines (Education) 2012 - Amendment No. 2 [F2013L01622]

Higher Education Support Act 2003 - VET Provider Approval (No. 41 of 2013) [F2013L01615]

***National Health Act 1953***

National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2013 (No. 8) (No. PB 57 of 2013) [F2013L01631]

National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2013 (No. 5) (No. PB 56 of 2013) [F2013L01630]

***Private Health Insurance (Council Administration Levy) Act 2003***

- \* Private Health Insurance (Council Administration Levy) Amendment Rules 2013 (No. 3) [F2013L01621]

***Remuneration Tribunal Act 1973***

- \* Remuneration Tribunal Determination 2013/18 - Remuneration and Allowances for Holders of Public Office [F2013L01620]

***Social Security Act 1991***

Social Security (Personal Care Support – ACT Government Enhanced Service Offer) (FaHCSIA) Determination 2013 [F2013L01635]  
Social Security (Personal Care Support - Tasmanian Self Directed Funding Pilot) (DEEWR) Determination 2013 (No. 1) [F2013L01636]

***Veterans' Entitlements Act 1986***

Statement of Principles concerning asbestosis No. 55 of 2013 [F2013L01643]  
Statement of Principles concerning asbestosis No. 56 of 2013 [F2013L01644]  
Statement of Principles concerning fibrosing interstitial lung disease No. 53 of 2013 [F2013L01640]  
Statement of Principles concerning fibrosing interstitial lung disease No. 54 of 2013 [F2013L01642]  
Statement of Principles concerning guillain-barre syndrome No. 59 of 2013 [F2013L01647]  
Statement of Principles concerning guillain-barre syndrome No. 60 of 2013 [F2013L01648]  
Statement of Principles concerning malignant neoplasm of the anus and anal canal No. 51 of 2013 [F2013L01638]  
Statement of Principles concerning malignant neoplasm of the anus and anal canal No. 52 of 2013 [F2013L01639]  
Statement of Principles concerning sudden unexplained death No. 57 of 2013 [F2013L01645]  
Statement of Principles concerning sudden unexplained death No. 58 of 2013 [F2013L01646]

**Instruments received week ending 6 September 2013*****Civil Aviation Act 1988***

- AD/GA8/7 - Fuel System Ventilation and Drainage Modification [F2013L01663]
- \* AD/X-TS/1 Amdt 1 - Exhaust System Inspection - Heat Exchanger [F2013L01664]  
CASA EX96/13 - Exemption — use of ADS-B in Aerolineas Argentinas aircraft LV-CSF [F2013L01662]

***Navigation Act 2012***

- \* Marine Order 97 (Marine pollution prevention — air pollution) 2013 [F2013L01659]

***Social Security Act 1991***

Social Security (Personal Care Support - ACT Government 'My Choice') (FaHCSIA) Determination 2013 [F2013L01667]

***Telecommunications (Numbering Charges) Act 1997***

Telecommunications (Annual Charge) Amendment Determination 2013 (No. 1) [F2013L01665]

***Telecommunications Act 1997***

Telecommunications Numbering Plan Variation 2013 (No. 1) [F2013L01666]

***Veterans' Entitlements Act 1986***

- Amendment of Statement of Principles concerning lumbar spondylosis No. 69 of 2013 [F2013L01657]  
 Amendment of Statement of Principles concerning lumbar spondylosis No. 70 of 2013 [F2013L01658]  
 Statement of Principles concerning gastro-oesophageal reflux disease No. 65 of 2013 [F2013L01653]  
 Statement of Principles concerning gastro-oesophageal reflux disease No. 66 of 2013 [F2013L01654]  
 Statement of Principles concerning hypertension No. 63 of 2013 [F2013L01652]  
 Statement of Principles concerning hypertension No. 64 of 2013 [F2013L01651]  
 Statement of Principles concerning malignant neoplasm of the larynx No. 61 of 2013 [F2013L01649]  
 Statement of Principles concerning malignant neoplasm of the larynx No. 62 of 2013 [F2013L01650]  
 Statement of Principles concerning motor neurone disease No. 67 of 2013 [F2013L01655]  
 Statement of Principles concerning motor neurone disease No. 68 of 2013 [F2013L01656]

**Instruments received week ending 13 September 2013*****Civil Aviation Act 1988***

- CASA 192/13 - Direction – parallel runway operations at Sydney (Kingsford Smith) Airport [F2013L01671]  
 CASA EX95/13 - Exemption — CASR Part 99 DAMP requirements for CAR 30 or Part 145 organisations overseas [F2013L01675]  
 CASA EX97/13 - Revocation of exemption — CASR Part 99 DAMP requirements for CAR 30 organisations overseas [F2013L01676]  
 \* AD/HS 125/161 Amdt 1 - Oxygen System [F2013L01679]

***Environment Protection and Biodiversity Conservation Act 1999***

- Amendment of List of Exempt Native Specimens - Australian Kelp Products Pty Ltd (06/09/2013) (inclusion) [F2013L01687]

***Greenhouse and Energy Minimum Standards Act 2012***

- Greenhouse and Energy Minimum Standards (Air Conditioners and Heat Pumps) Determination 2013 [F2013L01672]

***Higher Education Support Act 2003***

- \* Higher Education Support Act 2003 - OS-HELP Guidelines 2013 [F2013L01680]  
 Higher Education Support Act 2003 - VET Provider Approval (No. 42 of 2013) [F2013L01673]  
 Higher Education Support Act 2003 - VET Provider Approval (No. 43 of 2013) [F2013L01674]  
 Higher Education Support Act 2003 - VET Provider Approval (No. 44 of 2013) [F2013L01685]

***Judiciary Act 1903***

- High Court of Australia Rule of Court (02/09/2013) [F2013L01678]

**Migration Act 1958**

- \* Migration (United Nations Security Council Resolutions) Regulations 2007 - Specification under regulation 4 definition of 'resolution' - Specification of United Nations Security Council Resolutions - September 2013 [F2013L01686]

**National Health Act 1953**

National Health (Price and Special Patient Contribution) Amendment Determination 2013 (No. 6) [F2013L01681]  
National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 11) (No. PB 61 of 2013) [F2013L01682]

**Private Health Insurance Act 2007**

- \* Private Health Insurance (Health Benefits Fund Administration) Amendment Rule 2013 (No. 1) [F2013L01684]
- \* Private Health Insurance (Insurer Obligations) Amendment Rule 2013 (No. 1) [F2013L01683]

**Social Security Act 1991**

Social Security (Personal Care Support - ACT Government 'My Choice') (DIICCSRTE) Determination 2013 [F2013L01670]  
Social Security (Personal Care Support - ACT Government 'My Choice') (DEEWR) Determination 2013 [F2013L01677]

**Instruments received week ending 20 September 2013****Aged Care Act 1997**

- \* Aged Care (Residential Care Subsidy—Amount of Accommodation Supplement) Determination 2013 (No. 2) [F2013L01715]
- \* Aged Care (Residential Care Subsidy—Amount of Concessional Resident Supplement) Determination 2013 (No. 2) [F2013L01713]
- \* Aged Care (Residential Care Subsidy—Amount of Pensioner Supplement) Determination 2013 (No. 2) [F2013L01720]
- \* Aged Care (Residential Care Subsidy - Amount of Respite Supplement) Determination 2013 (No. 2) [F2013L01722]
- \* Aged Care (Residential Care Subsidy - Amount of Transitional Accommodation Supplement) Determination 2013 (No. 2) [F2013L01718]
- \* Aged Care (Residential Care Subsidy - Amount of Transitional Supplement) Determination 2013 (No. 2) [F2013L01721]
- \* User Rights Amendment (September Indexation Measures) Principle 2013 [F2013L01717]

**Civil Aviation Act 1988**

A&ESB 12/3050 - Approval - means of compliance with Airworthiness Directive for Grob G 109 and G 109 B aircraft [F2013L01704]  
AD/A320/3 Amdt 1 - Automatic Flight Control System [F2013L01691]  
AD/A320/9 Amdt 1 - Fuel Probes [F2013L01690]  
AD/A320/24 Amdt 1 - Pitot Probe Hoses [F2013L01693]  
AD/A320/27 Amdt 1 - Nose Wheel Steering Control [F2013L01692]  
AD/B737/18 Amdt 2 – Take-Off Warning [F2013L01703]  
AD/B737/294 Amdt 2 - Flightcrew Oxygen Masks [F2013L01697]  
AD/B767/145 Amdt 2 - Airworthiness Limitations F2013L01698]  
CASA ADCX 018/13 - Revocation of Airworthiness Directives [F2013L01700]  
CASA EX99/13 - Exemption – from standard take-off and landing minima – Vietnam Airlines [F2013L01688]

- \* Civil Aviation Order 40.3.0 Amendment Instrument 2013 (No. 2) [F2013L01712]
- \* Civil Aviation Order 100.28 Amendment Instrument 2013 (No. 1) [F2013L01711]

### ***Competition and Consumer Act 2010***

Competition and Consumer Act 2010 - Consumer Protection Notice No. 7 of 2013 - Second Extension to the Interim Ban on Certain Consumer Goods Containing Synthetic Drug Substances [F2013L01689]

### ***Corporations Act 2001***

ASIC Regulated Foreign Markets Determination [OTC DET 13/1145] [F2013L01710]

### ***Defence Act 1903***

Defence (Contracted Defence Security Guards—Training And Qualification Requirements) Determination 2013 [F2013L01719]

### ***Federal Court of Australia Act 1976***

Federal Court (Bankruptcy) Amendment (Federal Circuit Court Name Changes) Rules 2013 [F2013L01708]

### ***Fisheries Management Act 1991***

Southern and Eastern Scalefish and Shark Fishery (Closures) Direction No. 9 2013 [F2013L01702]  
Southern and Eastern Scalefish and Shark Fishery (Closures) Direction No. 10 2013 [F2013L01701]

### ***Higher Education Support Act 2003***

Higher Education Support Act 2003 - VET Provider Approval (No. 45 of 2013) [F2013L01695]  
Higher Education Support Act 2003 - VET Provider Approval (No. 46 of 2013) [F2013L01705]

### ***National Health Act 1953***

National Health (Listed drugs on F1 or F2) Amendment Determination 2013 (No. 5) (No. PB 68 of 2013) [F2013L01707]  
National Health Act 1953 - Amendment Determination under section 84AH (2013) (No. 1) (No. PB 65 of 2013) [F2013L01706]

### ***Private Health Insurance Act 2007***

- \* Private Health Insurance (Benefit Requirements) Amendment Rules 2013 (No. 4) [F2013L01714]
- \* Private Health Insurance (Complying Product) Amendment Rules 2013 (No. 3) [F2013L01716]

### ***Radiocommunications Act 1992***

Radiocommunications (Short Range Devices) Amendment Standard 2013 (No. 2) [F2013L01694]  
Radiocommunications Devices (Compliance Labelling) Amendment Notice 2013 (No. 2) [F2013L01696]

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## **Instruments received week ending 27 September 2013**

### ***Anti-Money Laundering and Counter-Terrorism Financing Act 2006***

Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2013 (No. 2) [F2013L01734]

### ***Australian Prudential Regulation Authority Act 1998***

Australian Prudential Regulation Authority (confidentiality) determination No. 19 of 2013 [F2013L01733]

### ***Civil Aviation Act 1988***

CASA EX66/13 - Exemption, permission and direction — helicopter search and rescue operations and training for such operations [F2013L01724]

### ***Financial Sector (Collection of Data) Act 2001***

Financial Sector (Collection of Data) (reporting standard) determination No. 92 of 2013 - SRS 702.0 - Investment Performance [F2013L01739]

Financial Sector (Collection of Data) (reporting standard) determination No. 98 of 2013 - SRS 700.0 - Product Dashboard [F2013L01740]

Financial Sector (Collection of Data) (reporting standard) determination No. 99 of 2013 - SRS 703.0 - Fees Disclosed [F2013L01741]

### ***Health Insurance Act 1973***

\* Health Insurance Act 1973 - Amendment Declaration of Quality Assurance Activity QAA 4/2011 under section 124X (QAA 2/2013) [F2013L01725]

Health Insurance (Botulinum Toxin for Urinary Incontinence due to Neurogenic Detrusor Overactivity) Determination 2013 [F2013L01726]

### ***Higher Education Support Act 2003***

Higher Education Support Act 2003 - VET Provider Approval (No. 47 of 2013) [F2013L01729]

Higher Education Support Act 2003 - VET Provider Approval (No. 48 of 2013) [F2013L01723]

### ***National Health Act 1953***

National Health (Botulinum Toxin Program) Special Arrangement Amendment Instrument 2013 (No. 1) (No. PB 67 of 2013) [F2013L01737]

National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2013 (No. 9) (No. PB 64 of 2013) [F2013L01735]

National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2013 (No. 6) (No. PB 63 of 2013) [F2013L01736]

National Health (Paraplegic and Quadriplegic Program) Special Arrangement Amendment Instrument 2013 (No. 2) (No. PB 66 of 2013) [F2013L01738]

### ***Private Health Insurance Act 2007***

\* Private Health Insurance (Complying Product) Amendment Rules 2013 (No. 4) [F2013L01742]

### ***Remuneration Tribunal Act 1973***

\* Remuneration Tribunal Determination 2013/20 - Remuneration and Allowances for Holders of Public Office [F2013L01743]

***Telecommunications Act 1997***

- \* A Code of Access to Telecommunications Transmission Towers, Sites of Towers and Underground Facilities Variation 2013 [F2013L01732]

**Instruments received week ending 4 October 2013*****Aged Care Act 1997***

- \* Aged Care Subsidies Amendment (Workforce Supplement) Determination 2013 [F2013L01749]
- \* Residential Care Subsidy Amendment (Workforce Supplement) Principle 2013 [F2013L01748]

***Civil Aviation Act 1988***

- AD/B737/346 Amdt 1 — Cabin Altitude Warning Takeoff Briefing [F2013L01751]
- AD/B737/42 Amdt 1 — Escape Slide Release Cable [F2013L01750]
- CASA 197/13 - Maintenance on warbird and historic and replica aircraft (WHR) - directions and licence condition [F2013L01747]
- CASA 205/13 - Directions under subregulation 235(2) relating to landing weight and landing distance required [F2013L01757]
- CASA ADCX 019/13 - Revocation of Airworthiness Directives [F2013L01752]
- CASA EX108/13 - Exemption — from holding an air traffic control licence [F2013L01754]
- \* Civil Aviation Order 104.0 Amendment Instrument 2013 (No. 1) [F2013L01746]
- \* Manual of Standards Part 139 Amendment Instrument 2013 (No. 1) [F2013L01756]

***Defence Act 1903***

- Defence (Security Authorised Members—Training and Qualification Requirements) Determination 2013 [F2013L01759]
- Defence Determination 2013/44, Short-term travel costs and meal allowance - amendment
- Defence Determination 2013/45, Administration of salary, allowances and contributions – amendment
- Defence Determination 2013/46, Post indexes – amendment
- Defence Determination 2013/47, Member without dependants and member with dependants (unaccompanied) choice accommodation – amendment

***Environment Protection and Biodiversity Conservation Act 1999***

- Amendment of List of Exempt Native Specimens - New South Wales Ocean Trawl Fishery (13/09/2013) [F2013L01744]

***Higher Education Support Act 2003***

- Higher Education Support Act 2003 - VET Provider Approval (No. 49 of 2013) [F2013L01758]
- Higher Education Support Act 2003 - VET Provider Approval (No. 50 of 2013) [F2013L01760]

***Private Health Insurance Act 2007***

- \* Private Health Insurance (Benefit Requirements) Amendment Rules 2013 (No. 5) [F2013L01753]

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## **Instruments received week ending 11 October 2013**

### ***Civil Aviation Act 1988***

- CASA 190/13 - Approval and directions - operations without an approved digital flight data recorder system [F2013L01763]
- CASA 213/13 - Directions under subregulation 235(2) relating to landing weight and landing distance required [F2013L01762]
- CASA EX103/13 - Exemption – from standard take-off and landing minima – Nippon Cargo Airlines Co. Ltd [F2013L01771]

### ***Corporations Act 2001***

- \* ASIC Class Order [CO 13/854] [F2013L01766]
- \* ASIC Class Order [CO 13/1128] [F2013L01761]

### ***Environment Protection and Biodiversity Conservation Act 1999***

- Amendment to the list of threatened species under section 178 of the Environment Protection and Biodiversity Conservation Act 1999 (156) (25/09/2013) [F2013L01764]

### ***Greenhouse and Energy Minimum Standards Act 2012***

- Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - Beacon Lighting (Wholesales) Pty Ltd [F2013L01772]
- Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - Brilliant Lighting Pty Ltd [F2013L01770]
- Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - Crompton Lighting Pty Ltd [F2013L01769]
- Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - HPM Legrand [F2013L01767]
- Instrument under Section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - IPD Group Limited [F2013L01765]
- Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - OSRAM Australia Pty Ltd [F2013L01774]
- Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - Philips Lighting [F2013L01775]
- Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - Sylvania Lighting Australia [F2013L01773]

### ***Higher Education Support Act 2003***

- Higher Education Provider Approval No. 5 of 2013 [F2013L01776]
- Higher Education Support Act 2003 - VET Provider Approval (No. 51 of 2013) [F2013L01778]

### ***National Health Act 1953***

- National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 12) (No. PB 69 of 2013) [F2013L01768]

### ***Schools Assistance Act 2008***

- Schools Assistance Amendment (2013 Measures No. 1) Regulation 2013 [Select Legislative Instrument No. 231, 2013] [F2013L01777]

## Instruments received week ending 18 October 2013

### *Civil Aviation Act 1988*

AD/TSA-600/39 Amdt 3 - Main Cabin Upper Door [F2013L01791]

### *Higher Education Support Act 2003*

Higher Education Support Act 2003 - VET Provider Approval (No. 52 of 2013)  
[F2013L01779]

### *Telecommunications (Interception and Access) Act 1979*

Telecommunications (Interception and Access) (Emergency Service Facilities — New South Wales) Instrument 2013 [F2013L01786]

Telecommunications (Interception and Access) (Emergency Service Facilities — Northern Territory) Instrument 2013 [F2013L01789]

Telecommunications (Interception and Access) (Emergency Service Facilities — Queensland) Instrument 2013 [F2013L01790]

Telecommunications (Interception and Access) (Emergency Service Facilities — South Australia) Instrument 2013 [F2013L01788]

Telecommunications (Interception and Access) (Emergency Service Facilities — Western Australia) Instrument 2013 [F2013L01787]

### *Telecommunications Act 1997*

Telecommunications Service Provider (Premium Services) Revocation Determination 2013  
[F2013L01783]

## Instruments received week ending 25 October 2013

### *Australian Prudential Regulation Authority Act 1998*

Australian Prudential Regulation Authority (confidentiality) determination No. 20 of 2013  
[F2013L01829]

### *Civil Aviation Act 1988*

AD/FSM/31 Arndt 3 - Fuel Injection Servo Plugs [F2013L01792]

CASA 220/13 - Instructions - GNSS primary means navigation (B787-8 aircraft)  
(F2013L01797)

CASA ADCX 020/13 - Revocation of Airworthiness Directive [F2013L01828]

CASA ADCX 021/13 -Revocation of Airworthiness Directives [F2013L01823]

CASA EX1 06/ 13 - Exemption - requirement to wear seat belt and safety harness  
[F2013L01805]

CASA EX1 12/ 13 - Exemption of DAMP organisations for collection and screening of  
specimens (F2013L01806)

### *Corporations Act 2001*

- \* AASB 2013-6 - Amendments to AASB 136 arising from Reduced Disclosure Requirements - September 2013 [F2013L01815]
- \* AASB 2013-7 - Amendments to AASB 1038 arising from AASB 10 in Relation to Consolidation and Interests of Policyholders - October 2013 [F2013L01816]
- ASIC Class Order [CO 13/721] (F2013L01795)
- ASIC Class Order [CO 13/1200] [F2013L01794]

***Environment Protection and Biodiversity Conservation Act 1999***

Amendment of List of Exempt Native Specimens - Australian Kelp Products Pty Ltd (06/09/2013) (deletion) [F2013L01793]  
Amendment of List of Exempt Native Specimens - Western Australian Pearl Oyster Fishery (16/10/2013) [F2013L01807]

***Financial Management and Accountability Act 1997***

Financial Management and Accountability Amendment Regulation 2013 (No. 8) [Select Legislative Instrument No. 232, 2013] [F2013L01819]

***Fisheries Management Act 1991***

- \* Logbook Determination (Particular Fisheries) 2013 [F2013L01821]  
Southern and Eastern Scalefish and Shark Fishery (Closures) Direction No. 11 2013 [F2013L01827]

***Freedom of Information Act 1982***

Disclosure Log Determination No. 2013-1 (Exempt Documents) [F2013L01798]

***Greenhouse and Energy Minimum Standards Act 2012***

Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - GE Lighting Australia Pty Ltd [F2013L01803]  
Instrument under section 37 of the Greenhouse and Energy Minimum Standards Act 2012 - Mirabella International Pty Ltd [F2013L01804]

***Health Insurance Act 1973***

- \* Health Insurance (Cleft Lip and Cleft Palate Services) Amendment Determination 2013 [F2013L01825]

***Higher Education Support Act 2003***

Higher Education Support Act 2003 - VET Provider Approval (No. 53 of 2013) [F2013L01818]  
Higher Education Support Act 2003 - VET Provider Approval (No. 54 of 2013) [F2013L01820]

***Migration Act 1958***

Migration Amendment (Skills Assessment) Regulation 2013 [Select Legislative Instrument No. 233, 2013] [F2013L01817]  
Migration Amendment (Temporary Protection Visas) Regulation 2013 [Select Legislative Instrument No. 234, 2013] [F2013L01811]

***National Health Act 1953***

National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2013 (No. 10) (No. PB 71 of 2013) [F2013L01813]  
National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2013 (No. 7) (No. PB 70 of 2013) [F2013L01812]  
National Health (Listed drugs on F1 or F2) Amendment Determination 2013 (No. 6) (No. PB 73 of 2013) [F2013L01800]

***Patents Act 1990***

- \* Code of Conduct for Patent and Trade Marks Attorneys 2013 [F2013L01822]

***Social Security Act 1991***

Social Security (Declared Overseas Terrorist Act) Declaration 2013 [F2013L01801]  
Social Security (Declared Overseas Terrorist Act) Declaration 2013 – Jakarta [F2013L01830]  
Social Security (Declared Overseas Terrorist Act) Declaration 2013 – Nairobi [F2013L01799]

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

- \* ASIC Class Order [CO 13/1275] [F2013L01796]

***Telecommunications Act 1997***

- Carrier Licence Conditions (OptiComm Co Pty Ltd) Declaration 2013 [F2013L01810]
- Carrier Licence Conditions (Pivot Pty Ltd) Declaration 2013 [F2013L01809]

**Instruments received week ending 1 November 2013*****Civil Aviation Act 1988***

- AD/A320/27 Amdt 2 - Nose Wheel Steering Control [F2013L01835]
- CASA EX113/13 - Exemption - temporary relief from requirement to carry serviceable ADS-B transmitting equipment when operating in defined exempted airspace [F2013L01837]

***Defence Force Discipline Act 1982***

- \* Court Martial and Defence Force Magistrate Amendment (Travel Expenses) Rules 2013 [Select Legislative Instrument 2013 No. 235] [F2013L01832]

***Environment Protection and Biodiversity Conservation Act 1999***

- Amendment - List of Specimens Taken to be suitable for Live Import (16/10/2013) [EPBC/s.303EC/SSLI/Amend/061] [F2013L01831]
- Amendment of List of Exempt Native Specimens - South Australian Rock Lobster Fishery (23/10/2013) [EPBC303DC/SFS/2013/49] [F2013L01855]

***Fisheries Management Act 1991***

- Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 2 2013 [F2013L01833]
- Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 3 2013 [F2013L01861]
- \* Southern Bluefin Tuna Fishery Management Plan 1995 - Southern Bluefin Tuna Fishery Fishing Season and Australia's National Catch Allocation Determination 2013-14 [F2013L01849]
- Southern Bluefin Tuna Fishery Overcatch and Undercatch Determination 2014 [F2013L01859]
- Southern Bluefin Tuna Fishery Transfer Weighing Determination 2013 [F2013L01851]
- Southern Squid Jig Fishery Total Allowable Effort Determination 2013 [F2013L01852]
- Western Tuna and Billfish Fishery Total Allowable Commercial Catch Determination 2014 [F2013L01857]

***Health Insurance Act 1973***

- Health Insurance (Botulinum Toxin for Urinary Incontinence due to Neurogenic Detrusor Overactivity) Determination 2013 (No. 2) [F2013L01840]
- \* Health Insurance (Diagnostic Imaging Capital Sensitivity) Amendment and Repeal Determination 2013 [F2013L01862]
- \* Health Insurance (Magnetic Resonance Imaging for Patients 16 Years and Over) Determination 2013 [F2013L01864]
- Health Insurance (MRI for Patients 16 Years and Over and Capital Sensitivity Consequential Amendments) Determination 2013 [F2013L01863]

***Higher Education Support Act 2003***

- Higher Education Provider Approval Variation of No. 9 of 2007 [F2013L01842]
- Higher Education Support Act 2003 - Revocation of Approval as a VET Provider (ICHM Pty Ltd) [F2013L01834]
- Higher Education Support Act 2003 - VET Provider Approval (No. 55 of 2013) [F2013L01838]

Higher Education Support Act 2003 - VET Provider Approval (No. 56 of 2013)  
[F2013L01847]  
Higher Education Support Act 2003 - VET Provider Approval (No. 57 of 2013)  
[F2013L01836]  
Higher Education Support Act 2003 - VET Provider Approval (No. 58 of 2013)  
[F2013L01856]

### ***Migration Act 1958***

- \* Migration Agents Regulations 1998 - Specification of Prescribed Continuing Professional Development for Applicants for Registration as a Migration Agent - IMMI 13/089 [F2013L01858]

### ***Motor Vehicle Standards Act 1989***

Vehicle Standard (Australian Design Rule 35/05 – Commercial Vehicle Brake Systems) 2013  
[F2013L01848]

### ***Private Health Insurance Act 2007***

- \* Private Health Insurance (Prostheses) Amendment Rules 2013 (No. 4) [F2013L01839]

### ***Social Security Act 1991***

- \* Social Security (Deeming Threshold Rates) Determination 2013 (No. 2) [F2013L01854]

### ***Telecommunications Act 1997***

- Telecommunications (Service Provider – Identity Checks for Prepaid Mobile Carriage Services) Determination 2013 [F2013L01844]
- \* Telecommunications (Types of Cabling Work) Declaration 2013 [F2013L01845]
- \* Telecommunications Technical Standard (Requirements for Connection to an Air Interface of a Telecommunications Network — Part 1: General — AS/CA S042.1:2010) Amendment 2013 (No. 1) [F2013L01843]

## **Instruments received week ending 8 November 2013**

### ***Bankruptcy Act 1966***

Bankruptcy (Fees and Remuneration) Determination 2013 Amendment Determination 2013  
(No. 1) [F2013L01884]

### ***Broadcasting Services Act 1992***

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 15 of 2013)  
[F2013L01870]  
Television Licence Area Plan (Brisbane) Variation 2013 [F2013L01905]  
Television Licence Area Plan (Melbourne) Variation 2013 [F2013L01904]  
Television Licence Area Plan (Sydney) Variation 2013 [F2013L01903]

### ***Civil Aviation Act 1988***

CASA ADCX 022/13 - Revocation of Airworthiness Directives [F2013L01902]  
CASA EX111/13 - Exemption - Sydney Jabiru Flying School solo flight training at Bankstown aerodrome [F2013L01877]  
CASA EX114/13 - Exemption – from standard landing minima – Boeing 737 fail-passive aircraft – Virgin Australia Airlines Pty Ltd [F2013L01882]  
  
CASA EX115/13 - Exemption – from standard take-off and landing minima – Virgin Australia International Airlines Pty Ltd [F2013L01883]  
CASA EX116/13 - Exemption — instrument rating flight tests in a synthetic flight training

device [F2013L01869]  
CASA EX118/13 - Exemption – recency requirements for night flying – Virgin Australia  
International Airlines Pty Ltd [F2013L01871]

### ***Corporations Act 2001***

- \* ASIC Class Order [CO 13/1362] [F2013L01892]

### ***Environment Protection and Biodiversity Conservation Act 1999***

Amendment of List of Exempt Native Specimens - New South Wales Ocean Trap and Line  
Fishery (30/10/2013) [EPBC303DC/SFS/2013/52] [F2013L01901]

### ***Fisheries Management Act 1991***

Southern Bluefin Tuna Fishery Actual Live Weight Value of a Statutory Fishing Right  
Determination 2013-14 [F2013L01873]

### ***Higher Education Support Act 2003***

Higher Education Support Act 2003 - VET Provider Approval (No. 59 of 2013)  
[F2013L01887]  
Higher Education Support Act 2003 - VET Provider Approval (No. 60 of 2013)  
[F2013L01889]  
Higher Education Support Act 2003 - VET Provider Approval (No. 61 of 2013)  
[F2013L01885]  
Higher Education Support Act 2003 - VET Provider Approval (No. 62 of 2013)  
[F2013L01890]

### ***Migration Act 1958***

Migration Regulations 1994 - Specification of Access to Movement Records - IMMI 13/107  
[F2013L01896]

### ***Motor Vehicle Standards Act 1989***

- Vehicle Standard (Australian Design Rule 31/03 – Brake Systems for Passenger Cars) 2013  
[F2013L01853]
- \* Vehicle Standard (Australian Design Rule 83/00 — External Noise) 2005 Amendment 3  
[F2013L01881]

### ***Private Health Insurance Act 2007***

- \* Private Health Insurance (Benefit Requirements) Amendment Rules 2013 (No. 6)  
[F2013L01866]

### ***Public Service Act 1999***

- \* Australian Public Service Commissioner’s Amendment Direction 2013 (No. 2) [F2013L01879]

### ***Remuneration Tribunal Act 1973***

- \* Remuneration Tribunal Determination 2013/23 - Remuneration and Allowances for Holders of  
Public Office [F2013L01876]

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

Additional method of working out the amount of monthly instalment liabilities in accordance  
with the Taxation Administration Act 1953 [F2013L01906]

### ***Veterans' Entitlements Act 1986***

Statement of Principles concerning chronic solvent encephalopathy No. 71 of 2013  
[F2013L01886]  
Statement of Principles concerning chronic solvent encephalopathy No. 72 of 2013

[F2013L01888]  
Statement of Principles concerning epilepsy No. 75 of 2013 [F2013L01894]  
Statement of Principles concerning epilepsy No. 76 of 2013 [F2013L01895]  
Statement of Principles concerning epileptic seizure No. 77 of 2013 [F2013L01897]  
Statement of Principles concerning epileptic seizure No. 78 of 2013 [F2013L01899]  
Statement of Principles concerning malignant neoplasm of the pancreas No. 73 of 2013 [F2013L01891]  
Statement of Principles concerning malignant neoplasm of the pancreas No. 74 of 2013 [F2013L01893]  
Statement of Principles concerning steatohepatitis No. 79 of 2013 [F2013L01898]  
Statement of Principles concerning steatohepatitis No. 80 of 2013 [F2013L01900]

### **Instruments received week ending 15 November 2013**

#### ***Broadcasting Services Act 1992***

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 16 of 2013) [F2013L01923]

#### ***Civil Aviation Act 1988***

AD/A320/14 Amdt 1 — Landing Gear – Interruption of Retraction Sequence [F2013L01928]  
AD/A320/7 Amdt 1 - Standby Generator Control Unit (GCU) [F2013L01929]  
AD/CON/63 Amdt 2 - Connecting Rods [F2013L01930]

#### ***Corporations Act 2001***

- \* AASB 2013-8 - Amendments to Australian Accounting Standards – Australian Implementation Guidance for Not-for-Profit Entities – Control and Structured Entities - October 2013 [F2013L01917]
- \* ASA 2013-2 - Amendments to Australian Auditing Standards - November 2013 [F2013L01939]
- \* ASA 610 - Using the Work of Internal Auditors - November 2013 [F2013L01938]  
ASIC Class Rule Waiver [CW 13-1073] [F2013L01908]

#### ***Defence Act 1903***

Defence Determination 2013/48, Post indexes - amendment  
Defence Determination 2013/49, Removal and storage - amendment  
Defence Determination 2013/50, Rental bond advance - USA, Canada and UK  
Defence Determination 2013/51, Melbourne rent bands and Townsville interim accommodation - amendment  
Defence Determination 2013/52, Suitable own home and appointment residences - amendment  
Defence Determination 2013/53, Additional risk insurance, post indexes, location allowance, hardship post conditions of service and deployment allowance - amendment  
Defence Determination 2013/54, Post indexes – amendment

#### ***Higher Education Support Act 2003***

Higher Education Support Act 2003 - VET Provider Approval (No. 63 of 2013) [F2013L01931]  
Higher Education Support Act 2003 - VET Provider Approval (No. 64 of 2013) [F2013L01932]  
Higher Education Support Act 2003 - VET Provider Approval (No. 65 of 2013) [F2013L01934]  
Higher Education Support Act 2003 - VET Provider Approval (No. 66 of 2013) [F2013L01935]

Higher Education Support Act 2003 - VET Provider Approval (No. 67 of 2013)  
[F2013L01936]

***Insurance Act 1973***

Insurance Exemption Determination No. 1 of 2013 - Audit requirements relating to certain yearly statutory accounts [F2013L01909]

***International Organisations (Privileges and Immunities) Act 1963***

International Organisations (Privileges and Immunities) (International Committee of the Red Cross) Regulation 2013 [Select Legislative Instrument 2013 No. 237] [F2013L01916]

***Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003***

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Annual Titles Administration Levy) Regulation 2013 [Select Legislative Instrument 2013 No. 239] [F2013L01913]

***Offshore Petroleum and Greenhouse Gas Storage Act 2006***

Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (2013 Measures No. 2) Regulation 2013 [Select Legislative Instrument 2013 No. 238] [F2013L01914]

***Remuneration Tribunal Act 1973***

Remuneration Tribunal (Members' Fees and Allowances) Amendment (Fees) Regulation 2013 [Select Legislative Instrument 2013 No. 240] [F2013L01926]

***Taxation Administration Act 1953***

Additional method of working out the amount of monthly instalment liabilities in accordance with the Taxation Administration Act 1953 - November 2013 [F2013L01933]

***Telecommunications Act 1997***

Telecommunications Technical Standard (Information Technology Equipment – Safety, Part 1: General Requirements – AS/NZS 60950.1:2011) Amendment 2013 (No. 1) [F2013L01927]

***Therapeutic Goods Act 1989***

Therapeutic Goods (Listing) Notice 2013 (No. 3) [F2013L01921]  
Therapeutic Goods (Listing) Notice 2013 (No. 4) [F2013L01922]  
Therapeutic Goods (Listing) Notice 2013 (No. 5) [F2013L01924]  
Therapeutic Goods (Listing) Notice 2013 (No. 6) [F2013L01925]

**Instruments received week ending 22 November 2013**

***Christmas Island Act 1958***

List of Acts of the Western Australian Parliament Wholly or Partly in force in Christmas Island in the period 9 March 2013 to 9 September 2013 and not in previous lists

***Civil Aviation Act 1988***

AD/PZL/5 Amdt 1 - Centre Wing to Outboard Wing Attachment Joints [F2013L01942]  
Australian Technical Standard Order C1007a — flight data recorder interface unit [F2013L01941]  
CASA ADCX 023/13 - Revocation of Airworthiness Directives [F2013L01944]  
CASA EX117/13 - Exemption - from standard take-off minima - Jetstar Airways Pty Limited [F2013L01945]

***Cocos (Keeling) Islands Act 1955***

List of Acts of the Western Australian Parliament Wholly or Partly in force in Cocos (Keeling) Islands in the period 9 March 2013 to 9 September 2013 and not in previous lists

***Corporations Act 2001***

ASIC Class Order [CO 13/1420] [F2013L01943]

***Environment Protection and Biodiversity Conservation Act 1999***

Amendment of List of Exempt Native Specimens - Coral Sea Fishery (19/11/2013) (deletion) [EPBC303DC/SFS/2013/54] [F2013L01951]

Amendment of List of Exempt Native Specimens - Coral Sea Fishery (19/11/2013) (inclusion) [EPBC303DC/SFS/2013/55] [F2013L01950]

***Higher Education Support Act 2003***

Higher Education Support Act 2003 - VET Provider Approval (No. 68 of 2013) [F2013L01948]

Higher Education Support Act 2003 - VET Provider Approval (No. 69 of 2013) [F2013L01946]

***Migration Act 1958***

Migration Act 1958 - Specification of Occupations Exempt from Labour Market Testing - IMMI 13/137 [F2013L01952]

***National Health Act 1953***

National Health (Paraplegic and Quadriplegic Program) Special Arrangement Amendment Instrument 2013 (No. 3) (No. PB 87 of 2013) [F2013L01947]

***Social Security (Administration) Act 1999***

- \* Social Security (Administration) (Recognised State/Territory Authority - NT Alcohol Mandatory Treatment Tribunal) Determination 2013 [F2013L01949]

***Taxation Administration Act 1953***

Taxation Administration Act 1953 – Provision of further time for lodgment of the 2013 Minerals Resource Rent Tax (MRRT) Return – Low volume non payers' Instrument (No. 1) 2013 [F2013L01940]

**Total number of instruments scrutinised: 784**

## **Appendix 2**

### **Guideline on consultation**





AUSTRALIAN SENATE

## STANDING COMMITTEE ON REGULATIONS AND ORDINANCES

### Guideline for preparation of explanatory statements: consultation

#### *Role of the committee*

The Standing Committee on Regulations and Ordinances (the committee) undertakes scrutiny of legislative instruments to ensure compliance with [non-partisan principles](#) of personal rights and parliamentary propriety.

#### *Purpose of guideline*

This guideline provides information on preparing an explanatory statement (ES) to accompany a legislative instrument, specifically in relation to the requirement that such statements must describe the nature of any consultation undertaken or explain why no such consultation was undertaken.

The committee scrutinises instruments to ensure, inter alia, that they meet the technical requirements of the [Legislative Instruments Act 2003](#) (the Act) regarding the description of the nature of consultation or the explanation as to why no consultation was undertaken. Where an ES does not meet these technical requirements, the committee generally corresponds with the relevant minister seeking further information and appropriate amendment of the ES.

Ensuring that the technical requirements of the Act are met in the first instance will negate the need for the committee to write to the relevant minister seeking compliance, and ensure that an instrument is not potentially subject to [disallowance](#).

It is important to note that the committee's concern in this area is to ensure only that an ES is technically compliant with the descriptive requirements of the Act regarding consultation, and that the question of whether consultation that has been undertaken is appropriate is a matter decided by the rule-maker at the time an instrument is made.

However, the nature of any consultation undertaken may be separately relevant to issues arising from the committee's scrutiny principles, and in such cases the committee may consider the character and scope of any consultation undertaken more broadly.

**Requirements of the Legislative Instruments Act 2003**

Section 17 of the Act requires that, before making a legislative instrument, the instrument-maker must be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken in relation to a proposed instrument, particularly where that instrument is likely to have an effect on business.

Section 18 of the Act, however, provides that in some circumstances such consultation may be 'unnecessary or inappropriate'.

It is important to note that section 26 of the Act requires that explanatory statements describe the nature of any consultation that has been undertaken or, if no such consultation has been undertaken, to explain why none was undertaken.

It is also important to note that requirements regarding the preparation of a Regulation Impact Statement (RIS) are separate to the requirements of the Act in relation to consultation. This means that, although a RIS may not be required in relation to a certain instrument, the requirements of the Act regarding a description of the nature of consultation undertaken, or an explanation of why consultation has not occurred, must still be met. However, consultation that has been undertaken under a RIS process will generally satisfy the requirements of the Act, provided that that consultation is adequately described (see below).

If a RIS or similar assessment has been prepared, it should be provided to the committee along with the ES.

***Describing the nature of consultation***

To meet the requirements of section 26 of the Act, an ES must *describe the nature of any consultation that has been undertaken*. The committee does not usually interpret this as requiring a highly detailed description of any consultation undertaken. However, a bare or very generalised statement of the fact that consultation has taken place may be considered insufficient to meet the requirements of the Act.

Where consultation has taken place, the ES to an instrument should set out the following information:

***Method and purpose of consultation***

An ES should state who and/or which bodies or groups were targeted for consultation and set out the purpose and parameters of the consultation. An ES should avoid bare statements such as 'Consultation was undertaken'.

---

### *Bodies/groups/individuals consulted*

An ES should specify the actual names of departments, bodies, agencies, groups et cetera that were consulted. An ES should avoid overly generalised statements such as 'Relevant stakeholders were consulted'.

### *Issues raised in consultations and outcomes*

An ES should identify the nature of any issues raised in consultations, as well the outcome of the consultation process. For example, an ES could state: 'A number of submissions raised concerns in relation to the effect of the instrument on retirees. An exemption for retirees was introduced in response to these concerns'.

### ***Explaining why consultation has not been undertaken***

To meet the requirements of section 26 of the Act, an ES must *explain why no consultation was undertaken*. The committee does not usually interpret this as requiring a highly detailed explanation of why consultation was not undertaken. However, a bare statement that consultation has not taken place may be considered insufficient to meet the requirements of the Act.

In explaining why no consultation has taken place, it is important to note the following considerations:

### *Specific examples listed in the Act*

Section 18 lists a number of examples where an instrument-maker may be satisfied that consultation is unnecessary or inappropriate in relation to a specific instrument. This list is not exhaustive of the grounds which may be advanced as to why consultation was not undertaken in a given case. The ES should state why consultation was unnecessary or inappropriate, and explain the reasoning in support of this conclusion. An ES should avoid bare assertions such as 'Consultation was not undertaken because the instrument is beneficial in nature'.

### *Timing of consultation*

The Act requires that consultation regarding an instrument must take place before the instrument is made. This means that, where consultation is planned for the implementation or post-operative phase of changes introduced by a given instrument, that consultation cannot generally be cited to satisfy the requirements of sections 17 and 26 of the Act.

In some cases, consultation is conducted in relation to the primary legislation which authorises the making of an instrument of delegated legislation, and this consultation is cited for the purposes of satisfying the requirements of the Act. The committee may regard this as acceptable provided that (a) the primary legislation

and the instrument are made at or about the same time and (b) the consultation addresses the matters dealt with in the delegated legislation.

***Seeking further advice or information***

For further advice regarding the requirements of the Act in relation to consultation or any other matters, please consult the *Legislative Instruments Handbook: a practical guide for compliance with the Legislative Instruments Act 2003 and related matters (December 2004)*, published by the Office of Legislative Drafting and Publishing.

Further information is also available through the committee's website at [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Regulations\\_and\\_Ordinances](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regulations_and_Ordinances) or by contacting the committee secretariat at:

Committee Secretary  
Senate Regulations and Ordinances Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Phone: +61 2 6277 3066

Fax: +61 2 6277 5881

Email: [regords.sen@aph.gov.au](mailto:regords.sen@aph.gov.au)

## **Appendix 3**

### **Correspondence**





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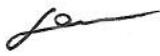
20 NOV 2013

Senate Standing Committee  
on Regulations  
and Ordinances

**Senator the Hon. Michael Ronaldson**  
Minister for Veterans' Affairs  
Minister Assisting the Prime Minister for the Centenary of ANZAC  
Special Minister of State

Ref: M13/2575

Senator Sean Edwards  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA ACT 2600

  
Dear Senator Edwards,

I refer to the letter of the Committee Secretary of 25 October 2013 (ref: 118/2013), in which my advice was sought about the comments of the Standing Committee on Regulations and Ordinances (the committee) published in the *Delegated legislation monitor* No.5 of 2013 (16 May 2013). These comments were in respect of two legislative instruments administered by the Department of Veterans' Affairs.

The instruments in question are the *Veterans' Entitlements (Actuarial Certificate—Lifetime Income Stream Guidelines) Determination 2013* and the *Veterans' Entitlements (Actuarial Certificate—Life Expectancy Income Stream Guidelines) Determination 2013*. The Committee's comments relate to the incorporation of extrinsic material by these instruments.

The instruments specify requirements in relation to an Actuarial Certificate in respect of an income stream, if the income stream is to be exempt from the assets test. The Actuarial Certificate must state that there is a high probability that the provider of the income stream will be able to pay the income stream as required under the contract or governing rules for the income stream. One requirement specified by the instruments is that the Actuarial Certificate is prepared in accordance with the Institute of Actuaries of Australia Guidance Note 465. It is this reference in the instruments that has attracted the Committee's attention.

I understand that the *Legislative Instruments Act 2003* does not prescribe that the instrument or its explanatory statement must specify whether the document incorporated by the instruments is the version existing at a particular date, or one in force from time to time.

However, noting the Committee's comments, and in the interest of clarity, future instruments will set out the basis on which the document is incorporated.

Thank you for the opportunity to clarify this issue for the Committee.

Yours sincerely,

  
**SENATOR THE HON. MICHAEL RONALDSON**

**19 NOV 2013**



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17 JUL 2013

Senate Standing C'ttee  
on Regulations  
and Ordinances

**The Hon Warren Snowdon MP**  
Minister for Veterans' Affairs  
Minister for Defence Science and Personnel  
Minister for Indigenous Health  
Minister Assisting the Prime Minister on the Centenary of Anzac

15 JUL 2013

Senator Mark Furner  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Parliament House  
CANBERRA ACT 2600

Dear Senator <sup>Mark</sup>Furner

Thank you for your letter of 20 June 2013 regarding an issue identified in Delegated legislation monitor No. 6 of 2013 concerning Defence Determination 2013/19, Class of travel, remote location leave travel, aide-de-camp allowance and compulsory tuition fees - amendment.

I note and accept that the concept of a 'major portion' of the night is not defined and is potentially unclear.

The Department of Defence will amend the class of travel provision wording, removing the term 'major portion of the night'. Entitlement to a sleeper berth will be provided if any part of an overnight rail journey occurs after midnight.

I appreciate you bringing this issue to my attention.

Yours sincerely

**WARREN SNOWDON**



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17 JUL 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

**The Hon Tanya Plibersek MP  
Minister for Health  
Minister for Medical Research**

Senator Mark Furner  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Room SI.111  
Parliament House  
CANBERRA ACT 2600

Dear Senator Furner

Thank you for your letter of 20 June 2013 regarding the National Health (Pharmaceutical Benefits) Amendment Regulation 2013 (No. 1) [Select Legislative Instrument No. 53, 2013] [F2013L00650] (the amending Regulation).

You requested that information about the consultation undertaken in relation to the amending Regulation, details of which have now been incorporated in the Explanatory Statement, be provided by letter to the Committee. I can provide the following details:

All pharmaceutical companies with Pharmaceutical Benefits Scheme listed medicines, and representative stakeholder organisations including Medicines Australia, the Generic Medicines Industry Association, Consumers Health Forum, the Pharmacy Guild of Australia, the National Pharmaceutical Services Association and Australian Pharmaceutical Industries, were consulted in relation to the amendments. Letters were sent to the companies and representative organisations on 18 December 2012 explaining the outcome of the relevant December 2012 Federal Court judgment and its potential impact for price disclosure arrangements, and inviting questions. Further letters were sent to the same companies and organisations on 6 February and 19 March 2013 providing further details and the timing for proposed changes, and inviting questions. The First Assistant Secretary of the Pharmaceutical Benefits Division in my Department, also discussed the proposals for amendments to the Principal Regulations with each individual representative organisation on 19 March 2013.

Companies affected by the transitional provisions in the Regulations were individually consulted about the price for their brand of pharmaceutical item included in the regulation through a letter and follow-up telephone call. No significant questions or issues were raised during consultation.

A copy of the updated Explanatory Statement is enclosed for your information.

Yours sincerely

**Tanya Plibersek**

Encl 15.7.13

cc: [regords.sen@aph.gov.au](mailto:regords.sen@aph.gov.au)



**Australian Government**  
**National Capital Authority**

**RECEIVED**

24 JUL 2013  
Senate Standing Cttee  
on Regulations  
and Ordinances

Reference: C13/1109

Senator Mark Furner  
Chair  
Senate Standing Committee on  
Regulations and Ordinances  
Parliament House  
CANBERRA ACT 2600

Dear Senator Furner

I refer to your letter of 20 June 2013, concerning National Capital Plan Amendment 81 – Removal of Outdated and Unnecessary Policy Material (Amendment 81) to the Hon. Catherine King MP Minister for Regional Austral, Local Government and Territories (the Minister). As the matter raised falls within my responsibilities, the Minister has forwarded your letter to me for response.

Amendment 81 removed outdated and unnecessary policy material from the National Capital Plan (the Plan). As part of Amendment 81, Appendix R 'Morshead Drive Widening' was deleted, together with the related annotation on Figure 17 of the Plan which stated that *'for details of proposed widening of Morshead Drive refer to Appendix R'*.

Appendix R and related annotation were originally incorporated into the Plan through Amendment 2 (gazetted in 1991) to show the (then) proposed widening of Morshead Drive and associated bridge across the Molonglo River. Construction of the Morshead Drive road widening and bridge across the Molonglo River has been completed. The Plan at Appendix R was no longer required.

Following gazettal of Amendment 2 and prior to approval of Amendment 81, there have been no changes to the Plan in relation to Appendix R and related annotation on Figure 17.

Yours sincerely

Gary Rake  
Chief Executive

22 July 2013

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26 JUL 2013

Senate Standing Committee  
on Regulations  
and Ordinances



SENATOR THE HON BOB CARR

MINISTER FOR FOREIGN AFFAIRS  
CANBERRA

22 JUL 2013

Senator Mark Furner MP  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Parliament House  
CANBERRA ACT 2600

Dear Senator Furner

Thank you for your letter of June 20, 2013, concerning the report of the Senate Standing Committee on Regulations and Ordinances entitled *Delegated legislation monitor No. 6 of 2013* (the Committee's report).

In the report, the Committee has sought further information on references to 'strict liability' in the *Charter of the United Nations Legislation Amendment Regulation 2013 (No. 1)* and the *Charter of the United Nations (Sanctions – the Taliban) Regulation 2013*.

The *Charter of the United Nations Act 1945* (the Act), which implements United Nations Security Council sanctions, provides that the offences of contravening a sanction law, or contravening a condition of an authorisation under a sanction law, are strict liability offences for a body corporate. The Act does not provide that any offence is a strict liability offence for an individual.

The instruments referred to in the Committee's report do not provide for any new strict liability offences. Instead, they apply strict liability to only one physical element of the offence of contravening certain sanctions measures. That physical element is the existence or otherwise of a sanctions permit.

The rationale for this is that the existence or otherwise of a sanctions permit is a question of fact, and there should be no corresponding fault element for this physical element of the offence. The *Criminal Code* provides that the defence of mistake of fact applies to any physical element of an offence to which strict liability applies.

The instruments referred to in the Committee's report do not apply strict liability to any other physical element of the offence. Accordingly, the offence as a whole remains one that is not a strict liability offence for an individual.

Thank you for bringing the Committee's concerns to my attention. I trust that this information is of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bob Carr', with a stylized, sweeping flourish at the end.

Bob Carr



RECEIVED

29 JUL 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

**The Hon Tony Burke MP**

**Minister for Immigration, Multicultural Affairs and Citizenship**

**Minister for the Arts**

C13/819

Senator Furner  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
Canberra ACT 2600

25 JUL 2013

Dear Senator Furner

I refer to the letter of 10 July 2013 from Mr Ivan Powell, Committee Secretary, Senate Standing Committee on Regulations and Ordinances regarding the *National Portrait Gallery of Australia Regulation 2013* (the Regulation) and its associated Explanatory Statement.

The Committee's report, *Delegated legislation monitor* No. 7 of 2013, requested further information on the consultation undertaken in regard to the Regulation and also that the Explanatory Statement for the Regulation is updated.

During the drafting of both the *National Portrait Gallery of Australia Act 2012* (the Act) and the Regulation consultation was undertaken with a large number of stakeholders across the full range of issues addressed in both the Act and the Regulation. This included consulting with: the Department of Finance and Deregulation; the Australian Public Service Commission; the Remuneration Tribunal; the National Capital Authority; the National Archives of Australia; the Attorney-General's Department; the members of the National Portrait Gallery Advisory Board; and the Director and staff of the National Portrait Gallery.

In accordance with section 17 of the *Legislative Instruments Act 2003* further consultation was undertaken with the following parties regarding specific aspects of the proposed Regulation:

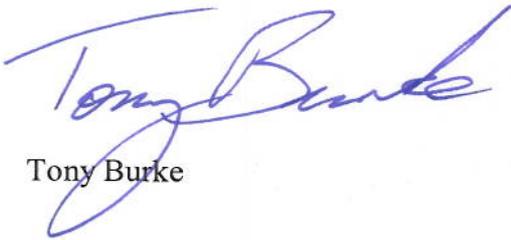
- The members of the National Portrait Gallery Advisory Board, the Director and staff of the National Portrait Gallery - to ensure the appropriate handling of matters related to the running of a national collecting institution and that the mechanisms created for the control of the land, building and national collection were practical and efficient.
- The Attorney-General's Department - to ensure that the offences created by the Regulation were appropriate, in accordance with current drafting standards and assigned with the appropriate penalty units.

As the Regulation has no direct or indirect effect on businesses, other than the National Portrait Gallery itself, broader consultation to that described above was not considered appropriate.

The Explanatory Statement for the Regulation has been revised to include further information on consultation and is attached for your reference.

Thank you for the Committee's interest in this matter. I trust that this information will address the Committee's concerns.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Tony Burke". The signature is fluid and cursive, with a large loop at the end of the name.

Tony Burke



RECEIVED

30 JUL 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

## SENATOR THE HON PENNY WONG

Minister for Finance and Deregulation  
Leader of the Government in the Senate

REF: C13/1887

Senator Mark Furner  
Chair  
Senate Standing Committee on Regulations  
and Ordinances  
Parliament House  
CANBERRA ACT 2600

26 JUL 2013

Dear Senator ~~Furner~~ *Mark*

Thank you for your letter of 20 June 2013 drawing my attention to the comments in the report by the Senate Standing Committee on Regulations and Ordinances (Regulations and Ordinances Committee), *Delegated legislation monitor No. 6 of 2013*, following the tabling of the *Financial Management and Accountability Amendment Regulation 2013 (No. 3)* (Amendment Regulation).

The Amendment Regulation adds a new item to Schedule 1AA to the *Financial Management and Accountability Regulations 1997* to establish legislative authority for the Government to spend on activities related to a referendum on the financial recognition of local government. In accordance with provisions of the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act), spending decisions that are authorised by the *Financial Management and Accountability Act 1997* and the *Financial Management and Accountability Regulations 1997* are not subject to judicial review under the ADJR Act.

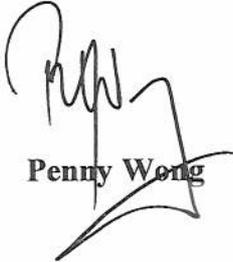
I note your Committee's comments about the concerns of the Senate Standing Committee for the Scrutiny of Bills (Scrutiny of Bills Committee) made in its *Alert Digest No. 5 of 2103* (15 May 2013) in relation to the Financial Framework Legislation Amendment Bill (No. 2) 2013. This Bill was passed by the Parliament on 16 May 2013 and received the Royal Assent on 28 May 2013. Specifically, the Scrutiny of Bills Committee had concerns about the exemption from judicial review under the ADJR Act of Government decisions to form or participate in the formation of companies and drew Senators' attention to those comments. A copy of my reply of 12 July 2013 to the Chair of the Scrutiny of Bills Committee is attached for the information of your Committee (Attachment A refers).

I also draw the Committee's attention to my responses when the issue of exempting spending decisions from review under the ADJR Act has been raised by your Committee. My letters of 10 December 2012 and 23 January 2013 to the Regulations and Ordinances Committee were published in the Committee's *Delegated legislation monitor, Monitor*

*No. 1 of 2013* (7 February 2013). Further information is also set out in my letter to the Scrutiny of Bills Committee that was published in that Committee's *Eleventh Report of 2012* (19 September 2012).

Thank you for bringing the Committee's comments to my attention.

Yours sincerely



**Penny Wong**



RECEIVED

5 AUG 2013

Senate Standing Committee on Regulations and Ordinances

Parliamentary Secretary for Climate Change, Innovation and Industry

C13/1161

Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA ACT 2600

Dear Chair

On 10 July 2013 Mr Ivan Powell, Committee Secretary of the Senate Standing Committee on Regulations and Ordinances (the Committee), wrote to the Senior Advisor to the Minister for Climate Change, the Hon Mark Butler MP, regarding the *Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries—1.1) Methodology Determination 2013* (the Determination). The Minister has asked me to reply on his behalf.

The Committee has requested a response to the issues identified in the *Delegated legislation monitor No. 7 of 2013* in relation to the Determination. The issues relate to the operational relationship between the Determination and the *Carbon Credits (Destruction of Methane Generated from Manure in Piggeries) Methodology Determination 2012* (the original piggeries determination), which remains in force.

Under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act), methodology determinations continue to apply to offsets projects after they expire, are varied, or revoked. Under the Act, if a methodology determination containing updates to an original methodology determination is made, it is optional whether the original methodology determination is revoked.

To date, where new methodology determinations containing 'updates' have been made, the original determinations have not yet been revoked. This is the case for the original piggeries determination. New piggeries project proponents have the option of using either of the methodology determinations in force, whereas proponents with existing offsets projects would need to apply to the Clean Energy Regulator if they wished to have a different methodology determination apply to their project.

Twenty methodology determinations have now been made under the Act. I will ask the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (my Department) to review all existing methodology determinations and recommend which of these may be revoked. Any methodology determination that has been superseded by a later determination and that no longer applies to any offsets projects may be considered for revocation.

I will also direct my Department to take the Committee's concerns into account when preparing explanatory statements for future updates to methodology determinations, and particularly to set out clearly how the instruments are intended to operate together.

Thank you for bringing the Committee's concerns to the Minister's attention.

Yours sincerely

  
YVETTE D'ATH MP  
29/7/13



Australian Government  
Australian Taxation Office

COMMISSIONER OF TAXATION

Senator Mark Furner  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA ACT 2600

Dear Senator Furner

Thank you for your letter of 16 May 2013 to the Assistant Treasurer, reference 090/2012, concerning the Australian Taxation Office (ATO) legislative instrument '*Taxation Administration Act 1953 – Tax table for back payments, commissions, bonuses and similar payments*' [F2013L00654]. The Assistant Treasurer has asked me to respond to you.

When reviewing this legislative instrument your Committee found that the Explanatory Statement for the legislative instrument contained insufficient information regarding consultation.

The Explanatory Statement for this instrument has been amended to include additional information regarding consultation.

The updated Explanatory Statement was lodged with the tabling officers on 30 July 2013.

Yours sincerely

Chris Jordan AO  
Commissioner of Taxation

cc: [regords.sen@aph.gov.au](mailto:regords.sen@aph.gov.au)

6/8/13



Australian Government  
Australian Business Register

RECEIVED

- 5 AUG 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

26 July 2013

Secretary  
Senate Standing Committee on Regulations and Ordinances  
S1 111  
Parliament House  
Canberra 2006

**TAXATION ADMINISTRATION ACT 1953 – AMENDED EXPLANATORY  
STATEMENT FOR THE TAX TABLE FOR BACK PAYMENTS COMMISSIONS,  
BONUSES AND SIMILAR PAYMENTS**

Enclosed is an amended explanatory statement for the legislative instrument Tax Administration Act 1953 - Tax table for back payments, commissions, bonuses and similar payments. The legislative instrument was made pursuant to section 15–25 of Schedule 1 to the *Taxation Administration Act 1953*.

The explanatory statement was amended to include information regarding the consultation process that occurred in the development of the Tax table for back payments, commissions, bonuses and similar payments.

The explanatory statement to the *Tax Administration Act 1953 - Tax table for back payments, commissions, bonuses and similar payments* was amended, under the consultation heading, to include information about the consultation process with software developers, payroll specialists and employers.

If you have any questions please contact John Leonard on 02 6216 1213.

A handwritten signature in black ink, appearing to read 'Steve Vesperman'.

Steve Vesperman  
Deputy Commissioner  
Australian Taxation Office

Telephone: 02 6216 1080  
Facsimile: 02 6151 2598  
Email: [steve.vesperman@ato.gov.au](mailto:steve.vesperman@ato.gov.au)



RECEIVED

- 8 AUG 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

SENATOR THE HON BOB CARR

MINISTER FOR FOREIGN AFFAIRS  
CANBERRA

Senator Mark Furner  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA ACT 2600

0.5 AUG 2013

Dear Senator

I write in response to the Standing Committee on Regulations and Ordinance's letter of July 10, 2013, regarding the *Delegated Legislation Monitor* No. 7 of 2013 (27 June 2013) and its consideration of the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons - Syria) Amendment List 2013* (the Amending Instrument).

As noted in the Monitor, the Explanatory Statement to the Amending Instrument outlines the extensive consultation that the Government undertakes in relation to the implementation of autonomous sanctions. No specific consultation was undertaken in relation to the Amending Instrument, because the removal of one individual from the sanctions list in relation to Syria is part of the established sanctions processes and does not substantially alter existing regulatory arrangements. The individual in question was removed from the sanctions list because, as the responsible Minister, I was no longer satisfied that the individual continues to meet the criteria required for listing under the *Autonomous Sanctions Regulations 2011*.

I have asked the Department of Foreign Affairs and Trade (DFAT) to ensure that the Explanatory Statement is updated to reflect this, in accordance with the legislative requirements, and that the revised Explanatory Statement is made available to the Committee.

I also note the Committee's concerns regarding the lack of clarity in the drafting of the amendment instructions. While the Amending Instrument followed long standing practice, I have asked DFAT to ensure that all future instruments clearly outline the amendment instructions.

Thank you once again for bringing the Committee's concerns to my attention. I trust that this information is of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Bob Carr', written over a horizontal line.

Bob Carr



RECEIVED

12 AUG 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

## SENATOR THE HON PENNY WONG

Minister for Finance and Deregulation  
Leader of the Government in the Senate

REF: B13/838

05 AUG 2013

Senator Mark Furner  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Parliament House  
CANBERRA ACT 2600

Dear Senator Furner

Thank you for your letter of 8 February 2013 in relation to errors in *Determination to Reduce Appropriations Upon Request (No. 11 of 2011-2012)* (the DFAT Determination).

At the outset, I wish to acknowledge the extremely helpful assistance provided to my Department, on this issue, by the Secretariat to the Senate Standing Committee on Regulations and Ordinances (the Committee).

Since receiving your letter, my Department has undertaken a comprehensive review of similar appropriation reduction determinations.

Whilst typographic errors have been identified in some of these other determinations, including errors of the kind identified by the Committee in the DFAT Determination, my Department has obtained advice from the Australian Government Solicitor (AGS) that the typographic errors do not affect the legal effect of the determinations.

That said, your letter has raised some important issues that involved detailed analysis, leading to various improvements to our practices and also to relevant legislation.

First, as you may be aware, annual Appropriation Acts have previously prevented any amendments being made to appropriation reduction determinations. For example subsection 10(5) of *Appropriation Act (No. 1) 2012-2013* provided:

“Despite subsection 33(3) of the *Acts Interpretation Act 1901*, the determination must not be rescinded, revoked, amended or varied.”

The reason for preventing amendments was to make the reduction of an appropriation permanent, so that the relevant determination could not simply be rescinded to revive the relevant appropriation. Following the Committee's astute observations on the DFAT Determination, the 2013-2014 Budget Appropriation Bills were drafted to include provision for reduction determinations to be amended, but only in the case of correcting an error.

This ability to correct errors in future determinations is now provided for in subsections 10(5) and 12(5) of *Appropriation Act (No. 1) 2013-2014*, subsections 13(5) and 14(5) of *Appropriation Act (No. 2) 2013-2014* and subsection 11(5) of *Appropriation (Parliamentary Departments) Act (No. 1) 2013-2014*.

Second, your letter also made an important contribution in helping the Government to develop a more comprehensive statutory mechanism to extinguish excess appropriations.

Specifically, a Bill for the *Statute Stocktake (Appropriations) Act 2013* was introduced into, and passed by, the Parliament during the recent Winter sittings. This Act repealed 84 annual Appropriations Acts which commenced between 1 July 1999 and 30 June 2010.

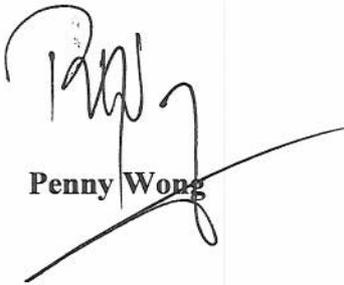
Third, my Department has now adopted a significantly simplified instrument template, which was developed to help ensure that information would not be unnecessarily set out, or duplicated, in these determinations or their explanatory statements.

In relation to the specific matters that you raised about the interpretation of the DFAT Determination, a detailed response, including some further details about the simplified drafting for future legislative instruments of this type, is provided in Attachment A.

The contact in my Department for this matter is Marc Mowbray-d'Arbela, Assistant Secretary, Appropriations and Cash Management Branch, who is available on telephone 6215 3344.

Finally, I wish to reiterate my gratitude to the Committee for providing its valuable insights on this issue, and for the helpful way in which your Committee's Secretariat assisted my Department.

Yours sincerely



Penny Wong

**Detailed response to the  
Senate Standing Committee on Regulations and Ordinances  
regarding the interpretation of  
*Determination to Reduce Appropriations Upon Request (No. 11 of 2011-2012)***

Prepared by the Department of Finance and Deregulation

The *Determination to Reduce Appropriations Upon Request (No. 11 of 2011-2012)* (the DFAT Determination) was made on 11 May 2012, to reduce various departmental appropriations in relation to the Department of Foreign Affairs and Trade (DFAT), under:

- subsection 10(2) of *Appropriation Act (No. 1) 2009-2010*; and
- subsection 10(2) of *Appropriation Act (No. 1) 2010-2011*.

The Senate Standing Committee on Regulations and Ordinances (the Committee) raised issues about various aspects of the drafting and interpretation of the DFAT Determination, as set out below.

### Legal Effect of the DFAT Determination

The Committee correctly noted that the DFAT Determination included a typographic error, in that the portfolio for DFAT was described as being “Defence”, in a line preceding the reduction table, in both Schedule 1 and Schedule 2 of the DFAT Determination.

The reference to portfolio does not have an operative role in the DFAT Determination. Rather, the portfolio reference was provided to assist readers.

The Office of Parliamentary Counsel (OPC) advised the Department of Finance and Deregulation (Finance) that the legal position seems to be clear.

Although there is an erroneous reference to the Defence portfolio in each of the two Schedules of the DFAT Determination, there are four correct references to the Department of Foreign Affairs and to the Minister for Foreign Affairs.

On an assessment of whether the instrument has a clear and dominant intention, it seems likely that a court would give weight to the repeated identification of DFAT and decide that the law-maker’s clear intention was to deal with matters in relation to DFAT, which is in the Foreign Affairs and Trade portfolio.

This would be consistent with the principles of interpreting text errors that are explained in paragraphs [2.24] and [2.28] to [2.33] of Pearce and Geddes, *Statutory Interpretation in Australia* (6<sup>th</sup> edition, 2006).

OPC further advised it is not possible to amend the DFAT Determination, as subsection 10(5) of *Appropriation Act (No. 1) 2010-2011* provides that the determination must not be rescinded, revoked, amended or varied.

The DFAT Determination has now also been reviewed by the Australian Government Solicitor (AGS). Finance has been advised by AGS that the DFAT Determination, like all legislation, is subject to the ordinary rules of statutory interpretation. As a general principle, courts will generally strive to give effect to legislation so that the ordinary sense of the words will be adhered to unless it would lead to an absurdity on the face of the legislation.

Where a literal reading of a legislative provision might result in the provision being rendered inoperative or absurd, courts are often prepared to interpret the provision in a manner which corrects an obvious drafting or printing error, based on what is commonly known as the “slip rule”.

Recourse may be had to the slip rule where an instrument contains an obvious error and it is clear what was originally intended. AGS advised the typographic errors identified in the DFAT Determination are precisely the kind of errors to which the slip rule can be applied, as in each case, the intended wording is obvious.

## Additional Questions

*Q: How is the amendment in Schedule 1 actually effected via the drafting construction of the instrument?*

The Department of Foreign Affairs and Trade is named as the relevant agency in clauses 7 and 8 as well as in the Schedules themselves. AGS has advised that the reference to the “Defence Portfolio” in the headings is an obvious error which does not affect the operation of the provisions in the DFAT Determination.

AGS has advised no action is legally necessary to correct this error in the Headings.

*Q: Should clause 8 of the determination refer to Schedule 2 rather than Schedule 1?*

Yes, the correct reference is Schedule 2. Schedule 2 to the DFAT Determination reduces the departmental item for DFAT in *Appropriation Act (No. 1) of 2010-2011* by the relevant amount.

AGS has advised that no action is necessary to correct this error, as the references in clause 8 and its heading are to *Appropriation Act (No. 1) 2010-2011*, and Schedule 2 to the DFAT Determination only deals with that Act.

*Q: What does the reference to “the other departmental item” refer to in clause 8?*

Clause 8 of the DFAT Determination incorrectly referred to “other departmental item”. The reference in Schedule 2 of the DFAT Determination is to “departmental item”, which is the correct reference.

AGS has advised no action is necessary to correct this error, as it is clear that the item intended to be reduced was the “departmental item”, given that otherwise the clause would have no operation in relation to that Act.

## Steps taken to minimise the re-occurrence of drafting errors

A simplified template for reduction instruments has now been designed, with various improvements to significantly minimise the potential re-occurrence of drafting errors. These include:

- a) The agencies or the bodies affected by the appropriation reduction are listed alphabetically, within the relevant schedule, which means that adding a reference to the portfolio for each agency or body is no longer necessary.
- b) Information is not unnecessarily set out, or duplicated in the instrument. This includes the reference to the portfolio. Also, the details of the Minister requesting the relevant reduction are now set out in the explanatory statement, rather than duplicated for every specific reduction in the legislative instrument.
- c) The authorising subsection of the relevant Appropriation Act is only stated once, in the relevant part of the Instrument referring to the relevant Schedule.
- d) Every Schedule cross-refers back to the authorising subclause of the Instrument, to ensure that the Schedules are numbered consecutively.
- e) The name of an appropriation item is italicised, to help distinguish it from other parts of the instrument and to help keep a distinction between items such as “*departmental*” and “*other departmental*”.
- f) The former and current names of an agency are both stated in the relevant Schedule, where there has been a name change since that stated in the relevant Appropriation Act.



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12 AUG 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

## HIGH COURT OF AUSTRALIA

Parkes Place  
CANBERRA ACT 2600

Chief Executive &  
Principal Registrar

Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA

CC: [regords.sen@aph.gov.au](mailto:regords.sen@aph.gov.au)

8 August 2013

Dear Senator

I refer to the letter dated 10 July 2013 from the Committee Secretary seeking the Court's response to comments by the Committee, published at page 448 of the *Delegated Legislation Monitor*, No 7 of 2013, on an aspect of the Explanatory Statement accompanying the *High Court Amendment (Vexatious Proceedings and Other Matters) Rules 2013*. The Court has asked me to respond.

The Rules made procedural changes (for example, forms) to align the Court's procedures with the substantive changes introduced by the *Access to Justice (Federal Jurisdiction) Amendment Act 2012*. The Court wrote to the Law Council of Australia and the Australian Bar Association about the proposed changes. No responses were received.

Yours faithfully

A handwritten signature in black ink, appearing to read 'C. Phelan'.

Andrew Phelan



RECEIVED  
- 5 NOV 2013  
Senate Standing Cttee  
on Regulations  
and Ordinances

**SENATOR THE HON. ERIC ABETZ**  
**LEADER OF THE GOVERNMENT IN THE SENATE**  
**MINISTER FOR EMPLOYMENT**  
**MINISTER ASSISTING THE PRIME MINISTER FOR THE PUBLIC SERVICE**  
**LIBERAL SENATOR FOR TASMANIA**

Senator Mark Furner  
Chair  
Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA ACT 2600

01 NOV 2013

Dear Senator

Thank you for your letter of 22 November 2012 to the former Minister for Employment and Workplace Relations seeking further information on Explanatory Statements regarding four legislative instruments under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act). I am responding as the new Minister for Employment.

It is regrettable that my predecessor did not respond.

The Committee asked for further information on how the four instruments differ in purpose and content from the previous instruments. These instruments outline the requirements for the approval and renewal of workplace rehabilitation providers. These requirements have not changed substantively in the variation of the criteria, operational standards, and the application and renewal forms. Comcare has simplified and consolidated parts of the criteria and operational standards and these changes are described below.

The purpose of the Criteria for Approval (or Renewal of Approval) as a Workplace Rehabilitation Provider (criteria) established under section 34D of the SRC Act, is to set the mandatory criteria under which a workplace rehabilitation provider is assessed by Comcare (and is subsequently renewed). The criteria include matters relating to the qualifications of the applicant, probity, financial arrangements, as well as incorporating the approval requirements of the Heads of Workers' Compensation Authorities (HWCA) national approval framework under which providers are now required to operate.

The purpose of the Operational Standards for Workplace Rehabilitation Providers (Operational Standards) determined under section 34E the SRC Act is to set out the service standards and key performance measures required to be achieved by providers throughout the relevant three year approval period. The Operational Standards include standards relating to the effectiveness, availability and cost that the provider is required to meet and maintain, and this is reflected in the outcome and service delivery standards contained within the document.

Comcare added an explanation of the approval and renewal process in the Criteria document and has included all content relating to the HWCA national approval framework within the body of the Criteria, rather than spread between both the Criteria and Operational Standards as appeared in the revoked documents.

As a consequence of the Criteria changes, the Operational Standards have been reorganised and contain the outcome and service delivery standards relating to the provider's operation under the SRC Act. These requirements remain substantially unchanged to that in the revoked Operational Standards.

The purpose of issuing new approval and renewal application forms is to ensure that the content and submission details remain current to the Criteria, Operational Standards and HWCA approval requirements. This allowed providers to submit a renewal application to Comcare by 31 December 2012, and for new providers to apply to Comcare as an initial applicant after 1 January 2013.

Comcare has amended the Explanatory Statements to include the purpose and operation of the instruments as detailed above, and is awaiting the outcome of this process before registering the revised Explanatory Statements. Please refer to the attached Explanatory Statements.

I trust the information provided addresses the questions of the Committee.

Yours sincerely



ERIC ABETZ

**Encl.**

12 NOV 2013



## Assistant Treasurer

RECEIVED

18 NOV 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

Chair  
Standing Committee on Regulations and Ordinances  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Chair

**ASIC Market Integrity Rules (ASX Market) Amendment 2013 (No. 1) [F2013L00561]**  
**AASB 2013-2- Amendment to AASB 1038 – Regulatory Capital – March 2013 [F201300579]**

Thank you for your letter of 29 October 2013 to the Parliamentary Secretary to the Treasurer concerning consultation summaries in the explanatory material relating to the legislative instruments mentioned above. Your letter has been referred to me as I have portfolio responsibility for this matter.

In response to the Committee's findings that the Explanatory Statements for these legislative instruments contain insufficient descriptions of the consultation undertaken (as required by sections 17 and 26 of the *Legislative Instruments Act 2003*), Treasury has contacted the Australian Securities and Investments Commission (ASIC) and the Australian Accounting Standards Board (AASB) to ask that they update the Explanatory Statements.

I enclose copies of the amended instruments as provided by the AASB and ASIC. The AASB and ASIC have advised that they will table the amended Explanatory Statements in due course.

Thank you for bringing this matter to the attention of the Government.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Arthur Sinodinos'.

Senator the Hon Arthur Sinodinos AO

14 NOV 2013



Assistant Treasurer

RECEIVED

19 NOV 2013

Senate Standing Committee  
on Regulations  
and Ordinances

Senator Sean Edwards  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.11  
Parliament House  
CANBERRA ACT 2600

Dear Chair

I refer to the letter from the Committee Secretary, Mr Ivan Powell, of 25 October 2013 concerning the level of detail on consultation included in the Explanatory Statements accompanying the following legislative instruments tabled by the former Government:

*Corporations Amendment Regulation 2012 (No. 8)*  
*Corporations Amendment Regulation 2012 (No. 6) Amendment Regulation 2012*  
*Retirement Savings Accounts Amendment Regulation 2012 (No. 3)*  
*Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 4)*

As you would appreciate, I did not have portfolio responsibility for the above instruments at the time they were tabled. Nevertheless, information on the consultation that I understand was undertaken at the time is included at Attachment A.

I will ensure that the relevant Explanatory Statements are amended and that future Explanatory Statements provide appropriate detail on consultation in accordance with the *Legislative Instruments Act 2003*. I note that the document titled *Guideline for preparation of explanatory statements: consultation* has been brought to the attention of relevant officers in my Department.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Arthur Sinodinos'.

Senator the Hon Arthur Sinodinos AO

## ADVICE ON CONSULTATION PROCESSES

### CORPORATIONS AMENDMENT REGULATION 2012 (NO. 8)

Draft regulations relating to grandfathering arrangements for the ban on conflicted remuneration (as introduced by the Future of Financial Advice (FOFA) legislation) were released for a two-week consultation period from 14 June 2012.

Stakeholder feedback largely related to technical aspects of the drafting of the regulations. In addition, a common theme amongst feedback was the request for clarity on the grandfathering arrangements for benefits given by platforms operators (the draft regulations did not extend to these benefits). Additional targeted consultation on this matter was undertaken with key stakeholders in the financial services industry. As a result of these consultations, the previous Government decided not to proceed with the draft regulations and instead made regulations specifically in relation to grandfathering arrangements for benefits given by a platform operator, recognising the greater need for clarity with respect to these benefits.

Subsequent regulations have repealed these regulations and implemented revised grandfathering arrangements for the ban on conflicted remuneration (*Corporations Amendment Regulation 2013 (No. 5)* made on 28 June 2013).

### CORPORATIONS AMENDMENT REGULATION 2012 (NO. 6) AMENDMENT REGULATION 2012

The *Corporations Amendment Regulation 2012 (No. 6)* made a number of amendments to clarify that litigation funding schemes, as well as similar arrangements, are not managed investment schemes under the *Corporations Act 2001*.

In October 2012, targeted consultation was undertaken with key stakeholders following concerns raised that the original regulations may have been ineffective for technical drafting reasons. The targeted consultation followed previous public consultations in August 2011 and December 2011 on an earlier version of the Regulation.

### RETIREMENT SAVINGS ACCOUNTS AMENDMENT REGULATION 2012 (NO. 3) & SUPERANNUATION INDUSTRY (SUPERVISION) AMENDMENT REGULATION 2012 (NO. 4)

The *Retirement Savings Accounts Amendment Regulation 2012 (No. 3)* and the *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 4)* introduced a 12-month inactivity test for being defined as 'uncontactable' and therefore a 'lost member' for the purposes of the SIS Regulations or a 'lost Retirement Savings Account holder' for the purposes of the Retirement Savings Accounts Regulations.

These regulations were introduced in response to comments received by the Senate Standing Committee on Economics during its inquiry into the *Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012* (the Bill). The Bill increased the threshold under which small lost superannuation accounts would be transferred to the Australian Taxation Office (ATO).

During the inquiry, the Committee received submissions from the Association of Superannuation Funds in Australia, the Australian Institute of Superannuation Trustees, Mercer and the Financial Services Council. These submissions suggested that without an inactivity test, the proposed changes

would inadvertently increase the number of active accounts being transferred to the ATO. This outcome would have been inconsistent with the policy intent of the Bill so a change to the regulations was made.



**THE HON MICHAEL KEENAN MP**  
**Minister for Justice**

RECEIVED

20 NOV 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

MC13/29235

19 NOV 2013

Mr Ivan Powell  
Committee Secretary  
PO Box 6100  
PARLIAMENT HOUSE ACT 2600

Dear Mr Powell

I refer to your letter of 25 October 2013 to the Attorney-General's office, regarding concerns raised by the Standing Committee on Regulations and Ordinances in relation to the two instruments which fall within the Attorney-General's portfolio:

Crimes Amendment Regulation 2013 (No. 2), and

Trans-Tasman Proceedings Legislation Amendment Regulation 2012 (No.2).

As the Crimes Amendment Regulation falls within my responsibilities, the Attorney-General requested that I respond in relation to this instrument. The Attorney-General will respond separately in relation to the Trans-Tasman Proceedings Legislation Amendment Regulation.

The Standing Committee has asked for further information on the agencies consulted in the development of the Crimes Amendment Regulation 2013 (No. 2). I can advise that the Australian Federal Police, the Australian Security and Intelligence Organisation and the Western Australian Police were consulted in the development of the regulation.

As requested, the Explanatory Statement for the regulation will be updated accordingly.

The action officer for this matter in the Attorney-General's Department is Thomas Sharp who can be contacted on 02 6141 3618.

Thank you again for writing on this matter.

Yours sincerely

**Michael Keenan**



**The Hon Scott Morrison MP**  
Minister for Immigration and Border Protection

RECEIVED

20 NOV 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

Ministerial No: 108627

Mr Ivan Powell  
Committee Secretary  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA ACT 2600

Dear Mr Powell

Thank you for your letter of 24 October 2013 to my office, following up correspondence to the previous Minister concerning the adequacy of the Explanatory Statement for the *Customs Legislation Amendment Regulation 2013 (No. 2)*.

I am advised that the Department of Foreign Affairs and Trade (DFAT) conducted two phases of consultation on the *Autonomous Sanctions Amendment Regulation 2013 (Amendment Regulation)*.

Firstly, from 28 May to 1 June 2012, outreach sessions were conducted in each of the mainland State capital cities.

Secondly, on 26 June 2012 the *Autonomous Sanctions Amendment Regulation 2013 (Amendment Regulation)* was published on the DFAT website as an exposure draft for three weeks for public comment. Information about the public consultation was circulated to registered participants who had attended outreach sessions, subscribers to DFAT's sanctions alter service and all persons with an account on the Online Sanctions Administration System. DFAT also publicised the invitation for comments through its Twitter service. As a result of the public consultation, DFAT received four submissions proposing amendments to or seeking clarification on the Amendment Regulation.

A revised Explanatory Statement has been prepared for tabling in the next Sittings. I will ensure that future Explanatory Statements provide sufficient information detailing the consultation undertaken in accordance with the requirements of the *Legislative Instruments Act 2003*.

Thank you for bringing this matter to my attention.

Yours sincerely

The Hon Scott Morrison MP  
**Minister for Immigration and Border Protection**

20 / 11 / 2013



**The Hon Scott Morrison MP**  
Minister for Immigration and Border Protection

**RECEIVED**

21 NOV 2013

Senate Standing C'ttee  
on Regulations  
and Ordinances

Committee Secretary  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA ACT 2600

Dear Mr Powell

I refer to your letter of 24 October 2013 to my office, following up correspondence to the previous Minister, regarding the following instruments for which I have portfolio responsibility:

- *Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Regulation 2013* [Select Legislative Instrument No. 95, 2013 [F2013L00878]; and
- *Migration Agents Regulations 1998* – Specification under regulations 9F and 9J – Fees for Performing Assessments – June 2013 [F2013L00982].

Further information - Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Regulation 2013

The *Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Regulation 2013* amended the *Migration Regulations 1994* (the Migration Regulations) to further implement recommendation 14 of the Report of the Expert Panel on Asylum Seekers. The purpose of this instrument was to make consequential amendments resulting from the *Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013* (the Amending Act).

The committee noted the accompanying Explanatory Statement to this instrument contains no reference to consultation. The committee therefore requested further information in relation to this issue and requested the Explanatory Statement be updated in accordance with the requirements of the *Legislative Instruments Act 2003* (the Legislative Instruments Act).

In developing the amendments to the Migration Regulations, consultations took place with various Commonwealth agencies including the Attorney-General's Department, the Department of the Prime Minister and Cabinet, the Australian Customs and Border Protection Service, the Department of Defence, the former Department of Infrastructure and Transport and the former Department of Agriculture, Fisheries and Forestry.

Further, the Office of Best Practice Regulation (the OBPR) was consulted in relation to the amendments by the Regulation. The OBPR considers that the changes have a 'minor' impact on business or the not-for-profit sector and no further analysis in the form of a Regulatory Impact Statement is required. The OBPR reference is 14216.

The omission of this information was an oversight. The Explanatory Statement accompanying this instrument has been updated to include information regarding consultations and I have attached this document for your reference.

The Department will arrange for an updated Explanatory Statement to be tabled in both Houses of Parliament and published on the Federal Register of Legislative Instruments.

Further information - Migration Agents Regulations 1998 – Specification under regulations 9F and 9J – Fees for Performing Assessments – June 2013

In relation to the instrument made under the *Migration Agents Regulations 1998 – Specification under regulations 9F and 9J – Fees for Performing Assessments – June 2013*, the committee noted that this instrument sets various fees that may be charged for the performance of assessment under certain provisions of the *Migration Agents Regulations 1998*. However, the Explanatory Statement gives no indication as to the basis in which the new fees have been calculated or set. The committee therefore requested further information in relation to this issue.

The *Migration Legislation Amendment Regulation 2013 (No.1)* [Select Legislative Instrument No.33, 2013] amended the *Migration Agents Regulations 1998* (the Migration Agents Regulations) to insert regulations 9F and 9J to deal with fees for performing assessments. The amendments commenced on 23 March 2013.

Regulation 9F provides a legislative basis for the Minister to charge the providers of continuing professional development activities a fee, specified by the Minister in an instrument in writing, for performing an assessment of an activity for approval as a continuing professional development activity. Regulation 9J provides a legislative basis for the Minister to charge a fee, specified by the Minister in an instrument in writing, for performing an assessment of a person as an approved provider of a continuing professional development activity.

Regulation 9F and 9J allow for fees for performing assessments to be specified and varied in future through amending an instrument rather than by amending the Migration Agents Regulations.

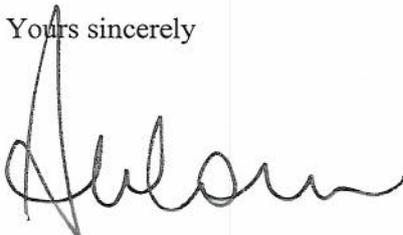
Prior to the commencement of regulation 9F, the legislative basis for charging a fee for performing an assessment of an activity as a continuing professional development activity and the fee itself was provided in regulation 6A of the Migration Agents Regulations. Subregulation 6A(4) of the Migration Agents Regulations provided for a fee of \$99.

Charging providers a fee to assess activities for approval for the professional development of registered migration agents is discretionary and has not changed since last varied on 21 July 2003. This instrument is not setting or calculating a new fee. The fee remains at \$99. The instrument merely provides a new way that this fee is expressed.

Prior to the commencement of regulation 9J, there was not an equivalent provision in the Migration Agents Regulation. Regulation 9J enables the Minister to charge a fee for performing an assessment of a person as an approved provider and allows for the fee to be specified in an instrument in writing.

A nil fee is currently specified in the instrument made for the purposes of regulation 9J as it is not intended at this stage to begin charging a fee for such assessments. If a fee is specified in the future, a basis for calculating the fee will be articulated in the accompanying explanatory statement.

Yours sincerely



The Hon Scott Morrison MP

**Minister for Immigration and Border Protection**

20 / 11 / 2013



## The Hon Warren Truss MP

Deputy Prime Minister  
Minister for Infrastructure and Regional Development  
Leader of The Nationals  
Member for Wide Bay

RECEIVED

22 NOV 2013  
Senate Standing C'ttee  
on Regulations  
and Ordinances

19 NOV 2013

*Reference: 04849-2013*

Senator Sean Edwards  
Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
CANBERRA ACT 2600

Dear Senator Edwards

I refer to the letter from the Committee Secretary of the Senate Standing Committee on Regulations and Ordinances (the Committee) to my Senior Advisor dated 25 October 2013 about the Committee's Delegated Legislation Monitor No 7 of 2013. The Committee requested further information from me about certain matters relating to Marine Order 11 (Living and working conditions on vessels) 2013, Marine Order 63 (MASTREP) 2013 and Marine Safety (Domestic Commercial Vessel) National Law Regulation 2013.

### Strict liability offences

The Committee noted that both Marine Orders contain strict liability offences but no explanation is provided in the explanatory statements of the need, scope and framing of these offences. The Committee identified subsections 42(2) and 50(2) of Marine Order 11 and subsection 6(2) of Marine Order 63 as three such offences.

Subsection 42(1) of Marine Order 11 creates an offence of employing or engaging to work on a vessel a person under 16 years and subsection 42(2) applies strict liability to the offence. Subsection 50(1) requires the owner of a vessel to ensure that specified persons have access to work agreements and incorporated documents and subsection 50(2) applies strict liability to the offence. Other provisions of a similar kind in Marine Order 11 are sections 53, 57, 63 and 66. Those provisions relate to ensuring wage payments for seafarers and adequate food and medicines are on board vessels.

Subsection 6(1) of Marine Order 63 requires the master of a vessel that is in a specified area to make position reports in accordance with Schedule 1 to Marine Order 63. Subsection 6(2) provides that non-compliance with 6(1) is an offence and that strict liability applies.

All provisions creating offences in Marine Order 11 are intended to ensure appropriate working conditions to promote the health and welfare of seafarers. For subsection 42(1), strict liability is warranted as a deterrent and to ensure the integrity of the regulatory regime. The other strict liability offences in Marine Order 11 are imposed to reduce the safety risk that would arise from the commission of the offences.

Section 6 of Marine Order 63 is an essential part of a regulatory regime designed for the safety of navigation of vessels operating in Australian waters. Strict liability is warranted as a deterrent and to ensure the integrity of the regulatory regime. The offence in section 6 of Marine Order 63 is imposed to reduce the safety risk that would arise from the commission of the offences.

For all offences the penalty is 50 penalty units. Subsection 341(1) of the *Navigation Act 2012* (the Act) provides that the regulations may provide for penalties of not more than 50 penalty units for a contravention of the regulations. Under section 342 of the Act, Marine Orders may deal with any matter for which provision may be made by the regulations.

In framing all offences, regard was had to A Guide on Framing Commonwealth Offences, Infringement Notices and Enforcement Powers and the provisions are consistent with the principles outlined in the Guide.

#### Incorporation of extrinsic material

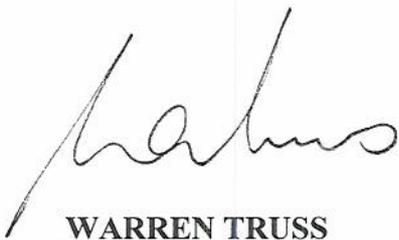
The Committee noted that the Marine Safety (Domestic Commercial Vessel) National Law Regulation (National Law Regulation) incorporates by reference the National Standard for Commercial Vessels and the National Standard for the Administration of Marine Safety, as in force from time to time. The Committee has queried whether this is permissible, having regard to section 14 of the *Legislative Instruments Act 2003*.

Section 164 of Schedule 1 to the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (the National Law Act) excludes the operation of section 14 of the Legislative Instruments Act and allows for the National Law Regulations to incorporate any matter contained in any written instrument in force or existing from time to time.

Section 164 specifically mentions the National Standard for Commercial Vessels as an instrument to which it applies. A definition of that instrument is in section 6 of the National Law Act. Subsection 15(3)(a)(ii)(B) of the National Law Regulation makes clear that the prescribed conditions are those 'of section 4 of the National Standard for the Administration of Marine Safety, published by the National Maritime Safety Committee, as existing from time to time'.

As requested in your letter, a copy of this response has been emailed to <regords.sen@aph.gov.au>.

Yours sincerely



**WARREN TRUSS**

For Official Use Only

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27 NOV 2013  
Senate Standing Cttee  
on Regulations  
and Ordinances

PARLIAMENTARY SECRETARY  
TO THE PRIME MINISTER

25 NOV 2013

Reference: B13/2317

Chair  
Senate Standing Committee on Regulations and Ordinances  
Room S1.111  
Parliament House  
Canberra ACT 2600

Dear Chair

Thank you for your Committee's letter dated 25 October 2013 regarding the Explanatory Statement for the *Royal Commission Amendment Regulation 2013 (No. 1)*, tabled by the previous Government.

I have approved an updated version of the Explanatory Statement to include an explanation of why no consultation was undertaken in accordance with the requirements of the *Legislative Instruments Act 2003*. A copy is attached for your information. For ease of reference the amendment to the Explanatory Statement is marked up.

I intend to table the updated Explanatory Statement in the House of Representatives and the Senate shortly. Once it is tabled the updated Explanatory Statement will also be registered on the Federal Register of Legislative Instruments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'JFK', with a long horizontal stroke extending to the right.

JOSH FRYDENBERG



27 NOV 2013

**SENATOR THE HON. ERIC ABETZ**  
**LEADER OF THE GOVERNMENT IN THE SENATE**  
**MINISTER FOR EMPLOYMENT**  
**MINISTER ASSISTING THE PRIME MINISTER FOR THE PUBLIC SERVICE**  
**LIBERAL SENATOR FOR TASMANIA**

**RECEIVED**

27 NOV 2013

Senate Standing C'ttee  
on Regulations  
and Ordinances

Senator Sean Edwards  
Senate Standing Committee on Regulations and Ordinances  
Room SI.III  
Parliament House  
CANBERRA ACT 2600

Dear Senator Edwards

Thank you for your letter of 25 October 2013 concerning *Public Service Amendment Regulation 2013 (No. 2)* [Select Legislative Instrument No. 110, 2013] [F2013L01002].

I understand that the Committee has sought advice on whether any person has been disadvantaged by the administrative error which the *Public Service Amendment Regulation 2013 (No. 2)* (the June Regulation) sought to correct. I note that the error occurred under the previous Government.

I can confirm that no person was disadvantaged by the administrative error that led to the need to insert references to Regulation 6.1A by way of the June Regulation. In brief, given the timing of the amendments, regulation 6.1A had no operation before 1 July 2013, so inquiries under this regulation could not be conducted and therefore no person could be disadvantaged by omission of the reference to the provision.

*Public Service Amendment Regulation 2013 (No. 1)* (the March Regulation) made substantial changes to the *Public Service Regulations 1999*, with effect from 1 July 2013, which flowed from the reforms to the *Public Service Act 1999* that also commenced on 1 July 2013.

Prior to commencement of the amendments it came to light that a small number of matters had been overlooked in the March Regulation. The purpose of the June Regulation was to amend the March Regulation before its date of effect.

The June Regulation was drafted to commence on the day after registration, but given it was amending the March Regulation its actual effective date of commencement was 1 July 2013.

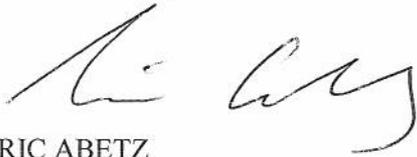
The March Regulation inserted a new power in the *Public Service Regulations 1999*, by way of regulation 6.1A, for the Australian Public Service Commissioner (the Commissioner) to inquire into alleged breaches of the Code of Conduct by certain statutory office holders. The March Regulation enabled the operation of provisions extending certain immunities and protections in respect of information gathered and to persons assisting the Commissioner in certain of his review and inquiry functions. Details of these immunities and protections are set out in the Explanatory Statement to *Public Service Amendment Regulation 2013 (No. 2)*.

These immunities and protections were intended, as a matter of policy, to apply to the Commissioner's function set out in regulation 6.1A; however, reference to regulation 6.1A was inadvertently omitted from relevant new provisions of the March Regulation.

As there had been no exercise of the Commissioner's powers in regulation 6.1A before the amendment, no person has been adversely affected by the omission of the reference to this power.

I trust this information will be of assistance to the Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Eric Abetz', written in a cursive style.

ERIC ABETZ



**Australian Government**  
**Office of Parliamentary Counsel**

**First Parliamentary Counsel**

Our ref: C13/91

Your ref:

Mr Ivan Powell  
Secretary  
Senate Regulations and Ordinances Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Mr Powell

1 I would like to congratulate the Committee on its publication of the Delegated Legislation Monitor and Committee Reports. The availability of the Committee's work in this format is an important resource for the Office of Parliamentary Counsel (OPC) and will enable the Office to better understand and address particular drafting issues raised by the Committee.

2 One of the functions that I acquired when the instrument drafting function was transferred to OPC from the Attorney-General's Department on 1 October 2012, was the requirement under section 16 of the Legislative Instruments Act 2003 to "promote the legal effectiveness, clarity, and intelligibility to anticipated users, of legislative instruments". Under this section I will be working on issuing Drafting Directions that can be applicable to all legislative instruments.

3 I note the comments made so far by the Committee in the Delegated Legislation Monitor in relation to drafting issues and I would be happy to meet with the Committee to discuss how I can assist in addressing any issues the Committee has identified through this Drafting Direction process.

4 In considering the Committee's comments on instruments in the Delegated Legislation Monitors for this year, I came across an issue the Committee has raised with a number of Ministers that I would like to draw to the Committee's attention. The Committee has commented that it would be preferable for the making words of 8 instruments to clearly identify that subsection 33(3) of the *Acts Interpretation Act 1901* (AIA) is being relied on to provide the power to vary or revoke the instrument as there is otherwise no express power to amend, vary or revoke the particular instruments.

5 With respect, I do not agree that this subsection of the AIA is providing the power for the instruments and I am concerned that this comment may lead to agencies changing the drafting of their instruments to include matters that are unnecessary.

6 Subsection 33(3) of the AIA provides that a power shall be construed as including a power to repeal, rescind, revoke, amend or vary. It is not a power in itself to make an instrument. Adopting this principle of referring to subsection 33(3) of the AIA would mean a majority of instruments would need to include a reference to the subsection in making words, which I believe is inappropriate and would also add to the complexity of instruments.

7 I do not however have an issue with this information being mentioned in explanatory material prepared by agencies, although my view would be that the effect of subsection 33(3) should be accurately described.

8 If the Committee would like any further information in relation to this issue, I am happy to meet to discuss my concerns.

9 I am also happy to assist the Committee to resolve any minor drafting queries the Committee may have in relation to instruments drafted by OPC to minimise the time needed by the Committee and Ministers in dealing with minor drafting queries. The Principal Legislative Counsel, Mr John Leahy PSM SC, is also happy to assist the Committee with these matters.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Quiggin', with a horizontal line underneath.

Peter Quiggin PSM  
First Parliamentary Counsel  
5 July 2013