



# **Financial Framework Legislation Amendment Act (No. 2) 2013**

**No. 53, 2013**

**An Act to amend the law relating to finance, and  
for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# Financial Framework Legislation Amendment Act (No. 2) 2013

No. 53, 2013

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## **An Act to amend the law relating to finance, and for other purposes**

[Assented to 28 May 2013]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Financial Framework Legislation  
Amendment Act (No. 2) 2013*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 May 2013
2. Schedule 1, Parts 1 and 2	The day after this Act receives the Royal Assent.	29 May 2013
3. Schedule 1, Part 3	The later of: (a) the day after this Act receives the Royal Assent; and (b) the day Schedule 1 to the <i>Judges and Governors-General Legislation Amendment (Family Law) Act 2012</i> commences.	29 May 2013 (paragraph (a) applies)
4. Schedule 1, Part 4	The day after this Act receives the Royal Assent.	29 May 2013
5. Schedules 2 and 3	The day after this Act receives the Royal Assent.	29 May 2013

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedule(s)

- (1) Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the

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applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

## Schedule 1—Amendments of Acts

### Part 1—Commonwealth companies

#### *Administrative Decisions (Judicial Review) Act 1977*

##### **1 After paragraph (he) of Schedule 1**

Insert:

(hea) decisions under section 39B of the *Financial Management and Accountability Act 1997*;

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

##### **2 At the end of Part 5**

Add:

##### **39B Supplementary powers to form companies etc.**

*Formation of company etc.*

(1) If:

(a) apart from this subsection, the Commonwealth does not have power to:

- (i) form a company; or
- (ii) participate in the formation of a company; and

(b) if the company were to come into existence, the company would be a company:

- (i) that is specified in the regulations; and
- (ii) whose objects or proposed activities are specified in the regulations;

the Commonwealth has power to:

- (c) form the company; or
- (d) participate in the formation of the company;

as the case may be.

*Acquisition of shares in company etc.*

(2) If:



- (a) apart from this subsection, the Commonwealth does not have power to:
- (i) acquire shares in a company; or
  - (ii) become a member of a company;
- in circumstances that would result in the company becoming a Commonwealth company; and
- (b) both:
- (i) the company is specified in the regulations; and
  - (ii) the company's objects or proposed activities are specified in the regulations;

the Commonwealth has power to:

- (c) acquire shares in the company; or
- (d) become a member of the company;

as the case may be, in circumstances that would result in the company becoming a Commonwealth company.

*Finance Minister's power*

- (3) A power conferred on the Commonwealth by subsection (1) or (2) may be exercised on behalf of the Commonwealth by the Finance Minister.

Note: For delegation by the Finance Minister, see section 62.

*Executive power of the Commonwealth*

- (4) This section does not, by implication, limit the executive power of the Commonwealth.

*Definitions*

- (5) In this section:

**acquire** includes acquire by subscription.

**Commonwealth company** has the same meaning as in the *Commonwealth Authorities and Companies Act 1997*.

### **3 At the end of section 62**

Add:

- (3) The Finance Minister must not delegate any of the Finance Minister's powers under section 39B to an official unless the official is a Chief Executive.

#### **4 Transitional—pre-commencement formation of companies etc.**

- (1) This item applies to action taken, or purportedly taken, by the Commonwealth before the commencement of this item if, assuming that:
- (a) both:
    - (i) section 39B of the *Financial Management and Accountability Act 1997* as amended by this Schedule; and
    - (ii) the amendments of the *Financial Management and Accountability Regulations 1997* made by Schedule 2 to this Act;had been in force when the action was taken or purportedly taken; and
  - (b) if the name of a company changed after the action was taken or purportedly taken—a reference in Schedule 1B to the *Financial Management and Accountability Regulations 1997* to the company under its new name were read as a reference to the company under its former name;
- the action would have been authorised by subsection 39B(1) or (2) of the *Financial Management and Accountability Act 1997* as amended by this Schedule.
- (2) The action has, and is taken to have had, effect, after the commencement of this item, as if it had been taken under subsection 39B(1) or (2), as the case may be, of the *Financial Management and Accountability Act 1997* as amended by this Schedule.

## **Part 2—Australian Government Disaster Recovery Payments**

### ***Social Security Act 1991***

#### **5 At the end of Part 2.24**

Add:

### **Division 3—Recoverable payments etc.**

#### **1061PAAA Recoverable payments**

- (1) If, apart from this subsection, the Commonwealth does not have power under the social security law to pay an amount (the ***relevant amount***) to a person (the ***recipient***) purportedly as an Australian Government Disaster Recovery Payment, then the Commonwealth may pay the relevant amount to the recipient.

#### *Recovery*

- (2) If a payment is made under subsection (1) to the recipient, the relevant amount:
- (a) is a debt due to the Commonwealth by the recipient; and
  - (b) may be recovered by the Secretary, on behalf of the Commonwealth, in a court of competent jurisdiction.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

#### **1061PAAB Recoverable death payments**

- (1) If, apart from this subsection, the Commonwealth does not have power under the social security law to pay an amount (the ***relevant amount***) in any of the following circumstances:
- (a) the relevant amount is deposited to an account kept in the name of a deceased person;
  - (b) the relevant amount is deposited to an account kept in the names of a deceased person and another person;
  - (c) the relevant amount is paid by way of a cheque made out to a deceased person;

the Commonwealth may pay the relevant amount in the circumstances mentioned in paragraph (a), (b) or (c), so long as:

- (d) on the last day on which changes could reasonably be made to the payment of the relevant amount, no Department official knew that the deceased person had died; and
- (e) apart from this subsection, the relevant amount would have been payable as an Australian Government Disaster Recovery Payment to the deceased person if the deceased person had not died.

Note: For *Department official*, see section 1061PAAE.

- (2) If a payment is made under subsection (1), the relevant amount is taken to have been paid to the deceased person's estate.

#### *Recovery*

- (3) If a payment is made under subsection (1), the relevant amount:
  - (a) is a debt due to the Commonwealth by the legal personal representative of the deceased person; and
  - (b) may be recovered by the Secretary, on behalf of the Commonwealth, in a court of competent jurisdiction.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

### **1061PAAC Reports about recoverable payments and recoverable death payments**

- (1) During the applicable publication period for a reporting period, the Secretary must cause to be published, in such manner as the Secretary thinks fit, a report that sets out:
  - (a) both:
    - (i) the number of payments made under subsection 1061PAAA(1) during the reporting period; and
    - (ii) the total amount of those payments; and
  - (b) both:
    - (i) the number of payments made under subsection 1061PAAB(1) during the reporting period; and
    - (ii) the total amount of those payments.

- (2) However, a report is not required if:
- (a) the number mentioned in subparagraph (1)(a)(i) is zero; and
  - (b) the number mentioned in subparagraph (1)(b)(i) is zero.

*Deferred reporting*

- (3) Paragraph (1)(a) of this section does not require a report to deal with a payment unless, before the preparation of the report, a Department official was aware the payment was made under subsection 1061PAAA(1).

Note: For **Department official**, see section 1061PAAE.

- (4) Paragraph (1)(b) of this section does not require a report to deal with a payment unless, before the preparation of the report, a Department official was aware the payment was made under subsection 1061PAAB(1).

Note: For **Department official**, see section 1061PAAE.

- (5) For the purposes of this section, if:
- (a) a payment was made under subsection 1061PAAA(1) or 1061PAAB(1) in a reporting period; and
  - (b) either:
    - (i) because of subsection (3) of this section, paragraph (1)(a) of this section did not require a report to deal with the payment; or
    - (ii) because of subsection (4) of this section, paragraph (1)(b) of this section did not require a report to deal with the payment; and
  - (c) during a later reporting period, a Department official becomes aware that the payment was made under subsection 1061PAAA(1) or 1061PAAB(1), as the case may be;

the payment is subject to a **deferred reporting obligation** in relation to the later reporting period.

Note: For **Department official**, see section 1061PAAE.

- (6) If one or more payments made under subsection 1061PAAA(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary must, during the applicable publication period for the later reporting period:

- (a) prepare a report that sets out:
    - (i) the number of those payments; and
    - (ii) the total amount of those payments; and
    - (iii) the reporting period during which the payments were made; and
  - (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
  - (c) if paragraph (b) does not apply—publish, in such manner as the Secretary thinks fit, the paragraph (a) report.
- (7) If one or more payments made under subsection 1061PAAB(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary must, during the applicable publication period for the later reporting period:
- (a) prepare a report that sets out:
    - (i) the number of those payments; and
    - (ii) the total amount of those payments; and
    - (iii) the reporting period during which the payments were made; and
  - (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
  - (c) if paragraph (b) does not apply—publish, in such manner as the Secretary thinks fit, the paragraph (a) report.

*Reporting period*

- (8) For the purposes of this section, a **reporting period** is:
- (a) a financial year; or
  - (b) if a shorter recurring period is prescribed in an instrument under subsection (9)—that period.
- (9) The Minister may, by legislative instrument, prescribe a recurring period for the purposes of paragraph (8)(b).

*Applicable publication period*

- (10) For the purposes of this section, the **applicable publication period** for a reporting period is the period of:
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- (a) 4 months; or
  - (b) if a lesser number of months is prescribed, in relation to the reporting period, in an instrument under subsection (11)—that number of months;
- beginning immediately after the end of the reporting period.
- (11) The Minister may, by legislative instrument, prescribe a number of months, in relation to a reporting period, for the purposes of paragraph (10)(b).

#### **1061PAAD Review of decisions**

Part 4 of the *Social Security (Administration) Act 1999* does not apply to a decision under this Division.

#### **1061PAAE Department official**

For the purposes of this Division, **Department official** means an official (within the meaning of the *Financial Management and Accountability Act 1997*):

- (a) who:
  - (i) is in the Department or is part of the Department; or
  - (ii) is a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*); and
- (b) whose duties consist of, or include, matters relating to Australian Government Disaster Recovery Payments.

## Part 3—Judges' pensions

### *Judges' Pensions Act 1968*

#### 6 After section 20

Insert:

#### 20A Recoverable payments

- (1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the *relevant amount*) to a person (the *recipient*) purportedly as a benefit, then the Commonwealth may pay the relevant amount to the recipient.

##### *Recovery*

- (2) If a payment is made under subsection (1) to the recipient, the relevant amount:
- (a) is a debt due to the Commonwealth by the recipient; and
  - (b) may be recovered by the Secretary of the Department, on behalf of the Commonwealth, in a court of competent jurisdiction.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

##### *Appropriation*

- (3) For the purposes of subsection 12A(5), if a payment under subsection (1) of this section relates to a benefit under subsection 12A(2), the payment is taken to be a benefit under subsection 12A(2).
- (4) For the purposes of section 14 (other than paragraph (a) of that section), if a payment under subsection (1) of this section relates to a pension under this Act, the payment is taken to be a pension under this Act.
- (5) For the purposes of subsection 17AB(7), if a payment under subsection (1) of this section relates to an amount under subsection 17AB(6), the payment is taken to be an amount under subsection 17AB(6).



*Benefit*

- (6) For the purposes of this section, **benefit** means:
- (a) a pension under this Act; or
  - (b) a benefit under subsection 12A(2); or
  - (c) an amount under subsection 17AB(6).

**20B Recoverable death payments**

- (1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the **relevant amount**) in any of the following circumstances:
- (a) the relevant amount is deposited to an account kept in the name of a deceased person;
  - (b) the relevant amount is deposited to an account kept in the names of a deceased person and another person;
  - (c) the relevant amount is paid by way of a cheque made out to a deceased person;
- the Commonwealth may pay the relevant amount in the circumstances mentioned in paragraph (a), (b) or (c), so long as:
- (d) on the last day on which changes could reasonably be made to the payment of the relevant amount, the Secretary of the Department did not know that the deceased person had died; and
  - (e) apart from this subsection, the relevant amount would have been payable as a benefit to the deceased person if the deceased person had not died.
- (2) If a payment is made under subsection (1), the relevant amount is taken to have been paid to the deceased person's estate.

*Recovery*

- (3) If a payment is made under subsection (1), the relevant amount:
- (a) is a debt due to the Commonwealth by the legal personal representative of the deceased person; and
  - (b) may be recovered by the Secretary of the Department, on behalf of the Commonwealth, in a court of competent jurisdiction.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

*Appropriation*

- (4) For the purposes of subsection 12A(5), if a payment under subsection (1) of this section relates to a benefit under subsection 12A(2), the payment is taken to be a benefit under subsection 12A(2).
- (5) For the purposes of section 14 (other than paragraph (a) of that section), if a payment under subsection (1) of this section relates to a pension under this Act, the payment is taken to be a pension under this Act.
- (6) For the purposes of subsection 17AB(7), if a payment under subsection (1) of this section relates to an amount under subsection 17AB(6), the payment is taken to be an amount under subsection 17AB(6).

*Benefit*

- (7) For the purposes of this section, **benefit** means:
  - (a) a pension under this Act; or
  - (b) a benefit under subsection 12A(2); or
  - (c) an amount under subsection 17AB(6).

**20C Reports about recoverable payments and recoverable death payments**

- (1) During the applicable publication period for a reporting period, the Secretary of the Department must cause to be published, in such manner as the Secretary of the Department thinks fit, a report that sets out:
  - (a) both:
    - (i) the number of payments made under subsection 20A(1) during the reporting period; and
    - (ii) the total amount of those payments; and
  - (b) both:
    - (i) the number of payments made under subsection 20B(1) during the reporting period; and
    - (ii) the total amount of those payments.
- (2) However, a report is not required if:
  - (a) the number mentioned in subparagraph (1)(a)(i) is zero; and

(b) the number mentioned in subparagraph (1)(b)(i) is zero.

*Deferred reporting*

- (3) Paragraph (1)(a) of this section does not require a report to deal with a payment unless, before the preparation of the report, a designated Department official was aware the payment was made under subsection 20A(1).
- (4) Paragraph (1)(b) of this section does not require a report to deal with a payment unless, before the preparation of the report, a designated Department official was aware the payment was made under subsection 20B(1).
- (5) For the purposes of this section, if:
- (a) a payment was made under subsection 20A(1) or 20B(1) in a reporting period; and
  - (b) either:
    - (i) because of subsection (3) of this section, paragraph (1)(a) of this section did not require a report to deal with the payment; or
    - (ii) because of subsection (4) of this section, paragraph (1)(b) of this section did not require a report to deal with the payment; and
  - (c) during a later reporting period, a designated Department official becomes aware that the payment was made under subsection 20A(1) or 20B(1), as the case may be;
- the payment is subject to a ***deferred reporting obligation*** in relation to the later reporting period.
- (6) If one or more payments made under subsection 20A(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary of the Department must, during the applicable publication period for the later reporting period:
- (a) prepare a report that sets out:
    - (i) the number of those payments; and
    - (ii) the total amount of those payments; and
    - (iii) the reporting period during which the payments were made; and

- (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
  - (c) if paragraph (b) does not apply—publish, in such manner as the Secretary of the Department thinks fit, the paragraph (a) report.
- (7) If one or more payments made under subsection 20B(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary of the Department must, during the applicable publication period for the later reporting period:
- (a) prepare a report that sets out:
    - (i) the number of those payments; and
    - (ii) the total amount of those payments; and
    - (iii) the reporting period during which the payments were made; and
  - (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
  - (c) if paragraph (b) does not apply—publish, in such manner as the Secretary of the Department thinks fit, the paragraph (a) report.

*Reporting period*

- (8) For the purposes of this section, a **reporting period** is:
- (a) a financial year; or
  - (b) if a shorter recurring period is prescribed in an instrument under subsection (9)—that period.
- (9) The Minister may, by legislative instrument, prescribe a recurring period for the purposes of paragraph (8)(b).

*Applicable publication period*

- (10) For the purposes of this section, the **applicable publication period** for a reporting period is the period of:
- (a) 4 months; or

- (b) if a lesser number of months is prescribed, in relation to the reporting period, in an instrument under subsection (11)—  
that number of months;  
beginning immediately after the end of the reporting period.
- (11) The Minister may, by legislative instrument, prescribe a number of months, in relation to a reporting period, for the purposes of paragraph (10)(b).

*Designated Department official*

- (12) For the purposes of this section, ***designated Department official*** means an official (within the meaning of the *Financial Management and Accountability Act 1997*) who is in the Department or is part of the Department.

## Part 4—Remuneration Tribunal

### *Remuneration Tribunal Act 1973*

#### 7 Before section 17

Insert:

#### 16A Recoverable payments

- (1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the **relevant amount**) to a person (the **recipient**) purportedly as a benefit, then the Commonwealth may pay the relevant amount to the recipient.

##### *Recovery*

- (2) If a payment is made under subsection (1) to the recipient, the relevant amount:
- (a) is a debt due to the Commonwealth by the recipient; and
  - (b) may be recovered by the Chief Executive (as determined under the *Financial Management and Accountability Act 1997*) of the relevant agency, on behalf of the Commonwealth, in a court of competent jurisdiction.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

- (3) If:
- (a) a payment is made under subsection (1) to the recipient; and
  - (b) the recipient is receiving, or is entitled to receive, a benefit;
- then:
- (c) the relevant amount; or
  - (d) such part of the relevant amount as the Chief Executive (as determined under the *Financial Management and Accountability Act 1997*) of the relevant agency determines;
- may, if the Chief Executive so directs, be recovered by deduction from that benefit, unless the recipient is a Justice or Judge of a federal court.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

*Appropriation*

- (4) For the purposes of subsection 7(13), if a payment under subsection (1) of this section relates to remuneration (including salary) or an allowance under subsection 7(9), the payment is taken to be remuneration or an allowance under subsection 7(9).
- (5) For the purposes of subsection 7(13), if a payment under subsection (1) of this section relates to reimbursement under subsection 7(10), the payment is taken to be reimbursement under subsection 7(10).

*Benefit*

- (6) For the purposes of this section, **benefit** means:
  - (a) remuneration (including salary) or an allowance under subsection 7(9); or
  - (b) a reimbursement under subsection 7(10).

*Relevant agency*

- (7) For the purposes of this section, the **relevant agency**, in relation to a recovery under this section of the whole or part of a relevant amount, means:
  - (a) the Agency (as defined by section 5 of the *Financial Management and Accountability Act 1997*) that paid the relevant amount under subsection (1) on behalf of the Commonwealth; or
  - (b) if a different Agency is prescribed in an instrument under subsection (8)—the Agency.
- (8) The Minister may, by legislative instrument, prescribe an Agency (as defined by section 5 of the *Financial Management and Accountability Act 1997*) for the purposes of paragraph (7)(b).

## **16B Recoverable death payments**

- (1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the **relevant amount**) in any of the following circumstances:
  - (a) the relevant amount is deposited to an account kept in the name of a deceased person;

- (b) the relevant amount is deposited to an account kept in the names of a deceased person and another person;
- (c) the relevant amount is paid by way of a cheque made out to a deceased person;

the Commonwealth may pay the relevant amount in the circumstances mentioned in paragraph (a), (b) or (c), so long as:

- (d) on the last day on which changes could reasonably be made to the payment of the relevant amount, the Chief Executive (as determined under the *Financial Management and Accountability Act 1997*) of the relevant agency did not know that the deceased person had died; and
  - (e) apart from this subsection, the relevant amount would have been payable as a benefit to the deceased person if the deceased person had not died.
- (2) If a payment is made under subsection (1), the relevant amount is taken to have been paid to the deceased person's estate.

#### *Recovery*

- (3) If a payment is made under subsection (1), the relevant amount:
- (a) is a debt due to the Commonwealth by the legal personal representative of the deceased person; and
  - (b) may be recovered by the Chief Executive (as determined under the *Financial Management and Accountability Act 1997*) of the relevant agency, on behalf of the Commonwealth, in a court of competent jurisdiction.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

#### *Appropriation*

- (4) For the purposes of subsection 7(13), if a payment under subsection (1) of this section relates to remuneration (including salary) or an allowance under subsection 7(9), the payment is taken to be remuneration or an allowance under subsection 7(9).
- (5) For the purposes of subsection 7(13), if a payment under subsection (1) of this section relates to reimbursement under subsection 7(10), the payment is taken to be reimbursement under subsection 7(10).



*Benefit*

- (6) For the purposes of this section, **benefit** means:
- (a) remuneration (including salary) or an allowance under subsection 7(9); or
  - (b) a reimbursement under subsection 7(10).

*Relevant agency*

- (7) For the purposes of this section, the **relevant agency**, in relation to a payment or recovery under this section of the whole or part of a relevant amount, means:
- (a) the Agency (as defined by section 5 of the *Financial Management and Accountability Act 1997*) that paid the relevant amount under subsection (1) on behalf of the Commonwealth; or
  - (b) if a different Agency is prescribed in an instrument under subsection (8)—the Agency.
- (8) The Minister may, by legislative instrument, prescribe an Agency (as defined by section 5 of the *Financial Management and Accountability Act 1997*) for the purposes of paragraph (7)(b).

**16C Reports about recoverable payments and recoverable death payments**

- (1) During the applicable publication period for a reporting period, the Chief Executive (as determined under the *Financial Management and Accountability Act 1997*) of the relevant agency must cause to be published, in such manner as the Chief Executive thinks fit, a report that sets out:
- (a) both:
    - (i) the number of payments made under subsection 16A(1) during the reporting period; and
    - (ii) the total amount of those payments; and
  - (b) both:
    - (i) the number of payments made under subsection 16B(1) during the reporting period; and
    - (ii) the total amount of those payments.
- (2) However, a report is not required if:

- (a) the number mentioned in subparagraph (1)(a)(i) is zero; and
- (b) the number mentioned in subparagraph (1)(b)(i) is zero.

*Deferred reporting*

- (3) Paragraph (1)(a) of this section does not require a report to deal with a payment unless before the preparation of the report, an official (as determined under the *Financial Management and Accountability Act 1997*) of the relevant agency was aware the payment was made under subsection 16A(1).
- (4) Paragraph (1)(b) of this section does not require a report to deal with a payment unless before the preparation of the report, an official (as determined under the *Financial Management and Accountability Act 1997*) of the relevant agency was aware the payment was made under subsection 16B(1).
- (5) For the purposes of this section, if:
  - (a) a payment was made under subsection 16A(1) or 16B(1) in a reporting period; and
  - (b) either:
    - (i) because of subsection (3) of this section, paragraph (1)(a) of this section did not require a report to deal with the payment; or
    - (ii) because of subsection (4) of this section, paragraph (1)(b) of this section did not require a report to deal with the payment; and
  - (c) during a later reporting period, an official (as determined under the *Financial Management and Accountability Act 1997*) of the relevant agency becomes aware that the payment was made under subsection 16A(1) or 16B(1), as the case may be;the payment is subject to a ***deferred reporting obligation*** in relation to the later reporting period.
- (6) If one or more payments made under subsection 16A(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Chief Executive of the relevant agency must, during the applicable publication period for the later reporting period:
  - (a) prepare a report that sets out:
    - (i) the number of those payments; and

- (ii) the total amount of those payments; and
    - (iii) the reporting period during which the payments were made; and
  - (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
  - (c) if paragraph (b) does not apply—publish, in such manner as the Chief Executive thinks fit, the paragraph (a) report.
- (7) If one or more payments made under subsection 16B(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Chief Executive of the relevant agency must, during the applicable publication period for the later reporting period:
- (a) prepare a report that sets out:
    - (i) the number of those payments; and
    - (ii) the total amount of those payments; and
    - (iii) the reporting period during which the payments were made; and
  - (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
  - (c) if paragraph (b) does not apply—publish, in such manner as the Chief Executive thinks fit, the paragraph (a) report.

*Reporting period*

- (8) For the purposes of this section, a **reporting period** is:
- (a) a financial year; or
  - (b) if a shorter recurring period is prescribed in an instrument under subsection (9)—that period.
- (9) The Minister may, by legislative instrument, prescribe a recurring period for the purposes of paragraph (8)(b).

*Applicable publication period*

- (10) For the purposes of this section, the **applicable publication period** for a reporting period is the period of:
- (a) 4 months; or

- (b) if a lesser number of months is prescribed, in relation to the reporting period, in an instrument under subsection (11)—that number of months;  
beginning immediately after the end of the reporting period.
- (11) The Minister may, by legislative instrument, prescribe a number of months, in relation to a reporting period, for the purposes of paragraph (10)(b).

*Relevant agency*

- (12) For the purposes of this section, the **relevant agency** means:
- (a) the Agency (as defined by section 5 of the *Financial Management and Accountability Act 1997*) that is responsible for making payments under subsection 16A(1) or 16B(1) on behalf of the Commonwealth; or
  - (b) if a different Agency is prescribed in an instrument under subsection (13)—the Agency.
- (13) The Minister may, by legislative instrument, prescribe an Agency (as defined by section 5 of the *Financial Management and Accountability Act 1997*) for the purposes of paragraph (12)(b).

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## Schedule 2—Amendments of regulations

### *Financial Management and Accountability Regulations 1997*

#### **1 After regulation 22AA**

Insert:

#### **22AB Supplementary powers to form companies etc. (Act s39B)**

- (1) For subparagraphs 39B(1)(b)(i) and (2)(b)(i) of the Act, each item of Schedule 1B specifies a company.
- (2) For subparagraphs 39B(1)(b)(ii) and (2)(b)(ii) of the Act, each item of Schedule 1B specifies objects or proposed activities of the company specified in the item.

#### **2 After Schedule 1A**

Insert:

### **Schedule 1B—Companies and objects or proposed activities**

Note: See regulation 22AB.

<b>Companies and objects or proposed activities</b>		
<b>Item</b>	<b>Company</b>	<b>Objects or proposed activities</b>
1	NBN Co Limited	To roll out, operate and maintain a wholesale-only national broadband network.
2	Low Carbon Australia Limited	To act for public charitable purposes including the principal purpose of preserving and enhancing the Australian natural environment by supporting households, business and non-government and government organisations take action to increase energy efficiency and reduce carbon emissions.
3	AAF Company	To: <ol style="list-style-type: none"> <li>(a) take over the management and trusteeship of the funds and other assets and liabilities of the unincorporated fund known as the</li> </ol>

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**Schedule 2** Amendments of regulations

<b>Companies and objects or proposed activities</b>		
<b>Item</b>	<b>Company</b>	<b>Objects or proposed activities</b>
		<p>“Army Amenities Fund” and be manager and trustee of that fund in place of the trustees in place as at the date and time immediately prior to the incorporation of the Company; and</p> <p>(b) promote and support the objects of the Army Amenities Fund which are to provide amenities for members of the Australian Army.</p>
4	Australian Strategic Policy Institute Limited	To function as a strategic policy research centre, independent of Government, providing policy-relevant research and analysis to better inform Government decisions and public understanding of defence and strategic issues.
5	RAAF Welfare Recreational Company	<p>To:</p> <p>(a) provide access to discounted recreational accommodation for RAAF members, their families and other eligible persons; and</p> <p>(b) manage and promote RAAF Welfare Recreational Company owned recreational facilities for RAAF members, their families and other eligible persons; and</p> <p>(c) provide financial support to, and assist in the provision of, recreational facilities and services to RAAF members.</p>
6	Australian Institute for Teaching and School Leadership Limited	To provide national leadership for the Commonwealth, state and territory governments in promoting excellence in the profession of teaching and school leadership.
7	Aboriginal Hostels Limited	To provide and facilitate accommodation and related services to Indigenous Australians.
8	Outback Stores Pty Ltd	<p>To:</p> <p>(a) improve access to affordable healthy food for Indigenous communities; and</p> <p>(b) provide store management and support services to Indigenous communities.</p>
9	Australian River Co Limited	To manage the residual legal and insurance matters of the sale of the company’s coastal vessels.

<b>Companies and objects or proposed activities</b>		
<b>Item</b>	<b>Company</b>	<b>Objects or proposed activities</b>
10	ASC Pty Ltd	To safely build and maintain Australia's frontline naval ships and submarines.
11	Medibank Private Limited	To operate as a private health insurer and engage in related activities.
12	Moorebank Intermodal Company Limited	To facilitate the development and operation of an intermodal freight terminal at Moorebank, New South Wales.
13	Aged Care Standards and Accreditation Agency	To: <ul style="list-style-type: none"> <li>(a) manage and carry out the accreditation process for residential aged care services in accordance with the <i>Aged Care Act 1997</i> and the accreditation standards set out in the Quality of Care principles; and</li> <li>(b) promote high quality residential aged care; and</li> <li>(c) help industry to improve residential aged care quality by identifying best practice and providing information, education and training to industry.</li> </ul>
14	General Practice Education and Training Limited	To ensure high quality general practice education and training across Australia that is responsive to the existing and changing needs of the community and individual sections of the community.
15	IIF Investments Pty Ltd	To invest in IIF licensed funds as defined in the IIF program, Policies and Practices Direction No. 1 of 1997.
16	Australian Rail Track Corporation Limited	To: <ul style="list-style-type: none"> <li>(a) provide seamless and efficient access to users of the interstate rail network; and</li> <li>(b) improve interstate rail infrastructure; and</li> <li>(c) encourage uniformity in access, technical, operating and safe working procedures.</li> </ul>
17	National Australia Day Council Limited	To: <ul style="list-style-type: none"> <li>(a) inspire national pride and spirit to enrich the life of the nation by working with and for the people of Australia to unite all Australians in celebration with a focus on</li> </ul>

**Schedule 2** Amendments of regulations

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<b>Companies and objects or proposed activities</b>		
<b>Item</b>	<b>Company</b>	<b>Objects or proposed activities</b>
		Australia Day; and (b) promote the meaning of Australia Day; and (c) promote good citizenship, values and achievement by recognising excellence and service to communities and the nation.
18	Australia Business Arts Foundation Ltd	To promote and develop Australian culture and links between Australian culture and the humanities in Australia, particularly in a manner which affects or involves as many Australians as possible.
19	Australian Sports Foundation Limited	To assist community organisations to raise funds for the development of Australian sport.
20	Bundanon Trust	To: (a) establish and maintain at “Bundanon” a permanent home for the retention and display of art works of the Trust; and (b) establish and maintain a public art gallery, a venue for music, dance and performance works and a creative and working art environment; and (c) promote education in the arts.

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## **Schedule 3—Loss relief relating to the transfer of assets from the MSB Fund to the ARIA Investments Trust**

### **1 Loss relief relating to the transfer of assets from the MSB Fund to the ARIA Investments Trust**

#### *Object*

- (1) The object of this item is to provide for loss relief relating to the transfer of assets from the MSB Fund to the ARIA Investments Trust.

#### *Transfer of net capital loss*

- (2) Each of the following is transferred from the MSB Fund to the ARIA Investments Trust:
- (a) any of the MSB Fund's net capital losses for income years earlier than the 2011-12 income year, to the extent that the loss was not utilised before the end of 11 May 2012 (an *earlier year net capital loss*);
  - (b) a net capital loss the MSB Fund would have made for the 2011-12 income year if it were assumed that the income year had ended at the end of 11 May 2012 (a *transfer year net capital loss*).

#### *Effect of transferring a net capital loss*

- (3) To the extent that an earlier year net capital loss is transferred to the ARIA Investments Trust:
- (a) the MSB Fund is taken not to have made the loss for that earlier income year; and
  - (b) an amount equal to the transferred amount is taken to be a capital loss made by the ARIA Investments Trust for the 2011-12 income year.
- (4) To the extent that a transfer year net capital loss is transferred to the ARIA Investments Trust:
- (a) the sum of the MSB Fund's capital losses for the transfer year is reduced by an amount equal to the transferred amount; and

**Schedule 3** Loss relief relating to the transfer of assets from the MSB Fund to the ARIA Investments Trust

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- (b) an amount equal to the transferred amount is taken to be a capital loss made by the ARIA Investments Trust for the 2011-12 income year.

*Interpretation*

- (5) An expression used in this item and in the *Income Tax Assessment Act 1997* has the same meaning in this item as it has in that Act.

*Definition*

- (6) In this item:  
**MSB Fund** has the same meaning as **Fund** has in the *Military Superannuation and Benefits Act 1991*.

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[Minister's second reading speech made in—  
House of Representatives on 13 March 2013  
Senate on 20 March 2013]

(53/13)

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