

EXPLANATORY STATEMENT

Select Legislative Instrument No. 65, 2015

Issued by authority of the Treasurer

Commonwealth Inscribed Stock Act 1911

Commonwealth Inscribed Stock Regulation 2015

Section 58 of the *Commonwealth Inscribed Stock Act 1911* (Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or necessary or convenient to be prescribed for carrying out or for giving effect to the Act or for the conduct of any business at or in connexion with any Registry.

The purpose of the *Commonwealth Inscribed Stock Regulation 2015* (Regulation) is to remake the *Commonwealth Inscribed Stock Regulations*. The *Legislative Instruments Act 2003* (LIA) provides that all legislative instruments, other than exempt instruments, progressively ‘sunset’ according to the timetable set out in the LIA. Legislative instruments made a year in the decade starting on 1 January 1940 that were registered on the Federal Register of Legislative Instruments on 1 January 2005, such as the *Commonwealth Inscribed Stock Regulations*, sunset on 1 April 2016. When a legislative instrument sunsets, it is automatically repealed.

Provisions of the *Commonwealth Inscribed Stock Regulations* have been retained where necessary for the operation of the Act or where they may impact investors.

This Regulation prescribes rules of operations for the Registrar in maintaining the inscribed stock ledger (the record of legal ownership), including the transfer and transmission of ownership within the stock ledger.

Most stock on issue, though not all, is held by one central nominee, with investors holding and trading a beneficial interest in stock rather than owning the stock directly and being recorded in the stock ledger. Where beneficial interest in stock is not recorded in the inscribed stock ledger it is outside the scope of the Regulation.

Under the Act, bearer securities were also issued, which are paid on presentation by the owner and not inscribed in a stock ledger. Some bearer securities remain outstanding and are still payable on presentation. The Regulation prescribes a mechanism for the payment of bearer securities issued under the Act that have been defaced, lost, stolen or destroyed.

The Regulation continues to prescribe securities previously issued under the Act as prescribed securities for the purpose of the Act and to specify the application of sections of the *Treasury Bills Act 1914* to prescribed securities made out under the Act.

A Statement of Compatibility with Human Rights is included in [Attachment A](#). Details of the Regulation are included in [Attachment B](#).

The Act does not specify any conditions that need to be met before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the LIA.

Consultation was undertaken for this Regulation with the Registrar during February 2015. No significant concerns were raised.

Before this Regulation was made, its expected impact was assessed using the Preliminary Assessment tool approved by the Office of Best Practice Regulation (OBPR). That assessment indicated that it will have no or low impact on business, individuals and the economy. This assessment has been confirmed by the OBPR (OBPR reference 18552).

The Regulation commences on the day after it is registered.

ATTACHMENT A

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Commonwealth Inscribed Stock Regulation 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Commonwealth Inscribed Stock Regulation 2015* prescribes matters in relation to the administration of Stock issued under the *Commonwealth Inscribed Stock Act 1911*.

This Legislative Instrument specifies matters for the operation of the registry for stock inscribed in a register required by the Act or necessary to assist the Registrar perform their function and exercise powers under the Act. The Registrar maintains personal information on investors inscribed in the register to enable confirmation and transference of ownership of stock, the payment of interest and principal due, to issue stockholder statements or informational updates to investors. The Registry is required to adhere to the *Privacy Act 1988*.

This Legislative Instrument also specifies the process for replacement or payment of bearer securities previously issued under the Act where the securities have been lost, stolen, destroyed or mutilated.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Treasurer

Details of the Commonwealth Inscribed Stock Regulation 2015

Part 1—Preliminary

Section 1 - Name

This section provides for the name of the Regulation to be the *Commonwealth Inscribed Stock Regulation 2015* (Regulation).

Section 2 - Commencement

This section provides that the Regulation commences on the day after it is registered.

Section 3 - Authority

Section 3 provides that the authority to make the Regulation is the *Commonwealth Inscribed Stock Act 1911*.

Section 4 - Schedules

This section provides that instruments listed in the Schedule are amended or repealed as stated in the Schedule. Schedule 1 repeals the prior *Commonwealth Inscribed Stock Regulations*.

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.

Section 5 - Definitions

Act means the *Commonwealth Inscribed Stock Act 1911*.

approved form means a form approved by the Treasurer.

bearer security means a Treasury Bond, debenture or other prescribed security made out under subsection 51A(1) of the Act at any time before the commencement of subsection 51A(3) of the Act.

owner means an owner of stock or the owners of stock in a joint account.

stock ledger means a Stock Ledger at a Registry.

Section 6 - Prescribed person for definition of *certified copy*

The purpose of this section is to define who may certify a copy of an entry or an extract of an entry in a Stock Ledger or document under the Act.

Part 2—Stock

Division 1—Creation and issue of stock

Section 7 - Prescribed stock for subsection 4(1)

This section provides that Treasury Bills are prescribed as Stock under the Act.

Division 2—Registries

Section 8 Correction of Register

This section specifies that the Registrar of stockholders under the Act must correct the register, if satisfied that a correction is required upon request from a person.

Section 9 - Assistance to be provided to the Registrar

This section provides that the Registrar may request a person to provide supporting documents, an indemnity to the Registrar's satisfaction, or to verify their identity when a person requests the Registrar to perform a function or exercise a power under the Act.

Section 10 - Specimen signatures

This section provides that the Registrar may obtain specimen signatures from stock owners, and may require these specimen signatures to be witnessed or signed before an officer of a Registry.

Section 11 - Inscription of stock in names of unincorporated associations

This section specifies the conditions for subsection 22B(1) of the Act for the Registrar to record stock in the name of an unincorporated association in the register.

Division 3—Transfer and transmission of stock

Section 12 - Transfers of stock within a Registry

This section specifies the requirements for the transfer of legal or equitable interests in stock for subsection 24(1) of the Act.

Section 13 - Section 27 of the Act does not apply to certain transactions

This section specifies an alternate scheme for the timing of when transfers of legal or equitable interest can be recorded in the registry, which is, with the exception of Treasury Notes, not within 7 days of maturity.

Section 14 - Transmission application

This section specifies that for section 28 of the Act that a transmission application must be in the approved form, accompanied by evidence and given to Registrar.

Section 15 - Prescribed amount of stock for subsection 29(2) of the Act (verification of transmission)

This section empowers the Treasurer to approve transmissions of stock, recorded in the name of a person who has died, of amounts up to and including \$25,000 without the verification required by subsection 29(1) of the Act.

Section 16 - Death of joint owner of stock

This section specifies what occurs to stock when a joint owner of the stock dies.

Section 17 - Transfer of stock to administrator of certain estates

This section provides that the Treasurer can authorise the transfer of stock to an officer charged with administering the estates of missing persons or persons with disability if certain conditions are satisfied.

Section 18 - Marked transfers

This section allows the Registrar to mark transactions to restrict transfers whilst a security is marked.

Part 3— Bearer securities

Section 19 - Prescribed securities made out under subsection 51A(1)

This section specifies that any securities previously issued under section 51A of the Act continue to be prescribed securities for the purposes of the Act.

Section 20 - Application of Treasury Bills Act

This section sets out which sections of the *Treasury Bills Act 1914* do not apply to different security types.

Section 21 - Payment of defaced, lost, stolen or destroyed bearer security or coupon

This section allows the Treasurer to authorise payment of previously issued securities under the Act, that are payable by presentation, where the security has been defaced, lost, stolen or destroyed.

Section 22 - Destruction of bearer security or coupon

This section requires the destruction of bearer securities once cancelled.

Part 4—Miscellaneous

Section 23 - Delegation of Treasurer's powers

This section allows the Treasurer to delegate his powers under the Regulation to certain employees of the Department or the Reserve Bank of Australia.