

EXPLANATORY STATEMENT

Select Legislative Instrument No. 64, 2015

Issued by authority of the Treasurer

Loans Securities Act 1919

Loans Securities Regulation 2015

Section 7 of the *Loans Securities Act 1919* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act, or for the conduct of any business relating to the issue, sale, transfer and dealing with securities to which the Act applies.

The purpose of the *Loans Securities Regulation 2015* (Regulation) is to remake the *Loans Securities 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 1930 that were registered on the Federal Register of Legislative Instruments on 1 January 2005, such as the *Loans Securities Regulations*, sunset on 1 October 2015. When a legislative instrument sunsets, it is automatically repealed.

Under the Act securities were issued in bearer form, which are payable on presentation of the security.

Securities are no longer issued in bearer form. However, there are outstanding securities within their prescription period which are payable if presented.

The Regulation provides a mechanism for an applicant to seek the replacement or payment of bearer securities that have been lost, stolen, destroyed or mutilated where the Treasurer is satisfied of the applicant’s claim and the security has not been previously paid.

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.

Public consultation on the Regulation was not considered necessary, as in accordance with section 18 of the LIA it is of a minor or machinery nature and it does not substantially alter existing arrangements.

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 18553).

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

Loans Securities 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 *Loans Securities Regulation 2015* prescribes matters in relation to the process for the replacement or payment of bearer securities previously issued under the Act where the securities have been accidentally 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

Part 1—Preliminary

Section 1 - Name

This section provides for the name of the Regulation to be the *Loans Securities Regulation 2015* (Regulation).

Section 2 - Commencement

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

Section 3 - Authority

This section provides that the authority to make the Regulation is the *Loans Securities Act 1919*.

Section 4 - Schedule(s)

This section provides that instruments listed in the Schedule are amended or repealed as stated in the Schedule. Schedule 1 repeals the prior *Loans Securities 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 *Loans Securities Act 1919*.

Section 6 - Lost, stolen, destroyed or mutilated securities

The purpose of this section is to allow for the replacement of a security that is accidentally lost, stolen, destroyed or mutilated prior to payment where the Treasurer is satisfied of the applicant's claim.

Section 7 - Payment of lost, stolen, destroyed or mutilated securities

The purpose of this section is to allow for the payment of a security that is accidentally lost, stolen, destroyed or mutilated prior to payment where the Treasurer is satisfied of the applicant's claim.

Section 8 - Delegation

This section allows the Treasurer to delegate powers under this Regulation to certain employees of the Department.