

## EXPLANATORY STATEMENT

### **Issued by authority of the Minister for Revenue and Financial Services**

*Taxation Administration Act 1953*

*Taxation Administration Regulations 2017*

The *Taxation Administration Act 1953* (the Act) provides the administrative framework for the tax law. This includes the collection and recovery of income tax and other liabilities, objections, reviews and appeals processes, charges and penalties, rulings and other tax administration matters.

Section 18 of the Act provides that the Governor-General may make regulations prescribing 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.

The purpose of the *Taxation Administration Regulations 2017* (the Regulations) is to remake and improve the operation of the *Taxation Administration Regulations 1976* before they ‘sunset’. The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, progressively sunset according to the timetable in section 50 of that Act. Legislative instruments made in the 1970s that were registered on the Federal Register of Legislation on 1 January 2005, such as the *Taxation Administration Regulations 1976*, are automatically repealed on 1 October 2017. Legislative instruments generally cease to have effect after 10 years unless their operation is extended such as by remaking the instrument.

The Regulations remake and improve the *Taxation Administration Regulations 1976* by repealing redundant provisions, simplifying language and restructuring provisions for ease of navigation. The key changes are:

- the structure of the Regulations has been changed from that used in the *Taxation Administration Regulations 1976* to follow the Act more closely;
- headings to Parts of the Regulations have been updated to state whether they relate to the body of the Act or Schedule 1 to the Act;
- expressions in sections that are made for the purpose of Schedule 1 to the Act take their meaning from the *Income Tax Assessment Act 1997*, rather than the body of the Act. The effect of this is that a number of expressions that were duplicated from the *Income Tax Assessment Act 1997* have been removed; and
- certain provisions that deal with withholding payments to foreign residents have been restructured so that the provisions that prescribe what types of payments are covered are separate from the provisions for working out the amount of the payment.

These changes are not intended to affect the substantive meaning or operation of the provisions.

Further details of the Regulations are set out in [Attachment A](#).

Under certain sections of the Act, the Minister must be satisfied of particular matters before regulations can be made for the purposes of those sections. The Minister is satisfied of each of those matters.

An Exposure Draft of the proposed Regulations and accompanying Explanatory Materials were released for public consultation from 31 July 2017 to 18 August 2017. One submission was received during the consultation process, but no changes to the Regulations or Explanatory Statement were necessary.

The Exposure Draft version of the Regulations included a subdivision about withholding amounts for Subdivisions 12-B, 12-C and 12-D of Schedule 1 to the Act. This subdivision has been omitted, as the amounts to be withheld are covered by withholding schedules made by the Commissioner.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commenced on 1 October 2017.

Prior to the making of the Regulations and in accordance with the Office of Best Practice Regulation's (OBPR) Guidance Note on sunseting instruments, the Department of the Treasury self-assessed that the *Taxation Administration Regulations 1976* were operating effectively and efficiently, and therefore a Regulation Impact Statement was not required. This assessment was informed by the public consultation on the exposure draft Regulations. This assessment has been confirmed and will be published by OBPR for transparency purposes (OBPR reference 22647).

A Statement of Compatibility with Human Rights is at [Attachment C](#). The Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

## **ATTACHMENT A**

### **Details of the Taxation Administration Regulations 2017**

This attachment sets out further details of the *Taxation Administration Regulations 2017* (the Regulations). All references are to the Regulations unless otherwise stated. References to a ‘corresponding provision’ are to the corresponding provision in the *Taxation Administration Regulations 1976*, as identified by the finding table in Attachment B.

Changes of a minor or machinery nature, such as the increased use of headings and also references to ‘section’ rather than ‘regulation’ in accordance with modern drafting practice, are generally not specifically identified in this Attachment. Where changes are made that are intended to apply in a different way or require further explanation, these are identified and explained in this Attachment.

### **Part 1—Preliminary**

#### **Section 1**

This section provides that the title of the Regulations is the *Taxation Administration Regulations 2017*.

#### **Section 2**

This section provides that the Regulations commence on 1 October 2017.

#### **Section 3**

This section provides that the Regulations are made under the *Taxation Administration Act 1953*.

#### **Section 4**

This section provides that each instrument that is specified in a Schedule to the Regulation is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Regulations has effect according to its terms.

#### **Section 5**

This section contains defined expressions used in the Regulations. As part of the remake of the Regulations a number of redundant definitions were repealed. Where an expression is defined in a later section in the Regulations, a ‘signpost’ has been added that states in which section that expression is defined, rather than replicating the expression. This is done where it improves the comprehensibility of that section.

All expressions in section 5 have the same meaning throughout the Regulations consistent with modern drafting practice. Because the Regulations use a number of terms that are defined in other Acts, a number of expressions have been added so that the term has that meaning when used throughout the Regulations.

‘Electronic communication’ has been defined to have the same meaning as in the *Electronic Transactions Act 1999*. This definition was added because of amendments to Division 4 of Part 2, which is about the service of documents.

### *Headings to Parts in the Regulations*

Headings to Parts throughout the Regulations have been updated to make it clear whether the Part relates to the Act or Schedule 1 to the Act. This is because expressions have a different meaning when used in Schedule 1 to the Act. Sections 25, 57, 62 and 65 ensure that expressions used in Parts 3, 4, 5 and 6 have the same meaning as in Schedule 1 to the Act. Accordingly, the headings to each Part have been updated to signpost how the sections in each Part should be interpreted. The headings also note the Chapter of Schedule 1 to the Act to which the Part relates to assist readers in locating the relevant provisions.

## **Part 2—General administration (not relating to Schedule 1 to the Act)**

### **Division 1—Preliminary**

#### **Section 6**

This section sets out that paragraph 13(1)(b) of the *Legislation Act 2003* has effect in relation to Part 2. That paragraph provides that where an expression is used in an instrument it has the same meaning as in the enabling legislation in force from time to time. This provision is included because sections 25, 57, 62 and 65 of the Regulations modify the operation of paragraph 13(1)(b) so that the expressions used in Parts 3, 4, 5 and 6 have the same meaning as in Schedule 1 to the Act, rather than the body of the Act.

The effect of section 3AA of the Act is that an expression used in Schedule 1 to the Act has the same meaning as in the *Income Tax Assessment Act 1997*. This means that some expressions have a different meaning when used in Schedule 1 to when they are used in the Act other than in Schedule 1. To clarify that expressions used in the Regulations have the same meaning as the relevant expressions of the enabling legislation to which they relate, the section states that paragraph 13(1)(b) has an unmodified operation in relation to the expressions used in Part 2, and therefore the expressions used should be interpreted to have the same meaning as in the enabling legislation.

## **Division 2—Prosecutions and offences**

### **Section 7**

The section has been updated to refer to subsections 8C(1), 8D(1) or 8D(2) of the Act, rather than stating the matters or things the person mentioned in the subsections refused or failed to do.

This section is remade in reliance on the power in section 18 of the Act to make regulations that are ‘necessary and convenient’ for the operation of the Act. The section deals with evidentiary certificates in respect of certain offences. Sections 8C and 8D of the Act establish offences for refusing or failing to do specified things under a taxation law and refusing or failing to do specified things when attending before the Commissioner of Taxation (Commissioner) or another person pursuant to a taxation law. The ability of the Commissioner, a Second Commissioner or Deputy Commissioner to issue certificates that are prima facie evidence of the facts stated in the certificate is ‘necessary and convenient’ for the operation of the Act.

### **Sections 8 to 10**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

## **Division 3—Departure from Australia**

### **Section 11**

The section replicates the corresponding provision in the *Taxation Administration Regulations 1976*, but updates the reference to the ‘Secretary of the Department of Foreign Affairs and Trade’ to ‘the Secretary of the Department administered by the Minister administering the *Diplomatic Privileges and Immunities Act 1967*’. This ensures that the Regulations do not need to be updated in the future because of changes to responsibilities of Ministers and Department names.

### **Sections 12 and 13**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

## **Division 4—Service of documents**

Division 4 is remade in reliance on the power in section 18 of the Act to make regulations that are ‘necessary and convenient’ for the operation of the Act. The Act contains provisions permitting or requiring the Commissioner to serve documents on (or provide documents to) persons in particular circumstances. As Division 4 deals with how service of those documents is to be effected (and related matters), it is necessary and convenient for the operation of the Act.

## **Section 14**

Paragraph 14(c) has been amended to align the drafting with other similar provisions dealing with the service of documents and electronic communications, particularly the *Electronic Transactions Act 1999*. These changes reflect the increased use of digital communication in the Australian community. It provides that where a person has given the Commissioner an electronic address as a preferred address for service, the Commissioner may serve a document on that person by:

- sending an electronic copy of the document to that address; or
- sending an electronic communication to that address that notifies the person that a copy of the document is available to be retrieved by electronic means.

Where an electronic communication is sent to an address and the copy of the document is not capable of being retrieved, then the document will not be served on the person.

## **Section 15**

The section replicates the corresponding provisions in the *Taxation Administration Regulations 1976*, but the definition of ‘effective’, when used in relation to an address, has been moved from the definition section to section 15. Section 5 (definitions) now notes that effective has the meaning given by subsection 15(3).

A consequential amendment has been made to subsection 15(3) to reflect the change to paragraph 14(c).

## **Sections 16 to 19**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

## **Division 5—Miscellaneous**

### **Section 20**

The section replicates the corresponding provisions in the *Taxation Administration Regulations 1976*, but has been updated in accordance with modern drafting practice.

### **Sections 21 and 22**

Sections 21 and 22 are made in reliance on the power in section 18 of the Act to make regulations that are ‘necessary and convenient’ for the operation of the Act. The Act contains provisions setting out how a person is to discharge their tax-related liability. As the section deals with how a person is to pay the liability, including by requiring that it must be discharged in Australian currency, it is necessary and convenient for the operation of the Act.

## **Section 23**

Section 23 is remade in reliance on the power in section 18 of the Act to make regulations that are ‘necessary and convenient’ for the operation of the Act. The Act contains provisions setting out the treatment of payments made to the Commissioner in relation to a tax-related liability. As the section deals with amounts that are to be deducted from a payment if the Commissioner has incurred postage expenses as a result of a deficiency or failure to pay postage on a postal item sent to the Commissioner, it is necessary and convenient for the operation of the Act.

## **Section 24**

Section 24 is remade in reliance on the power in section 18 of the Act to make regulations that are ‘necessary and convenient’ for the operation of the Act. The Act contains provisions that require the Commissioner, a Second Commissioner or a Deputy Commissioner to sign documents, and give authority or notices under taxation laws. As the section deals with when a signature of a Commissioner, a Second Commissioner or a Deputy Commissioner is taken to be effective for the purpose of those documents, authorities or notices, it is necessary and convenient for the purposes of the Act.

### Part 3—Income tax (Chapter 2 in Schedule 1 to the Act)

#### Division 1—Preliminary

## **Section 25**

The section sets out that paragraph 13(1)(b) of the *Legislation Act 2003* has a modified operation in relation to Part 3 of the Regulations. Expressions used in that part have the same meaning as in Schedule 1 to the Act, rather than the enabling legislation. The remainder of section 13 of the *Legislation Act 2003* operates in relation to Part 3 without any modification.

The effect of section 3AA of the Act is that an expression used in Schedule 1 to the Act has the same meaning as in the *Income Tax Assessment Act 1997*. This means that some terms have a different meaning when used in Schedule 1 to when they are used in the Act other than in Schedule 1. To ensure that expressions used in the Regulations have the same meaning as the relevant provisions of the enabling legislation to which they relate, it is necessary to modify the operation of paragraph 13(1)(b) so that expressions used in the sections in Part 3 are interpreted to have the same meaning as when they are used in Schedule 1 to the Act.

## **Section 26**

This section simplifies a number of different provisions in the *Taxation Administration Regulations 1976* that deal with how amounts are to be rounded at various times for the purpose of the PAYG withholding amount rules. As the same rounding rules were applied at each stage, they have been simplified into a single rounding rule. There is no change to the outcomes by applying a single rounding rule.

The single rounding rule applies to amounts that are dealt with, or worked out, under Divisions 2 and 3 of Part 3.

## **Division 2—Pay as you go (PAYG) withholding—Payments from which amounts must be withheld**

### **Subdivision A—Payments for work or services**

#### **Section 27**

The section has been updated to replace references to an individual that performs in a promotional activity, with references to ‘performing artist’, which is a defined term in the *Income Tax Assessment Act 1997*. The prescribed activities in which a performing artist may be engaged under a contract have been simplified. They now cover where the artist endorses or promotes goods or services, or where they appear or participate in an advertisement. To ensure that the section continues to have the same coverage, the exception where a person is engaged primarily because they are a sports person has been retained.

### **Subdivision B—Payments where TFN not quoted**

#### **Sections 28 and 29**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

#### **Section 30**

Subsection 30(2) has been amended to clarify that the provision also applies where there is no actual payment, but only a deemed payment, as there may be under subsection 12-180(3) of the Act.

### **Subdivision C—Payments to foreign residents**

#### **Sections 31 to 33**

The corresponding provisions that relate to setting the amount to withhold for Subdivision 12-FB of Schedule 1 to the Act have been moved into Division 3. This ensures that the Regulations follow the structure of the Act, to assist readers in locating sections within the Regulations. These provisions now only prescribe kinds of payments for the purposes of paragraph 12-315(1)(b) of Schedule 1 to the Act. The kinds of payments that are prescribed are not intended to be affected by the amendments, and include payments for gaming junkets, entertainment or sports activities and construction and related activities.

Paragraph 44B(4) of the *Taxation Administration Regulations 1976*, included a non-exhaustive list of support staff that relate to entertainment or sports activities. That list has been removed to simplify and shorten the provision, making it more principle-based. However, its removal is not intended to affect the coverage of the



provision, or imply that those support staff are not engaged in an entertainment or sports activity. The support staff that were removed included:

- bodyguards; and
- choreographers; and
- coaches; and
- costume designers; and
- directors; and
- directors of photography; and
- doctors; and
- film editors; and
- hairdressers; and
- musical directors; and
- personal trainers; and
- physiotherapists; and
- producers; and
- production designers; and
- set designers; and
- sports psychologists; and
- the providers of any other similar services.

For the purposes of sections 31 to 33, the Minister is satisfied that each payment set out in those sections is a payment of a kind that could reasonably be related to assessable income of foreign residents, as is required by section 12-315 of Schedule 1 to the Act.

#### **Subdivision D—Distributions of withholding MIT income**

##### **Section 34**

The corresponding regulation in the *Taxation Administration Regulations 1976* was affected by a number of application provisions that were contained in amending regulations that have been repealed. Paragraph 7(2)(b) of the *Treasury (Spent and Redundant Instruments) Repeal Regulation 2013* preserves the operation of a number of application provisions that were repealed in that instrument. Those application provisions are intended to continue in relation to this section.

## **Division 3—Pay as you go (PAYG) withholding—Working out the amount to withhold**

### **Subdivision A—Withholding amounts for Subdivision 12-E**

#### **Section 35**

The words ‘of income’ that followed the word ‘payment’ have been removed from subsection 35(1) to clarify that the amount to be withheld is worked out by reference to the gross payment, and not just the part of the payment that relates to the ordinary or statutory income of the recipient.

A number of expressions from the *Income Tax Assessment Act 1997* were previously required to be duplicated in the corresponding provision in the *Taxation Administration Regulations 1976*. Because of the effect of section 25 it is no longer necessary to duplicate those expressions, so they have been removed.

#### **Section 36 to 38**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

### **Subdivision B—Withholding amounts for Subdivision 12-F**

#### **Section 39**

This section sets out that the Subdivision applies to a part of a dividend in the same way as it does to a dividend to clarify its operation in these circumstances.

#### **Sections 40 to 45**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

### **Subdivision C—Withholding amounts for Subdivision 12-FA and 12-FAA**

#### **Sections 46 to 47**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

### **Subdivision D—Withholding amounts for Subdivision 12-FB**

#### **Sections 48 to 51**

These sections have been inserted as a result of the restructure of the former regulations 44A, 44B and 44C of the *Taxation Administration Regulations 1976*.

These replicate the provisions that set the amount to withhold for Subdivision 12-FB of Schedule 1 to the Act, for kinds of payments that have been prescribed under Part 3, Division 2, Subdivision C. This ensures that the Regulations follow the structure of the Act, to assist readers in locating sections within the Regulations.

### **Subdivision E—Withholding amounts for Subdivision 12-FC and 12-G**

#### **Sections 52 to 53**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

### **Subdivision F—Declarations**

#### **Section 54**

The section replicates the corresponding provisions in the *Taxation Administration Regulations 1976*, but has been updated in accordance with modern drafting practice.

#### **Section 55**

The words ‘of that kind’ have been omitted from the corresponding provision to sub-paragraph 55(1)(b)(ii) in the *Taxation Administration Regulations 1976*. This makes it clearer that the sub-paragraph is referring to a declaration that has been taken to be given under subsection 55(2), for relief from 50 per cent of the Medicare Levy.

#### **Sections 56**

The section replicates the corresponding provisions in the *Taxation Administration Regulations 1976*, but has been updated in accordance with modern drafting practice.

### **Part 4—Other taxes (Chapter 3 in Schedule 1 to the Act)**

#### **Division 1—Preliminary**

#### **Section 57**

This section sets out that paragraph 13(1)(b) of the *Legislation Act 2003* has a modified operation in relation to Part 4 of the Regulations. Expressions used in that part have the same meaning as in Schedule 1 to the Act, rather than the enabling legislation. The remainder of section 13 of the *Legislation Act 2003* operates in relation to Part 4 with unmodified effect.

The effect of section 3AA of the Act is that an expression used in Schedule 1 to the Act has the same meaning as in the *Income Tax Assessment Act 1997*. This means that some terms have a different meaning when used in Schedule 1 to when they are used in the Act other than in Schedule 1. To ensure that expressions used in the Regulations have the same meaning as the relevant provisions of the enabling legislation to which they relate, it is necessary to modify the operation of

paragraph 13(1)(b) so that expressions used in the sections in Part 3 are interpreted to have the same meaning as when they are used in Schedule 1 to the Act.

## **Division 2—Indirect Taxes**

### **Sections 58 to 59**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

An example of the type of entity that is the subject of an international agreement referred to in subsection 58(2) is the Australian-American Educational Foundation, which was established under the Agreement between the Government of the Commonwealth of Australia and the Government of the United States of America for the financing of certain educational exchange programmes.

The text of the agreement is set out in Australian Treaty Series [1964] ATS 15.

### **Section 60**

The words ‘worked out under subsection (3)’ have been inserted in subsection 60(2) to clarify that the amount to be refunded is worked out in accordance with subsection 60(3). This does not change the intended operation of the section.

### **Section 61**

The section replicates the corresponding provisions in the *Taxation Administration Regulations 1976*, but has been updated in accordance with modern drafting practice.

## **Part 5—Generic rules (Chapter 4 in Schedule 1 to the Act)**

### **Division 1—Preliminary**

#### **Section 62**

This section sets out that paragraph 13(1)(b) of the *Legislation Act 2003* has a modified operation in relation to Part 5 of the Regulations. Expressions used in that Part have the same meaning as in Schedule 1 to the Act, rather than the enabling legislation. The remainder of section 13 of the *Legislation Act 2003* operates in relation to Part 5 with unmodified effect.

The effect of section 3AA of the Act is that an expression used in Schedule 1 to the Act has the same meaning as in the *Income Tax Assessment Act 1997*. This means that some terms have a different meaning when used in Schedule 1 to when they are used in the Act other than in Schedule 1. To ensure that expressions used in the Regulations have the same meaning as the relevant provisions of the enabling legislation to which they relate, it is necessary to modify the operation of paragraph 13(1)(b) so that expressions used in the sections in Part 3 are interpreted to have the same meaning as when they are used in Schedule 1 to the Act.

## **Division 2—Estimates of liability**

### **Sections 63 to 64**

These sections replicate the corresponding provisions in the *Taxation Administration Regulations 1976*, but have been updated in accordance with modern drafting practice.

## **Part 6—Administration (Chapter 5 in Schedule 1 to the Act)**

### **Division 1—Preliminary**

#### **Section 65**

This section sets out that paragraph 13(1)(b) of the *Legislation Act 2003* has a modified operation in relation to Part 6 of the Regulations. Expressions used in that Part have the same meaning as in Schedule 1 to the Act, rather than the enabling legislation. The remainder of section 13 of the *Legislation Act 2003* operates in relation to Part 6 with unmodified effect.

The effect of section 3AA of the Act is that an expression used in Schedule 1 to the Act has the same meaning as in the *Income Tax Assessment Act 1997*. This means that some terms have a different meaning when used in Schedule 1 to when they are used in the Act other than in Schedule 1. To ensure that expressions used in the Regulations have the same meaning as the relevant provisions of the enabling legislation to which they relate, it is necessary to modify the operation of paragraph 13(1)(b) so that expressions used in the sections in Part 3 are interpreted to have the same meaning as when they are used in Schedule 1 to the Act.

### **Division 2—The Australian Taxation Office**

#### **Subdivision A—Powers to obtain information and evidence**

##### **Section 66**

The section replicates the corresponding provisions in the *Taxation Administration Regulations 1976*, but has been updated in accordance with modern drafting practice.

#### **Subdivision B—Confidentiality of taxpayer information**

##### **Section 67**

The section replicates the corresponding provisions in the *Taxation Administration Regulations 1976*, but has been updated in accordance with modern drafting practice.

### **Division 3—Rulings**

#### **Section 68**

The section replicates the corresponding provisions in the *Taxation Administration Regulations 1976*, but has been updated in accordance with modern drafting practice.

### **Division 4—Record-keeping etc.**

#### **Section 69**

The section has been updated to remove notes that explained the operation of section 398-5 of Schedule 1 to the Act.

### **Division 5—Verification system**

#### **Section 70**

Because of the insertion of section 65, a subsection has now been removed that had the effect that expressions in the corresponding section in the *Taxation Administration Regulations 1976* took their meaning from the *Income Tax Assessment Act 1997*. The expressions ABN, consolidated group, MEC group, member in relation to a consolidated or MEC group, and supply continue to take their meaning from the *Income Tax Assessment Act 1997*.

### **Part 7—Transitional matters**

#### **Section 71**

Subsection 71(1) ensures that things that were done under the *Taxation Administration Regulations 1976* are recognised as being done under the new Regulations. A thing is recognised as being done under the old regulations where it was done for a particular purpose under the *Taxation Administration Regulations 1976* immediately before they were repealed, and the thing can be done for that purpose under the remade Regulations.

Subsection 71(2) clarifies that a ‘thing being done’ is intended to be broad in scope, and includes, amongst other things, a reference to an election, a declaration, a certificate, a notice, an application, an order or a document being given, made or served. The matters covered by subsection 71(1) are not limited to those included in the list in subsection 71(2).

#### **Section 72**

Where a form was approved under section 388-50 in Schedule 1 to the Act for the purposes of a provision of the *Taxation Administration Regulations 1976*, and the form could be approved for that purpose under this instrument, the form continues to have effect as if it had been approved under the corresponding provision of this instrument. This ensures that forms do not have to be re-approved, and that any existing approved forms remain valid. The forms that have been approved for those

purposes remain approved forms, and therefore there is no need for further transitional provisions.

### **Schedule 1—Prescribed forms and notices**

#### **Forms 1 to 3**

Schedule 1 remakes the corresponding forms in the *Taxation Administration Regulations 1976*. They have been updated in accordance with modern drafting practice.

### **Schedule 2—Scale of expenses**

Schedule 2 remakes the scale of expenses that can be paid by the Commissioner for attendance by an individual, before the Commissioner or a person authorised by the Commissioner. For payments that are based on the *High Court Rules 2004* the rates payable are those in force on 1 October 2017.

The Schedule has been updated to refer to a witness who is an ‘expert’, rather than to a person who is ‘to give evidence because of that person’s professional, scientific or other special skills or knowledge’. This aligns the wording with the *High Court Rules 2004*.

### **Schedule 3—Repeals**

#### **Item 1**

This section repeals the whole of the *Taxation Administration Regulations 1976*.

## ATTACHMENT B

### FINDING TABLES

As a result of some of the changes outlined in Attachment A, it was necessary to renumber the provisions in the Regulations. This explanatory statement includes finding tables to assist in identifying which provision in the Regulations corresponds to a provision in the old law that has been rewritten or consolidated, and vice versa.

References to the old law are to the *Taxation Administration Regulations 1976* unless otherwise specified. References to the new law are to the *Taxation Administration Regulations 2017* unless otherwise specified. In the finding table, in the Old Law column, 'no equivalent' means that this is a new provision that has no equivalent in the old law. In the 'New Law' column, 'omitted' means that the section from the old law has not been remade.

#### Finding Table – Old to New Law

<i>Old Law</i>	<i>New Law</i>
<i>Regulation in Taxation Administration Regulations 1976</i>	<i>Section in Taxation Administration Regulations 2017</i>
1	1
2	5
2A	Omitted
5	7
6	8
7	9
8	10
11	66
12A	15
12B	17
12C	16
12D	18
12E	19
12F	14
13	11



<i>Old Law</i>	<i>New Law</i>
14	12
15	13
17	20
18	21
19	22
21	23
21A	Omitted
21B	58
21C	59
21D	60
21E	61
22	26
23	26
27	55
28	54
29	Omitted
30	56
34	35
35	28
36	Omitted
37	Omitted
38	38
38A	29
38B	30
38C	36
38D	37

<i>Old Law</i>	<i>New Law</i>
39	Omitted
39A	43
39B	44
40	40
41	41
42	42
42A	46
42B	47
43	53
44	27
44A	31
44B	32
44C	33
44D	48
44DA	52
44E	34
45	24
46	63
47	64
47A	Omitted
48	67
60	Omitted
61	68
62	Omitted
63	Omitted
63A	69

<i>Old Law</i>	<i>New Law</i>
64	70
65	Omitted
Schedule 1	Schedule 1
Schedule 2	Schedule 2
No equivalent	Schedule 3
No equivalent	2
No equivalent	3
No equivalent	4
No equivalent	6
No equivalent	25
No equivalent	39
No equivalent	45
No equivalent	49
No equivalent	50
No equivalent	51
No equivalent	57
No equivalent	62
No equivalent	65
No equivalent	71
No equivalent	72

### Finding Table – New to Old Law

<i>New Law</i>	<i>Old Law</i>
<i>Section in Taxation Administration Regulations 2017</i>	<i>Regulation in Taxation Administration Regulations 1976</i>
1	1
2	No equivalent
3	No equivalent
4	No equivalent
5	2
6	No equivalent
7	5
8	6
9	7
10	8
11	13
12	14
13	15
14	12F
15	12A
16	12C
17	12B
18	12D
19	12E
20	17
21	18
22	19
23	21
24	45

<i>New Law</i>	<i>Old Law</i>
25	No equivalent
26	22
26	23
27	44
28	35
29	38A
30	38B
31	44A
32	44B
33	44C
34	44E
35	34
36	38C
37	38D
38	38
39	No equivalent
40	40
41	41
42	42
43	39A
44	39B
45	No equivalent
46	42A
47	42B
48	44D
49	No equivalent

<i>New Law</i>	<i>Old Law</i>
50	No equivalent
51	No equivalent
52	44DA
53	43
54	28
55	27
56	30
57	No equivalent
58	21B
59	21C
60	21D
61	21E
62	No equivalent
63	46
64	47
65	No equivalent
66	11
67	48
68	61
69	63A
70	64
71	No equivalent
72	No equivalent
Schedule 1	Schedule 1
Schedule 2	Schedule 2
Schedule 3	No equivalent

<i>New Law</i>	<i>Old Law</i>
Omitted	2A
Omitted	21A
Omitted	29
Omitted	36
Omitted	37
Omitted	39
Omitted	47A
Omitted	60
Omitted	62
Omitted	63
Omitted	65

## **Statement of Compatibility with Human Rights**

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

### *Taxation Administration Regulations 2017*

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 *Taxation Administration Regulations 2017* (the ‘Regulations’) remake and improve the *Taxation Administration Regulations 1976* by repealing redundant provisions, simplifying language and restructuring provisions for ease of navigation.

The key changes are:

- the structure of the Regulations has been changed from that used in the *Taxation Administration Regulations 1976* to follow the Act more closely;
- headings to Parts of the Regulations have been updated to state whether they relate to the body of the Act or Schedule 1 to the Act;
- expressions in sections that are made for the purpose of Schedule 1 to the Act take their meaning from the *Income Tax Assessment Act 1997*, rather than the body of the Act. The effect of this is that a number of expressions that were duplicated from the *Income Tax Assessment Act 1997* have been removed; and
- certain provisions that deal with withholding payments to foreign residents have been restructured so that the provisions that prescribe what types of payments are covered are separate from the provisions for working out the amount of the payment.

These changes are not intended to affect the substantive meaning or operation of the provisions.

### **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.