

Electronic Transactions Regulations 2020

made under the

Electronic Transactions Act 1999

**Compilation No. 5**

**Compilation date:** 4 August 2023

**Includes amendments up to:** F2023L01063

**Registered:** 8 August 2023

**About this compilation**

**This compilation**

This is a compilation of the *Electronic Transactions Regulations 2020* that shows the text of the law as amended and in force on 4 August 2023 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Name

 This instrument is the *Electronic Transactions Regulations 2020*.

3 Authority

 This instrument is made under the *Electronic Transactions Act 1999*.

5 Definitions

 In this instrument:

***Act*** means the *Electronic Transactions Act 1999*.

6 Exemptions from the Act

 For the purposes of subsection 7A(2) of the Act, Schedule 1 specifies provisions of the Act that do not apply to specified laws of the Commonwealth.

Schedule 1—Laws of the Commonwealth to which certain provisions of the Act do not apply

Note: See section 6.

1 Laws of the Commonwealth to which certain provisions of the Act do not apply

 A provision of the Act specified in column 2 of an item in the following table does not apply to the Commonwealth law specified in column 1 of the item.

| Item | Column 1Commonwealth law | Column 2Provisions of the Act |
| --- | --- | --- |
| 1 | Subordinate legislation made under the *A New Tax System (Family Assistance) Act 1999* | Sections 9, 10 and 11 |
| 2 | *A New Tax System (Family Assistance) Act 1999*, Division 2 of Part 2 | Sections 9, 10 and 11 |
| 3 | *A New Tax System (Family Assistance) (Administration) Act 1999*, Part 3, Division 2 of Part 5, Division 1 of Part 6, Part 8, Division 1 of Part 8A and Part 8B | Sections 9, 10 and 11 |
| 4 | Subordinate legislation made under the *A New Tax System (Family Assistance) (Administration) Act 1999* | Sections 9, 10 and 11 |
| 5 | *Aged Care Act 1997*, sections 13–1, 15‑3, 15–5, 15–7, 16–2, 17–2, 22–3, 32–3, 35–2, 43–4, 43–5, 43‑6, 44‑23, 44–24, 44‑31, 47–4, 48‑11, 71‑1, 73–5, 81–2, 82‑2 and 85–5 | Sections 9, 10 and 11 |
| 6 | *Aged Care Act 1997*, sections 22‑5, 33‑4 and 71‑3 | Section 11 |
| 7 | *Australian Crime Commission Act 2002*, subsections 21A(1), 28(1) and 28(4) | Section 11 |
| 8 | *Australian Passports Act 2005* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 9 | *Australian Passports Determination 2015* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 10 | *Australian Securities and Investments Commission Act 2001* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 11 | Subordinate legislation made under the *Australian Securities and Investments Commission Act 2001* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 12 | The following provisions of the *Banking Act 1959*:(a) subsections 13(1), 13B(1), 14A(2), 16AK(1) and 16B(1);(b) section 61A;(c) subsection 62(1);(d) section 62E | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 13 | *Bills of Exchange Act 1909* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 16 | *Cheques Act 1986* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 17 | Subordinate legislation made under the *Cheques Act 1986* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 18 | *Child Support (Assessment) Act 1989*, Part 6A | Sections 9, 10 and 11 |
| 19 | The following provisions of the *Commonwealth Electoral Act 1918*:(a) section 115;(b) Part XV (other than sections 184 and 184A), subparagraphs 194(1A)(a)(ii) and (iii), and paragraph 194(1A)(d);(c) Part XVA;(d) Part XVI (other than subsections 202A(1), (2), (4) and (5)) | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 20 | *Commonwealth Inscribed Stock Act 1911* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 21 | Subordinate legislation made under the *Commonwealth Inscribed Stock Act 1911* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 22 | *Competition and Consumer Act 2010*, sections 44ZH, 95ZK, 95S, 133D, 155 and 155A | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 23 | *Corporations Act 2001* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 24 | Subordinate legislation made under the *Corporations Act 2001* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 25 | *Customs Act 1901*, sections 42, 71DA, 114A, 117, 162 and 162A | Sections 9, 10 and 11 |
| 26 | The following provisions of the *Customs Act 1901*:(a) section 64AE;(b) paragraph 124(1)(a);(c) subsection 214B(4) | Section 11 |
| 27 | *Customs (Prohibited Imports) Regulations 1956*, regulation 4MA | Section 11 |
| 28 | *Customs Regulation 2015*, section 27 | Sections 9 and 10 |
| 29 | *Customs Regulation 2015*, section 94 | Sections 10 and 11 |
| 30 | *Customs Regulation 2015*, section 99 | Sections 9, 10 and 11 |
| 35 | *Farm Household Support Act 2014* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 36 | *Health Insurance Act 1973*, sections 89B, 105A and 106B | Section 11 |
| 37 | The following provisions of the *Insurance Act 1973*:(a) section 49;(b) subsection 55(1);(c) paragraphs 62C(1)(a) and 62C(2)(a);(d) subsections 62ZD(1), 62ZOD(2), 62ZT(1), 62ZZP(1) and 77(1);(e) paragraph 81(2)(a);(f) sections 92H, 115 and 115AA | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 42 | The following provisions of the *Life Insurance Act 1995*:(a) sections 88B, 98B, 131, 132, 141 and 170;(b) subsection 179AD(2);(c) section 185 | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 43 | *Maritime Powers Act 2013*, section 57 | Section 11 |
| 44 | *Migration Act 1958*, subsections 379A(5), 441A(5) and 494B(5) | Sections 14, 14A and 14B |
| 45 | *Migration Regulations 1994*, paragraphs 2.55(3)(d), 2.55(3A)(d) and 2.55(3A)(f) | Sections 14, 14A and 14B |
| 49 | *Mutual Assistance in Business Regulation Act 1992*, subsections 10(2) and 10(3) and section 17 | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 52 | The following provisions of Schedule 1 to the *National Consumer Credit Protection Act 2009*:(a) section 88;(b) paragraph 99(1)(b);(c) subsection 102(1);(d) paragraphs 130(5)(a) and 130(6)(a);(e) subsection 178(1);(f) a provision that provides that duty is charged on a transaction only if the transaction is effected or evidenced by an instrument or document in hard copy form;(g) a provision that provides that duty is charged on an instrument only if the instrument is in hard copy form | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 53 | The following provisions of the *National Consumer Credit Protection Regulations 2010*:(a) paragraphs 87(a) and 87(c);(b) a provision that provides that duty is charged on a transaction only if the transaction is effected or evidenced by an instrument or document in hard copy form;(c) a provision that provides that duty is charged on an instrument only if the instrument is in hard copy form | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 59 | *Paid Parental Leave Act 2010*, Parts 2‑4, 3‑5, 3A‑4, 4‑1, 5‑2, 5‑3 and 6‑2 | Sections 9, 10 and 11 |
| 60 | Subordinate legislation made under the *Paid Parental Leave Act 2010* | Sections 9, 10 and 11 |
| 63 | *Private Health Insurance (Prudential Supervision) Act 2015*, sections 13, 36, 73, 112, 128, 129 and 132 | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 67 | *Protection of the Sea (Harmful Anti‑fouling Systems) Act 2006*, subsection 16(4) and paragraphs 17(2)(g), 17(2)(h) and 17(2)(i) | Section 11 |
| 69 | *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*, subsection 11A(3) | Sections 9 and 12 |
| 78 | *Referendum (Machinery Provisions) Act 1984*, Parts III (other than subsections 16A(1), (2), (4) and (5)), IV and IVA | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 81 | *Retirement Savings Accounts Act 1997*, sections 92, 93 and 100 | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 82 | *Shipping Registration Act 1981* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 83 | *Shipping Registration Regulations 2019* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 84 | Subordinate legislation made under the *Social Security Act 1991* | Sections 9, 10 and 11 |
| 85 | *Social Security (Administration) Act 1999*, Divisions 1 and 6 of Part 3 and Division 1 of Part 5 | Sections 9, 10 and 11 |
| 86 | Subordinate legislation made under the *Social Security (Administration) Act 1999* | Sections 9, 10 and 11 |
| 87 | Subordinate legislation made under the *Social Security (International Agreements) Act 1999* | Sections 9, 10 and 11 |
| 88 | *Statutory Declarations Act 1959* | Section 10 |
| 89 | *Superannuation Industry (Supervision) Act 1993*, other than the following provisions:(a) subsection 20B(1A);(b) paragraph 20B(3A)(b);(c) subsection 29E(6B);(d) subparagraph 29SAA(1)(a)(i);(e) subsection 29SAA(3);(f) sections 29WA, 29WB and 35B;(fa) subsections 60C(3) and (4);(g) subsections 68AAA(2), 68AAB(2) and 68AAC(2);(h) subsection 99FA(1) | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 90 | Subordinate legislation made under the *Superannuation Industry (Supervision) Act 1993*, other than the following provisions:(b) prudential standards made under section 34C of that Act;(c) regulations 9.46 and 9.46A and subregulations 9AB.5(8), 9AB.7(6), 9AB.10(6) and (8), 9AB.12(6), 9AB.14(11) and 9AB.15(2) of the *Superannuation Industry (Supervision) Regulations 1994* | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |
| 91 | *Torres Strait Regional Authority (Election of Officeholders) Regulations 2019*, sections 7 and 14 | Subsection 8(1), Division 2 of Part 2 and sections 14, 14A, 14B and 15 |

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) |
| C[x] = Compilation No. x | /sub‑subparagraph(s) |
| Ch = Chapter(s) | pres = present |
| def = definition(s) | prev = previous |
| Dict = Dictionary | (prev…) = previously |
| disallowed = disallowed by Parliament | Pt = Part(s) |
| Div = Division(s) | r = regulation(s)/rule(s) |
| ed = editorial change | reloc = relocated |
| exp = expires/expired or ceases/ceased to have | renum = renumbered |
| effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = *Legislation Act 2003* | Sch = Schedule(s) |
| LIA = *Legislative Instruments Act 2003* | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given | SLI = Select Legislative Instrument |
| effect | SR = Statutory Rules |
| (md not incorp) = misdescribed amendment | Sub‑Ch = Sub‑Chapter(s) |
| cannot be given effect | SubPt = Subpart(s) |
| mod = modified/modification | underlining = whole or part not |
| No. = Number(s) | commenced or to be commenced |

Endnote 3—Legislation history

| Name | Registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Electronic Transactions Regulations 2020 | 29 July 2020 (F2020L00956) | 30 July 2020 (s 2(1) item 1) |  |
| Electoral Legislation Amendment (Miscellaneous Measures) Regulations 2021 | 19 Apr 2021 (F2021L00461) | Sch 1 (items 25–27): 20 Apr 2021 (s 2(1) item 1) | — |
| Financial Sector Reform (Hayne Royal Commission Response—Advice Fees) Regulations 2021 | 14 May 2021 (F2021L00581) | Sch 2: 1 July 2021 (s 2(1) item 3) | — |
| Electronic Transactions Amendment Regulations 2021 | 10 Jan 2022 (F2022L00021) | 11 Jan 2022 (s 2(1) item 1) | — |
| Electronic Transactions Amendment Regulations 2022 | 7 Apr 2022 (F2022L00550) | 8 Apr 2022 (s 2(1) item 1) | — |
| Superannuation Industry (Supervision) Amendment (Your Future, Your Super—Addressing Underperformance in Superannuation) Regulations 2023 | 3 Aug 2023 (F2023L01063) | Sch 2: 4 Aug 2023 (s 2(1) item 1) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| s 2  | rep LA s 48D |
| s 4  | rep LA s 48C |
| **Schedule 1** |  |
| c 1  | am F2021L00461; F2021L00581; F2022L00021; F2022L00550; F2023L01063 |
| Schedule 2  | rep LA s 48C |