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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CORONAVIRUS ECONOMIC RESPONSE PACKAGE OMNIBUS BILL 2020
GUARANTEE OF LENDING TO SMALL AND MEDIUM ENTERPRISES
(CORONAVIRUS ECONOMIC RESPONSE PACKAGE) BILL 2020
AUSTRALIAN BUSINESS GROWTH FUND (CORONAVIRUS ECONOMIC
RESPONSE PACKAGE) BILL 2020
ASSISTANCE FOR SEVERELY AFFECTED REGIONS (SPECIAL
APPROPRIATION) (CORONAVIRUS ECONOMIC RESPONSE PACKAGE)
BILL 2020
STRUCTURED FINANCE SUPPORT (CORONAVIRUS ECONOMIC RESPONSE
PACKAGE) BILL 2020
APPROPRIATION (CORONAVIRUS ECONOMIC RESPONSE PACKAGE)
BILL (NO. 1) 2019-2020
APPROPRIATION (CORONAVIRUS ECONOMIC RESPONSE PACKAGE)
BILL (NO. 2) 2019-2020
BOOSTING CASH FLOW FOR EMPLOYERS (CORONAVIRUS ECONOMIC
RESPONSE PACKAGE) BILL 2020

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Treasurer, the Hon. Josh Frydenberg MP)

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
ABN	Australian Business Number
Account	Structured Finance Support (Coronavirus Economic Response) Fund Special Account
Acts Interpretation Act	<i>Acts Interpretation Act 1901</i>
AOFM	Australian Office of Financial Management
Appropriation Bill No. 1	Appropriation (Coronavirus Economic Response Package) Bill (No. 1) 2019-2020
Appropriation Bill No. 2	Appropriation (Coronavirus Economic Response Package) Bill (No. 2) 2019-2020
Assistance for Severely Affected Regions Bill	Assistance for Severely Affected Regions (Special Appropriation) (Coronavirus Economic Response Package) Bill 2020
ATO	Australian Taxation Office
Bill	Coronavirus Economic Response Package Omnibus Bill 2020
Business Growth Fund Bill	Australian Business Growth Fund (Coronavirus Economic Response Package) Bill 2020
Cash Flow Boost Bill	Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Bill 2020
CEO	Chief Executive Officer
Charter of Budget Honesty	<i>Charter of Budget Honesty Act 1988</i>
Commissioner	Commissioner of Taxation
Coronavirus	Coronavirus known as COVID-19
Corporations Act	<i>Corporations Act 2001</i>
Corporations Regulations	<i>Corporations Regulations 2001</i>
CPI	consumer price index
CSHC	Commonwealth Seniors Health Card
DRCA	<i>Safety, Rehabilitation and Compensation</i>

<i>Abbreviation</i>	<i>Definition</i>
	<i>(Defence-related Claims) Act 1988</i>
Family Assistance Act	<i>A New Tax System (Family Assistance) Act 1999</i>
Family Assistance Administration Act	<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>
Family Assistance Law	<i>Family Assistance Act, Family Assistance Administration Act and relevant subordinate legislation</i>
FHA	Farm Household Allowance
FTB	Family Tax Benefit
Fund	Structured Finance Support (Coronavirus Economic Response) Fund
GDP	gross domestic product
GST	goods and services tax
IMF	International Monetary Fund
ITAA 1936	<i>Income Tax Assessment Act 1936</i>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
ITTP Act 1997	<i>Income Tax (Transitional Provisions) Act 1997</i>
Legislation Act	<i>Legislation Act 2003</i>
MEC group	multiple entry consolidated group
Minister's rules	<i>Child Care Subsidy Minister's Rules 2017</i>
MRCA	<i>Military Rehabilitation and Compensation Act 2004</i>
OECD	Organisation for Economic Co-operation and Development
PCC	Pensioner Concession Card
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
RBA	Reserve Bank of Australia
RSA Act	<i>Retirement Savings Accounts Act 1997</i>
RSA Regulations	<i>Retirement Savings Accounts Regulations 1997</i>
SES employee	Senior Executive Service employee
SIS Act	<i>Superannuation Industry (Supervision) Act</i>

<i>Abbreviation</i>	<i>Definition</i>
	<i>1993</i>
SIS Regulations	<i>Superannuation Industry (Supervision) Regulations 1994</i>
SME	Small and medium enterprise
SME Lending Guarantee Bill	Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Bill 2020
Social Security Act	<i>Social Security Act 1991</i>
Social Security Administration Act	<i>Social Security (Administration) Act 1999</i>
Structured Finance Support Bill	Structured Finance Support (Coronavirus Economic Response Package) Bill 2020
Surcharge	Medicare levy surcharge
TAA 1953	<i>Taxation Administration Act 1953</i>
Threshold amount	Medicare levy and Medicare levy surcharge low-income threshold amount
Veterans' Entitlements Act	<i>Veterans' Entitlements Act 1986</i>
Youth Allowance (other)	People qualified for Youth Allowance (other) who are not undertaking full-time study and are not a new apprentice

General outline and financial impact

Overview

This legislative package contains a number of bills to implement the Government's economic response to the spread of the Coronavirus, which the Government announced between 12 and 22 March 2020.

- Coronavirus Economic Response Package Omnibus Bill 2020
- Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Bill 2020
- Australian Business Growth Fund (Coronavirus Economic Response Package) Bill 2020
- Assistance for Severely Affected Regions (Special Appropriation) (Coronavirus Economic Response Package) Bill 2020
- Structured Finance Support (Coronavirus Economic Response Package) Bill 2020
- Appropriation (Coronavirus Economic Response Package) Bill (No 1) 2019-2020
- Appropriation (Coronavirus Economic Response Package) Bill (No 2) 2019-2020
- Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Bill 2020

Further details on the measures contained in each of these bills and the Government's economic response to the spread of the Coronavirus are detailed below and in the subsequent chapters.

Schedule 1 – Enhancing the Instant Asset Write-Off

This Schedule was prepared by the Treasury.

Schedule 1 to this Bill amends the income tax law to increase the cost threshold below which small business entities can access an immediate deduction for depreciating assets and certain related expenditure (instant asset write-off) from \$30,000 to \$150,000, from 12 March 2020 to 30 June 2020.

Schedule 1 to this Bill also amends the tax law to:

- provide access to an instant asset write-off to entities with an aggregated turnover of \$10 million or more but less than \$500 million (up from the existing cap of \$50 million); and
- make the instant asset write-off available for depreciating assets and certain related expenditure costing less than \$150,000, from 12 March 2020 to 30 June 2020.

Date of effect: On or after 12 March 2020.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: This measure is estimated to have the following revenue impact over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23	2023-24
–	-2,300	-200	1,400	400

Human rights implications: This Schedule does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 2 – Backing business investment

This Schedule was prepared by the Treasury.

Schedule 2 to this Bill forms a key part of the response of the Australian Government to the national emergency arising from the spread of the Coronavirus. It provides an incentive for businesses with aggregated turnovers of less than \$500 million per annum to invest in plant and equipment and other depreciating assets.

Specifically, Schedule 2 to this Bill amends the income tax law to temporarily allow businesses with aggregated turnovers of less than \$500 million in an income year to deduct capital allowances for depreciating assets at an accelerated rate.

Generally, to be eligible to apply the accelerated rate of deduction, the depreciating asset must satisfy a number of conditions including that the asset:

- is new and has not previously been held by another entity (other than as trading stock or for testing and trialling purposes);

- is an asset for which an entity has not claimed depreciation deductions, including under the instant asset write-off rules; and
- is first held, and first used or installed ready for use, for a taxable purpose between 12 March 2020 and 30 June 2021 (inclusive).

There are different rules that apply depending on whether or not an entity is using the simplified rules for capital allowances for small businesses.

Date of effect: On or after 12 March 2020.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: This measure is estimated to have the following revenue impact over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23	2023-24
–	-1,500	-5,200	200	3,300

Human rights implications: Schedule 2 to this Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from the Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 3 – Boosting cash flow for employers and Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Bill 2020

This Schedule was prepared by the Treasury.

The Australian Government is acting decisively in the national interest to address the economic consequences of the Coronavirus, without a permanent or structural impact on the budget balance.

The Cash Flow Boost Bill is a key part of the Commonwealth’s response to the spread of the Coronavirus. It provides for payments to support employers by boosting their cash flow and encourages the retention of employees through any downturn.

Specifically, the Cash Flow Boost Bill provides for the Commissioner to make payments referred to as cash flow boost payments comprising the first cash flow boost and the second cash flow boost payments. The first

cash flow boost payments are required to be made by the Commissioner to eligible entities for periods from March 2020 to June 2020.

Entities are eligible to receive the first cash flow boost for a period if:

- the entity makes a payment that is subject to withholding obligations under Subdivisions 12-B, 12-C or 12-D (broadly, a payment of wages or salary or similar remuneration), whether or not any amount is actually withheld, in the period;
- either:
 - the entity was a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the most recent income year of the entity for which an assessment of income tax has been made by the Commissioner; or
 - the Commissioner is reasonably satisfied that it is likely that the entity is a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the income year that includes the period;
- the entity has notified the Commissioner of their entitlement in the approved form;
- the period is one of the following:
 - the quarters ending in March 2020 or June 2020; and
 - the months of March 2020, April 2020, May 2020 or June 2020;
- if the entity is not an Australian Charities and Not-for-profits Commission registered charity, it both:
 - held an ABN on 12 March 2020; and
 - either derived assessable income from carrying on a business in the 2018-19 income year or made one or more supplies for consideration in the course of an enterprise it carried on within Australia in tax periods commencing after 1 July 2018 and ending before 12 March 2020 and notice of the income or supplies was held by the Commissioner on or before 12 March 2020 or within such further time as the Commissioner allows; and
- the entity (or an associate or agent of an entity) has not engaged in a scheme for the sole or dominant purpose of seeking to make the entity entitled to the first cash flow boost or increase the entitlement of the entity to the first cash flow boost.

The Cash Flow Boost Bill also provides for the Commissioner to make the second cash flow boost payments upon lodgement of activity statements for periods from June to September 2020 to entities that were entitled to the first cash flow boost.

Schedule 3 to this Bill make consequential amendments to various Acts arising from the Cash Flow Boost Bill.

Date of effect: The Cash Flow Boost Bill provides for the Commissioner to make payments to eligible entities in respect of periods from March 2020 and the quarter ending March 2020.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: This measure will have the following financial impact over the forward estimates period in underlying cash balance terms (\$ millions):

2019-20	2020-21	2021-22	2022-23	2023-24
-14,900	-17,000	–	–	–

Human rights implications: Neither Schedule 3 to the Bill nor the Cash Flow Boost Bill raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 4 – Stimulus payments to households to support growth

This Schedule was prepared by the Department of Social Services.

Schedule 4 to this Bill provides for the payment of the first economic support payment of \$750 to approximately 6.6 million Social Security and Veterans’ income support recipients, Farm Household Allowance recipients, Family Tax Benefit recipients and holders of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card.

Schedule 4 to this Bill also provides for the payment of a second economic support payment of \$750 to Social Security and Veterans’ income support recipients, Family Tax Benefit recipients and holders of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card who receive a qualifying payment or hold a qualifying concession card on 10 July 2020.

This second payment will not be paid to a person who receives, on 10 July 2020, the new Coronavirus supplement established by this Bill.

Date of effect: The day after this Act receives Royal Assent.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: This measure has the following financial impact over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23	2023-24
-4,876.6	-3,916.8	-34.4	-1.8	–

Human rights implications: Schedule 4 to this Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 5 – Delegation power for the Director of Human Biosecurity

This Schedule was prepared by the Department of Health.

Schedule 5 to this Bill amends the *Biosecurity Act 2015* to enable the Director of Human Biosecurity to delegate their function or powers under Part 3 of Chapter 2 (human biosecurity control orders) of the *Biosecurity Act 2015*.

Date of effect: The day after this Bill receives Royal Assent.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: Nil.

Human rights implications: Schedule 5 to this Bill does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 6 – Environmental Management Charge

This Schedule was prepared by the Department of Agriculture, Water and the Environment.

Schedule 6 to this Bill amends the *Great Barrier Reef Marine Park Regulations 2019* to temporarily waive the environmental management charge from 1 April 2020 to 31 December 2020.

Date of effect: 1 April 2020

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: This measure will reduce revenue collected by Great Barrier Reef Marine Park Authority during the period 1 April 2020 to 31 December 2020 to the sum of approximately \$8,249,400 which is intended to be appropriated to the Authority through other means.

Human rights implications: Schedule 6 to this Bill raises human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 7 – Assistance for apprentices and trainees and the aviation sector

This Schedule was prepared by the Department of Finance.

Schedule 7 to this Bill amends Schedule 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997* to establish legislative authority for government spending on new measures to assist employers to retain apprentices and trainees, and to provide financial assistance to participants in the Australian aviation sector to assist with the impact on the sector of the Coronavirus.

Date of effect: The day after this Bill receives Royal Assent

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: \$1.3 billion was announced over two years from 2019-20 for the measure to assist employers to retain apprentices and trainees. \$315 million between 1 February 2020 and 30 September 2020, was announced for the measure to assist the Australian aviation sector.

Human rights implications: Schedule 7 to this Bill does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 8 – Providing flexibility in the Corporations Act

This Schedule was prepared by the Treasury.

Schedule 8 to this Bill amends the Corporations Act to establish a temporary mechanism to provide short-term regulatory relief to classes of persons that, due to the Coronavirus, are unable to meet their obligations under the Corporations Act or the Corporations Regulations.

Date of effect: The day after this Bill receives Royal Assent.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: Nil

Human rights implications: Schedule 8 to the Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 9 – Child care

This Schedule was prepared by the Department of Education, Skills and Employment.

Schedule 9 to this Bill amends the Family Assistance Act and Family Assistance Administration Act to provide limited flexibility to manage the impact of the Coronavirus, as well as future disasters, on families and on business continuity for child care services.

Date of effect: These amendments generally apply in relation to the 2019-2020 financial year and later financial years.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: The measures in Schedule 9 to the Bill do not have a discernible financial impact.

Human rights implications: Schedule 9 to the Bill is compatible with human rights. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 10 – Superannuation drawdowns

This Schedule was prepared by the Treasury.

Schedule 10 to this Bill amends the SIS Regulations and RSA Regulations to give effect to the Government’s announced measure to reduce the minimum payment amounts for account-based pensions (and for the equivalent annuity products) by half for the 2019-20 and 2020-21 financial years.

Date of effect: The day after this Bill receives Royal Assent.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: The measure has the following revenue impact over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23	2023-24
–	*	*	*	–

Human rights implications: Schedule 10 to this Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 11 – Additional support for income support recipients

This Schedule was prepared by the Department of Social Services.

Schedule 11 to this Bill amends the Social Security Act to provide additional financial assistance to Australians financially impacted by the Coronavirus. Australians can claim jobseeker payment or Youth

Allowance (other) if they are an Australian resident (or exempt from the residence requirements) and satisfy the requirements outlined in a legislative instrument. If qualified, a person receives the current rate of jobseeker payment or Youth Allowance (other) along with a fortnightly supplement of \$550 or such other amount determined by legislative instrument.

The supplement is also available to existing recipients of jobseeker payment, Youth Allowance (other), Parenting Payment, Special Benefit, and the Farm Household Allowance. The Minister for Families and Social Services may extend the supplement to other social security payments by legislative instrument.

The supplement is available for an initial six month period, commencing on 27 April 2020. The Minister for Families and Social Services may extend the six-month period and extend the supplement to other social security payments.

Recipients of jobseeker payment or Youth Allowance (other) (which includes new and existing recipients) and Parenting Payment are also exempt from the assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion periods. The exemption from the newly arrived resident's waiting period also applies to special benefit.

Schedule 11 also amends the *Farm Household Support Act 2014* to apply the supplement and exemptions to recipients of the Farm Household Allowance.

Date of effect: 27 April 2020.

Proposal announced: The Government's economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: This measure has the following financial impact over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23	2023-24
-5,216.1	-8,841.3	-38.7	-21.9	-15.3

Human rights implications: Schedule 11 to this Bill does not raise human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from the Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 12 – Temporary relief for financially distressed individuals and businesses

This Schedule was prepared by the Treasury.

Schedule 12 to this Bill provides temporary relief for financially distressed individuals and businesses.

Date of effect: The day after this Bill receives Royal Assent.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: Nil.

Human rights implications: Schedule 12 to this Bill does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from the Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 13 – Early release of superannuation

This Schedule was prepared by the Treasury.

Schedule 13 to this Bill amends the SIS Regulations and RSA Regulations to allow individuals affected by Coronavirus to have up to \$10,000 released from their superannuation or retirement savings account on compassionate grounds. Each person is permitted to have up to two releases – one for an application made during the 2019-20 financial year and another for an application made during the 2020-21 financial year.

Schedule 13 also amends the ITTP Act 1997 to ensure that any such amounts that are released are not subject to tax.

Date of effect: The day after this Bill receives Royal Assent.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: Schedule 13 to this Bill is estimated to have the following financial impact over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23	2023-24
-20.0	-250.0	-280.0	-290.0	-310.0

Human rights implications: Schedule 13 to this Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from the Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 14 – Medicare levy and Medicare levy surcharge low-income thresholds

This Schedule was prepared by the Treasury.

Schedule 14 to this Bill amends the *Medicare Levy Act 1986* and the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* to increase:

- the Medicare levy low-income thresholds for individuals and families (along with the dependent child/student component of the family threshold) in line with movements in the CPI;
- the Medicare levy low-income thresholds for individuals and families eligible for the Seniors and Pensioners Tax Offset (along with the dependent child/student component of the family threshold), in line with movements in the CPI; and
- the Medicare levy surcharge low-income threshold in line with movements in the CPI.

Date of effect: The 2019-20 income year and later income years.

Proposal announced: Not previously announced.

Financial impact: The measure is estimated to have a cost to revenue of \$240 million over the forward estimates period comprising (\$m):

2019-20	2020-21	2021-22	2022-23	2023-24
-	-90	-50	-50	-50

Human rights implications: Schedule 14 to the Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 15 – Delaying the next intergenerational report to 2021

This Schedule was prepared by the Treasury.

Schedule 15 to this Bill amends the Charter of Budget Honesty to delay the next intergenerational report from 2020 to mid-2021 to ensure there is adequate time to produce long term projections that are based on robust budget estimates.

Date of effect: The day after this Bill receives Royal Assent.

Proposal announced: On 20 March 2020, the Treasurer announced the next intergenerational report will be released in mid-2021 to ensure there is adequate time to produce long term projections that are based on robust budget estimates.

Financial impact: Nil

Human rights implications: This Schedule does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Schedule 16 - Deferral of sunseting

This Schedule was prepared by the Attorney-General's Department.

Schedule 16 to this Bill allows the relevant Minister for an Act or legislative instrument that is scheduled to sunset on or before 15 October 2020 to determine a new day on which the legislation sunsets. This new date must be no longer than six months after the original sunset date.

Date of effect: The day after this Bill receives Royal Assent.

Proposal announced: The Government's economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: Nil

Human rights implications: Schedule 16 to this Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Bill 2020

This Bill was prepared by the Treasury.

The SME Lending Guarantee Bill provides that the Minister may, on behalf of the Commonwealth, grant guarantees to financial institutions in connection with loans made, or to be made, to SMEs if granting the guarantee is likely to assist in dealing with the economic impacts of the Coronavirus.

Date of effect: The day after the SME Lending Guarantee Bill receives Royal Assent.

Proposal announced: The Government's economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: Unquantifiable.

Human rights implications: The SME Lending Guarantee Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from the Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

The Australian Business Growth Fund (Coronavirus Economic Response Package) Bill 2020

This Bill was prepared by the Treasury.

The Business Growth Fund Bill gives effect to the Government's commitment to increase the availability of patient capital for SMEs by authorising the contribution of \$100 million to invest in an Australian Business Growth Fund.

The Business Growth Fund Bill also enables increases in the availability of patient capital for SMEs during the economic impact of the Coronavirus, when other sources of finance may become more difficult to access. It also gives effect to amendments to the Australian Business Growth Fund Bill 2019 as agreed to by the Senate.

Date of effect: The day after the Business Growth Fund Bill receives Royal Assent.

Proposal announced: The proposal to invest in an Australian Business Growth Fund was announced on 4 November 2019. The extension of the proposal to support an Australian Business Growth Fund that can provide patient capital for SMEs was part of the Government’s economic responses to Coronavirus which were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: The establishment of an Australian Business Growth Fund is estimated to have the following financial impact over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23
..	-0.1	-0.4	-0.8

.. not zero but rounded to zero

Human rights implications: The Business Growth Fund Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Assistance for Severely Affected Regions (Special Appropriation) (Coronavirus Economic Response Package) Bill 2020

This Bill was prepared by the Treasury, and is to be administered by the Department of Infrastructure, Transport, Regional Development and Communications.

The Assistance for Severely Affected Regions Bill gives effect to the Government’s commitment to set aside \$1 billion to support regions, communities and industry sectors most severely affected by the Coronavirus. The funds will be available to assist during the next few months and over the year ahead to ensure these communities are well placed to recover from the economic effects of the Coronavirus.

Date of effect: The day after the Assistance for Severely Affected Regions Bill receives Royal Assent.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: The measure has the following financial impact over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23	2023-24
-100.0	-900.0	–	–	–

Human rights implications: The Assistance for Severely Affected Regions Bill does not engage any human rights. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Structured Finance Support (Coronavirus Economic Response Package) Bill 2020

This Bill was prepared by the Treasury.

The Structured Finance Support Bill establishes the Structured Finance Support (Coronavirus Economic Response) Fund, initially consisting of \$15 billion. The Fund will enable the Government to ensure continued access to funding markets impacted by the economic effects of the Coronavirus, and to mitigate impacts on competition in consumer and business lending markets resulting from the Coronavirus. In particular, this will ensure smaller lenders can maintain access to funding, by the Government making targeted investments in structured finance markets.

Date of effect: The day after the Structured Finance Support Bill receives Royal Assent.

Proposal announced: The Government’s economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: The establishment of the Structured Finance Support (Coronavirus Economic Response) Fund has the following financial impact, including public debt interest, over the forward estimates period (\$m):

2019-20	2020-21	2021-22	2022-23
-13.8	-160.6	59.6	143.2

Human rights implications: The Structured Finance Support Bill does not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Appropriation (Coronavirus Economic Response Package) Bill (No. 1) 2019-2020

This Bill was prepared by the Department of Finance.

The Appropriation Bill No. 1 proposes appropriations from the Consolidated Revenue Fund for the ordinary annual services of the Government in addition to amounts appropriated through the *Appropriation Act (No. 1) 2019-2020* and the *Supply Act (No. 1) 2019-2020*.

Date of effect: The day that the Appropriation Bill No. 1 receives Royal Assent.

Proposals announced: The Government's economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: The total of the items specified in Schedule 1 to the Appropriation Bill No. 1 is \$1,651,133,000.

Human rights implications: The Appropriation Bill No. 1 does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Appropriation (Coronavirus Economic Response Package) Bill (No. 2) 2019-2020

This Bill was prepared by the Department of Finance.

The Appropriation Bill No. 2 is to propose appropriations from the Consolidated Revenue Fund for services that are not the ordinary annual services of the Government in addition to amounts appropriated through the *Appropriation Act (No. 2) 2019-2020* and the *Supply Act (No. 2) 2019-2020*.

Date of effect: The day that the Appropriation Bill No. 2 receives Royal Assent.

Proposal announced: The Government's economic responses to Coronavirus were announced on 12 March 2020, 18 March 2020 and 22 March 2020.

Financial impact: The total of the items specified in Schedule 1 to the Appropriation Bill No. 2 is \$744,197,000.

Human rights implications: The Appropriation Bill No. 2 does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter 23.

Compliance cost impact: An exemption from Regulation Impact Statement requirements was granted by the Prime Minister as there were urgent and unforeseen events.

Economic Response to the Coronavirus

The Government is acting decisively in the national interest to support households and businesses and address the significant economic consequences of the Coronavirus.

While the full economic effects from the virus remain uncertain, the outlook has deteriorated since the Government's initial Economic Response announced on 12 March 2020.

The spread of the virus worldwide has broadened and is expected to be more prolonged. Governments, both international and domestic, have announced stricter mitigation measures to slow the spread of the virus, which are having significant economic impacts.

On 22 March 2020 we announced a second set of economic responses which, combined with our previous actions, total \$189 billion across the forward estimates, representing 9.7 per cent of annual GDP.

These actions provide timely support to affected workers, businesses and the broader community.

How the Coronavirus will affect the global and Australian economies

The outbreak of the virus has expanded and is a rapidly evolving challenge with significant health impacts. While the outbreak originated in China, significant outbreaks have occurred in Italy and Iran, as well as elsewhere in Europe and the United States of America. There are more than 170 countries reporting infections.

Our health system is well prepared to manage this outbreak. We have a world class health system which has pandemic plans that are currently activated. The Government has put in place strong measures to protect Australians, including activating the National Incident Room, releasing masks from the National Medical Stockpile, enhancing border controls and imposing strict travel restrictions, and promoting social distancing to limit the spread. The Government will continue to respond as the situation develops.

The Government's commitment on 12 March of an additional \$2.4 billion to manage the outbreak in Australia, will strengthen our health system to manage the Coronavirus in the community and protect vulnerable Australians. In addition, the Australian Government has agreed with the States and the Territories to share the public health costs incurred by the States in treating the Coronavirus.

In relation to aged care, temporary measures will be introduced to support the aged care sector with an additional \$444.6 million. This includes funding for a retention bonus to ensure the continuity of the workforce in both residential and home care as well as funding to support the viability of residential aged care facilities. This is in addition to more than \$100 million that the Government previously announced to support the aged care workforce.

The Coronavirus outbreak not only affects people's health. The virus, along with the increasing health policy measures to slow its spread, will have significant economic implications.

The international economic outlook has worsened as the Coronavirus has spread.

While the initial economic impact of the outbreak was most significantly felt in the Chinese economy, this has quickly evolved to other countries and regions. Major economies including Italy and Spain have announced they are in "lockdown" to contain the Coronavirus, which is expected to hinder economic activity over coming months.

In China, a range of economic indicators are showing that the Chinese economy has been severely impacted. A survey measure of activity in the manufacturing sector had its largest fall in its history in February. China also had record falls for industrial production, retail sales and fixed asset investment over January and February. Trade for this period was also significantly affected.

Given China's interconnectedness with the world, and its key role in supply chains, this decline will have flow-on economic impacts for the world. But concerns about flow-on effects have been magnified as more countries take direct action to slow the Coronavirus spread. In particular, across the world we have seen a substantial increase in the breadth and severity of restrictions on the movement of people. And this is showing up in confidence indicators in Europe, the United States and Asia.

The global nature of the shock is evident in financial markets. Stock markets have fallen substantially around the world in recent weeks, while corporate bond spreads have widened. The Australian dollar is 13 per cent lower on a trade weighted basis than it was in early January.

While markets initially incorporated sharp downward revisions to the economic outlook in an orderly way with few signs of dislocation, more recently we have seen significant financial market strains. Financial authorities around the world have responded with a range of measures to support market functioning and economic activity.

Oil prices have continued to fall, and are now around 60 per cent lower than prices in early January, reflecting falling global demand and the collapse of an agreement between major producers to reduce output.

While oil linked liquefied natural gas export prices will be negatively affected by these falls, consumers will benefit from lower petrol and gas prices.

In contrast, prices of key bulk commodities have remained resilient to date. This is likely due to an expectation that the Chinese authorities will move to boost domestic demand through ongoing measures, including increased investment in infrastructure.

In response to the Coronavirus outbreak, fiscal authorities in numerous countries have announced measures to support their health systems and their economies. Governments are supporting the sectors and workers most affected by the outbreak, and we are continuing to see the announcement of policies to help households and businesses cope as unprecedented shut downs occur. Such policies have included loan arrangements, tax deferrals and relief, cash payments and income support. Monetary policy is also responding with more than 54 central banks across the world easing policy in 2020 so far.

Australia's position heading into this crisis is stronger than many, with both the IMF and the OECD having forecast Australia to grow faster than comparable economies, including the United Kingdom, Canada, Japan, Germany and France.

Australian governments continue to act quickly and decisively to adjust our health measures to the scale of the threat. This scaling up of measures to protect the health of our community will have negative effects on the economy. Demand for goods and services will be lowered, and this will be concentrated in some industries such as tourism, hospitality and retail trade. Some businesses will be unable to operate in the usual way owing to restrictions on large gatherings, or may face labour or supply chain challenges.

There remains considerable uncertainty around the economic implications of the Coronavirus for the June quarter and beyond, but the economic shock will be significant. There are a wide range of potential paths for the spread and containment of the virus globally and in Australia. In addition, there is uncertainty around the impact on confidence, people's ability to work and business cash flow. The global spread of the Coronavirus and its global economic impact will also flow through to demand for Australia's exports and the availability of inputs into domestic production and imported consumption goods.

There are automatic mechanisms that will help to support activity. The flexible exchange rate helps to mitigate the effect of shocks to global demand, we have a sound and well capitalised banking sector and our labour market has shown that it can flexibly respond – with firms adjusting more through hours, than the number of employees.

How the Government is responding

The Government's consolidated package of \$189 billion represents fiscal and balance sheet support across the forward estimates of 9.7 per cent of annual GDP. The support is designed to help businesses and households through the period ahead. This significant action has been taken in the national interest and has been updated in the light of the broader and more prolonged impact of the Coronavirus outbreak.

The package provides timely support to workers, households and businesses through a difficult time. Building on the previous measures, this package will support those most severely affected. It is also designed to position the Australian economy to recover strongly once the health challenge has been overcome.

The IMF and OECD have indicated that Australia is one of the advanced economies in the best positions to provide fiscal support without endangering debt sustainability.

Chapter 1

Enhancing the instant asset write-off

Outline of chapter

1.1 Schedule 1 to this Bill amends the income tax law to increase the cost threshold below which small business entities can access an immediate deduction for depreciating assets and certain related expenditure (instant asset write-off) from \$30,000 to \$150,000, from 12 March 2020 to 30 June 2020.

1.2 Schedule 1 to this Bill also amends the tax law to:

- provide access to an instant asset write-off to entities with an aggregated turnover of \$10 million or more but less than \$500 million (up from the existing cap of \$50 million); and
- make the instant asset write-off available for depreciating assets and certain related expenditure costing less than \$150,000, from 12 March 2020 to 30 June 2020.

1.3 These amendments complement the existing instant asset write-off for small and medium sized business entities. They are designed to support business investment over the period from the 2020 announcement time to 30 June 2020.

Context of amendments

Small business entities

1.4 Division 328 of the ITAA 1997 provides a range of tax concessions for small business entities, including access to simplified depreciation rules (see Subdivision 328-D). Under section 328-110, an entity is generally a small business entity for an income year if the entity carries on a business in that year and either:

- the entity carried on a business in the prior income year and its aggregated turnover was less than a threshold amount; or
- the aggregated turnover of the entity in the current income year is likely to be less than that threshold.

1.5 In the 2015-16 income year, the threshold was \$2 million, while for 2016-17 and later income years it is \$10 million.

1.6 In determining if an entity is a small business entity, the entity is not subject to the carrying on a business requirement if it is winding up a business in an income year, provided that the entity was a small business entity for the most recent income year in which that business was carried on. Similarly, a partner in a partnership is not taken to carry on business in their capacity as a partner when working out if an entity is a small business entity.

1.7 An entity cannot be a small business entity for an income year because of its expected turnover if it has carried on business in the two previous income years and its aggregated turnover for each of those years was \$10 million or more.

Accelerated depreciation for small business entities

1.8 The *Treasury Laws Amendment (Increasing and Extending the Instant Asset Write-Off) Act 2019* amended the tax laws to increase the cost threshold below which small business entities can access the instant asset write-off for depreciating assets and certain related expenditure to:

- \$30,000 for the period from 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 until 30 June 2020; and
- \$25,000 (up from \$20,000) for the period from 29 January 2019 to before 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019.

1.9 This built on earlier amendments to the instant asset write-off which had increased the threshold to \$20,000 and subsequently extended it to later income years.

1.10 Eligible small businesses must place assets which cannot be immediately deducted into the small business simplified depreciation pool and generally depreciate those assets at 15 percent in the first income year and 30 per cent each income year thereafter. The pool balance can also be immediately deducted if it is less than the applicable instant asset write-off threshold at the end of the income year (including existing pools).

1.11 From 1 July 2020, the instant asset write-off is due to revert to \$1,000 and only be available for small business entities.

Accelerated depreciation for other entities

1.12 Entities other than small businesses are generally not able to immediately deduct the costs of acquiring depreciating assets. Instead they can usually only deduct the decline in value of the asset over its effective life, claiming deductions for an income year equal to that decline in value.

1.13 The decline in value is usually determined using methods set out in Division 40 of the ITAA 1997. Division 40 also contains a number of specific rules for particular expenditures and assets that modify this general treatment.

1.14 The *Treasury Laws Amendment (Increasing and Extending the Instant Asset Write-Off) Act 2019* amended the tax law to introduce a special rule enabling entities with an aggregated turnover of \$10 million or more but less than \$50 million (medium sized businesses) to access an instant asset write-off for depreciating assets and certain related expenditure costing less than \$30,000. The amendment applied to assets that were acquired and first used, or installed ready for use, from 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 until 30 June 2020. This was given effect under section 40-82 in Division 40.

Summary of new law

1.15 Schedule 1 to this Bill amends the tax law to increase the cost threshold below which small business entities can access an immediate deduction for depreciating assets and certain related expenditure (instant asset write-off) from \$30,000 to \$150,000, from 12 March 2020 to 30 June 2020.

1.16 Schedule 1 to this Bill also amends the tax law to:

- provide access to an instant asset write-off to entities with an aggregated turnover of \$10 million or more, but less than \$500 million (up from the existing cap of \$50 million); and
- make the instant asset write-off available for depreciating assets and certain related expenditure costing less than \$150,000, from 12 March 2020 to 30 June 2020.

Comparison of key features of new law and current law

Small business entities

1.17 The following table provides a comparison of the key features of the new law and the current law for small business entities.

<i>New law</i>	<i>Current law</i>
Increased deduction for depreciating assets costing less than \$150,000	
<p>Small business entities can claim an immediate deduction for depreciating assets that cost less than \$150,000, provided the asset is first acquired at or after 7.30 pm (by legal time in the Australian Capital Territory) on 12 May 2015, and first used or installed ready for use on or after 12 March 2020, but before 1 July 2020.</p> <p>Depreciating assets that do not meet these timing requirements for the \$150,000, or earlier \$30,000, \$25,000 or \$20,000 thresholds continue to be subject to the \$1,000 threshold.</p>	<p>Small business entities can claim an immediate deduction for depreciating assets that cost less than \$30,000, provided the asset is first acquired at or after 7.30 pm (by legal time in the Australian Capital Territory) on 12 May 2015, and first used or installed ready for use at or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019, but before 1 July 2020.</p> <p>Depreciating assets that do not meet these timing requirements for the \$30,000, or earlier \$25,000 or \$20,000 thresholds continue to be subject to the \$1,000 threshold.</p>
Increased deduction for amounts included in the second element of the cost of depreciating assets	
<p>Small business entities can claim a deduction for an amount included in the second element of the cost of depreciating assets that are first used or installed ready for use in a previous income year. The amount of the cost must be less than \$150,000 and the cost must be incurred on or after 12 March 2020, but before 1 July 2020.</p> <p>Costs that are incurred outside of these times and the times when the prior \$30,000, \$25,000 or \$20,000 threshold applied continue to be subject to the \$1,000 threshold.</p>	<p>Small business entities can claim a deduction for an amount included in the second element of the cost of depreciating assets that are first used or installed ready for use in a previous income year. The amount of the cost must be less than \$30,000 and the cost must be incurred at or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 but before 1 July 2020.</p> <p>Costs that are incurred outside of these times and the times when the prior \$25,000 or \$20,000 threshold applied continue to be subject to the \$1,000 threshold.</p>
Variation to deduction for low value pools	
<p>For income years that end on or after 12 March 2020 and prior to 1 July 2020, assets that cost \$150,000 or more, and costs of \$150,000 or more relating to depreciating assets can be allocated to a small business entity's general small business pool and be deducted at a specified rate for the depletion of the pool.</p>	<p>For income years that end at or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 and prior to 1 July 2020, assets that cost \$30,000 or more, and costs of \$30,000 or more relating to depreciating assets can be allocated to a small business entity's general small business pool and be deducted at a specified rate</p>

<i>New law</i>	<i>Current law</i>
<p>Assets and costs allocated to a general small business pool are generally deducted at a rate of 15 per cent in the year they are allocated, and at a rate of 30 per cent in subsequent income years.</p> <p>If the balance of a small business entity's general small business pool is less than \$150,000 at the end of an income year that ends on or after 12 March 2020 but before 1 July 2020, the small business entity can claim a deduction for the entire balance of the pool.</p> <p>If the balance of a small business entity's general small business pool is less than \$1,000 at the end of an income year that ends after 30 June 2020, the small business entity can claim a deduction for the entire balance of the pool.</p>	<p>for the depletion of the pool.</p> <p>Assets and costs allocated to a general small business pool are deducted at a rate of 15 per cent in the year they are allocated, and at a rate of 30 per cent in subsequent income years.</p> <p>If the balance of a small business entity's general small business pool is less than \$30,000 at the end of an income year that ends on or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 but before 1 July 2020, the small business entity can claim a deduction for the entire balance of the pool.</p> <p>If the balance of a small business entity's general small business pool is less than \$1,000 at the end of an income year that ends after 30 June 2020, the small business entity can claim a deduction for the entire balance of the pool.</p>

Entities other than small businesses

1.18 The following table provides a comparison of the key features of new law and the current law for entities other than small businesses.

<i>New law</i>	<i>Current law</i>
Increased immediate deduction for depreciating assets costing less than \$150,000 for an expanded range of eligible entities	
<p>Medium sized business entities (broadly entities that carry on business in an income year and have an aggregated turnover of \$10 million or more but less than \$500 million for that income year) can immediately deduct the cost of an asset in an income year if the asset:</p> <ul style="list-style-type: none"> • has a cost of less than \$150,000; and • was first used or installed ready for use for a taxable purpose on or after 12 March 2020 and on or before 30 June 2020. <p>For medium sized business entities that have an aggregated turnover of \$10 million or more but less than \$50 million that have depreciating assets that do not meet the timing requirements for the \$150,000 threshold, the earlier \$30,000 threshold continues to apply prior to 12 March 2020.</p>	<p>Medium sized business entities (broadly entities that carry on business in an income year and have an aggregated turnover of \$10 million or more but less than \$50 million for that income year) can immediately deduct the decline in value of the cost of an asset in an income year if the asset:</p> <ul style="list-style-type: none"> • has a cost of less than \$30,000; and • was first acquired and first used or installed ready for use for a taxable purpose on or after 7.30 pm (by legal time in the Australian Capital Territory) on 2 April 2019 and on or before 30 June 2020.
Increased deduction for amounts included in the second element of the cost of depreciating assets for an expanded range of eligible entities	
<p>Medium sized business entities that carry on business in an income year and have an aggregated turnover of \$10 million or more but less than \$500 million can claim a deduction for an amount included in the second element of the cost of depreciating assets. The amount of the cost must be less than \$150,000 and it must be the first such amount included after the income year in which the asset was first used or installed ready for use. The cost must be incurred on or after 12 March 2020 but before</p>	<p>Medium sized business entities that carry on business in an income year and have an aggregated turnover of \$10 million or more, but less than \$50 million can claim a deduction for an amount included in the second element of the cost of depreciating assets. The amount of the cost must be less than \$30,000 and it must be the first such amount included after the income year in which the asset was first used or installed ready for use. The cost must be incurred on or after 2 April 2019 but before</p>

<i>New law</i>	<i>Current law</i>
<p>1 July 2020. These amendments only apply to amounts included in the second element of cost on or after 12 March 2020 and before 1 July 2020. For assets first used or installed ready for use or amounts expended before that time, prior asset thresholds and eligibility rules apply.</p>	<p>1 July 2020.</p>

Detailed explanation of new law

Increasing the cost of assets that can be immediately deducted by small business entities

1.19 Schedule 1 amends the ITAA 1997 to increase the temporary threshold below which a small business entity, that has elected to use the small business entity capital allowance rules in Subdivision 328-D for an income year can immediately deduct or ‘write-off’ the taxable purpose proportion of the adjustable value of an asset (the instant asset write-off threshold).

1.20 As a result of the amendments, the threshold is increased from \$30,000 to \$150,000 for assets that are first used or installed ready for use during the period commencing on 12 March 2020 and ending on 30 June 2020. *[Schedule 1, items 16 to 17, subparagraphs 328-180(4)(c)(i) and (ii), and subsection 328-180(4) of the ITTP Act 1997]*

Deductions for amounts included in the second element of cost base

1.21 As part of the changes to the instant asset write-off threshold, the amendments also increase from \$30,000 to \$150,000 the threshold below which amounts that are included in the second element of an asset’s cost (effectively subsequent capital expenditure relating to that asset) can be immediately deducted, where the cost of the related asset was subject to the instant asset write-off in an earlier year. This increase applies to amounts included in the second element of the asset’s cost during the period commencing on 12 March 2020 and ending on 30 June 2020. *[Schedule 1, items 18 and 19, subparagraph 328-180(5)(c)(ii) and subsection 328-180(5) of the ITTP Act 1997]*

Deductions for low pool values

1.22 The amendments also increase the threshold below which an entity can immediately deduct the balance of its general small business pool at the end of an income year from \$30,000 to \$150,000. The increased threshold applies to income years that end on or after

12 March 2020, but before 1 July 2020. *[Schedule 1, items 20 and 21, subparagraph 328-180(6)(c)(ii) and subsection 328-180(6) of the ITTP 1997]*

Expanding immediate deductions for entities other than small businesses entities

1.23 Schedule 1 also amends the ITAA 1997 to:

- increase to \$150,000 (from \$30,000) the cost threshold for an immediate deduction under section 40-82 to be available for eligible depreciating assets;
- increase to \$150,000 (from \$30,000) the cost threshold for an immediate deduction under section 40-82 to be available for eligible amounts included in the second element of a depreciating asset's cost in a later year (ending before 1 July 2020); and
- revise the eligibility requirement for entities to be eligible to immediately deduct the cost of assets and related capital expenditure under section 40-82 so that entities are eligible if the entity would be a small business entity if the aggregated turnover threshold for such entities was \$500 million.

[Schedule 1, items 3, 5 and 6, paragraph 40-82(1)(d) and (3)(b), and subsections 40-82(4A) and (4B) of the ITAA 1997]

1.24 These amendments only apply to assets first used or installed ready for use, and amounts included in the second element of cost, on or after 12 March 2020 and before 1 July 2020. For assets first used or installed ready for use or amounts expended before that time, prior asset threshold and eligibility rules apply. *[Schedule 1, items 3 and 5, paragraph 40-82(1)(d) and paragraph 40-82(3)(b) of the ITAA 1997]*

1.25 The effect of these changes is designed to support business investment by significantly expanding access to the instant asset write-off for eligible businesses that have a turnover of less than \$500 million (up from \$50 million) and to significantly increase the instant asset write-off to \$150,000 (up from \$30,000) until 30 June 2020.

Consequential amendments

1.26 Schedule 1 to this Bill makes amendments that include and update notes and other guidance materials to reflect the substantive changes made by the amendments. *[Schedule 1, items 7 to 14, the notes to subsection 40-425(7A), paragraphs 328-180(1)(b), 328-180(2)(a), 328-180(3)(a), subsections 328-210(1), 328-250(1), 328-250(4), 328-253(4) of the ITAA 1997]*

1.27 Schedule 2 to this Bill makes a consequential amendment to the income tax consolidation rules to address integrity issues. Details of this amendment are available in Chapter 2 of this explanatory memorandum.

Application and transitional provisions

1.28 These amendments in Schedule 1 to this Bill apply on and after 12 March 2020.

Chapter 2

Backing business investment

Outline of chapter

2.1 Schedule 2 to this Bill amends the income tax law to temporarily allow businesses with aggregated turnover of less than \$500 million in an income year to deduct depreciation expenses at an accelerated rate, in those income years that the asset was first used or installed and ready for use for a taxable purpose if it meets certain conditions.

2.2 Generally, to be eligible to apply the accelerated rate of deduction, the depreciating asset must satisfy a number of conditions including that the asset:

- is new and has not previously been held (and used or installed ready for use) by another entity (other than as trading stock or for testing and trialling purposes);
- is an asset for which an entity has not claimed depreciation deductions, including under the instant asset write-off rules; and
- is first held, and first used or installed ready for use for a taxable purpose between 12 March 2020 and 30 June 2021 (inclusive).

2.3 Under the amendments, different rules apply depending on whether or not an entity is using the simplified rules for capital allowances for small businesses.

2.4 An entity with aggregated turnover of less than \$500 million in the income year that does not use the simplified depreciation rules may deduct an amount at an accelerated rate for qualifying assets.

2.5 A small business entity (generally, an entity with an aggregated turnover less than \$10 million in the income year) that uses the simplified depreciation rules may deduct an amount equal to 57.5 per cent (rather than 15 per cent) of the taxable purpose proportion of the adjusted value of a qualifying depreciating asset added to the general small business pool in an income year.

Context of amendments

2.6 The Backing Business Investment measure encourages businesses to continue to make investments, supporting economic growth over the short term.

2.7 The ITAA 1997 contains uniform capital allowance rules for recognising the decline in value of different types of capital assets.

2.8 Deductions are available for assets that have a limited effective life and can be reasonably expected to decline in value over their period of use (depreciating assets). They are generally governed by the uniform capital allowance rules in Division 40 of the ITAA 1997.

2.9 Generally, under the uniform capital allowances rules, entities may deduct an amount for the decline in value of a depreciating asset over the period they hold the asset.

2.10 However, this deduction is only available to the extent that the decline in value of the asset is attributable to it being used, or installed ready for use, for a taxable purpose. Generally, this means that the asset must be used or installed for use for the purpose of producing assessable income.

2.11 The decline in value of an asset is generally determined based on the effective life of the asset, which is the expected period of use of an asset of that kind. Special rules that either modify the effective life or provide for the decline in value to be calculated on a different basis may apply to certain assets.

2.12 However, a small business entity (generally, an entity with an aggregated turnover less than \$10 million in an income year) may choose to apply the simplified rules for capital allowances for small business entities in Subdivision 328-D of the ITAA 1997. Under this regime, the cost of assets below a threshold amount can be immediately deducted in the year in which they are first used or installed ready for use (referred to as the ‘instant asset write-off’).

2.13 Where assets cost more than the instant asset write-off threshold, eligible small business entities using the simplified rules for capital allowances can include the cost of these assets in a general small business pool. In this pool, the assets are depreciated in the income year they are first used or installed ready for use at a rate of 15 per cent of the taxable proportion of the adjustable value of a depreciating asset, and then at a rate of 30 per cent in following years.

2.14 Under the law in operation prior to these amendments, an instant asset write-off can also be applied by eligible medium sized businesses in the 2019-20 income year (section 40-82 of the ITAA 1997). These businesses have aggregated turnover of \$10 million or more, but less than

\$50 million in an income year. Schedule 1 to this Bill expands access to the instant asset write-off rules to entities with an aggregated turnover of \$10 million or more but less than \$500 million in the income year.

2.15 Under the law in operation prior to these amendments, eligible entities can apply the instant asset write-off rules for assets that cost less than \$30,000 in the 2019-20 income year. Schedule 1 to this Bill increases the threshold below which depreciating assets can be immediately written off from \$30,000 to \$150,000 from 12 March 2020 to 30 June 2020.

Summary of new law

2.16 The amendments in Schedule 2 to this Bill provide an incentive to businesses with aggregated turnover of less than \$500 million in an income year to invest, by allowing them to deduct the cost of depreciating assets at an accelerated rate. The accelerated depreciation deduction applies in one income year only, being the income year that the assets are first used or installed ready for use for a taxable purpose.

2.17 The amendments apply differently depending on whether an eligible entity is using the simplified rules for capital allowances for small business entities.

2.18 An entity with aggregated turnover of less than \$500 million in the income year that does not use the simplified depreciation rules in Subdivision 328-D of the ITAA 1997 may be eligible to deduct an amount under the Backing Business Investment measure. However, the asset must be a qualifying asset (including not having been immediately deducted under the instant asset write-off rules). The amount the entity can deduct in the income year the asset is first used or installed ready for use for a taxable purpose is:

- 50 per cent of the cost (or adjustable value where applicable) of the depreciating asset; and
- the amount of the usual depreciation deduction that would otherwise apply but calculated after first offsetting a decline in value of 50 per cent.

2.19 A small business entity (generally, an entity with an aggregated turnover of less than \$10 million in an income year) that uses the simplified depreciation rules may be eligible to deduct an amount equal to 57.5 per cent (rather than 15 per cent) of the taxable purpose proportion of the adjustable value of a qualifying depreciating asset added to the general small business pool for an income year.

2.20 Generally, depreciating assets are qualifying assets if they are:

- new assets that have not been previously held (and used or installed ready for use) by another entity (other than as trading stock or for testing and trialling purposes);
- assets for which an entity has not claimed depreciation deductions, including under the instant asset write-off rules; and
- assets first held, and used or installed ready for use for a taxable purpose between 12 March 2020 and 30 June 2021 (inclusive).

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Decline in value of depreciation assets: entities with turnover below \$500 million not using simplified depreciation rules	
<p>An entity with aggregated turnover of less than \$500 million in an income year that does not use the simplified depreciation rules may, if certain conditions are met, deduct:</p> <ul style="list-style-type: none"> • 50 per cent of the cost (or adjustable value where applicable) of the depreciating asset held and used or installed ready for use between 12 March 2020 and 30 June 2021 (inclusive); and • the decline in value of the depreciating asset that would otherwise apply under the general capital allowance rules in Division 40 of the ITAA 1997, but broadly after reducing the cost (or adjustable value where applicable) of the asset by 50 per cent. 	<p>An entity with aggregated turnover of less than \$500 million that does not use the simplified depreciation rules in an income year may deduct depreciation expenses according to the uniform capital allowance rules in Division 40 of the ITAA 1997.</p>

<i>New law</i>	<i>Current law</i>
Decline in value of depreciation assets: entities with turnover below \$10 million using simplified depreciation rules	
A small business entity using the simplified depreciation rules may deduct depreciation expenses equal to 57.5 per cent of the taxable purpose proportion of the cost (or adjustable value where applicable) of a qualifying depreciating asset added to the general small business pool where the asset is held and used or installed ready for use between 12 March 2020 and 30 June 2021 (inclusive).	A small business entity using the simplified depreciation rules may deduct depreciation expenses equal to 15 per cent of the taxable purpose proportion of the cost (or adjustable value where applicable) of a depreciating asset (in the year they are first used or installed ready for use) added to the general small business pool.

Detailed explanation of new law

2.21 The amendments in Schedule 2 to this Bill are intended to stimulate and support economic activity by providing a temporary incentive for business to undertake capital investment and enhance their future productive capacity. The new law achieves this policy objective by providing an accelerated deduction for new capital assets for entities with aggregated turnover of less than \$500 million in an income year. The accelerated rate of deduction will help provide these businesses with a boost to cash flow from their capital investments.

2.22 The accelerated depreciation deductions apply for eligible entities with aggregated turnover of less than \$500 million in an income year if they meet certain conditions. The way that the accelerated rates of depreciation are calculated is dependent on whether the entity is eligible for, and has chosen to apply the simplified depreciation rules for small businesses.

Temporary accelerated depreciation deductions for entities with aggregated turnover of less than \$500 million not using the simplified rules for small businesses

2.23 Entities with aggregated turnover of less than \$500 million in an income year that do not use the simplified depreciation rules for small business under Subdivision 328-D of the ITAA 1997 (whether because they choose not to or they are ineligible to use them) calculate the decline in value of depreciating assets under the uniform capital allowances rules in Division 40 of the ITAA 1997.

2.24 The amendments provide for a larger deduction for qualifying assets first held and used or installed ready for use between

12 March 2020 and 30 June 2021 (inclusive) for their decline in value in the first year the asset is used or installed ready for use for a taxable purpose if certain conditions are met.

2.25 For the avoidance of doubt, the amendments will apply to entities that are eligible for the Research and Development Tax Incentive. This means that the amount of the deduction for the decline in value of a depreciable asset calculated under the accelerated depreciation measure will be used for calculating the notional deductions that can be claimed under the Research and Development Tax Incentive, providing the asset meets the requirements set out in section 355-305 of the ITAA 1997. This is consistent with current arrangements.

Eligibility to apply accelerated depreciation deductions

2.26 Generally, an entity is eligible for accelerated depreciation deductions if:

- the income year is the year that the entity starts to use the asset, or has it installed ready for use for a taxable purpose;
- the entity has aggregated turnover of less than \$500 million for the income year; and
- the asset is a qualifying asset.

[Schedule 2, item 7, subsections 40-120(1) and (2) of the ITTP 1997]

2.27 However, an entity is not eligible to claim the accelerated depreciation deductions if the decline in value of the asset has already been deducted under the instant asset write-off rules in section 40-82 of the ITAA 1997. *[Schedule 2, item 7, paragraph 40-120(3)(a) of the ITTP 1997]*

2.28 Similarly, an entity is not eligible to apply the accelerated depreciation deductions if the decline in value of the asset is worked out under:

- Subdivision 40-E of the ITAA 1997, regarding low-value and software development pools; or
- Subdivision 40-F of the ITAA 1997, regarding certain primary production depreciating assets (such as water facilities, horticultural plants, fodder storage assets and fencing assets).

[Schedule 2, item 7, paragraph 40-120(3)(b) of the ITTP 1997]

2.29 Capital allowance arrangements described in Subdivisions 40-E to 40-K of the ITAA 1997 are not eligible for decline in value to be worked out under these amendments. Most of these arrangements either apply to pooled amounts, do not involve an asset or result in an immediate write-off of expenditure.

When an asset is a qualifying asset

2.30 Generally, a depreciating asset (including a statutory intangible asset under section 40-30(2) of the ITAA 1997) is a qualifying asset if, between 12 March 2020 and 30 June 2021 (inclusive):

- the entity starts to hold the asset; and
- the asset was first used, or installed ready for use for a taxable purpose.

[Schedule 2, item 7, subsection 40-125(1) of the ITTP 1997]

2.31 The term *hold* in relation to a depreciating asset is defined in section 40-40 of the ITAA 1997. The table under section 40-40 of the ITAA 1997 assists a taxpayer to understand who the holder of a depreciating asset is.

2.32 There are exclusions to qualifying assets under the general rules. These exclusions may apply where:

- a commitment to the asset was entered into before 12 March 2020;
- the asset is a second hand asset;
- Division 40 does not apply to the asset; or
- the asset would not be in Australia.

Not qualifying – commitment to the asset before 12 March 2020

2.33 An asset held by an entity is not a qualifying asset if at any time before 12 March 2020 the entity:

- entered into a contract where they would hold the asset;
- started to construct the asset; or
- started to hold the asset in some other way.

[Schedule 2, item 7, subsection 40-125(2) of the ITTP 1997]

2.34 The measure does not apply to assets where commitments to hold, construct or use the asset were entered into before 12 March 2020. The incentive is intended to stimulate new investment rather than benefiting investment that has already been committed to. *[Schedule 2, item 7, subsections 40-125(3) and (4) of the ITTP 1997]*

2.35 However, an option to enter into such a contract is not considered to be a commitment for these purposes because an option allows an entity to not enter into such a contract. *[Schedule 2, item 7, subsection 40-125(5) of the ITTP 1997]*

2.36 The same rules about the commitment to the asset before 12 March 2020 apply to partnerships where a partner has engaged in the relevant conduct. *[Schedule 2, item 7, subsection 40-125(6) of the ITTP 1997]*

Not qualifying – second hand assets

2.37 An asset held by an entity is not a qualifying asset if any of these second hand asset exclusions apply. An asset is not a qualifying asset if:

- the entity has split or merged the asset. This ensures that the reconstitution of assets by splitting or merging them does not result in the reconstituted asset being a qualifying asset by starting to be held and being first used, or installed ready for use for a taxable purpose in the relevant income year. These relevant circumstances are dealt with under sections 40-115 and 40-125 of the ITAA 1997; or
- the asset is held by an entity that is no longer a member of a tax consolidated group or a MEC group, where that tax consolidated group or MEC group which previously held the asset has applied the accelerated depreciation deduction.

[Schedule 2, item 7, paragraphs 40-125(7)(b) and (c) of the ITTP 1997]

2.38 Further, an asset is not a qualifying asset if the asset was held by another entity when it was first used, or installed ready for use. This ensures that the accelerated deduction is claimed only once by the entity that first held the new asset and not by subsequent holders. This rule:

- does not apply if another entity held the asset as trading stock, or for testing or trialling purposes.
- does not apply for intangible assets if the alternative rule applies instead.

[Schedule 2, item 7, paragraph 40-125(7)(a) of the ITTP 1997]

2.39 A specific rule for statutory intangible assets is required to ensure that genuinely new statutory intangible assets that have not previously been exploited qualify for the accelerated depreciation deductions.

2.40 An intangible asset may be a qualifying asset notwithstanding the exclusion under the rule about an asset not previously being held (and used or installed ready for use) under paragraph 40-125(7)(a) of the ITTP 1997. To qualify, the intangible asset must not have been used (for example, by the previous owner) for the purpose of producing ordinary income, or installed ready for use by the entity for any purpose (whether

taxable or non-taxable). For the purpose of this rule, any ordinary income that arises from the disposal of that intangible asset to the entity that begins to hold the asset is disregarded.

[Schedule 2, item 7, subsection 40-125(8) of the ITTP 1997]

2.41 Intangible assets are depreciating assets if they are included in subsection 40-30(2) of the ITAA 1997. These include:

- items of intellectual property;
- in-house software;
- mining, quarrying or prospecting rights;
- mining, quarrying or prospecting information;
- spectrum licences;
- datacasting transmitter licenses; and
- telecommunications site access rights.

Example 1.1: In-house software

C Pty Ltd, undertakes a project to design a new gearbox for motorcycles. C Pty Ltd resolves to develop computer-aided engineering and simulation software to aid the design and development of the proposed gearbox. C Pty Ltd engages a developer to create this new software to C Pty Ltd's requirements, including testing the software before installing it.

As the developer's engagement constitutes reasonable testing or trialling, C Pty Ltd is not prevented from being eligible to claim the accelerated depreciation deduction for its in-house software by the previous trialling and testing.

Example 1.2– Acquired intangibles

O Pty Ltd undertakes research and produces knowledge that is patented. O Pty Ltd is unable to secure financing to commercialise the patent and instead sells the patent to P Pty Ltd. As the patent was not used to produce ordinary income by O Pty Ltd prior to its acquisition by P Pty Ltd, P Pty Ltd is eligible for the accelerated rate of depreciation for the acquired patent.

Not qualifying – where Division 40 does not apply

2.42 An asset held by an entity is not a qualifying asset if Division 40 of the ITAA 1997 does not apply to the asset due to section 40-45 of the ITAA 1997 (including for capital works and eligible work related items). *[Schedule 2, item 7, subsection 40-125(9) of the ITTP 1997]*

Not qualifying – assets not in Australia

- 2.43 An asset held by an entity is not a qualifying asset if:
- it is reasonable to conclude, at the time the asset is first used or installed ready for use, that it will be not used principally in Australia for the principal purpose of carrying on a business; or
 - it is reasonable to conclude, at the time the asset is first used or installed ready for use, that it will never be located in Australia.

[Schedule 2, item 7, subsection 40-125(10) of the ITTP 1997]

Method for working out decline in value

2.44 There are different methods for working out the accelerated depreciation deduction depending on whether the income year the deduction is applied is the same year as the start time of the depreciating asset. The asset's start time is when it is first used or installed ready for use for any purpose, including a non-taxable purpose (see subsection 40-60(2) of the ITAA 1997). *[Schedule 2, item 7, subsection 40-130(1) of the ITTP 1997]*

- 2.45 That is, because an entity may only deduct amounts for decline in value when an asset is used for a taxable purpose, and the accelerated depreciation deduction can only apply once, the different methods for working out the accelerated depreciation deduction depend on whether:
- the asset's start time occurred in the same income year that the asset was first used or installed ready for use for a taxable purpose; or
 - the asset's start time occurred in a prior income year than the income year that the asset was first used or installed ready for use for a taxable purpose.

2.46 There are also rules for working out decline in value and balancing adjustments after the accelerated depreciation deductions have been applied.

Income year is the same year as when the asset's start time occurred

2.47 Where the income year is the year in which the asset's start time occurs, accelerated depreciation is worked out as follows:

$$\text{Decline in value in the income year} = A + B$$

- where A is 50 per cent of the asset's cost at the end of the current income year (disregarding any amount included in the second element of the asset's cost after 30 June 2021); and

- where B is the decline in value of the asset worked out under Division 40 for the income year. In working out B, the asset's cost is reduced by 50 per cent.

[Schedule 2, item 7, subsection 40-130(2) of the ITTP 1997]

2.48 For an asset that is used only for a taxable purpose, an entity is broadly entitled to an upfront deduction of 50 per cent of the cost of the qualifying asset calculated for the income year the asset is first used or installed ready for use, plus the usual deductions for the asset under the uniform capital allowances rules under Division 40 in the income year worked out as if the cost were 50 per cent of the original cost.

2.49 However, the decline in value of the depreciating asset under this formula cannot be more than the asset's cost for that income year. This ensures that the deduction is limited to no more than the cost of the asset. *[Schedule 2, item 7, subsection 40-130(3) of the ITTP 1997]*

Income year that is after the asset's start time

2.50 Where the income year is later than the year in which the asset's start time occurs, accelerated depreciation is worked out as follows:

Decline in value in the income year = A + B

- where A is 50 per cent of the sum of the asset's opening adjustable value for the income year (including any amount of the second element of its cost for that year), disregarding any amount included in that second element after 30 June 2021; and
- where B is the decline in value of the asset under Division 40 for the income year:
 - when using the diminishing value method, the asset's base value for the year is reduced by the amount worked out in A; or
 - when using the prime cost method, the asset's first component in the formula in subsection 40-75(1) of the ITAA 1997 is reduced by the amount worked out in A. (There are additional special rules that apply when using the prime cost method. See paragraph 2.55.)

[Schedule 2, item 7, subsection 40-130(4) of the ITTP 1997]

2.51 The effect of this formula is to take into account circumstances where the asset's start time occurs before the income year in which the first business use of the asset occurs. This can occur where the asset was first used or installed ready for use for a non-taxable purpose in a prior income year but for a taxable purpose in a later income year. As the asset would have already experienced a decline in value in an earlier income year (although not deductible in that income year because it was used for

a non-taxable purpose), the formula takes into account the opening adjustable value of that asset which would be lower than its cost because the asset has already experienced depreciation decline in value.

2.52 However, the decline in value of the depreciating asset under this formula cannot be more than:

- the asset's base value for the year (when using the diminishing value method); or
- the sum of the asset's opening adjustable value for the income year and any amount included in the second element of its cost for that year (when using the prime cost method).

[Schedule 2, item 7, subsection 40-130(5) of the ITTP 1997]

Additional rules for applying accelerated depreciation deductions

2.53 An entity is not eligible to apply the accelerated depreciation deductions if the accelerated depreciation deductions have already been applied in an income year. This provision ensures that the accelerated depreciation deduction is claimed only once, in the first applicable income year. *[Schedule 2, item 7, subsection 40-135(1) of the ITTP 1997]*

2.54 An entity that has applied the accelerated depreciation deductions for an asset must continue to work out depreciation deductions for following income years (where eligible) following the uniform capital allowances rules under Division 40 of the ITAA 1997.

[Schedule 2, item 7, subsection 40-135(2) of the ITTP 1997]

2.55 An entity that uses the prime cost method of depreciation for the asset must follow adjustments under subsection 40-75(3) of the ITAA 1997 for later income years. This ensures that the correct value is used to work out deductions.

[Schedule 2, item 7, subsection 40-135(3) of the ITTP 1997]

2.56 An entity that has applied the accelerated depreciation deductions to an asset must take this decline in value into account when working out any balancing adjustments under Subdivision 40-D of the ITAA 1997. *[Schedule 2, item 7, subsection 40-135(4) of the ITTP 1997]*

Temporary accelerated depreciation deductions for small businesses using the simplified depreciation rules

2.57 Small business entities that use the simplified depreciation rules under Subdivision 328-D of the ITAA 1997 are eligible to deduct an amount equal to 57.5 per cent (rather than 15 per cent) of the taxable purpose proportion of the adjusted value of a qualifying asset added to the general small business pool.

[Schedule 2, item 8, section 328-182 of the ITTP 1997]

2.58 The amendments provide for a larger deduction for depreciating assets if certain conditions are met.

2.59 The conditions for the asset to be a qualifying asset are discussed above at paragraphs 2.29 to 2.43. Generally, an asset is a qualifying asset if, between 12 March 2020 and 30 June 2021 (inclusive):

- the entity starts to hold the asset; and
- the asset was first used, or installed ready for use for a taxable purpose.

Consequential amendments

2.60 Consequential amendments are made to the ITAA 1997 to ensure that the rules for jointly held depreciating assets (to which section 40-35 of the ITAA 1997 applies) also operate for assets to which the accelerated depreciation deductions may apply.

[Schedule 2, items 1 and 2, subsections 40-35(1) and (3)]

2.61 Notes about the accelerated depreciation deductions are included in the ITAA 1997 to provide a description of these amendments and how they interact with the amendments made to the ITTP 1997.

[Schedule 2, items 3 and 4, note 4 to section 40-65 and note 3 to 40-75]

Consolidation and accelerated depreciation deductions

2.62 Consequential amendments are also made to ensure that the value of a depreciating asset is not reset when an entity joins a tax consolidated group or MEC group (as a subsidiary member) for income tax purposes if the entity has benefited from accelerated depreciation deductions under this measure in an income year prior to joining a consolidated group. This prevents, in effect, an unintended double benefit that would otherwise arise in such circumstances.

2.63 Consequential amendments are also made to ensure that the tax cost of a depreciating asset is not uplifted when an entity joins a consolidated group or multiple entry consolidated group if the entity has benefited from the instant asset write-off measure in Schedule 1 to this Bill or from accelerated depreciation under this measure prior to joining the group. This prevents an unintended a double benefit that may otherwise arise in such circumstances.

2.64 Accordingly, where the instant asset-write off rules (under section 40-82) or the accelerated depreciation deductions has applied to a depreciating asset of the joining entity, the asset's tax cost setting amount is taken to be the lesser of:

- the tax cost setting amount for the asset; and
- the terminating value for the asset – subsection 705-30(3) specifies the terminating value for a depreciating asset to be

equal to the adjustable value of the asset (as defined in section 40 85) at the joining time.

[Schedule 2, items 5 and 6, section 705-45 and subsection 705-45(2)]

Application and transitional provisions

2.65 The amendments in Schedule 2 to this Bill apply to income tax assessments for the 2019-20 and 2020-21 income years for depreciation assets that are first held, and started to be used or installed ready for use in the period 12 March 2020 to 30 June 2021 inclusive.

Chapter 3

Boosting cash flow for employers

Outline of chapter

3.1 The Australian Government is acting decisively in the national interest to address the economic consequences of the Coronavirus, without a permanent or structural impact on the budget balance.

3.2 The Cash Flow Boost Bill is a key part of the Commonwealth response to the spread of the Coronavirus. It provides for payments to support employers and encourage the retention of employees through any downturn.

3.3 Specifically, the Cash Flow Boost Bill provides for the Commissioner to make cash flow boost payments to eligible entities comprising the first cash flow boost payments and the second cash flow boost payments.

3.4 The first cash flow boost is payable by the Commissioner in relation to periods ending from March 2020 to June 2020.

3.5 Entities are eligible to receive the payment for a period if:

- the entity makes a payment that is subject to withholding obligations under Subdivisions 12-B, 12-C or 12-D (broadly, a payment of wages or salary or similar remuneration), whether or not any amount is actually withheld, in the period;
- either:
 - the entity was a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the most recent income year of the entity for which an assessment of income tax has been made by the Commissioner; or
 - the Commissioner is reasonably satisfied that it is likely that the entity is a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the income year that includes the period;
- the entity has notified the Commissioner of their entitlement in the approved form;
- the period is one of the following:
 - the quarters ending in March 2020 or June 2020; and

- the months of March 2020, April 2020, May 2020 or June 2020;
- if the entity is not an Australian Charities and Not-for-profits Commission registered charity, it both:
 - held an ABN on 12 March 2020; and
 - either derived assessable income from carrying on a business in the 2018-19 income year or made one or more supplies for consideration in the course of an enterprise it carried on within Australia in tax periods commencing after 1 July 2018 and ending before 12 March 2020 and notice of the income or supplies was held by the Commissioner on or before 12 March 2020 or within such further time as the Commissioner allows; and
- the entity (or an associate or agent of an entity) has not engaged in a scheme for the sole or dominant purpose of seeking to make the entity entitled to the first cash flow boost or increase the entitlement of the entity to the first cash flow boost.

3.6 The Cash Flow Boost Bill also provides for the Commissioner to make second cash flow boost payments upon lodgement of the activity statements for eligible periods from June to September 2020 to entities that were entitled to the first cash flow boost.

3.7 Schedule 3 to this Bill make consequential amendments to various Acts arising from the Cash Flow Boost Bill.

Context of amendments

3.8 The spread of the Coronavirus represents a significant challenge that is likely to directly affect all Australians.

3.9 It has the potential to make many Australians sick over coming months, some seriously. It will place new pressures on medical services and health systems. It is already adversely affecting the Australian economy in significant ways. It will set back many businesses – which were only beginning to recover from the recent summer’s bushfire crisis – and hurt many more who are particularly exposed to its effects.

3.10 More broadly, the Coronavirus is already affecting daily life through the impact of overseas responses on supply networks and international trade. This shock is so large, urgent, disruptive and complex that the Government has decided that it requires the Commonwealth – as the national government – to act quickly and decisively. In doing this, the Commonwealth will work with State and Territory governments to ensure

the response is comprehensive and responsive to local concerns and pressures.

Summary of new law

3.11 The Cash Flow Boost Bill provides that the Commissioner must make cash flow boost payments to eligible entities comprising the first cash flow boost payments and the second cash flow boost payments. The first cash flow boost payments are required to be made by the Commissioner to an eligible entity for a period ending from March 2020 to June 2020 for which the entity notifies the Commissioner of an amount the entity has withheld if:

- the entity makes a payment that is subject to withholding obligations under Subdivisions 12-B, 12-C or 12-D (broadly, a payment of wages or salary or similar remuneration), whether or not any amount is actually withheld, in the period;
- either:
 - the entity was a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the most recent income year of the entity for which an assessment of income tax has been made by the Commissioner; or
 - the Commissioner is reasonably satisfied that it is likely that the entity is a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the income year that includes the period;
- the entity has notified the Commissioner of their entitlement in the approved form;
- the period is one of the following:
 - the quarters ending in March 2020 or June 2020; and
 - the months of March 2020, April 2020, May 2020 or June 2020;
- if the entity is not an Australian Charities and Not-for-profits Commission registered charity, it both:
 - held an ABN on 12 March 2020; and
 - either derived assessable income from carrying on a business in the 2018-19 income year or made one or more supplies for consideration in the course of an enterprise it carried on within Australia in tax periods commencing after 1 July 2018 and ending before 12 March 2020 and

notice of the income or supplies was held by the Commissioner on or before 12 March 2020 or within such further time as the Commissioner allows; and

- the entity (or an associate or agent of an entity) has not engaged in a scheme for the sole or dominant purpose of seeking to make the entity entitled to the first cash flow boost or increase the entitlement of the entity to the first cash flow boost.

3.12 The payment will generally be made on lodgement of the activity statement notifying the Commissioner of their withholding liabilities for the period and can be provided as a credit against tax liabilities.

3.13 All eligible entities will receive a minimum cash flow boost payment of \$10,000 in the first period for which they are eligible. Entities will receive further amounts, based on the amount withheld, up to a maximum total of \$50,000 across all cash flow bonus payments to the entity.

3.14 The Commissioner must also make the second cash flow boost payments to an entity for a total amount equal to the amount of the first cash flow boost payments to which the entity is entitled.

3.15 These second cash flow boost payments are payable in equal instalments for either:

- the months of June, July, August and September 2020; or
- the June and September 2020 quarters.

3.16 The second cash flow boost payments will generally be made on lodgement of the activity statement containing the GST return of the entity for the period.

Detailed explanation of new law

3.17 The Cash Flow Boost Bill gives effect to the Boosting Cash Flow for Employers measure by providing for payments by the Commissioner.

Eligibility

3.18 As a result of the Cash Flow Boost Bill, an entity is entitled to receive a payment for a period if:

- the entity makes a payment from which an amount must be withheld (even if the amount is not actually withheld) under

Subdivisions 12-B, 12-C or 12-D in Schedule 1 to the TAA 1953 for the period;

- either:
 - the entity was a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the most recent income year for which they have received an assessment of income tax; or
 - the Commissioner is satisfied that there is a reasonable possibility that the entity is a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the income year that includes the period; and
- the entity has notified the Commissioner of payment in the approved form; and
- the period (an eligible period) is:
 - if the entity is a large withholder or medium withholder for a month, the month of March 2020, April 2020, May 2020 or June 2020; or
 - if the entity is a small withholder for any month in the quarter, the quarter ending March 2020 or June 2020.
- if the entity is not an Australian Charities and Not-for-profits Commission registered charity, it both:
 - held an ABN on 12 March 2020; and
 - either derived assessable income from carrying on a business in the 2018-19 income year or made one or more supplies for consideration in the course of an enterprise it carried on within Australia in tax periods commencing after 1 July 2018 and ending before 12 March 2020 and notice of the income or supplies was held by the Commissioner on or before 12 March 2020 or within such further time as the Commissioner allows; and
- the entity (or an associate or agent of the entity) has not engaged in a scheme for the sole or dominant purpose of seeking to make the entity entitled to the first cash flow boost or to increase the entitlement of the entity to the first cash flow boost.

[Section 5 of the Cash Flow Boost Bill]

3.19 Special rules apply if an entity changes from an entity that withholds monthly to an entity that withholds quarterly (or vice versa). In this case, if the period for the entity in the first month they were eligible

was a quarter, the payment period for the entity remains the quarter, while if the period in the first month for which they were eligible was a month, their payment periods continue to be each month in the quarter. This ensures that there can be no uncounted or double counted withheld amounts. *[Subsection 5(4) of the Cash Flow Boost Bill]*

3.20 The payments are intended to support employment by providing Commonwealth support for employers through the tax system.

3.21 The payments are available to all business and not-for-profit entities that make eligible payments, including individuals that carry on a business as a sole trader, partnerships and trusts provided they satisfy the other eligibility requirements. Eligible payments include salary and wages, but can also include director's fees and payments to contractors that are subject to voluntary withholding arrangements under section 12-55 in Schedule 1 to the TAA 1953. *[Paragraphs 5(1)(a) and (b), subsection 5(3) of the Cash Flow Boost Bill]*

Small and medium business entities

3.22 Payments are only available to entities that carry on a business if either:

- the entity was a small or medium business entity for the income year for which they have most recently been assessed; or
- the Commissioner is reasonably satisfied it is likely that the entity is a small or medium business entity for the income year that includes the period.

[Paragraph 5(1)(d) of the Cash Flow Boost Bill]

3.23 The test has two alternate limbs to reflect the information that will be available to the Commissioner. Activity statements do not usually provide the Commissioner with sufficient information to determine if an entity is a small or medium business entity for the current income year based on the likely turnover test, and so just adopting this test would require the Commissioner to obtain further information and delay payments.

3.24 Given this, the first limb is satisfied if the entity was a small or medium business entity for the year for which the entity has most recently been assessed. This is known to the Commissioner and permits payment to these entities without requiring further information or analysis.

3.25 However, some entities will not have been previously assessed or will have gone through a significant change in circumstances since their most recent assessment. The second limb accommodates these entities by alternatively making entities eligible if the Commissioner is satisfied there is a reasonable likelihood that the entity is a small or

medium business entity for the period. This lower threshold reduces the need for the Commissioner to obtain further information and minimises any delays to payments.

3.26 *Small business entity* is defined in section 328-110 of the ITAA 1997 as, broadly an entity that carries on business in the income year and either carried on a business in the previous income year with aggregated turnover of less than \$10 million or is likely to have aggregated turnover in the current year of less than \$10 million. *[Definition of 'small business entity' in subsection 4(1) of the Cash Flow Boost Bill]*

3.27 A *medium business entity* is an entity that would be a small business entity if the turnover threshold to be a small business entity was instead \$50 million and references in the small business entity rules to being a small business entity in previous periods were instead references to being a medium business entity in those periods. *[Definition of 'medium business entity' in subsections 4(1) and (2) of the Cash Flow Boost Bill]*

Non-profit bodies

3.28 Payments are also available to charities and not-for-profit entities, even if they do not carry on a business. An entity is a charity or not-for-profit where it is a non-profit body within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*. This broadly requires that the entity does not carry on its affairs for the profit or gain of its members. *[Subsection 4(3) of the Cash Flow Boost Bill]*

3.29 Entities that are eligible as a non-profit body must meet the same eligibility rules as small or medium business entities relating to aggregate turnover. This means that the entity must have either been eligible to be a small or medium business entity in the most recent income year for which its income has been assessed, or the Commissioner must be reasonably satisfied that it is would be likely to be a small or medium business entity for the current year. Charities and other not-for-profit bodies that are exempt from income tax may not have an assessment for a prior income year, but can rely upon the second limb of the test as set out in paragraph 3.24. *[Paragraph 5(1)(d) of the Cash Flow Boost Bill]*

Active pre-existing entities

3.30 In addition to these other requirements the cash flow boost payments are only available to entities, if they held an ABN as at 12 March 2020 and were not inactive at that time. This requirement does not apply to charities registered with the Australian Charities and Not-for-profits Commission. This recognises that some charities may be established to respond to the Coronavirus pandemic. *[Paragraphs 5(1)(f) and subsections 5(5) and (6) of the Cash Flow Boost Bill]*

3.31 An entity is considered active if it had derived assessable income from carrying on a business in the 2018-19 income year or if it has

made one or more supplies for consideration in carrying on an enterprise that is connected with the indirect tax zone (Australia) in the tax periods commencing on or after 1 July 2018 and ending before 12 March 2020. Further, notice of the income or supplies must have been held by the Commissioner on or before 12 March 2020, or within such further time as the Commissioner may allow. It is expected that the Commissioner would only rarely allow further time and only where exceptional circumstances provide good reason for a delay in lodgement of activity statements and the income tax return over the whole period.

[Paragraph 5(5)(c) and subsection 5(7) of the Cash Flow Boost Bill]

3.32 This is an integrity rule that prevents new or inactive entities being established or revived solely to obtain the first cash flow boost. It sets a low threshold, only requiring a single supply or amount of business income to have been reported to the Commissioner on or before 12 March 2020. It can be satisfied if an entity has provided a single activity statement for any month or quarter since 1 July 2018 or an income tax return in relation to the 2018-19 income year.

Integrity rule

3.33 Eligibility is also subject to a specific integrity rule to defeat artificial or contrived arrangements to obtain the cash flow boost.

3.34 If an entity, or an associate or agent of an entity, undertakes a scheme with the sole or dominant purpose of obtaining or increasing the amount of the cash flow boost in relation to a period, the entity is not eligible for the cash flow boost for that period. In this context, scheme has the same meaning as in section 165-15 of the *A New Tax System (Goods and Services Tax) Act 1999* and includes plans, arrangements and courses of conduct. Agents includes the range of entities that are treated as being agents as a result of section 960-105 of the ITAA 1997.

[Paragraph 5(1)(g) and subsections 4(6) and 4(7) of the Cash Flow Boost Bill]

3.35 This ensures that artificial arrangements undertaken solely to obtain the cash flow boost are ineffective.

Amount

3.36 The Cash Flow Boost Bill provides that all eligible entities will receive payments totalling between \$10,000 and \$50,000 for the first cash flow boost payment. *[Subsections 7(1) to (3) of the Cash Flow Boost Bill]*

3.37 Subject to the minimum amount and the maximum cap, the amount of the payment to an entity for a period is determined based on the total amount that the entity has withheld for the period under Subdivision 12-B, 12-C and 12-D (being, broadly, payments of salary or wages or other remuneration). It only includes amounts that have been withheld. *[Subsections 7(1) to (3) of the Cash Flow Boost Bill]*

3.38 If the minimum amount and maximum cap do not apply, the amount of the first cash flow boost payment is equal to 100 per cent of the amount that has been withheld under Subdivisions 12-B, 12-C and 12-D in the period. *[Subsection 7(1) of the Cash Flow Boost Bill]*

3.39 However, if the payment is for the month of March 2020, the entity is entitled to a payment of an amount equal to 300 per cent of the amount that has been withheld. *[Subsection 7(3) of the Cash Flow Boost Bill]*

3.40 The increased rate for the month of March 2020 ensures that entities that lodge monthly receive an equivalent benefit to entities that lodge quarterly. Otherwise, quarterly lodgers would receive a greater benefit as they would receive payments for amounts withheld in two quarters covering a total of six months, while monthly lodgers would only receive payments for amounts withheld in four months – March, April, May and June 2020.

3.41 However, the total payments for the first cash flow boost to an entity are subject to both a floor of \$10,000 and a ceiling of \$50,000. *[Subsections 7(1) and (2) of the Cash Flow Boost Bill]*

3.42 As a result, all eligible entities will receive a minimum total first cash flow boost payment of \$10,000, with this amount provided in the first period they are eligible. No further amount will be paid to an entity until, but for the minimum payment of \$10,000, the amount the entity is entitled to receive exceeds the minimum payment. *[Subsection 7(1) of the Cash Flow Boost Bill]*

3.43 Total first cash flow boost payments for an entity across all periods for the first cash flow boost are capped at \$50,000 and an entity will not be able to receive any payment beyond this amount. *[Subsection 7(2) of the Cash Flow Boost Bill]*

Second cash flow boost payments

3.44 The Cash Flow Boost Bill also provides for second cash flow boost payments of a total amount equal to the full amount of the first cash flow boost payments to which the entity was entitled. *[Section 6 and subsection 7(4) of the Cash Flow Boost Bill]*

3.45 The second cash flow boost payments are available to all entities that received any amount of the first cash flow boost, even if the circumstances of the entity have subsequently changed, provided the entity lodges a GST return for the relevant period and notifies the Commissioner in the approved form. The second cash flow boost payments are not subject to: the minimum payment amount or total payment cap that applies to the first cash flow boost. The second cash flow boost payments are subject to:

- the requirement that the entity must have existed and been active prior to 12 March 2020 as set out in paragraphs 3.29 to 3.31; and
- the integrity rule discussed in paragraphs 3.32 to 3.34.

[Subsection 6(1) and paragraph 6(1)(d) and subsections 6(5), (6) and (7) of the Cash Flow Boost Bill]

3.46 It is expected that for most entities the approved form for this notification will also be the existing business activity statement or instalment activity statement that contains their GST return. In practice this means that entities will be entitled to payment once they lodge their activity statement for the relevant period.

3.47 Payments of the second cash flow boost are made in four equal amounts for the months of June 2020, July 2020, August 2020 and September 2020 for entities that are large or medium withholders for those months. *[Subsections 6(2) and (3) of the Cash Flow Boost Bill]*

3.48 For all other entities, the second cash flow boost payments are made in two equal amounts for the quarters ending June 2020 and September 2020. *[Subsections 6(2) and (3) of the Cash Flow Boost Bill]*

3.49 Special rules apply if an entity changes from an entity that withholds monthly to an entity that withholds quarterly (or vice versa) during a quarter and outside of a quarter.

3.50 To ensure that there can be no excess or missed payments, for changes within a quarter:

- if the period for the entity in the first month they were eligible was a quarter – the payment period for the entity remains the quarter; and
- if the period in the first month for which they were eligible was a month – the payment periods continue to be each month in the quarter.

[Subsection 6(4) of the Cash Flow Boost Bill]

3.51 For changes outside of a quarter, the Commissioner may adjust the amount of the payments an entity receives to ensure that the entity receives total payments equal to the full amount of the first boost payments to which it was entitled.

[Subsections 7(5) and (6) of the Cash Flow Boost Bill]

Administration

Payment timing – general payments

3.52 The Cash Flow Boost Bill provides that the Commissioner must generally make the first cash flow boost payment for a period at the later of:

- the time the entity notifies the Commissioner of their entitlement for the period in the approved form; and
- the time the entity was due to notify the Commissioner of the amount of their withholding for the period under subsection 16-150(1) in Schedule 1 to the TAA 1953.

[Paragraph 8(1)(b) of the Cash Flow Boost Bill]

3.53 However, a special rule applies in relation to entities that are large withholders and therefore must potentially pay amounts to the Commissioner twice weekly. Payments to large withholders are due at the time the entity pays or is paid their GST net amount for the tax period most closely corresponding to the period for which payment is made.

[Paragraph 8(1)(a) of the Cash Flow Boost Bill]

3.54 It is expected for most entities the approved form will be the existing business activity statement or instalment activity statement. In practice this means that entities will be entitled to payment when they lodge their activity statement for the relevant period.

Payment timing – second cash flow boost payments

3.55 The Bill sets out special rules for the timing and amount of the second cash flow boost payments. *[Subsection 8(2) of the Cash Flow Boost Bill]*

3.56 Entities that are entitled to a second cash flow boost payment for a month will receive a payment, generally of a quarter of the total amount of the second cash flow boost, at the later of:

- the date when they are due to lodge their GST return for the months of June, July August and September 2020;
- the time when the entity notifies the Commissioner in relation to the payment; and
- the time when the entity actually lodges the GST return.

[Subsection 8(2) of the Cash Flow Boost Bill]

3.57 Entities that are entitled to a second cash flow boost payment for a quarter will receive a payment, generally of half the total amount of the second cash flow boost, at the later of:

- the date when the entity is due to lodge for the June and September 2020 quarters;

- the time when the entity notifies the Commissioner in relation to the payment; and
- the time when the entity actually lodges the activity statement.

[Subsection 8(2) of the Cash Flow Boost Bill]

3.58 An entity that must lodge annual GST returns or which is not registered for GST receives payment at the same time as quarterly lodgers.

[Subsection 8(3) of the Cash Flow Boost Bill]

3.59 Unlike payments for the first cash flow boost, the second cash flow boost payments are not linked to the time an entity is due to notify the Commissioner of their withholding liabilities for the period. This is because the payment is available to entities that may have ceased to make any payments subject to withholding.

Payment mechanisms

3.60 The Commissioner may direct how the first and second cash flow boost payments are made to an entity, including making the payment by allocating the amount of the payment as a credit to the running balance account of the entity established under section 8AAZC of the TAA 1953 or as a credit against a non-running balance account tax debt using the methods set out in Division 3 of Part IIB of the TAA 1953.

3.61 In practice the payment will generally be applied to reduce liabilities arising from the same activity statement, resulting in entities being required to pay less to the Commissioner. To the extent that entities may make a payment to the Commissioner that is in excess of the amount required because they have not identified they are entitled to the payment when working out their total liabilities and entitlements for a period, the Commissioner would refund the amount of any excess payment.

3.62 Generally, where the payment exceeds any other tax liabilities of the entity the amount will be refunded to the entity. The Commissioner also has discretion in certain circumstances, specified in subsection 8AAZL(3) of the TAA 1953, to refund amounts instead of applying a credit against other tax liabilities.

3.63 Any resulting refund is subject to the powers of the Commissioner to retain refunds under Division 3A of the TAA 1953, including where there is reasonable suspicion of fraud or evasion, or of phoenix activity.

Overpayments

3.64 Consistent with general tax law principles, if an amount of any cash flow boost is paid to an entity under the Bill and the entity was not entitled to that payment, or was not entitled to the full amount of the

payment, the entity must pay the amount of the overpayment to the Commissioner. This would include situations where the entity entered into a scheme for the sole or dominant purpose of entitling the entity to the cash flow boost or an increased amount of cash flow boost to which the entity would otherwise not have been entitled.

[Section 9 of the Cash Flow Boost Bill]

3.65 If the amount of the overpayment is not repaid, the amount can be recovered as a debt and a general interest charge applies from the date the overpayment arose.

[Subsections 9(2) and (3) and section 10 of the Cash Flow Boost Bill]

General administration

3.66 The Commissioner has general administration of the payment. The effect of this is, amongst other things, that:

- people who acquire information under these provisions are subject to the confidentiality obligations and exceptions in Division 355 in Schedule 1 to the TAA 1953; and
- the Commissioner's enforcement and penalty powers (including those relating to providing misleading or false information or making fraudulent applications) apply in relation to the payment.

[Section 3 of the Cash Flow Boost Bill]

3.67 The Cash Flow Boost Bill also provides that Part IVC of the TAA 1953 applies to decisions made by the Commissioner under these provisions, which among other things allow entities to seek review of the decisions in the Administrative Appeals Tribunal. An entity will be able to object to the decision of the Commissioner relating to payments under the Bill within 60 days of the decision being made.

[Section 12 of the Cash Flow Boost Bill]

Guide material

3.68 The Cash Flow Boost Bill makes use of headings and notes assist the reader. It also makes use of a number of definitions, many of which are consistent with existing tax legislation.

[Section 4 of the Cash Flow Boost Bill]

Consequential amendments

3.69 This Bill makes amendments to a number of Acts to implement measures to address the economic impacts of the Coronavirus.

3.70 In relation to the Boosting Cash Flow for Employers measure, Schedule 3 to this Bill amends:

- Division 59 of the ITAA 1997 to provide that all the cash flow boost payments are non-assessable non-exempt income;
- the list of non-assessable non-exempt income provisions in section 11-55 of the ITAA 1997 to include the Cash Flow Boost payment;
- the index of provisions dealing with liability to the general interest charge in subsection 8AAB(4) of the TAA 1953 to include the provision applying the general interest change in relation to all cash flow boost payments;
- the index of tax-related liability under other Acts administered by the Commissioner in subsection 250-10(2) in Schedule 1 to the TAA 1953 to include the Cash Flow Boost payment; and
- the Social Security Act and the Veterans' Entitlement Act to exclude all cash flow boost payments from the income testing arrangements under that Act – this ensures that the Boosting Cash Flow for Employers Payment does not count as income for purposes of income tests under those Acts.

[Schedule 3, items 1 to 6, sections 11-55 and 59-90 of the ITAA 1997, paragraph 8(8)(zt) of the Social Security Act, item 19A of the table in subsection 8AAB(4) of the TAA 1953, item 142 of the table in subsection 250-10(2) in Schedule 1 to the TAA 1953 and paragraph 5H8(zzc) of the Veterans' Entitlements Act]

Application and transitional provisions

3.71 The Cash Flow Boost Bill commences on the day it receives Royal Assent. *[Section 2 of the Cash Flow Boost Bill]*

3.72 Payments of the cash flow boost will be made in relation to eligible periods from commencement. However, the Cash Flow Boost Bill provides for staged cessation of payments. *[Section 11 of the Cash Flow Boost Bill]*

3.73 In order to be eligible for the first cash flow boost, entities must notify the Commissioner of the amount they have withheld for the relevant period (ie. lodge their activity statement), or for the second cash flow boost, of their entitlement, within two years of the date this notification was due. If the entity has not provided a notification for the period within this time they cease to be eligible for any payment in relation to that period. *[Subsections 11(2), (3) and (4) of the Cash Flow Boost Bill]*

3.74 Where an entity has provided a notification, but the notification was in error, further payments can be made until 30 June 2026. No further payments under the Cash Flow Boost Bill can be made after this date in any circumstances. *[Subsections 11(2), (3) and (4) of the Cash Flow Boost Bill]*

3.75 This rule ensures that it is not necessary to maintain payment processes for a short term stimulus payment indefinitely.

Chapter 4

Stimulus payments to households to support growth

Outline of chapter

4.1 Schedule 4 to this Bill provides for the payment of economic support payments of \$750 to around 6.6 million Social Security and Veterans' income support and compensation recipients, Farm Household Allowance recipients, Family Tax Benefit recipients and holders of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card.

4.2 To be eligible for the first economic support payment, a person must be residing in Australia and be receiving one of the qualifying payments or hold one of the qualifying concession cards on a day during the period starting on 12 March 2020 and ending on 13 April 2020 (inclusive).

4.3 The second economic support payment is to be available to Social Security and Veterans' income support recipients, Family Tax Benefit recipients and holders of a of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card who, on 10 July 2020, receive their payment or hold their concession card unless they are eligible to receive the Coronavirus Supplement.

Context of amendments

4.4 The Australian Government is acting decisively in the national interest to address the economic consequences of the Coronavirus, without a permanent or structural impact on the budget balance.

4.5 On 12 March 2020 and 22 March 2020, the Prime Minister and the Treasurer announced an economic plan to keep Australians in jobs, keep businesses in business and support households and the Australian economy as the world deals with the significant challenges posed by the spread of Coronavirus.

4.6 As part of this plan, the Government announced the payments of \$750 to certain income support and compensation recipients and holders of qualifying concession cards.

Summary of new law

4.7 This Schedule provides for the payment of new economic support payments to a range of income support payment recipients, compensation payment recipients and concession card holders.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Two payments of \$750 are payable to certain income support payment recipients, compensation payment recipients and concession card holders.	Not applicable

Detailed explanation of new law

4.8 Item 1 amends subsection 3(1) of the Family Assistance Act to insert definitions of ‘2020 economic support payment’, ‘first 2020 economic support payment’ and ‘second 2020 economic support payment’.

4.9 A ‘first 2020 economic support payment’ is defined as a payment to which an individual is entitled under Division 1 of Part 9 of the Family Assistance Act.

4.10 A ‘second 2020 economic support payment’ is defined as a payment to which an individual is entitled under Division 2 of Part 9 of the of the Family Assistance Act.

4.11 A ‘2020 economic support payment’ means ‘a first 2020 economic support payment’ or a ‘a second 2020 economic support payment’.

4.12 Item 2 inserts Part 9 into the Family Assistance Act:

4.13 Section 110 of the Family Assistance Act sets out the circumstances in which a Family Tax Benefit recipient is entitled to a first 2020 economic support payment. An individual is entitled to a first 2020 economic support payment if new subsections 116(2), (3) and (4) of that Act apply to the individual on a day in the period:

- starting on 12 March 2020; and
- ending on 13 April 2020.

4.14 Section 111 of the Family Assistance Act provides that the amount of an individual’s first 2020 economic support payment is \$750.

4.15 Subsection 112(1) of the Family Assistance Act ensures that a person can only receive one payment of the first 2020 economic support payment even if they qualify under more than one provision.

4.16 The note to subsection 112(1) indicates that for the purposes of Part 9 of the Family Assistance Act and section 65JA (payment) and section 72 (debts) of the Family Assistance Administration Act, it is necessary to know which subsection of section 116 of the Family Assistance Act applies.

4.17 Subsection 112(2) of the Family Assistance Act provides that if either a first 2020 economic support payment under new Part 2.6B of the Social Security Act, a first 2020 economic support payment under new Part IIIH of the Veterans' Entitlements Act or a first 2020 economic support payment under the ABSTUDY Scheme is paid to a person, a first 2020 economic support payment under new Part 9 of the Family Assistance Act cannot be paid to a person.

4.18 Section 113 of the Family Assistance Act sets out the circumstances in which a Family Tax Benefit recipient is entitled to a second 2020 economic support payment. Broadly, an individual is entitled to a second 2020 economic support payment if the person receives an amount of Family Tax Benefit on 10 July 2020 and the individual does not receive the Coronavirus supplement under Social Security Act for 10 July 2020.

4.19 Section 114 of the Family Assistance Act provides the amount of an individual's second 2020 economic support payment under the Family Assistance Act is \$750.

4.20 Subsection 115(1) of the Family Assistance Act ensures that a person can only receive one payment of the second 2020 economic support payment even if, on 10 July 2020, they qualify for such a payment under more than one provision.

4.21 The note to subsection 115(1) of the Family Assistance Act indicates that for the purposes of Part 9 of that Act and sections 65JB (payment) and section 72 (debts) of the Family Assistance Administration Act, it is necessary to know which subsection of new section 116 of Family Assistance Act applies.

4.22 Subsection 115(2) of the Family Assistance Act provides that if either a second 2020 economic support payment under new Part 2.6B of the Social Security Act, a second 2020 economic support payment under new Part IIIH of the Veterans' Entitlements Act or a second 2020 economic support payment under the ABSTUDY Scheme is paid to a person, a second 2020 economic support payment cannot be paid to the person under the Family Assistance Act.

4.23 Subsection 116 of the Family Assistance Act sets out the criteria a person must meet on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) to qualify for the first 2020 economic support payment. This section also sets out the criteria a person must meet on 10 July 2020 if they are to be paid the second 2020 economic support payment.

4.24 Subsection 116(2) of the Family Assistance Act operates so that a person is entitled to a first 2020 economic support payment on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) for a day in that period:

- a determination under section 16 of the Family Assistance Administration Act was in force in respect of the individual as a claimant; and
- the rate of Family Tax Benefit payable under the determination for that day consists of or includes a Part A or Part B rate greater than nil.

4.25 A person (who may or may not have received a first 2020 economic support payment) will be entitled to a second 2020 economic support payment if they meet these criteria on 10 July 2020.

4.26 Subsection 116(3) of the Family Assistance Act operates so that a person is entitled to a first 2020 economic support payment on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) if in relation to a day in that period:

- a determination under section 17 of the Family Assistance Administration Act (FTB for a past period) was in force in respect of the individual as a claimant; and
- the rate of FTB payable under the determination for that day consists of, or includes a Part A or Part B rate greater than nil; and
- the determination was made as a result of a claim made in the 2019-20, 2020-21 or 2021-22 income year.

4.27 A person (who may or may not have received a first 2020 economic support payment) is entitled to a second 2020 economic support payment if they meet these criteria on 10 July 2020.

4.28 Subsection 116(4) of the Family Assistance Act operates so that a person is entitled to a first 2020 economic support payment on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) if for a day in that period:

- a determination under section 18 of the Family Assistance Administration Act (Family Tax Benefit for a bereavement

claim) was in force in respect of the individual as a claimant; and

- the rate of Family Tax Benefit payable under the determination in relation to that day consisted of or included a Part A or Part B rate greater than nil; and
- the determination was made as a result of a claim made in the 2019-20 income year or a later income year.

4.29 A person (who may or may not have received a first 2020 economic support payment) is entitled to a second 2020 economic support payment if they meet these criteria on 10 July 2020.

4.30 Subsection 116(5) of the Family Assistance Act operates so that a person is only entitled to a first 2020 economic support payment on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) if they reside in Australia on that day.

4.31 Subsection 116(5) of the Family Assistance Act also applies such that a person is only entitled to a second 2020 economic support payment if they reside in Australia on 10 July 2020.

Amendments to the Family Assistance Administration Act

4.32 Item 3 inserts Division 4DA into Part 3 of the Family Assistance Administration Act. An individual is to be paid a first 2020 economic support payment in a single lump sum if the person is entitled to be paid that amount under section 110 of the Family Assistance Act.

4.33 Division 4DA also contains section 65JB of the Family Assistance Administration Act which provides for an individual to be paid a second 2020 economic support payment in a single lump sum if the person is entitled to be paid under section 113 of the Family Assistance Act.

4.34 Subsection 65JA(1) of the Family Assistance Administration Act provides that the Secretary must, subject to new subsection 65JA(2), pay the first 2020 economic support payment to the individual in a single lump sum:

- on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be paid; and
- in such manner as the Secretary considers appropriate.

4.35 A note to subsection 65JA(1) of the Family Assistance Administration Act provides that the individual does not have to make a claim for the first 2020 economic support payment.

4.36 Subsection 65JA(2) of the Family Assistance Administration Act provides that the Secretary must not pay the first 2020 economic support payment on or after 1 July 2022 if the individual is entitled to the payment because subsection 116(2) or (4) of the Family Assistance Act applies to the individual on a day.

4.37 Subsection 65JB(1) of the Family Assistance Administration Act provides that the Secretary must, subject to subsection 65JB(2), pay the second 2020 economic support payment to the individual in a single lump sum:

- on the date, occurring on or after 10 July 2020, that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be paid; and
- in such manner as the Secretary considers appropriate.

4.38 The note to subsection 65JB(1) of the Family Assistance Administration Act provides that the individual does not have to make a claim for the second 2020 economic support payment.

4.39 Subsection 65JB(2) of the Family Assistance Administration Act provides that the Secretary must not pay the second 2020 economic support payment on or after 1 July 2023 if the individual is entitled to the payment because subsection 116(2) or (4) of the Family Assistance Act (discussed above) applies to the individual on 10 July 2020.

4.40 Item 4 amends subsection 66(1) of the Family Assistance Administration Act to insert a reference to the two new economic support payments provided for in Part 9 of the Family Assistance Act.

4.41 Subsection 66(1) of the Family Assistance Administration Act provides that various payments paid under the family assistance law are absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise. This amendment ensures that the two new economic support payments are likewise absolutely inalienable.

4.42 Item 5 amends section 70 of the Family Assistance Administration Act to insert a reference to the two new economic support payments provided for in Part 9 of the Family Assistance Act. This amendment ensures that if one or both of these payments has been paid, the amount is a debt due to the Commonwealth but only to the extent to which a provision of the Family Assistance Administration Act expressly provides that it is. Section 72 sets out this debt provision.

4.43 Item 6 inserts section 72 into the Family Assistance Administration Act. This section sets out the circumstance in which a 2020 economic support payment under the Family Assistance Act may be recovered as a debt.

4.44 Subsection 72(1) of the Family Assistance Administration Act provides that section 72 applies for an individual who has been paid a 2020 economic support payment because subsections 116(2), 116(3) or 116(4) of the Family Assistance Act applied to the individual on the day.

4.45 Subsection 72(2) of the Family Assistance Administration Act then provides that the amount of a 2020 economic support payment is a debt due to the Commonwealth by the individual if:

- after the payment was paid to the individual, the determination mentioned in subsections 116(2), 116(3) or 116(4) of the Family Assistance Act, about the day in subsection 72(1), is or was (however described) changed, revoked, set aside, or superseded by another determination; and
- the decision to change, revoke, set aside or supersede the determination is or was made for the reason, or for reasons including the reason, that the individual knowingly made a false or misleading statement, or knowingly provided false information; and
- had the change, revocation, setting aside or superseding occurred on or before that day, the payment would not have been paid.

4.46 Item 7 amends paragraph 74(a) of the Family Assistance Administration Act. This amendment ensures that the amount of a cheque is a debt due by the person to the Commonwealth if:

- a 2020 economic support payment (as defined above) under the Family Assistance Act is paid by cheque; and
- a person other than the payee obtains possession of the cheque from the payee; and
- the cheque is not endorsed by the payee to the person; and
- the person obtains value for the cheque.

4.47 Item 8 inserts a reference to ‘a payment of 2020 economic support payment’ into the definition of family assistance payment. This ensures that if a 2020 economic support payment under the Family Assistance Act is paid to an account kept with a financial institution and is paid to the wrong account-holder, the Secretary can recover the misdirected payment from the financial institution.

4.48 Items 9 and 10 amend the review provisions for family assistance to include a reference to the 2020 economic support payment.

4.49 Item 11 contains a minor consequential amendment to insert a reference to a ‘2020 economic support payment’ in the definition of

relevant benefit in section 219TA of the Family Assistance Administration Act. This amendment facilitates the payment of a 2020 economic support payment under the Family Assistance Act to a person's payment nominee if they have one.

Amendments to the ITAA 1997

4.50 Items 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 amend sections 11-15, 52-10, 52-40, 52-65, 52-75, 52-131 and 52-150 of the ITAA 1997 to ensure that 2020 economic support payments under the Social Security Act, Family Assistance Act, Veterans' Entitlements Act and ABSTUDY scheme are tax exempt.

Amendments to the Social Security Act

4.51 Item 23 amends paragraph 8(8)(jaa) of the Social Security Act to ensure that a payment of a 2020 economic support payment under the Family Assistance Act is not assessed as income for the purposes of the social security law.

4.52 Item 24 inserts paragraphs 8(8)(ym) and (yn) of the Social Security Act to ensure that a payment of a 2020 economic support payment under the Veterans' Entitlements Act is not assessed as income for the purposes of the social security law.

4.53 Item 25 inserts paragraph 23(4AA)(ac) into the Social Security Act after paragraph 23(4AA)(ab) of that Act. The new paragraph contains a reference to new Part 2.6B of the Social Security Act.

4.54 The effect of this amendment is that a person qualifies for a first 2020 economic support payment under section 304 of the Social Security Act if on a day during the period starting 12 March 2020 and ending on 13 April 2020 (inclusive) they are taken to be receiving a social security benefit or pension under subsection 23(4A) of the Social Security Act on a day during that period. Also, the effect of this amendment is that a person qualifies for a second 2020 economic support payment under section 306 of the Social Security Act if, on 10 July 2020, the person is taken to be receiving a social security benefit or pension under subsection 23(4A) of the Social Security Act.

4.55 Subsection 23(4A) of the Social Security Act treats a person as though they are still 'receiving' a social security pension or benefit (for the purposes of receiving certain supplementary payments listed in subsection 23(4AA) of the Social Security Act if they ceased to be eligible for their pension or benefit because employment income reduced the rate of their pension or benefit to nil.

4.56 Item 26 inserts Part 2.6B into the Social Security Act.

4.57 Subsection 304(1) provides that a person qualifies for a first 2020 economic support payment under the Social Security Act if subsections 308(2), (3) or (4) apply to the person on a day in the period starting on 12 March 2020 and ending on 13 April 2020 (inclusive).

4.58 Subsection 304(2) then operates to ensure that a person may receive only one first 2020 payment under the Social Security Act, regardless of how many times the person qualifies under section 304 of the Social Security Act.

4.59 Subsection 304(3) also makes clear that if a first 2020 economic support payment under the Veterans' Entitlements Act, a first 2020 economic support payment under the Family Assistance Act or a first 2020 economic support payment under the ABSTUDY Scheme is paid to a person, a first 2020 economic support payment cannot be paid to the person under the Social Security Act.

4.60 Section 305 provides that a person's first 2020 economic support payment under the Social Security Act is \$750.

4.61 Subsection 306(1) provides that a person is qualified for a second 2020 economic support payment under the Social Security Act if subsections 308(2), (3) or (4) apply to the person on 10 July 2020 and the person does not receive the Coronavirus supplement.

4.62 Subsection 306(2) operates to ensure that a person may receive only one second 2020 economic support payment under Social Security Act, regardless of how many times the person qualifies under section 306 of the Social Security Act.

4.63 Subsection 306(3) also makes clear that if a second 2020 economic support payment under the Veterans' Entitlements Act, a second 2020 economic support payment under the Family Assistance Act or a second 2020 economic support payment under the ABSTUDY Scheme is paid to a person, no second 2020 economic support payment under the Social Security Act can be paid to the person.

4.64 Section 307 provides that a person's second 2020 economic support payment under the Social Security Act is \$750.

4.65 Section 308 sets out the qualification criteria a person must meet on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) if they are to be paid the first 2020 economic support payment. This section also sets out the criteria a person must meet on 10 July 2020 if they are to be paid the second 2020 economic support payment.

4.66 Subsection 308(2) operates so that a person is entitled to a first 2020 economic support payment on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) if for a day in that period the person receives one of the following benefits for that day:

- age pension;
- disability support pension;
- wife pension;
- carer payment;
- bereavement allowance;
- widow B pension;
- widow allowance;
- parenting payment;
- youth allowance;
- austudy payment;
- newstart allowance;
- jobseeker payment
- sickness allowance;
- special benefit;
- partner allowance;
- carer allowance; or
- double orphan pension.

4.67 A person (who may or may not have received a first 2020 economic support payment) is entitled to a second 2020 economic support payment if they receive one of the above benefits in respect of 10 July 2020 (and the person does not receive the Coronavirus supplement).

4.68 A note at the end of subsection 308(2) provides that references to youth allowance, newstart allowance and jobseeker payment in section 308 of the Social Security Act include references to Farm Household Allowance.

4.69 This note clarifies that recipients of Farm Household Allowance will receive the first 2020 economic support payment if they meet the qualification criteria in section 308 for a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive).

4.70 Subsection 308(3) operates so that a person is entitled to a first 2020 economic support payment on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) if:

- the person makes a claim for a Commonwealth Seniors Health Card under Division 1 of Part 3 of the Social Security (Administration) Act on or before that day; and

- the person does not withdraw that claim on or before that day; and
- the person is qualified for the card on that day.

4.71 A person (who may or may not have received a first 2020 economic support payment) is entitled to a second 2020 economic support payment if they satisfy the same criteria in respect of 10 July 2020.

4.72 Subsection 308(4) operates so that a person is entitled to a first 2020 economic support payment on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) if the person is qualified for a Pensioner Concession Card on that day.

4.73 A person (who may or may not have received a first 2020 economic support payment) is entitled to the second 2020 economic support payment if they qualified for a Pensioner Concession Card in respect of 10 July 2020.

4.74 Subsection 308(5) operates so that a person is entitled to a first 2020 economic support payment on a day during the period starting 12 March 2020 and ending 13 April 2020 (inclusive) if they reside in Australia on that day.

4.75 Subsection 308(5) also applies such that a person is only entitled to a second 2020 economic support payment if they reside in Australia on 10 July 2020.

4.76 Item 27 inserts items 4H and 4J into the table at subsection 1222(2) of the Social Security Act. This a consequential amendment resulting from insertion of sections 1223ABI and 1223ABJ of the Social Security Act.

4.77 Item 28 inserts sections 1223ABI and 1223ABJ into Social Security Act to set out the circumstances in which a debt can arise for the two 2020 economic support payments paid to a recipient of one of the benefits outlined in subsection 308(2) or a concession card holder referred to in subsection 304(3) or subsection 304(4) in the Social Security Act.

4.78 Under subsection 1223ABI(1), a debt will be due and payable to the Commonwealth for the amount of the first 2020 economic support payment if:

- a first 2020 economic support payment under Part 2.6B of the Social Security Act is paid to a person; and
- after the first 2020 economic support payment is paid to the person, an underlying determination about the person, is or was changed, revoked, set aside, or superseded by another determination, at least so far as it relates to:

- a day included in the period mentioned new subsection 304(1) of the Social Security Act; or
- a period that includes that day; and
- the decision to change, revoke, set aside or supersede the underlying determination is or was made for the reason, or for reasons including the reason, that the person knowingly made a false or misleading statement, or knowingly provided false information; and
- had the change, revocation, setting aside or superseding occurred on or before that day, the first 2020 economic support payment would not have been paid.

4.79 Subsection 1223ABI(2) of the Social Security Act defines ‘underlying determination’ for the purposes of subsection 1223ABI(1) Social Security Act. This subsection provides that a determination is an underlying determination if it is a determination made under Part 3 of the Social Security (Administration) Act because a benefit mentioned in subsection 308(2) of the Social Security Act was payable to the person.

4.80 Under subsection 1223ABI(3) of the Social Security Act, a debt is due and payable to the Commonwealth for the amount of the first 2020 economic support payment if:

- a first 2020 economic support payment under new Part 2.6B of the Social Security Act is paid to a person; and
- the person qualified for the payment because of new subsection 308(3) of the Social Security Act applying to the person in relation to having made a claim for a Commonwealth Seniors Health Card; and
- the person knowingly made a false or misleading statement, or knowingly provided false information, in relation to the claim; and
- the first 2020 economic support payment would not have been paid to the person, but for that statement or information.

4.81 A debt for a first 2020 economic support payment will not arise under any other provisions of Part 5.2 of Chapter 5 of the Social Security Act other than section 1224AA (see subsection 1223ABI(4) of the Social Security Act).

4.82 Under subsection 1223ABJ(1) of the Social Security Act, a debt will be due and payable to the Commonwealth for the amount of the second 2020 economic support payment if:

- a second 2020 economic support payment under new Part 2.6B of the of the Social Security Act is paid to a person; and
- after the second 2020 economic support payment is paid to the person, an underlying determination is or was changed, revoked, set aside, or superseded by another determination (as defined in subsection 1223ABJ(2) of the Social Security Act about the person, at least so far as it relates to:
 - 1 July 2020; or
 - a period that includes that day; and
- the decision to change, revoke, set aside or supersede the underlying determination is or was made for the reason, or for reasons including the reason, that the person knowingly made a false or misleading statement, or knowingly provided false information; and
- had the change, revocation, setting aside or superseding occurred on or before 10 July 2020, the second 2020 economic support payment would not have been paid.

4.83 Subsection 1223ABJ(2) of the Social Security Act defines ‘underlying determination’ for the purposes of subsection 1223ABJ(1) of the Social Security Act. This subsection provides that a determination is an underlying determination if it is a determination made under Part 3 of the Social Security (Administration) Act because a benefit mentioned in new subsection 308(2) of the of the Social Security Act was payable to the person.

4.84 Under subsection 1223ABJ(3) of the Social Security Act a debt is due and payable to the Commonwealth for the amount of the second 2020 economic support payment if:

- a second 2020 economic support payment under new Part 2.6B of the of the Social Security Act is paid to a person; and
- the person qualified for the payment because of new subsection 308(3) of the of the Social Security Act applying to the person in relation to having made a claim for a Commonwealth Seniors Health Card; and
- the person knowingly made a false or misleading statement, or knowingly provided false information, in relation to the claim; and
- the second 2020 economic support payment would not have been paid to the person, but for that statement or information.

4.85 A debt for a second 2020 economic support payment will not arise under any other provisions of Part 5.2 of Chapter 5 of the of the Social Security Act other than section 1224AA of the Social Security Act.

Amendments to the Social Security (Administration) Act

4.86 Item 29 inserts section 12AE into the Social Security (Administration) Act. This section provides that a claim is not required for a first 2020 economic support payment or a second 2020 economic support payment under new Part 2.6B of the of the Social Security Act.

4.87 Item 30 amends the Social Security (Administration) Act to include a first 2020 economic support payment and a second 2020 economic support payment as a lump sum benefit for the purposes of that Act.

4.88 Section 47AE of the Social Security (Administration) Act provides for the payment in a single lump sum of a first 2020 economic support payment to a person who qualifies for such a payment on the date that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be paid, and in such manner as the Secretary considers appropriate.

4.89 Subsection 47AE(2) of the Social Security (Administration) Act provides that the Secretary must not pay the payment on or after 1 July 2022.

4.90 New section 47AF provides for the payment in a single lump sum of a second 2020 economic support payment to a person who is qualified for such payment on the date, occurring on or after 10 July 2020, that the Secretary considers to be the earliest date on which it is reasonably practicable for the payment to be paid, and in such manner as the Secretary considers appropriate.

4.91 New subsection 47AF(2) of the Social Security (Administration) Act provides that the Secretary must not pay the payment on or after 1 July 2023.

4.92 Item 32 inserts a definition of 2020 economic support payment into the Social Security (Administration) Act. This definition covers a first 2020 economic support payment and a second 2020 economic support payment under the Social Security Act, Family Assistance Act, and the ABSTUDY Scheme.

4.93 Item 33 makes minor consequential amendments to the heading of Subdivision DB of Division 5 of the Part 3B of the Social Security (Administration) Act.

4.94 Item 34 inserts section 123XPBA into the Social Security (Administration) Act. This section provides for a 2020 economic support

payment to be subject to income management under Part 3B of the Social Security (Administration) Act, if the recipient of the payment is a person subject to income management. The full amount (\$750) of any first 2020 economic support payment or second 2020 economic support payment paid to a person will be subject to income management under section 123XPBA of the Social Security (Administration) Act.

4.95 Subsection 123XPBA(1) of the Social Security (Administration) Act provides that section 123XPBA of that Act:

- a person is subject to the income management regime; and
- a 2020 economic support payment is payable to the person.

4.96 Paragraph 123XPBA(2)(a) of the Social Security (Administration) Act provides that the Secretary must deduct from the 2020 economic support payment the deductible portion of the payment.

4.97 Paragraph 123XPBA(2)(b) of the Social Security (Administration) Act provides an amount equal to the deductible portion of the payment is credited to the person's Income Management Record.

4.98 Paragraph 123XPBA(2)(c) of the Social Security (Administration) Act provides an amount equal to the deductible portion of the payment is credited to the person's income management account.

4.99 Subsection 123XPBA(3) of the Social Security (Administration) Act provides that, for the purposes of subsection 123XPB(2) of the Social Security (Administration) Act, the 2020 economic support payment is 100 per cent of the amount of the payment.

4.100 Item 35 amends the definition of restrictable payment in subsection 124PD(1) of the Social Security (Administration) Act to insert a reference to a 'first 2020 economic support payment' and a 'second 2020 economic support payment' under the Social Security Act, the Family Assistance Act and the ABSTUDY Scheme. The insertion of these terms into the definition of restrictable payment, in conjunction with existing subsection 124PJ(2) of the Social Security (Administration) Act, will mean that 100 per cent of a 2020 economic support payment paid under either the Social Security Act, Family Assistance Act or the ABSTUDY Scheme will be subject to the cashless welfare card if the recipient of the 2020 economic support payment is a participant in the cashless welfare card trial in Part 3D of the Social Security (Administration) Act.

Amendments to the Veterans' Entitlements Act

4.101 Items 36 and 37 amend subsection 5H(8) of the Veterans' Entitlements Act to specify the first 2020 economic support payment and second 2020 economic support payment in the list of excluded amounts

for the purposes of that Act. This amendment in effect ensures that the economic support payments do not count as income for income testing purposes but instead are a type of ‘Excluded amount – general’.

4.102 Item 36 amends paragraph 5H(8)(paa) of the Veterans’ Entitlements Act to ensure the economic support payments payable under the Family Assistance Act are not counted as income.

4.103 Item 37 inserts paragraphs 5H(8)(zzal) and 5H(8)(zzam) into the Veterans’ Entitlements Act to ensure the economic support payments payable under the new Part IIIH are not counted as income.

4.104 Item 38 inserts a new Part IIIH into the Veterans’ Entitlements Act after Part IIIG (2019 one-off energy assistance payment). This new Part IIIH provides for the payment of two types of economic support payments to persons. The eligibility criteria is set out in Division 3 to the Veterans’ Entitlements Act.

4.105 The amendments to the Veterans’ Entitlements Act will allow the economic support payments to be paid to persons receiving the following payments or who hold the appropriate card:

- service pension;
- income support supplement;
- disability pension under the Veterans’ Entitlements Act;
- war widow(er)s pension under the Veterans’ Entitlements Act;
- permanent impairment compensation under the *Military Rehabilitation and Compensation Act 2004*;
- special rate disability pension under the *Military Rehabilitation and Compensation Act 2004*;
- wholly Dependent Partner payments under the *Military Rehabilitation and Compensation Act 2004*;
- those who converted their weekly Permanent Impairment Compensation, or Wholly Dependent Partner Payments under the *Military Rehabilitation and Compensation Act 2004* prior to the date their eligibility for economic support payment is assessed and those who have received Permanent Impairment compensation under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*;
- veteran payment;
- all Repatriation Health Card – For All Conditions (Gold Card) holders;
- Veteran Education Scheme recipients aged 16 or over;

- persons who receive fringe benefits (where a Pensioner Concession Card is issued); and
- all Commonwealth Seniors Health Card holders under the Veterans' Entitlements Act.

4.106 Division 1 sets out the criteria for payment and details of the first 2020 economic support payment to persons who will be eligible for the economic support payments under the Veterans' Entitlements Act.

4.107 Subsection 67L(1) provides that a person is eligible for the first 2020 economic support payment if the person meets the requirements of set out in Division 3 on 12 March 2020 or on any subsequent date up to and including 13 April 2020. Subsection 67L(2) of the Veterans' Entitlements Act provides that the amount of a person's first 2020 economic support payment under Division 1 is \$750.

4.108 Section 67M of the Veterans' Entitlements Act prohibits multiple entitlement or payment of the first 2020 economic support payment for eligible persons.

4.109 Subsection 67M(1) of the Veterans' Entitlements Act provides that a person receives only one payment of the first 2020 economic support payment despite that person being eligible for more than one payment under new Division 1 of Part IIIH.

4.110 There is only one payment of the first 2020 economic support payment per eligible recipient. If a person qualifies for the first 2020 economic support payment in multiple ways, they will only receive one payment. A person who is paid the first 2020 economic support payment and is subsequently granted another qualifying payment backdated to or before 12 March 2020 is not entitled to an additional first 2020 economic support payment. A person who is paid the first 2020 economic support payment and is subsequently granted another qualifying payment backdated to a day during the period 12 March 2020 to 13 April 2020 is not entitled to an additional first 2020 economic support payment. Regardless of how many times the person qualifies for the first 2020 economic support payment, only one payment will be made.

4.111 Subsection 67M(2) of the Veterans' Entitlements Act provides that a person is not eligible to receive the first 2020 economic support payment under the Veterans' Entitlements Act if any of the following first 2020 economic support payments have been paid to the person under the ABSTUDY scheme or under Division 1 of Part 9 of the Family Assistance Act or under Division 1 of Part 2.6B of the Social Security.

4.112 Section 67N of the Veterans' Entitlements Act provides that a person will not be required to make a claim for the first 2020 economic support payment.

4.113 Section 67P of the Veterans' Entitlements Act provides that, where a person is eligible for the first 2020 economic support payment, the Repatriation Commission must pay the payment in a single lump sum of \$750 on the earliest date that is reasonably practical for the payment to be made and in the manner the Repatriation Commission considers to be appropriate.

4.114 Subsection 67P(2) of the Veterans' Entitlements Act provides that the Commission must not pay the first 2020 economic support payment on or after 1 July 2022. This ensures that all persons receive their first 2020 economic support payment no later than 30 June 2022.

4.115 Division 2 of the Veterans' Entitlements Act sets out the criteria for payment and details of the second 2020 economic support payment under the Veterans' Entitlements Act.

4.116 Subsection 67Q(1) of the Veterans' Entitlements Act provides that a person is eligible for the second 2020 economic support payment if the person meets the requirements of Division 3 on 10 July 2020 and does not receive the Coronavirus supplement under the Social Security Act.

4.117 The person must meet the eligibility requirements of Division 3 of Part IIIH of the Veterans' Entitlements Act on 10 July 2020 by receiving the relevant payment or holding the appropriate card. If the person receives the Coronavirus supplement in respect of 10 July 2020, the person cannot receive the second 2020 economic support payment under the Veterans' Entitlements Act.

4.118 A person need not have received the first 2020 economic support payment in order to receive the second 2020 economic support payment.

4.119 Subsection 67Q(2) of the Veterans' Entitlements Act provides that the amount of a person's second 2020 economic support payment is \$750.

4.120 Section 67R of the Veterans' Entitlements Act prohibits multiple entitlement or payment of the second 2020 economic support payment for eligible persons.

4.121 Subsection 67R(1) of the Veterans' Entitlements Act provides that a person will receive only one payment of the second 2020 economic support payment despite that person being eligible for more than one payment.

4.122 There is only one payment of the second 2020 economic support payment per eligible recipient. If a person qualifies for the second 2020 economic support payment in multiple ways, they will only receive one payment. A person who is paid the second 2020 economic support payment and is subsequently granted another qualifying payment backdated to or before 10 July 2020 is not entitled to an additional second

2020 economic support payment. Regardless of how many times the person qualifies for the second 2020 economic support payment, only one payment will be made.

4.123 Subsection 67R(2) of the Veterans' Entitlements Act provides that a person is not eligible to receive the second 2020 economic support payment if any of the following second 2020 economic support payments are paid to the person under:

- the ABSTUDY scheme; or
- Division 2 of Part 9 of the Family Assistance Act; or
- under Division 2 of Part 2.6B of the Social Security Act.

4.124 Section 67S of the Veterans' Entitlements Act provides that a person is not required to make a claim for the second 2020 economic support payment.

4.125 Section 67T of the Veterans' Entitlements Act provides that, where a person is eligible for the second 2020 economic support payment, the Repatriation Commission must pay the payment in a single lump sum of \$750 on the earliest date that is reasonably practical for it to be paid and in the manner the Repatriation Commission considers to be appropriate.

4.126 Subsection 67T(2) of the Veterans' Entitlements Act provides that the Commission must not pay the second 2020 economic support payment on or after 1 July 2023. This ensures that all persons receive their first 2020 economic support payment no later than 30 June 2023.

4.127 To receive either the first 2020 economic support payment or the second 2020 economic support payment under the Veterans' Entitlements Act a person must be resident in Australia on the day that their eligibility is determined.

4.128 Subsection 67V(1) of the Veterans' Entitlements Act provides that a person is eligible for an economic support payment if service pension or income support supplement is payable or will be payable to the person on a day during the relevant period (for the first 2020 economic support payment) or on the relevant day (for the second 2020 economic support payment).

4.129 Subsection 67V(2) of the Veterans' Entitlements Act provides for the circumstances where a person may not be receiving a service pension due to a temporary increase in the person, or the person's partner's, employment income.

4.130 Subsection 67V(2) of the Veterans' Entitlements Act provides that those who have personal and/or partner employment income that reduces their rate to nil during the 12 week period prior to their service pension or income support supplement ceasing (the 'cessation day') are

still taken to be receiving a payment on the ‘test day’ and qualify for the economic support payment.

4.131 Subsection 67V(3) of the Veterans’ Entitlements Act provides that a veteran is eligible for an economic support payment if an amount of disability pension at the general rate of pension and extreme disablement adjustment, intermediate rate, special rate of pension, temporary special rate or an increased rate of pension due to a kind of incapacity set out in section 27 of the Veterans’ Entitlements Act, is payable to the veteran on the day that their eligibility is determined.

4.132 Subsection 67V(4) of the Veterans’ Entitlements Act provides that a person who is the widow or widower of a deceased veteran, or a reinstated pensioner in relation to the veteran, is eligible for the economic support payment if an amount of pension is payable to the person under subsection 30(1) of Part II or Part IV of the Veterans’ Entitlements Act on the day their eligibility is determined.

4.133 Subsection 67V(5) of the Veterans’ Entitlements Act provides that, a pension is payable even if the rate of pension is nil because the pension has been fully offset under provisions located in Divisions 4, 5 and 5A of Part II or under section 74 of that Act.

4.134 Divisions 4, 5 and 5A of Part II and section 74 of the Veterans’ Entitlements Act provide that payments of disability and war widow/widower pensions under Part II or lump sum and periodic payments of compensation that have been paid to the person under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*, are offset against payments by State and foreign governments and by another person or organisation.

4.135 Subsection 67V(6) of the Veterans’ Entitlements Act provides that a person is eligible for the economic support payment if veteran payment is payable or will be payable to the person on the day their eligibility is determined.

4.136 Section 45SB of the Veterans’ Entitlements Act provides for certain details of the scheme for veteran payment to be dealt with by way of legislative instrument.

4.137 Section 67W of the Veterans’ Entitlements Act provides for the economic support payment to be paid to certain persons who receive payments under the Veterans’ Children Education Scheme.

4.138 The economic support payment is payable if the person is, on the day their eligibility is determined, aged 16 or over and receiving a payment under the Veterans’ Children Education Scheme. Where a person aged 16 or over has made a claim for Veterans’ Children Education Scheme on the day their eligibility is determined and that claim is

subsequently granted, the person will also be eligible for the economic support payment.

4.139 Section 67X of the Veterans' Entitlements Act provides for the payment of the economic support payment to certain people holding seniors health cards or gold cards or who are eligible for fringe benefits (where a Pensioner Concession Card is issued) under the Veterans' Entitlements Act.

4.140 If a person has made a successful claim for a seniors health card on or before the day their eligibility is determined, then they will receive the economic support payment. However, if they have withdrawn their claim on or before the day their eligibility for an economic support payment is determined or have ceased to be eligible for the seniors health card on that day, they will not receive the economic support payment. People who hold a seniors health card under the Social Security Act cannot hold a seniors health card under the Veterans' Entitlements Act.

4.141 A person who holds a Repatriation Health Card – For All Conditions, may be eligible for the economic support payment. The Repatriation Health Card – For All Conditions is also known as the Gold Card and is issued to people who are eligible to be provided with treatment for all injuries or diseases under the Veterans' Entitlements Act, *Military Rehabilitation and Compensation Act 2004*, the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* or the *Treatment Benefits (Special Access) Act 2019*.

4.142 A person who holds and is eligible for the Repatriation Health Card – For All Conditions under the Veterans' Entitlements Act or *Military Rehabilitation and Compensation Act 2004* is eligible on that day for the economic support payment.

4.143 Subsection 67X(4) deals with the circumstances where a person either receives treatment or has made a claim under the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* or the *Treatment Benefits (Special Access) Act 2019* for eligibility to be provided for treatment. In essence, if a person has made a successful claim for the Repatriation Health Card – For All Conditions under either of these Acts on or before the day their eligibility is determined, then the person will receive the economic support payment. However, if the person has withdrawn their claim on or before the day their eligibility is determined or ceased to be eligible for Repatriation Health Card – For All Conditions, the person will not receive the economic support payment.

4.144 Subsection 67X(5) of the Veterans' Entitlements Act provides that a person qualified for an economic support payment if the person qualified for fringe benefits under subsection 53A(1A) of the that Act. A

person is eligible for fringe benefits (in effect, a veterans' entitlements pensioner concession card) if:

- immediately before 1 January 2017, a person was receiving a service pension or income support supplement; and
- the rate of that pension was nil on 1 January 2017 because of the operation of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*.

4.145 A person is not eligible for the economic support payment if they are eligible for fringe benefits under other subsections in section 53A of the Veterans' Entitlements Act.

4.146 People who on 1 January 2017 ceased to be paid a service pension or income support supplement because of the amendments by the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015* receive fringe benefits despite not being in receipt of an income support payment. Subsection 67X(5) of the Veterans' Entitlements Act ensures that this group of people receive the economic support payment, in line with people who hold a Pensioner Concession Card under subsection 1061ZA(1B) of the Social Security Act.

4.147 Section 67Y of the Veterans' Entitlements Act sets out the criteria for persons who are eligible for the economic support payment because they are in receipt of a payment under the *Military Rehabilitation and Compensation Act 2004*.

4.148 A person is eligible for the economic support payment if one or both of the following conditions is met on the day their eligibility for the economic support payment is determined:

- weekly compensation for permanent impairment is payable to the person under Part 2 of Chapter 4 of the *Military Rehabilitation and Compensation Act 2004* on that day or weekly compensation for permanent impairment would have been payable under Part 2 of Chapter 4 for that day if it had not been offset under paragraph 398(3)(b) of the *Military Rehabilitation and Compensation Act 2004* or subsection 13(4) of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*; or
- on or prior to that day, the person had received lump sum compensation for permanent impairment under Part 2 of Chapter 4 of the *Military Rehabilitation and Compensation Act 2004*.

4.149 A person is eligible for the economic support payment if Special Rate Disability Pension is payable to the person under the *Military Rehabilitation and Compensation Act 2004* the day their eligibility for economic support payment is determined. The economic support payment is also payable if the Special Rate Disability Pension would have been payable for that day if it had not been offset under section 204 or paragraph 398(3)(b) of the *Military Rehabilitation and Compensation Act 2004*.

4.150 A wholly dependent partner is eligible for the economic support payment if one or both of the following conditions are met on the day the person's eligibility for the economic support payment is determined:

- weekly compensation as a wholly dependent partner is payable to the person under Division 2 of Part 2 of Chapter 5 of the *Military Rehabilitation and Compensation Act 2004* on that day, or weekly compensation as a wholly dependent partner would have been payable to the person under Division 2 of Part 2 of Chapter 5 for that day if it had not been offset under paragraph 398(3)(b) of the *Military Rehabilitation and Compensation Act 2004*; or
- on or before that day, the person had received lump sum compensation as a wholly dependent partner under Division 2 of Part 2 of Chapter 5 of the *Military Rehabilitation and Compensation Act 2004* and before that date the person had not been precluded under subsection 388(6) of the *Military Rehabilitation and Compensation Act 2004* from being eligible for any further compensation under the *Military Rehabilitation and Compensation Act 2004* following the recovery of damages for the death of the person's partner from the Commonwealth.

4.151 Subsections 67Y(1), (2) and (3) of the Veterans' Entitlements Act all refer to the circumstances where compensation payable under the *Military Rehabilitation and Compensation Act 2004* is to be regarded as being payable to the person even though the payment rate is nil due to the operation of one of the offsetting provisions in the *Military Rehabilitation and Compensation Act 2004*.

4.152 Section 67Z of the Veterans' Entitlements Act provides for the economic support payment to be paid to certain persons who receive payments under the education scheme under section 258 of the *Military Rehabilitation and Compensation Act 2004*. The economic support payment is payable if the person is, on the day their eligibility is determined, aged 16 or over, and receiving a payment under that education scheme.

4.153 A person is also eligible for the economic support payment where that person is aged 16 or over and has made a claim for that education scheme on the day their eligibility is determined and that claim is subsequently granted.

4.154 A person receiving a payment of compensation under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* is eligible for the economic support payment if the compensation was paid because of a claim the person made on or before the day their eligibility for an economic support payment is determined.

4.155 A person must reside in Australia on the day that their eligibility for the economic support payment is determined to be eligible for the payment.

Application and transitional provisions

4.156 The amendments in Schedule 4 to this Bill will commence on the day after this Bill receives Royal Assent.

Chapter 5

Delegation power for the Director of Human Biosecurity

Outline of chapter

5.1 Schedule 5 to this Bill amends the *Biosecurity Act 2015* to enable the Director of Human Biosecurity to delegate their function or powers under Part 3 of Chapter 2 (human biosecurity control orders) of the *Biosecurity Act 2015*

Context of amendments

5.2 The ability for the Director of Human Biosecurity to delegate his or her functions or powers related to human biosecurity control orders ensures that the exercise of these functions and powers is able to occur in a considered and timely manner.

5.3 The Director of Human Biosecurity is the person occupying, or acting in, the position of Commonwealth Chief Medical Officer. The Director of Human Biosecurity plays a very active role in human biosecurity responses, including the Coronavirus response, so it is appropriate that this role is supported by the ability to delegate certain functions and powers under the *Biosecurity Act 2015*.

Summary of new law

5.4 An SES employee, or acting SES employee, in the Health Department who is also a human biosecurity officer may act as a delegate of the Director of Human Biosecurity for functions or powers related to human biosecurity control orders (Part 3 of Chapter 2).

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The Director of Human Biosecurity may, in writing, delegate any or all of their functions or powers in relation to human biosecurity control orders.	There is no power to delegate any functions or powers of the Director of Human Biosecurity.

Detailed explanation of new law

5.5 The new law sets out that the Director of Human Biosecurity may, in writing, delegate any or all of their functions or powers under Part 3 of Chapter 2 of the *Biosecurity Act 2015* in relation to human biosecurity control orders, to an SES employee or acting SES employee in the Health Department who is a human biosecurity officer. [Schedule 5, item 1, subsection 544A(1) of the *Biosecurity Act 2015*]

5.6 A human biosecurity officer is a person authorised in writing by the Director of Human Biosecurity. Before authorising a person, the Director must be satisfied that they have appropriate clinical expertise. The Director also determines in writing training and qualification requirements for these officers. The officers are registered medical practitioners, who complete training for the role prior to their authorisation.

5.7 An *SES employee* or *acting SES employee* is defined in section 2B of the Acts Interpretation Act.

5.8 A delegate may review a biosecurity measure in a control order issued by a human biosecurity officer and decide either to direct an individual to comply with the measure or inform the individual that he or she is not required to comply with the measure, with reasons provided (section 72).

5.9 A delegate may also perform other functions or powers relating to control orders, such as:

- approving a control order form (section 62);
- being notified that a control order has been imposed, varied or revoked (section 67);
- receiving a request from a human biosecurity officer to review a biosecurity measure in a control order (section 71); and
- informing an individual of their review rights under the Administrative Appeals Tribunal and ensuring reasonable facilities to communicate and participate in Tribunal proceedings (section 75).

5.10 A delegate may also make notifications regarding a traveller movement measure in a control order, including notifying the Agriculture Department, the Immigration Department, the Foreign Affairs Department and the National Focal Point (all defined terms in the *Biosecurity Act 2015*) if a traveller movement measure is included in a control order (section 98).

5.11 A delegate cannot perform other functions or powers relating to control orders if the delegate is the human biosecurity officer who imposed the control order under paragraph 60(1)(b) or made the request under subsection 71(3) of the *Biosecurity Act 2015*. This avoids the risk of abuse of powers by ensuring appropriate separation of function. *[Schedule 5, item 1, subsection 544A(3) of the Biosecurity Act 2015]*

5.12 A delegate of the Director of Human Biosecurity must comply with any directions of the Director in performing any functions or exercising any powers under their delegation. Any directions must not be consistent with the *Biosecurity Act 2015*. *[Schedule 5, item 1, subsection 544A(2) of the Biosecurity Act 2015]*

Application and transitional provisions

5.13 The amendments in Schedule 5 to this Bill will commence on the day after this Bill receives Royal Assent.

Chapter 6

Environmental Management Charge

Outline of chapter

6.1 Schedule 6 to this Bill amends the *Great Barrier Reef Marine Park Regulations 2019* to effectively waive the environmental management charge for the period 1 April 2020 to 31 December 2020.

Context of amendments

6.2 The *Great Barrier Reef Marine Park (Environmental Management Charge – General) Act 1993* and the *Great Barrier Reef Marine Park (Environmental Management Charge – Excise) Act 1993* impose the environmental management charge. Part 13 of the *Great Barrier Reef Marine Park Regulations 2019* provides for the amount of the environmental management charge and how it is to be collected.

6.3 The environmental management charge is a charge imposed on a number of different commercial operations in the Marine Park called *chargeable permissions* as defined in section 3 of the *Great Barrier Reef Marine Park Act 1975* and prescribed in section 211 of the *Great Barrier Reef Marine Park Regulations 2019*. Currently a charge is imposed of:

- \$6.50 per visitor for each day up to a maximum of 3 days (section 218 of the *Great Barrier Reef Marine Park Regulations 2019*); and
- \$3.25 per visitor for very short tours or tours that arrive late and depart early (sections 219 and 220 of the *Great Barrier Reef Marine Park Regulations 2019*).

6.4 This charge is called the standard tourist program charge. There are also other types of environmental management charges payable under the *Great Barrier Reef Marine Park Regulations 2019*.

6.5 The standard tourist program charge was due to increase to \$7.00 per day on 1 April 2020 (and to \$3.50 for tours that are three hours or less, or tours that arrive late and depart early) in accordance with the formula applied in section 217 and subsection 219(2) of the *Great Barrier Reef Marine Park Regulations 2019*.

6.6 Tourists, rather than tourist program operators, pay the standard tourist program charge with tourist program operators operating as collectors of the tax. The standard tourist program charge is an additional

charge to the ticket price, adding to the total cost for a visitor to undertake a commercial tourism activity in the Marine Park, which is the intent of the *Great Barrier Reef Marine Park Regulations 2019*.

6.7 In addition to the standard tourist program charge, the *Great Barrier Reef Marine Park Regulations 2019* provide for other fixed quarterly environmental management charges. This is a very small part of the total environmental management charge revenue. Some of these fixed charges are payable by tourists and the remainder are paid solely by the permission holder to the Great Barrier Reef Marine Park Authority.

6.8 In the context of broader economic pressures operating on tourist program operators and their ability to pass on increased costs to their customers, Schedule 6 to this Bill is intended to relieve rising pressures on tourist program operators associated with the collection of the standard tourist program charge and some forms of fixed environmental management charges.

Summary of new law

6.9 Schedule 6 to this Bill essentially results in a waiver of all environmental management charge payment requirements for the period 1 April 2020 to 31 December 2020.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Environmental management charge payments are waived for the period 1 April 2020 to 31 December 2020.	A standard tourist program charge is imposed of \$6.50 per visitor for each day up to a maximum of 3 days and \$3.25 per visitor, for very short tours or tours that arrive late and depart early.

Detailed explanation of new law

6.10 The new law waives the standard tourist program charge for the period of 1 April 2020 to 31 December 2020. This waiver is repealed at the end of 31 December 2020. [*Schedule 6, item 1, subsections 217(5) and (6)*]

6.11 This waiver also applies to circumstances where a partial amount of the standard tourist payment charge would otherwise have been payable for tours that are three hours or less. [*Schedule 6, item 2, subsections 219(3) and (4) of the Great Barrier Reef Marine Park Regulations 2019*]

6.12 Similarly, the waiver applies to circumstances where a partial amount of the standard tourist payment charge would have been otherwise payable for tours that arrive late or depart early. *[Schedule 6, item 2, subsections 220(3) and (4) of the Great Barrier Reef Marine Park Regulations 2019]*

6.13 The fixed environmental management charges provided for under section 223 of the *Great Barrier Reef Marine Park Regulations 2019*, which are payable by operators, are also waived for the period 1 April 2020 to 31 December 2020. A similar waiver applies to the fixed environmental management charges that are payable by visitors under section 224 of the *Great Barrier Reef Marine Park Regulations 2019*. These waivers are repealed at the end of 1 December 2020. *[Schedule 6, items 4 and 5, subsections 223(5) and (6) and 224(5) and (6) of the Great Barrier Reef Marine Park Regulations 2019]*

Application and transitional provisions

6.14 The amendments in Schedule 6 to this Bill will commence on 1 April 2020.

Chapter 7

Amendments to Schedule 1AB

Outline of chapter

7.1 Schedule 7 to this Bill amends Schedule 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997* to establish legislative authority for government spending on new measures to:

- assist employers to retain apprentices and trainees.
- provide financial assistance to participants in the Australian aviation sector to assist with the impact on the sector of the Coronavirus.

Context of amendments

7.2 The *Financial Framework (Supplementary Powers) Act 1997* confers on the Commonwealth, in certain circumstances, powers to:

- make arrangements under which money can be spent;
- to make grants of financial assistance; and
- to form, or otherwise be involved in, companies.

7.3 The arrangements, grants, programs and companies (or classes of arrangements or grants in relation to which the powers are conferred) are specified in the *Financial Framework (Supplementary Powers) Regulations 1997*. The *Financial Framework (Supplementary Powers) Act 1997* applies to Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the PGPA Act.

7.4 Section 32B of the *Financial Framework (Supplementary Powers) Act 1997* authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997*.

7.5 Section 32B also authorises the Commonwealth to make, vary and administer arrangements for the purposes of programs specified in the *Financial Framework (Supplementary Powers) Regulations 1997*. Schedule 1AA and Schedule 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997* specify the arrangements, grants and programs.

Summary of new law

7.6 Schedule 7 to this Bill amends Schedule 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997* to establish legislative authority for government spending on a new measure designed to assist employers to retain apprentices and trainees. The new measure will be administered by the Department of Education, Skills and Employment.

7.7 It also amends Schedule 1AB to establish legislative authority for government spending on a new measure to provide financial assistance to participants in the Australian aviation sector to assist with the impact on the sector of the Coronavirus. This measure will be administered by the Department of Infrastructure, Transport, Regional Development and Communications.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Schedule 1AB provides legislative authority for government spending on a measure designed to assist employers to retain apprentices and trainees who may suffer economic effects of the Coronavirus.	None
Schedule 1AB provides legislative authority for government spending on a measure to provide financial assistance to participants in the Australian aviation sector to assist with the impact on the sector of the Coronavirus.	None

Detailed explanation of new law

7.8 Schedule 7 to this Bill adds two new table items to Part 4 of Schedule 1AB to establish legislative authority for government spending on certain measures that will be administered by the Department of Education, Skills and Employment and the Department of Infrastructure, Transport, Regional Development and Communications, respectively.

Retaining existing apprentices and trainees

7.9 The first new table item establishes legislative authority for government spending on a measure that provides financial assistance to

businesses impacted by the Coronavirus to support them to retain their existing apprentices and trainees. It also aims to encourage employers and Group Training Organisations to re-employ apprentices and trainees displaced as a result of the impact of the Coronavirus on their employer.

[Schedule 7, item 1, Part 4 of Schedule 1AB, table item 408]

7.10 This new table item supplements existing table item 360 in Part 4 of Schedule 1AB, which establishes legislative authority for government spending on the current Australian Apprenticeships Incentives Program to encourage the continued training and development of a highly skilled Australian workforce through Australian Apprenticeships.

7.11 The Coronavirus has the potential to have a profound impact on Australian business viability in the short to medium term, both through interruption to trade in goods and services and in supply chains. The disruption includes reduced business cash flow and undermined business viability, which could have consequences for the continuous engagement of apprentices in impacted businesses. It is likely that a number of apprentices and trainees across the economy will face an uncertain period of underemployment, or face being released from their apprenticeship, due to Coronavirus-related disruption of business activity.

7.12 Apprentices or trainees who are released from their apprenticeship may face challenges recommencing with another employer if businesses in their community are affected, leading to a loss of skills and difficulty completing their qualifications.

7.13 There are significant advantages in supporting employers to retain or re-employ out of trade apprentices, including supporting employment and ensuring training is not disrupted or left incomplete. This will realise the benefits of training already undertaken by apprentices and trainees and the significant investment made by the business employing them.

7.14 Funding under the assistance for apprentices and trainees package will be provided:

- for wage subsidies as part of the Australian Apprenticeships Incentives Program to:
 - support small businesses (including those using a Group Training Organisation) to retain their existing apprentices and trainees, and
 - support businesses of any size and Group Training Organisations to re-engage apprentices and trainees displaced from small businesses;
- to Australian Apprentice Support Network providers, under their existing contractual arrangements with the Department

of Education, Skills and Employment, to support implementation of the initiative; and

- to the National Apprentice Employment Network to co-ordinate reemployment of displaced apprentices throughout their network of host employers across Australia.

7.15 To be eligible for a wage subsidy to retain an apprentice/trainee, a business will need to have employed the apprentice/trainee at the designated date of 1 March 2020 and provide evidence of wages paid.

7.16 To be eligible for a re-employment subsidy, a displaced apprentice/trainee must have been employed by a small business at the designated date of 1 March 2020, and have been released from their apprenticeship/traineeship by their employer.

7.17 Details about how to claim wage and re-employment subsidies and eligibility criteria will be set out in the Australian Apprenticeships Incentives Program Guidelines, which will be amended to give effect to the measure.

Constitutional power

7.18 Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers of the Constitution:

- the external affairs power (section 51(xxix)); and
- the express incidental power and the executive power (sections 51(xxxix) and 61), including the nationhood aspect.

External affairs power

7.19 Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to ‘external affairs’. The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party.

7.20 Australia has obligations relating to employment under the ILO Convention (No. 142) concerning Vocational Guidance and Vocational Training in the Development of Human Resources, the ILO Convention (No. 122) concerning Employment Policy and the International Covenant on Economic, Social and Cultural Rights.

7.21 Article 1(1) of the ILO Convention 142 obliges Members to ‘adopt and develop comprehensive and co-ordinated policies and programs of vocational guidance and vocational training, closely linked with employment’. Article 1(2) requires that the policies and programs adopted for the purposes of Article 1(1) to take due account of matters including ‘employment needs, opportunities and problems, both regional and national’ (Article 1(2)(a)).

7.22 Article 2 of the ILO Convention 142 obliges each Member to ‘establish and develop open, flexible and complementary systems of general, technical and vocational education, educational and vocational guidance and vocational training, whether these activities take place within the system of formal education or outside it’.

7.23 Article 3 of the ILO Convention 142 obliges each Member to ‘gradually extend its systems of vocational guidance, including continuing employment information, with a view to ensuring that comprehensive information and the broadest possible guidance are available to all... adults’ (Article 3(1)). Such information and guidance is required to cover matters including ‘vocational training and related educational opportunities’ (Article 3(2)).

7.24 Article 4 of the ILO Convention 142 obliges each Member to ‘gradually extend, adapt and harmonise its vocational training systems to meet the needs for vocational training throughout the life of both young persons and adults in all sectors of the economy and branches of economic activity and at all levels of skill and responsibility’.

7.25 Article 1(1) of the ILO Convention 122 requires Members to ‘declare and pursue...an active policy designed to promote full, productive and freely chosen employment.’ Article 1(2) specifies that this policy shall aim to ensure that (among other things) ‘there is work for all who are available for and seeking work’. Article 2 of the ILO Convention 122 further requires Members ‘decide on and keep under review ... the measures to be adopted for attaining the objectives specified in Article 1’, and to ‘take such steps as may be needed ... for the application of these measures’.

7.26 Article 2(1) of the International Covenant on Economic, Social and Cultural Rights obliges each State Party to take steps ‘to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures’. In particular:

- Article 6(1) of the International Covenant on Economic, Social and Cultural Rights provides that States Parties recognise the ‘right to work’; and
- Article 6(2) provides that States Parties shall take steps ‘to achieve full realization of this right’ including ‘technical and vocational guidance and training programs, policies and techniques to achieve... full and productive employment.’

7.27 The wage subsidies and funding are designed to promote full, productive and freely chosen employment, in the form of Australian Apprenticeships, by encouraging employers who are impacted by the Coronavirus to retain their existing Australian Apprentices and trainees

and/or re-employ displaced apprentices until they successfully complete their Australian Apprenticeship.

Executive power and express incidental power, including the nationhood aspect

7.28 The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested in the Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth.

7.29 The proposed measures seek to further Australia's national interests by supporting businesses to maintain Australia's pipeline of skilled workers through Australian Apprenticeships, which broadens the employment opportunities for eligible individuals and help address employment needs and industry skills shortages.

Temporary financial relief for the aviation sector

7.30 A new table item is also inserted to establish legislative authority for government spending on a measure to provide financial assistance to aviation sector participants impacted by the Coronavirus. This is a temporary financial relief package for Australian airlines and other aviation sector participants due to the Coronavirus pandemic. Australia's airlines are at the forefront of an unprecedented period of falling international and domestic revenue beyond their control.

[Schedule 7, item 1, Part 4 of Schedule 1AB, table item 409]

7.31 The airlines provide critical passenger and freight services which help underpin Australia's tourism and trade industries, and also provide essential connectivity to regional, remote and island territory communities. Therefore, the Government intends to provide temporary relief to Australia's airlines to help ensure there is a sustainable Australian airline industry able to respond to increased demand after the Coronavirus pandemic.

7.32 Initially this measure will provide financial assistance for airlines and airports who are bearing the brunt of the impact of the dramatic reductions in international and domestic air travel due to the Coronavirus. The assistance will include:

- reimbursing airlines to give effect to a waiver of aviation fuel excise;
- providing a rebate to airline operators for domestic aviation screening costs; and

- providing additional funding for infrastructure implementation costs and operational costs associated with enhanced security requirements at regional airports.

Waiver of aviation fuel excise

7.33 Airlines currently pay excise of 3.556 cent per litre on all aviation fuel consumed for domestic aviation operations.

7.34 Under this measure, the Government will provide a rebate to airlines for aviation fuel excise, paid on acceptance of a valid fuel invoice from the airlines.

Rebate to airline operators for domestic security screening

7.35 Security screening services for air travel are generally provided by airports to airlines. While the Australian Government sets screening standards, charges for these services are determined by commercial negotiations between airlines and airports.

7.36 Under this measure, airlines will receive a rebate from the Government for domestic aviation security costs, paid on acceptance of a valid invoice from the airlines. The invoice would need to contain sufficient information on security costs, which would need to be provided by the airports.

Funding for costs associated with enhanced security requirements at regional airports

7.37 Enhanced security screening requirements at regional airports are being introduced, which require a range of infrastructure modifications to accommodate expanded or larger equipment and processing areas. Under this measure, the Government will provide additional funding to airport operators to complete regional airport security infrastructure works if required for enhanced security screening requirements. The Government will also temporarily fund, under this measure, ongoing operational costs (largely staffing) associated with enhanced regional aviation security screening.

Constitutional power

7.38 Noting that it is not a comprehensive statement of relevant constitutional considerations, the objective of the item references the following powers in the Constitution:

- the interstate and overseas trade and commerce power (section 51(i));
- the express incidental power and the executive power (sections 51(xxxix) and 61), including the nationhood aspect;
- the external affairs power (section 51(xxix));

- the territories power (section 122); and
- the defence power (section 51(vi)).

Trade and commerce power

7.39 Section 51(i) of the Constitution empowers the Parliament to make laws with respect to ‘trade and commerce with other countries, and among the states’.

7.40 The measure will involve assistance to participants in the aviation industry who are engaged in trade and commerce with other countries and among the states.

Executive power and express incidental power, including the nationhood aspect

7.41 The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested in the Parliament, the executive or the courts by the Constitution. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth.

7.42 The measure will involve expenditure to address the Coronavirus pandemic, specifically its effects on the aviation sector.

External affairs power

7.43 Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to ‘external affairs’.

7.44 The external affairs power supports legislation with respect to matters or things outside the geographical limits of Australia.

7.45 The measure will involve expenditure to aviation sector participants who undertake operations outside Australia, and to assist with the effect of the Coronavirus pandemic on these participants in connection with these operations.

7.46 The external affairs power also supports legislation implementing Australia’s international obligations under treaties to which it is a party. Australia is a party to the Convention on International Civil Aviation (the Chicago Convention). Annex 17 to that Convention deals with security and the safeguarding of international civil aviation against acts of unlawful interference, and Chapter 4 of the Annex sets out the preventive security measures that each contracting State is to establish to achieve this goal. Annex 17 has been adopted by the Council of the International Civil Aviation Organization acting pursuant to Articles 37 and 54(I) of the Chicago Convention. Article 37 provides that each contracting State undertakes to collaborate in securing the highest

practicable degree of uniformity in regulations, standards, procedures, and organisation in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

7.47 The measure will involve funding for screening at airports, which gives effect to Article 37 of the Chicago Convention, read with the standards set out in Annex 17 to that Convention, particularly Chapter 4 of that Annex.

Territories power

7.48 Section 122 of the Constitution empowers the Parliament to ‘make laws for the government of any territory’.

7.49 The measure will involve expenditure to aviation sector participants who undertake operations into, out of, and within the territories, and to assist with the effect of the Coronavirus pandemic on these participants in connection with these operations.

Defence power

7.50 Section 51(vi) of the Constitution empowers the Parliament to make laws with respect to ‘the naval and military defence’ of the Commonwealth and States, and ‘the control of the forces to execute and maintain the laws of the Commonwealth’. The defence power supports laws taking preventative measures in relation to terrorism, where those measures are reasonably appropriate and adapted to the prevention of a terrorist act.

7.51 The measure will involve funding for screening at airports, which is a preventive measure in relation to terrorism.

Application and transitional provisions

7.52 The amendments in Schedule 7 to this Bill will commence on the day after this Bill receives Royal Assent.

Chapter 8

Providing flexibility in the Corporations Act

Outline of chapter

8.1 Schedule 8 to this Bill amends the Corporations Act to establish a temporary mechanism to provide short-term regulatory relief to classes of persons that, due to the Coronavirus, are unable to meet their obligations under the Corporations Act or the Corporations Regulations.

Context of amendments

8.2 The Coronavirus has continued to spread globally. The Australian Government has taken numerous actions, based on best evidence strategies, to contain transmission of the Coronavirus. Such strategies can, by their nature, disrupt businesses' everyday operations. In recognition of the importance of continued business activity during the Coronavirus pandemic, the Government has provided flexibility to temporarily adjust legal obligations.

Summary of new law

8.3 The new mechanism enables the Treasurer to determine that, due to the Coronavirus, specified classes of persons are exempt from specified obligations in the Corporations Act or the Corporations Regulations.

8.4 The Treasurer may also determine that the specified obligations are modified to enable specified classes of persons to comply with them.

8.5 This mechanism is temporary and will be operative for six months only. Any relief from specific obligation only has effect for a maximum period of six months.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
<p>The Treasurer may by, legislative instrument:</p> <ul style="list-style-type: none"> determine that, due to the Coronavirus, specified classes of persons are exempt from specified obligations in the Corporations Act or the Corporations Regulations; or modify specified obligations under the Corporations Act or the Corporations Regulations to enable specified classes of persons to comply with those obligations during the Coronavirus crisis. 	No equivalent
<p>The legislative instrument may:</p> <ul style="list-style-type: none"> exempt or modify generally; or subject persons or classes of persons to specified conditions with which they must comply. 	No equivalent

Detailed explanation of new law

8.6 Schedule 8 to this Bill amends the Corporations Act to establish a temporary mechanism to provide short-term regulatory relief to classes of persons that, due to the Coronavirus, are unable to meet their obligations under the Corporations Act or the Corporations Regulations. It also provides for short-term regulatory changes to facilitate continuation of business or mitigate the economic impact of the Coronavirus. *[Schedule 8, item 1, subsection 1362A(2) of the Corporations Act]*

8.7 The Treasurer may, by disallowable legislative instrument, temporarily exempt specified classes of persons from the operation of specified provisions, or temporarily modify the operation of specified provisions of the Corporations Act or the Corporations Regulations due to the Coronavirus. *[Schedule 8, item 1, subsections 1362A(1), (4) and (5) of the Corporations Act]*

8.8 Any such legislative instrument made by the Treasurer may make exemptions or modifications that are general, or subject to specified conditions. *[Schedule 8, item 1, subsection 1362A(3) of the Corporations Act]*

8.9 The legislative instrument is disallowable under section 42 of the *Legislation Act 2003*.

8.10 This is a temporary provision to facilitate the continuation of business during the Coronavirus. Accordingly, an instrument made by the Treasurer under section 1362A(1) ceases to be in force at the end of the six month period beginning on the day after the instrument is made, or an earlier time, if specified.

[Schedule 8, item 1, subsection 1362A(4) of the Corporations Act]

8.11 The Treasurer cannot make an instrument under subsection 1362A(1) after the end of the period of six months beginning on the day this section commences.

[Schedule 8, item 1, subsection 1362A(5) of Corporations Act]

8.12 The Treasurer may amend an instrument at any time before the instrument ceases to be in force in accordance with subsection 1362A(4).

[Schedule 8, item 1, subsection 1362A(5) of the Corporations Act]

Application and transitional provisions

8.13 The amendments in Schedule 8 to this Bill will commence on the day after this Bill receives Royal Assent.

8.14 An instrument cannot be made under section 1362A(1) after the end of the period of six months beginning on the day the amendments commence. *[Schedule 8, item 1, subsections 1362A(4) and (5) of the Corporations Act]*

Chapter 9

Child care

Outline of chapter

9.1 Schedule 9 to this Bill amends the Family Assistance Act and Family Assistance Administration Act to provide limited flexibility to manage the impact of the Coronavirus, as well as future disasters, on families and on business continuity for child care services.

Context of amendments

9.2 Legislative amendments to the Family Assistance Act and Family Assistance Administration Act are required to provide the Government with limited flexibility to manage the impact of the Coronavirus, as well as future disasters, on families and on business continuity for child care services.

Summary of new law

9.3 The amendments allocate extra allowable absence days, in addition to the current 42 days, for an event or circumstance specified in the Minister's rules. The allocation of extra allowable absence days is intended to help offset absence days taken as a result of the impact of the Coronavirus. This will help ensure continued subsidised fee relief for families with children enrolled in approved child care.

9.4 The amendments also allow the Minister's rules to prescribe where a service does not need to receive a certificate issued by a medical practitioner for an additional absence caused by an illness either to:

- the child;
- the individual;
- the partner of the individual; or
- an individual with whom the child lives.

9.5 Finally, the amendments waive the current obligation of services duty to enforce payment of gap fees for a particular event or circumstance and the period specified in the Minister's rules. This will enable services to provide fee relief to families, for example, in the circumstance where a service is forced to close on and for the period of public health advice. In

this situation, services cannot charge more than the hourly session fee that was charged immediately before the period specified in the Minister’s rules.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Extra allowable absence days will be permitted for an event or circumstance prescribed by the Minister’s rules.	The number of allowable absences (for which a reason and evidence is not required) is restricted to a total of 42 days.
The Minister’s rules can prescribe circumstances in which a service does not need to receive a certificate issued by a medical practitioner for an additional absence caused by an illness either of: <ul style="list-style-type: none"> • the child; • the individual; • the partner of the individual; or • an individual with whom the child lives. 	Individuals must give services a medical certificate if the additional absence reason (that is, an absence after the individual has used their initial 42 days of allowable absences) is due to an illness either of: <ul style="list-style-type: none"> • the child; • the individual; • the partner of the individual; or • an individual with whom the child lives.
The obligation of services duty to enforce payment of gap fees may be waived for a particular event or circumstance and the period specified in the Minister’s rules. In this situation, services cannot charge more than the hourly session fee that was charged immediately before the period specified in the Minister’s rules.	Approved providers must take all reasonable steps to ensure that individuals pay a gap fee (the difference between the fee charged and Child Care Subsidy paid).

Detailed explanation of new law

9.6 **Item 1** changes the heading of subsection 10(2) from ‘Up to 42 absences’ to ‘Allowable absences’ to better reflect the purpose of this provision.

9.7 **Item 2** repeals and substitutes paragraph 10(2)(c) to include an alternative criteria for when a child care service is taken to have provided a session of care on a day in a financial year. New subparagraph 10(2)(c)(ii) provides that an alternative to there being no more than 41 days of absence is that, if the Minister’s rules prescribe a

particular event or circumstance, the conditions referred to in new subsection (2AA) are met.

9.8 **Item 3** inserts a new subsection 10(2AA), which sets out the conditions to be met, as referred to in new subparagraph 10(2)(c)(ii). The conditions that permit extra allowable absence days for an event or circumstance are prescribed by the Minister's rules. In addition, paragraph 10(2AA)(b) provides a cap where the Minister prescribes a number of days for the event or circumstance prescribed in the Minister's rules. This cap is that, as a result of the event or circumstance, there have been no more than that number of days in the financial year, or the part of the financial year, on which an approved child care service is taken to have provided a session of care.

9.9 **Item 4** changes the heading of subsection 10(3) from 'More than 42 absences' to 'More than the number of allowable absences' to better reflect the purpose of this provision.

9.10 **Item 5** repeals and substitutes paragraph 10(3)(a) to specify that a child care service is taken to have provided a session of care on a day in a financial year if the service is not taken to have provided the session of care under subsection 10(2). This is a consequential amendment to clarify that a family is eligible for additional absences (under subsection 10(3)) only after the allowable 42 days of absences, and any other allowable absences for a circumstance prescribed by the Minister's rules, have been exhausted.

9.11 **Item 6** inserts the words "or paragraph (3)(e)" after the words "or (iii)" in subsection 10(3A). This amendment articulates that the Minister's rules may prescribe circumstances in which a service does not need to receive a certificate issued by a medical practitioner for an additional absence caused by an illness, which is required by paragraph 10(3)(e).

9.12 **Item 7** is an application provision which expresses that the amendments to the Family Assistance Act in items 1 to 6 apply in relation to the 2019-2020 financial year and later financial years.

9.13 **Item 8** inserts a new subsection 201B(1A), which provides that a provider is not required to take reasonable steps to recover a gap payment from individuals as required by subsection 201B(1) if:

- the Minister's rules prescribe a particular event or circumstance;
- the session of care occurs during that event or circumstance; and
- any other condition prescribed by the Minister's rules for that event or circumstance are met.

9.14 The note to new subsection 201B(1A) clarifies that, in any criminal proceedings relating to an offence under subsection 201B(2), a defendant bears an evidential burden in relation to the matters mentioned in subsection 201B(1A).

9.15 **Item 9** repeals subsections 201C(1) and 201C(1A) and substitutes them with new subsections 201C(1), 201C(1A) and 201C(1B) to account for circumstances in which an approved provider must not charge individuals that receive Additional Child Care Subsidy or Child Care Subsidy or prescribed payments or Child Care Subsidy higher fees. The new relevant circumstance is when the provider is not taking reasonable steps in relation to the session of care because of subsection 201B(1A). Therefore, where a provider is not recovering gap fees from individuals, services cannot charge more than the hourly session fee that was charged immediately before the period specified in the Minister's rules.

9.16 **Item 10** makes a minor consequential amendment by replacing the reference to '(1A)' in subsections 201C(2) and (3) with '(1A) or (1B)'.

Consequential amendments

9.17 There will be consequential amendments to the Minister's rules to give practical effect to new powers under these amendments.

Application provisions

9.18 The amendments in Schedule 9 to this Bill generally apply in relation to the 2019-2020 financial year and later financial years.

Chapter 10

Superannuation drawdowns

Outline of chapter

10.1 Schedule 10 to this Bill amends the SIS Regulations and RSA Regulations to give effect to the Government's announced measure to reduce the minimum payment amounts for account based pensions, allocated pensions and market linked pensions (and for the equivalent annuity products) by half for the 2019-20 and 2020-21 financial years.

Context of amendments

10.2 The SIS Regulations and RSA Regulations require that a minimum payment be made from a pension or annuity at least annually. Minimum payments are determined by age and the value of the account balance at 1 July of each year.

10.3 Minimum annual payment rules are designed so that retirees draw down on their superannuation capital over their retirement. This rule recognises that superannuation is a retirement savings vehicle, supported by substantial tax concessions, designed to provide income in retirement.

10.4 This measure is designed to assist pension and annuity account balances to recover from capital losses associated with economic shock from the Coronavirus health crisis by allowing retirees to adjust their drawdowns to their depreciated asset holdings and avoid being forced to sell assets in loss positions to fund income stream payments.

Summary of new law

10.5 The amendments in Schedule 10 to this Bill reduce the minimum payment amounts that apply to account-based annuities and pensions, allocated annuities and pensions, and market linked annuities and pensions for the 2019-20 and 2020-21 financial years by half.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The minimum drawdown rates that apply for pensions and annuities calculated in accordance with the relevant formula for the 2019-20 and 2020-21 financial years is reduced by half.	<p>For the 2019-20 financial year, the minimum drawdown rates for pensions and annuities were calculated in accordance with the relevant formula on 1 July 2019.</p> <p>For the 2020-21 financial year, the minimum drawdown rates for pensions and annuities will be calculated in accordance with the relevant formula on 1 July 2020.</p>

Detailed explanation of new law

Retirement Savings Accounts Regulations

10.6 Schedules 1 and 1A to the RSA Regulations set out the formula for calculating the minimum and maximum payment limits for allocated pensions paid from retirement savings accounts.

10.7 Clause 2 in each of Schedules 1 and 1A sets out the formula for calculating the minimum payment limits.

10.8 Clause 3A in each of Schedules 1 and 1A provides that, for the financial years commencing on 1 July 2008, 1 July 2009 and 1 July 2010, the minimum payment limit is half the amount worked out using the formula in clause 2.

10.9 Schedule 10 to this Bill amends clause 3A in each of Schedules 1 and 1A so that the reduced rate also applies to the financial year commencing on 1 July 2019 and 1 July 2020.

[Schedule 10, items 1 and 2, clause 3A of Schedules 1 and 1A to the RSA Regulations]

10.10 Schedule 4 to the RSA Regulations contains the rules for calculating the annual payment amounts for market linked pensions.

10.11 The formula for determining the annual payment amount is set out in clause 1 of Schedule 4.

10.12 Clause 10 of Schedule 4 provides that, for the financial years commencing on 1 July 2008, 1 July 2009 and 1 July 2010, an amount is taken to have been determined in accordance with clause 1 if it is:

- not less than 45 per cent of the amount determined in accordance with clause 1 (that is, 50 per cent of the lower payment limit specified under clause 8); and

- not greater than 110 per cent of the amount determined in accordance with clause 1.

10.13 Schedule 10 to this Bill amends clause 10 so that the reduced rate also applies to the financial years commencing on 1 July 2019 and 1 July 2020. [*Schedule 10, item 3, clause 10 of Schedule 4 to the RSA Regulations*]

10.14 Schedule 5 to the RSA Regulations contains the rules for calculating the minimum payment amount for an account-based pension.

10.15 The formula for calculating the minimum payment amount is set out in clause 1 of Schedule 5.

10.16 Clause 3A of Schedule 5 provides that, for the financial years commencing on 1 July 2008, 1 July 2009 and 1 July 2010, the minimum payment amount for an account-based pension is half of the amount worked out under the formula in clause 1.

10.17 Schedule 10 to this Bill amends clause 3A of Schedule 5 so that the reduced rate also applies to the financial year commencing on 1 July 2019 and 1 July 2020.

[*Schedule 10, item 4, clause 3A of Schedule 5 to the RSA Regulations*]

Superannuation Industry (Supervision) Regulations

10.18 Schedules 1A and 1AAB to the SIS Regulations set out the formula for calculating the minimum and maximum payment limits for allocated pensions (and for the equivalent annuity product).

10.19 Clause 2 in each of Schedules 1A and 1AAB sets out the formula for calculating the minimum payment limits.

10.20 Clause 3A in each of Schedules 1A and 1AAB provides that, for the financial years commencing on 1 July 2008, 1 July 2009 and 1 July 2010, the minimum payment limit is half of the amount worked out using the formula in clause 2.

10.21 Schedule 10 to this Bill amend clause 3A in each of these Schedules so that the reduced rate also applies to the financial year commencing on 1 July 2019 and 1 July 2020. [*Schedule 10, items 5 and 6, clause 3A of Schedules 1A and 1AAB to the SIS Regulations*]

10.22 Schedule 6 to the SIS Regulations contains the payment rules for market linked income streams and clause 1 of Schedule 6 sets out the formula for determining the annual payment amount.

10.23 Clause 10 of Schedule 6 provides that, for the financial years commencing on 1 July 2008, 1 July 2009 and 1 July 2010, an amount is taken to have been determined in accordance with clause 1 if it is:

- not less than 45 per cent of the amount determined in accordance with clause 1 (that is, 50 per cent of the lower payment limit specified under clause 8) and
- not greater than 110 per cent of the amount determined in accordance with clause 1.

10.24 Schedule 10 to this Bill amends clause 10 so that the reduced rate also applies to the financial years commencing on 1 July 2019 and 1 July 2020. *[Schedule 10, item 7, clause 10 of Schedule 6 to the SIS Regulations]*

10.25 Clause 1 of Schedule 7 to the SIS Regulations contains the rules for calculating the minimum payment amount for an account-based pension (and the equivalent annuity product).

10.26 Clause 4A of Schedule 7 provides that, for the financial years commencing on 1 July 2008, 1 July 2009 and 1 July 2010, the minimum payment amount for an account-based pension (and the equivalent annuity product) is half of the amount worked out under the formula in clause 1.

10.27 Schedule 10 to this Bill amends clause 4A of Schedule 7 so that the reduced rate also applies to the financial year commencing on 1 July 2019 and 1 July 2020.

[Schedule 10, item 8, clause 4A of Schedule 7 to the SIS Regulations]

Application and transitional provisions

10.28 The amendments in Schedule 10 to this Bill will commence on the day after this Bill receives Royal Assent.

Chapter 11

Additional support for income support recipients

Outline of chapter

11.1 Schedule 11 to this Bill amends the *Farm Household Support Act 2014*, Social Security Act and the *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020* to provide additional financial assistance to Australians who are financially impacted by the Coronavirus.

Context of amendments

11.2 These additional payments are part of the Government's commitment to provide financial assistance to those who are financially impacted by the Coronavirus.

Summary of new law

11.3 Schedule 11 to this Bill amends the Social Security to provide for additional categories of Youth Allowance (other) and jobseeker payment. In addition, a new supplement is paid to new and existing recipients of Youth Allowance (other) and jobseeker payment.

11.4 This supplement applies for an initial six month period. The initial period can be extended by a legislative instrument made by the Minister for Families and Social Services.

11.5 The amendments in this Schedule also exempt new and existing jobseeker payment, Youth Allowance (other) and parenting payment recipients from the assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion period. The exemption from the newly arrived resident's waiting period also applies to special benefit.

11.6 Schedule 11 to this Bill also amends the *Farm Household Support Act 2014* to also exempt recipients from certain waiting periods.

11.7 Finally, the *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020* is amended to provide for a delay to the commencement of that Act.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Australians who are financially impacted by the Coronavirus may claim jobseeker payment or Youth Allowance (other) if they are an Australian resident (or exempt from the residence requirements) and satisfy the requirements outlined in a legislative instrument made by the Minister for Families and Social Services.	No equivalent.
A \$500 supplement is paid to new and existing recipients of Youth Allowance (other) and job seeker payments for an initial six month period or an extended period determined by the Minister for Families and Social Services in a legislative instrument.	No equivalent.
Jobseeker payment and Youth Allowance (other) recipients are exempt from the assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion period.	The assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion period apply to Jobseeker payment and Youth Allowance (other) recipients.
Parenting Payment recipients are exempt from the assets test, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion period.	The assets test, ordinary waiting period, newly arrived resident's waiting period and seasonal worker preclusion period apply to Parenting Payment.
Special benefit recipients are exempt from the newly arrived resident's waiting period.	The newly arrived resident's waiting period applies to special benefit recipients.
Recipients of the Farm Household Support are exempt from waiting periods.	The newly arrived resident's waiting period and the seasonal work preclusion period apply to recipients of the Farm Household Support payment.

**Detail
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explan
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of new
law**

The *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020* commences on a single day fixed by Proclamation. If Proclamation is not made by 1 July 2021. The Act commences on 1 July 2021.

The *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020* commences on 1 July 2020.

Amendments to the *Farm Household Support Act 2014*

11.8 **Item 1** makes a minor consequential amendment to subsection 42(1) of the *Farm Household Support Act 2014* resulting from the inserting of new subsection 42(3) (discussed below).

11.9 **Item 2** adds a new subsection 42(3) to the *Farm Household Support Act 2014*. The new subsection 42(3) provides that the newly arrived resident’s waiting period under subsection 42(1) does not apply to a person during the period covered by the new subsection 646(2) (discussed below).

11.10 **Item 3** adds a new subsection 48(5) to the *Farm Household Support Act 2014*. The new subsection 48(5) provides that the seasonal work preclusion period does not apply to a person for the period that new subsection 646(2) applies (discussed below).

11.11 **Item 4** makes a minor consequential amendment to paragraph 94(b) of the *Farm Household Support Act 2014* resulting from the insertion of new section 557 (discussed below).

11.12 **Item 5** makes a minor consequential amendment to paragraph 94(d) of the *Farm Household Support Act 2014* resulting from the insertion of new section 646 (discussed below).

Amendments to the Social Security Act

11.13 **Item 6** makes a consequential amendment to current subsection 7(7) of the Social Security Act. Subsection 7(7) of the Social Security sets out when a person is exempt from the residence requirement for the purposes of the Social Security Act. This amendment is a result of the insertion of the new categories of Youth Allowance (other) and job seeker payment provided for in new section 540BA and new subsection 593(5) of the Social Security Act (discussed below). These new categories of jobseeker and Youth Allowance (other) will be available to people who are Australian residents or exempt from the residence requirement under subsection 7(7) of the Social Security Act.

11.14 **Item 7** introduces new subsection 500Q(6) to the Social Security Act. The new subsection provides that the assets test under section 500Q

does not apply to a person during the period covered by new subsection 504(2) (discussed below).

11.15 **Item 8** makes a minor consequential amendment to subsection 500WA(1) resulting from the insertion of new subsection 500WA(4) (discussed below).

11.16 **Item 9** introduces a new subsection 500WA(4) of the Social Security Act. Under new subsection 500WA(4), subsection 500WA(1) does not apply to a person during the period covered by subsection 504(2). This means the seven day ordinary waiting period does not apply for the period covered by new subsection 504(2) (discussed below) that a person qualifies for parenting payment.

11.17 **Item 10** inserts a new subsection 500X(6) of the Social Security Act. This new subsection provides that the newly arrived resident's waiting period under subsection 500X(1) does not apply to a person during the period covered by new subsection 504(2) (discussed below).

11.18 **Item 11** introduces a new subsection 500Z(4) of the Social Security Act. Under current section 500Z of the Social Security Act, the seasonal workers preclusion period applies except in certain circumstances. This new subsection 500Z(4) provides that the seasonal workers preclusion period does not apply to a person for the period covered by new subsection 504(2) (discussed below).

11.19 **Item 12** inserts a new section 504 to the Social Security Act.

11.20 New subsection 504(1) increases a person's rate of parenting payment by the amount of the Coronavirus supplement.

11.21 New subsection 504(2) provides for a date that the Coronavirus period of six months beginning on the day on which this new section 504 commences unless the period is extended.

11.22 New subsection 504(3) enables the Minister to extend the initial period one or more times, with each individual extension not exceeding three months. The Minister must be satisfied that the extension is in response to circumstances relating to the Coronavirus known as the Coronavirus.

11.23 New subsection 504(4) provides that the amount of the Coronavirus supplement is \$550 per fortnight, unless an amount determined under new subsection new paragraph 504(5).

11.24 New subsection 504(5) provides that the Minister may, by legislative instrument, determine an amount for the purposes of new paragraph 504(4)(b). The instrument is disallowable.

11.25 New subsection 504(6) provides that for any extension period, the amount of the Coronavirus supplement is to be worked out in

accordance with a determination made by the Minister under new subsection 504(7).

11.26 New subsection 504(7) provides that the Minister may make a determination for the purposes of new subsection 504(5) in a legislative instrument. The instrument is disallowable.

11.27 New subsection 504(8) provides that, without limiting new subsection 504(7), the determination made provide that the amount of the Coronavirus per fortnight is nil for specified persons.

11.28 **Item 13** inserts new section 540BA of the Social Security Act. This new section contains a new Youth Allowance (other) qualification provision. A person is qualified for Youth Allowance (other) under new subsection 540BA(1) in respect of a period if:

- the person satisfies the requirements determined in an instrument under new subsection 540BA(2) of the Social Security Act (see new paragraph 540BA(1)(a)); and
- the person is not undertaking full time study and is not a new apprentice (see new paragraph 540BA(1)(b)); and
- throughout the period, the person is of Youth Allowance (other) age in accordance with Subdivision D of Division 1 Part 2.11 of Chapter 2 of the Social Security Act (see new subparagraph 540BA(1)(c)); and
- throughout the period, the person:
 - is an Australian resident (see new subparagraph 540BA(1)(d)(i)); or
 - is exempt from the residence requirement within the meaning of subsection 7(7) of the Social Security Act (see new subparagraph 540BA(1)(d)(ii)).

11.29 New subsection 540BA(2) of the Social Security Act provides that the Minister may by legislative instrument, determine requirements for the purposes of new paragraph 540BA(1)(a). The Minister must be satisfied that the requirements are determined in response to circumstances relating to the Coronavirus known as the Coronavirus. The instrument is disallowable.

11.30 New subsection 540BA(3) of the Social Security Act provides that, without limiting new subsection 540BA(2), the requirements determined in the legislative instrument may depend on the Secretary being satisfied of one or more specified matters.

11.31 New subsection 540BA(4) of the Social Security Act provides that a person is not qualified for Youth Allowance (other) under new

subsection 540BA(1) of the Social Security Act after the end of the period covered by new subsection 557(2) (discussed below).

11.32 **Item 14** makes a minor consequential amendment to section 547B of the Social Security Act resulting from the insertion of new subsection 547B(2) (discussed below).

11.33 **Item 15** adds a new subsection 547B(2) to the Social Security Act. New subsection 547B(2) provides that a person who is not a full-time student or a new apprentice and qualifies for Youth Allowance (other) under the new section 540BA is excluded from the Youth Allowance (other) assets test for the period of qualification under section 540BA.

11.34 **Item 16** adds new subsection 549A(8) to the Social Security Act which is an additional exception to the application of the liquid assets test waiting period. Current section 549A of the Social Security Act provides the general rule of when the liquid assets test waiting period applies and exceptions to the rule. Under new subsection 549A(8), this waiting period does not apply to a person who is not a full-time student or a new apprentice during the period that the person is qualified for Youth Allowance (other) under new section 540BA.

11.35 **Item 17** makes a minor consequential amendment to subsection 549CA(2) of the Social Security Act to insert a reference to new subsection 549CA(6) (discussed below).

11.36 **Item 18** adds new subsection 549CA(6) of the Social Security Act. Current section 549CA of the Social Security Act provides for the application of the ordinary waiting period of seven days to a person who is not a full-time student or a new apprentice, with some exceptions. Under new subsection 549CA(6), the seven-day ordinary waiting period does not apply during the period covered by new subsection 557(2) (discussed below).

11.37 **Item 19** inserts a new subsection 549D(6A) of the Social Security Act. This new subsection provides that the newly arrived resident's waiting period under subsection 549D(1) does not apply to a person during the period covered by new subsection 557(2) (discussed below).

11.38 **Item 20** inserts a new subsection 553C(7) to the Social Security Act. This new subsection provides that the seasonal worker preclusion period under section 553C of the Social Security Act does not apply to a person who is not a full-time student and a new apprentice, during the period covered by new subsection 557(2) (discussed below).

11.39 **Item 21** inserts a new section 557 to the Social Security Act.

11.40 New subsection 557(1) increases the rate of Youth Allowance (other) for a person who is not undertaking full-time study and is not a new apprentice by the amount of the Coronavirus supplement.

11.41 New subsection 557(2) provides for a date that the Coronavirus supplement ceases. The supplement ceases at the end of an initial period of six months beginning on the day on which this new section 504 commences unless the period is extended.

11.42 New subsection 557(3) enables the Minister to extend the initial period one or more times with each individual extension not exceeding three months. The Minister must be satisfied that the extension is in response to circumstances relating to the Coronavirus.

11.43 New subsection 557(4) provides that the amount of the Coronavirus supplement is \$550 per fortnight unless an amount is determined under new subsection new paragraph 646(5).

11.44 New subsection 557(5) provides that the Minister may, by legislative instrument, determine an amount for the purposes of new paragraph 557(4)(b). The instrument is disallowable.

11.45 New subsection 557(6) provides that for any extension period, the amount of the Coronavirus supplement is to be worked out in accordance with a determination made by the Minister under new subsection 557(7).

11.46 New subsection 557(7) provides that the Minister may make a determination for the purposes of new subsection 557(5) in a legislative instrument. The instrument is disallowable.

11.47 New subsection 557(8) provides that, without limiting new subsection 557(7), the determination made provide that the amount of the Coronavirus per fortnight is nil for specified persons.

11.48 **Item 22** adds new subsection 593(5) of the Social Security Act which provides that a person is qualified for a jobseeker payment in respect of a period if the person satisfies the requirements determined in an instrument under new subsection 593(6) and throughout that period the person is at least 22 years of age and has not reached the pension age. The person must also be an Australian resident or exempt from the residence requirement within the meaning of current subsection 7(7) of the Social Security Act. The person must also not be in receipt of a Youth Allowance (other) during the period.

11.49 This item adds new subsection 593(6) of the Social Security Act which provides that the Minister may, by legislative instrument, determine requirements for qualifying for jobseeker under new subsection 593(5). The Minister must be satisfied that the requirements are determined in response to circumstances relating to the Coronavirus known as the Coronavirus. The instrument is disallowable.

11.50 This item also adds new subsection 593(7) of the Social Security Act which provides that, without limiting new subsection 593(6), the requirements to be determined by the Minister in the instrument may depend on the Secretary being satisfied of one or more specified matters.

11.51 This item also adds new subsection 593(8) of the Social Security Act which provides that a person is not qualified for a jobseeker payment under new subsection 593(5) after the end of the period covered by new subsection 646(2) of the Social Security Act (discussed below).

11.52 **Item 23** makes a minor consequential change to subsection 598(1) of the Social Security Act resulting from the amendments made to section 598 (discussed below).

11.53 **Item 24** inserts new subsection 598(8C) of the Social Security Act. This new subsection provides that subsection 598(1) of the Social Security Act does not apply to a person during the period covered by new subsection 646(2) of the Social Security Act (discussed below). The effect of this amendment is to exempt recipients of jobseeker payment from the liquid assets waiting period in section 598 of the Social Security Act for period detailed in new subsection 646(2) of the Social Security Act (discussed below). Current subsection 598(1) of the Social Security Act provides that a person is not qualified for jobseeker payment if on the day they claim jobseeker payment or the day after they ceased work (or ceased to be enrolled in a full-time course of education or training) the person must serve a liquid assets waiting period.

11.54 **Item 25** adds new subsection 611(3) into the Social Security Act to ensure that subsection 611(1) that applies an assets test for recipients of job seeker payment does not apply to a person during the period covered by new subsection 646(2) (discussed below). Current section 611 of the Social Security Act provides for an assets test for recipients of jobseeker payment. A person cannot be paid jobseeker payment if the value of the person's assets exceeds the person's assets value limit (set out in subsection 611(2) of the Social Security Act).

11.55 **Item 26** makes a minor consequential amendment to subsection 620(1) of the Social Security Act resulting from the insertion of new subsection 620(5) (discussed below).

11.56 **Item 27** adds new subsection 620(5) of the Social Security Act. This new subsection provides that current subsection 620(1) of the Social Security Act does not apply to a person during the period covered by new subsection 646(2) (discussed below). In summary, current subsection 620(1) of the Social Security Act provides that a person is (with some exceptions) subject to an ordinary waiting period. This ordinary waiting period lasts for seven days and a person cannot be paid jobseeker payment during this seven-day period.

11.57 **Item 28** adds new subsection 623A(10) of the Social Security Act. This new subsection provides that the newly arrived resident's waiting period does not apply to a person during the period covered by new subsection 646(2) (discussed below).

11.58 **Item 29** adds new subsection 633(7) to the Social Security Act. This new subsection provides that subsection 633(2) of the Social Security Act does not apply to a person during the period covered by new subsection 646(2) (discussed below). Current subsection 633(2) of the Social Security Act provides that if, at any time during the six months immediately before the day on which a person lodges a claim for jobseeker payment, the person (or their partner), has been engaged in seasonal work the person is (with some exceptions) subject to a seasonal work preclusion period.

11.59 **Item 30** inserts new section 646 to the Social Security Act.

11.60 New subsection 646(1) increases a person's rate of jobseeker payment by the amount of the Coronavirus supplement.

11.61 New subsection 646(2) provides for a date that the Coronavirus ceases. This period ceases at the end of an initial period of six months beginning on the day on which this new section 646 commences unless the period is extended.

11.62 New subsection 646(3) enables the Minister to extend the initial period or an extended period multiple times by a period not exceeding three months. The Minister must be satisfied that the extension is in response to circumstances relating to the Coronavirus.

11.63 New subsection 646(4) provides that the amount of the Coronavirus supplement is \$550 per fortnight unless an amount is determined under new subsection 646(5).

11.64 New subsection 646(5) provides that the Minister may, by legislative instrument, determine an amount for the purposes of new paragraph 646(4)(b). The instrument is disallowable.

11.65 New subsection 646(6) provides that for any extension period, the amount of the Coronavirus supplement is to be worked out in accordance with a determination made by the Minister under new subsection 646(7).

11.66 New subsection 646(7) provides that the Minister may make a determination for the purposes of new subsection 646(5) in a legislative instrument. The instrument is disallowable.

11.67 New subsection 646(8) provides that, without limiting new subsection 646(7), the determination may provide that the amount of the Coronavirus per fortnight is nil for specified persons.

11.68 **Item 31** makes a minor consequential amendment to subsection 654(3) of the Social Security Act to insert a reference to new subsection 646 (discussed above).

11.69 **Item 32** makes minor consequential amendments to paragraphs 654(5)(d) and (6)(b) of the Social Security Act resulting from the insertion of new subsection 646 (discussed below).

11.70 **Item 33** adds a new subsection 680(4) of the Social Security Act. This new subsection provides that the assets test under section 680 does not apply to a person during the period covered by new subsection 646(2) (discussed above).

11.71 **Item 34** adds a new section 710 of the Social Security Act.

11.72 New subsection 710(1) increases a person's rate of sickness allowance by the amount of the Coronavirus supplement.

11.73 New subsection 710(2) provides that the amount of the Coronavirus supplement is \$550 per fortnight unless an amount is determined under new subsection new paragraph 710(3).

11.74 New subsection 710(3) provides that the Minister may, by legislative instrument, determine an amount for the purposes of new paragraph 710(2)(b). The instrument is disallowable.

11.75 **Item 35** adds new subsection 739A(10) of the Social Security Act. This new subsection provides that the newly arrived resident's waiting period under subsections 739A(1) and (2) does not apply to a person during the period covered by new subsection 646(2) (discussed above).

11.76 **Item 36** introduces new subsection 745M(4) of the Social Security Act. This new subsection provides that the seasonal worker preclusion period under section 745M of the Social Security Act does not apply to a person during the period covered by new subsection 646(2) (discussed above).

11.77 **Item 37** adds new section 1061JIA of the Social Security Act. This new section contains a new category of crisis payment. A person qualifies for a crisis payment under new subsection 1061JIA(1) if:

- on the day the claim for crisis payment is made, the person has made a claim (whether on the same day or an earlier day) for a social security pension or benefit and qualified for the underlying pension or benefit (see new subsection 1061JIA(1)(a)); and
- the person satisfies the requirements determined in a legislative instrument made under new subsection 1061JIA(2) (see new subsection 1061JIA(1)(b)).

11.78 New subsection 1061JIA(2) provides that the Minister may determine by legislative instrument the requirements for the purposes of new paragraph 1061JIA(1)(b). The Minister must be satisfied that the requirements in the instrument relate to a national health emergency. The instrument is disallowable.

11.79 New subsection 1061JIA(3) provides that, without limiting new subsection 1061JIA(2), the requirements may depend on the Secretary being satisfied of one or more specified matters.

11.80 **Item 38** makes a consequential amendment to section 1061JL resulting from the inserting of new section 1061JIA. The intention is that a person does not qualify under new section 1061JIA if the person has qualified and is payable for crisis payment under the ABSTUDY scheme in respect of the same circumstance.

11.81 **Item 39** introduces a new section 1210B, which allows the Minister for Families and Social Services by legislative instrument to extend the supplement to other social security payments that are not covered by specific provisions applying the supplement. The instrument is disallowable and may only be made by the Minister in response to circumstances relating to COVID-19. The Minister may determine the amount of the supplement in the instrument. Section 1210B will cease to apply at the end of the period covered by new subsection 646(2).

11.82 **Item 40** is an application provision for the amendments made to the Social Security Act by this Part.

11.83 Sub-item 40(1) provides that new section 504 of the Social Security Act, as added by this Part, applies in relation to working out the rate of parenting payment for days occurring on or after the commencement of this item.

11.84 Sub-item 40(2) provides that new subsection 540BA(1) of the Social Security Act, as inserted by this Part, applies in relation to working out qualification for a Youth Allowance (other) in respect of a period beginning on or after the commencement of this item.

11.85 Sub-item 40(3) provides that new section 557 of the Social Security Act, as inserted by this Part, applies in relation to working out the rate of Youth Allowance (other) for days occurring on or after the commencement of this item.

11.86 Sub-item 40(4) provides that new subsection 593(5) of the Social Security Act, as inserted by this Part, applies in relation to working out qualifications for a jobseeker payment in respect of a period beginning on or after the commencement of this item.

11.87 Sub-item 40(5) provides that new section 646 of the Social Security Act, as inserted by this Part, applies in relation to working out the

rate of jobseeker payment for days occurring on or after the commencement of this item.

11.88 Sub-item 40(6) provides that the amendments made to section 654 of the Social Security Act made by this Part, apply when working out the rate of jobseeker payment for days occurring on or after the commencement of this item.

11.89 Sub-item 40(7) provides that new section 710, as inserted by this Part, applies in relation to working out the rate of sickness allowance for days occurring on or after the commencement of this item.

Amendments to the *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020*

11.90 **Item 41** amends the commencement section of the *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020* (section 2) to provide that this Act commences on a single day to be fixed by Proclamation. The new commencement section further provides that if a Proclamation is not made by 1 July 2021, the Act commences on 1 July 2021.

11.91 The effect of this amendment is to allow for a delay of the commencement of the *Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020* which would, in the absence of this amendment, commence on 1 July 2020. The flexibility created by the Proclamation power will allow for the commencement date to be set taking into account the effect of the Coronavirus on Services Australia resources and recipients of income support.

Application and transitional provisions

11.92 **Item 40** is an application provision for the amendments made to the Social Security Act by this Part.

11.93 Sub-item 21(1) provides that new section 504 of the Social Security Act, as added by this Part, applies in relation to working out the rate of parenting payment for days occurring on or after the commencement of this item.

11.94 Sub-item 21(2) provides that new subsection 540BA(1) of the Social Security Act, as inserted by this Part, applies in relation to working out qualification for a Youth Allowance (other) in respect of a period beginning on or after the commencement of this item.

11.95 Sub-item 21(3) provides that new section 557 of the Social Security Act, as inserted by this Part, applies in relation to working out the

rate of Youth Allowance (other) for days occurring on or after the commencement of this item.

11.96 Sub-item 21(4) provides that new subsection 593(5) of the Social Security Act, as inserted by this Part, applies in relation to working out qualification for a jobseeker payment in respect of a period beginning on or after the commencement of this item.

11.97 Sub-item 21(5) provides that new section 646 of the Social Security Act, as inserted by this Part, applies in relation to working out the rate of jobseeker payment for days occurring on or after the commencement of this item.

Chapter 12

Temporary relief for financially distressed individuals and businesses

Outline of chapter

12.1 Schedule 12 to this Bill provides temporary relief for financially distressed individuals and businesses.

Context of amendments

12.2 The economic impacts of the Coronavirus could see numerous individuals at risk of bankruptcy and Australian businesses at risk of insolvency. To avoid unnecessary bankruptcies and insolvencies, Schedule 12 to this Bill provides:

- a safety net to help businesses to continue to operate during a temporary period of illiquidity, rather than enter voluntary administration or liquidation; and
- a safety net to individuals to assist them with managing debt and avoiding bankruptcy.

Summary of new law

12.3 The amendments in Schedule 12 to this Bill temporarily increase the minimum amount of debt required to be owed before a creditor can initiate involuntary bankruptcy proceedings against a debtor from \$5,000 to \$20,000.

12.4 The amendments also:

- temporarily provide debtors more time to respond to a bankruptcy notice – the period is extended from 21 days to six months; and
- temporarily extends the timeframe in which a debtor is protected from enforcement action by a creditor following presentation of a declaration of intention to present a debtor's petition – the period is extended from 21 days to six months.

12.5 The amendments increase the statutory minimum for a creditor to issue a statutory demand to a debtor from \$2,000 to \$20,000. This raises the thresholds for creditor demands that can push businesses into insolvency.

12.6 The amendments also temporarily provide debtors more time to respond to a statutory demand – the period is extended from 21 days to six months.

12.7 Finally, the amendments provide temporary relief for directors from their personal duty to prevent insolvent trading.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The minimum amount of debt required to be owed before a creditor can initiate involuntary bankruptcy proceedings against a debtor is temporarily \$20,000.	The minimum amount of debt required to be owed before a creditor can initiate voluntary bankruptcy proceedings against a debtor is \$5,000.
The timeframe in which a debtor must comply with a bankruptcy notice is temporarily six months.	The timeframe in which a debtor must comply with a bankruptcy notice is 21 days.
The timeframe in which a debtor is protected from enforcement action by a creditor following presentation of a declaration of intention to present a debtor’s petition is temporarily six months.	The timeframe in which a debtor is protected from enforcement action by a creditor following presentation of a declaration of intention to present a debtor’s petition is 21 days.
The statutory minimum for a creditor to issue a statutory demand to a debtor is temporarily increased to \$20,000.	The statutory minimum for a creditor to issue a statutory demand to a debtor is \$2,000.
There is a temporary (six month) increase to the period – the statutory period – within which a debtor must respond to a statutory demand. The period is increased from 21 days to six months.	A debtor has 21 days to respond to a statutory demand.
A new section provides that directors have temporary relief from personal liability for insolvent trading if debts are incurred in the ordinary course of business.	Directors have a duty to prevent insolvent trading.

Detailed explanation of new law

Amendment relating to individuals in financial distress

12.8 New definitions of *default period*, *statutory minimum* and *statutory period* are inserted to allow a period longer than 21 days, or an amount greater than \$5,000, to be prescribed in the *Bankruptcy Regulations 1996*. Existing references to an amount of \$5,000 with respect to the statutory minimum are removed and updated to reflect that the statutory minimum may be increased. The *default period*, *statutory minimum* and *statutory period* are new concepts for the *Bankruptcy Act 1966*.

- The ***default period*** is the timeframe in which a debtor is protected from enforcement action by a creditor following presentation of a declaration of intention to present a debtor's petition.
- The ***statutory period*** is the timeframe in which a debtor must comply with a bankruptcy notice.
- The ***statutory minimum*** is the minimum amount of debt required to be owed before a creditor can initiate voluntary bankruptcy proceedings against a debtor.

[Schedule 12, item 1, subsections 5(1), 41(1), 44(1) and 244(1) of the *Bankruptcy Act 1966*]

12.9 The *Bankruptcy Regulations 1996* prescribe a temporary increase to the definition of *statutory minimum*, *statutory period* and *default period* in the *Bankruptcy Act 1966*. The temporarily increased statutory minimum and statutory period are \$20,000 and six months, respectively. The temporary increased default period is six months. The new regulations are repealed six months after the day on which they commence. Consequential amendments are made to Form 1 in Schedule 1 to the *Bankruptcy Regulations 1996* to allow the form to continue to be used if the statutory period is temporarily increased.

[Schedule 12, items 16, 17, 18 and 19, regulation 4.02.AA, 4.10A and paragraph 1 and (note) of Form 1 of Schedule 1 to the *Bankruptcy Regulations 1996*]

12.10 The definition of *stay period* is amended to allow the stay period to extend for the entire default period, if a default period longer than 21 days is prescribed in the *Bankruptcy Regulations 1996*. The provision is further amended to clarify that all items in the definition are alternatives. [Schedule 12, items 2 and 3, subsection 5(1) of the *Bankruptcy Act 1966*]

12.11 There is a new definition of ***time fixed*** for compliance with a bankruptcy notice. The time fixed for compliance is either the statutory period after the debtor is served with the bankruptcy notice in Australia, which is required to be specified in the notice, or the period specified by

court order if the debtor is served with the bankruptcy notice outside of Australia. Consequential amendments are made to sections 40, 41 and 42 of the *Bankruptcy Act 1966* to ensure consistency of terminology and to clarify that references to time periods in each provision are to the time fixed for compliance with a bankruptcy notice as newly defined. [Schedule 12, items 4, 5, 6, 7, 10 and 11, subsections 5(1), 33(1), 40(1), 41(1), 41(2) and 42(1) of the *Bankruptcy Act 1966*]

Amendments relating to businesses in financial distress

12.12 The Corporations Regulations prescribe a temporary increase to the definition of *statutory minimum* and *statutory period* in the Corporations Act. The temporarily increased statutory minimum and period is \$20,000 and six months, respectively. The new regulation is repealed six months after the day on which it commences. [Schedule 12, item 26, regulation 5.4.01AA of the *Corporations Regulations*]

12.13 The definition of *statutory period* in the Corporations Act is amended to allow a period longer than 21 days to be prescribed in the regulations. [Schedule 12, item 21, paragraphs 9(a) and 9(b) of the *Corporations Act*]

12.14 Further amendments are made to allow for a longer period than 21 days to comply with a statutory demand and to apply for an order setting aside a statutory demand to be prescribed in the regulations. [Schedule 12, items 22, 23 and 24, paragraphs 459E(2)(c) and 459F(2)(b) and subsections 459G(2) and 459G(3) of the *Corporations Act*]

12.15 Consequential amendments are made to Form 509H in Schedule 2 to the Corporations Regulations to allow the form to continue to be used if the statutory minimum and statutory period are temporarily increased. [Schedule 12, items 27, 28 and 29, Form 509H of Schedule 2 to the *Corporations Regulations*]

Temporary relief for directors from duty to prevent insolvent trading

12.16 There is a new temporary, six-month period in which a new safe harbour from the directors' duty to prevent insolvent trading applies. The new safe harbour provides temporary relief from personal liability for insolvent trading where it applies.

12.17 A director may rely on the new temporary safe harbour in relation to a debt incurred by the company if:

- the debt is incurred in the ordinary course of the company's business;
- the debt is incurred during the six month period starting on the day the new law commences, or a longer period as prescribed by the regulations; and

- the debt is incurred before any appointment of an administrator or liquidator of the company during the temporary safe harbour application period.

12.18 A director is taken to incur a debt in the ordinary course of business if it is necessary to facilitate the continuation of the business during the six month period that begins on commencement of the subparagraph. This could include, for example, a director taking out a loan to move some business operations online. It could also include debts incurred through continuing to pay employees during the Coronavirus pandemic.

12.19 The regulations may prescribe circumstances in which the temporary safe harbour is taken never to have applied in relation to a person and a debt.

12.20 A person wishing to rely on the new temporary safe harbour in a proceeding in which unlawful insolvent trading is alleged bears an evidential burden in relation to that matter. A new definition of *evidential burden* applies in relation to the temporary safe harbour. **Evidential burden** means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist. [Schedule 12, item 31, section 588GAAA of the Corporations Act]

12.21 Similarly a holding company may rely on the temporary safe harbour for insolvent trading by its subsidiary if it takes reasonable steps to ensure the temporary safe harbour applies to each of the directors of the subsidiary, and to the debt, and if the temporary safe harbour does so apply. The holding company bears an evidential burden in relation to these matters. [Schedule 12, item 34, subsection 588WA(1) of the Corporations Act]

12.22 Information or books are not admissible to support the temporary safe harbour in a proceeding in which unlawful insolvent trading is alleged if the person fails to permit the inspection of, or deliver the books of the company in accordance with a relevant notice. [Schedule 12, item 32, subsection 588GB(7) of the Corporations Act]

12.23 The Minister is not required to cause an independent review of the operation of the temporary safe harbour to be undertaken under section 588HA of the Corporations Act. [Schedule 12, item 33, section 588HA of the Corporations Act]

Application and transitional provisions

12.24 The amendments in Schedule 12 to this Bill will commence on the day after this Bill receives Royal Assent.

12.25 The amendments to the *Bankruptcy Act 1966* apply to bankruptcy notices issued on or after the new law commences and

petitions and declarations presented on or after the new law commences.
[Schedule 12, item 15 of the Bill]

12.26 The amendments to the Corporations Act apply to statutory demands served on or after the new law commences.
[Schedule 12, item 25, section 1669 of the Corporations Act]

Chapter 13

Early release of superannuation

Outline of chapter

13.1 Schedule 13 to the Bill amends the SIS Regulations and RSA Regulations to allow individuals affected by the adverse economic effects of Coronavirus to have up to \$10,000 released from their superannuation or retirement savings account on compassionate grounds. Each person is permitted to have up to two releases (meaning they can have up to \$20,000 released in total) – one for an application made during the 2019-20 financial year and another for an application made during the 2020-21 financial year. Any applications for this release must be made within six months of the amendments commencing.

13.2 Schedule 13 also amends the ITTP Act 1997 to ensure that any such amounts that are released are not subject to tax.

Context of amendments

13.3 Superannuation benefits are generally required to be ‘preserved’ in the superannuation system until retirement or until preservation age is reached (between 55 and 60, depending on year of birth). Subject to the governing rules of the fund, early release of ‘preserved’ benefits is permitted in certain restricted circumstances.

13.4 The rules for the early release of superannuation are set out in the SIS Regulations and the conditions of release are in Schedule 1 to those regulations. The Commissioner has general administration of regulations made in relation to the early release from superannuation and retirement savings accounts on compassionate grounds (see paragraph 6(1)(g)(iii) of the SIS Act and paragraph 3(1)(g) of the RSA Act).

13.5 Regulation 6.18 of the SIS Regulations provides that a member’s benefits in a superannuation fund may be cashed on or after the member satisfies a condition of release set out in Schedule 1, subject to any cashing restriction as to the amount or form of the payment. The trust deed of a superannuation fund may also impose additional conditions for cashing of a member’s benefits.

13.6 Items 107 and 207 in Schedule 1 to the SIS Regulations currently provide conditions of release on compassionate grounds. To be eligible for these conditions of release, the Commissioner must make a

determination that a person meets one of the grounds for the condition specified in regulation 6.19A of the SIS Regulations.

13.7 The RSA Act and RSA Regulations contain equivalent provisions about the preservation and early release of amounts from retirement savings accounts. In particular, item 109 in Schedule 2 to the RSA Regulations provides the condition of release on compassionate grounds and regulation 4.22A provides for determinations about a person’s eligibility.

Summary of new law

13.8 Schedule 13 to this Bill amends the SIS Regulations and RSA Regulations to allow individuals affected by the adverse economic effects of Coronavirus to have up to \$10,000 released from their superannuation or retirement savings account on compassionate grounds. Each person is permitted to have up to two releases (meaning they can have up to \$20,000 released in total) – one for an application made during the 2019-20 financial year and another for an application made during the 2020-21 financial year. Any applications for this release must be made within six months of the amendments commencing.

13.9 Schedule 13 also amends the ITTP Act 1997 to ensure that any amounts released under this ground are not subject to tax.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
A person may also have up to \$10,000 released from their superannuation or retirement savings account on compassionate grounds if they have been affected by the adverse economic effects of Coronavirus. Each person is permitted to have up to two releases (meaning they can have up to \$20,000 released in total) – one for an application made during the 2019-20 financial year and another for an application made during the 2020-21 financial year. Any applications for this release must be made within six months of the amendments	A person may only have amounts released from their superannuation or retirement savings account on compassionate grounds to pay for particular expenses specified in regulation 6.19A of the SIS Regulations or regulation 4.22A of the RSA Regulations.

Detailed explanation of new law

Amendments to the SIS Regulations

Applying for a determination

13.10 A person can apply for a determination to have up to \$10,000 released from superannuation on the ground that the amount is required to assist the person to deal with the adverse economic effects of Coronavirus. To apply for the determination, the person must satisfy any one of the following requirements about their employment or business status:

- at the time the person applies for the determination, they are:
 - unemployed;
 - eligible to receive a job seeker payment, youth allowance for jobseekers, parenting payment (which includes the single and partnered payments) or special benefit under the Social Security Act; or
 - eligible to receive the farm household allowance under *Farm Household Support Act 2014*; or
- on or after 1 January 2020 the person:
 - was made redundant;
 - their working hours were reduced by 20 per cent or more; or
 - if the person is a sole trader – their business was suspended or there was a reduction in their turnover of 20 per cent or more.

[Schedule 13, item 10, subregulation 6.19B(1) of the SIS Regulations]

13.11 These requirements ensure that access to the early release of superannuation on this additional compassionate ground is targeted to those individuals who have been affected by the adverse economic impacts of Coronavirus.

13.12 The amendments do not specify any minimum documentation or evidentiary conditions for meeting these requirements. It is expected that individuals will self-assess their eligibility to apply for a determination. It is also expected that individuals will be able to apply for the determination on-line through their myGov account using the ATO's online services.

13.13 The requirement about a person's eligibility to receive the various payments listed above can be satisfied if the person is receiving such a payment or if they are eligible to receive such a payment. This allows a person to apply for the determination in a timely fashion instead of having to wait for the payments to commence. A person who is

unemployed may also be eligible for early release from their superannuation on the ground of severe financial hardship in accordance with items 105 and 205 in Schedule 1 to the SIS Regulations.

13.14 The requirements about reductions in a person's working hours or in their turnover as a sole trader are determined by reference to changes that have occurred since 1 January 2020. This requires a comparison of a person's working hours or turnover at the time they make the application and their usual hours prior to 1 January 2020. For example, a person would be eligible to apply for a determination if they had a 20 per cent or more reduction in their usual working hours or turnover relative to the second half of 2019.

Example 13.1: reduction in working hours

Darren is a casual worker in a cafe. In May 2020, Darren seeks to apply for an early release from his superannuation for the 2019-20 financial year.

Due to the adverse economic effects of the coronavirus, Darren's working hours have reduced from 35 hours a week on average in the second half of 2019 to 15 hours a week on average in May. As a result, Darren determines that his hours over the last month have reduced by more than 20 per cent compared to the average of his hours over the last six months of 2019.

Darren self-certifies that he is eligible for early release and applies to have \$10,000 released from his superannuation.

Example 13.2: reduction in turnover

Rachel is a sole trader with a catering business. At the end of July 2020, Rachel seeks to apply for an early release from her superannuation for the 2020-21 financial year.

Due to the adverse economic effects of the coronavirus, Rachel's turnover for July is \$5,000 compared to \$10,000 on average per month for the second half of 2019. Rachel therefore determines that her turnover has reduced by more than 20 per cent compared to her average turnover over the last six months of 2019.

Rachel self-certifies that she is eligible for early release and applies to have \$10,000 released from her superannuation.

13.15 In addition to the requirements about a person's employment or business, each person can only make one application for a determination in the 2019-20 financial year, and one application in the 2020-21 financial year. Any such applications must also be made within six months of the amendments commencing.

[Schedule 13, item 10, subregulation 6.19B(2) of the SIS Regulations]

13.16 The requirement that the person has made an application within six months of the amendments commencing ensures that there is a time limit on the availability of the new ground. Provided that the application

for the determination is made during this period, the Commissioner can make the determination after the period has expired. Further amendments to the regulations can be made to extend this timeframe in the event that it is required for a longer period.

13.17 Individuals are restricted to a single application in a financial year. This means that a person cannot make multiple applications in the same financial year to release more than \$10,000 for that year. It also means that a person who requests an amount of less than \$10,000 in their application for a financial year cannot make a subsequent application in the same financial year to release the difference between that originally requested amount and the \$10,000 limit (for example, a person who has requested that \$6,000 be released cannot subsequently request that another \$4,000 be released). However, a person with multiple accounts who has less than \$10,000 in any one account is able to nominate more than one account from which amounts are to be released when they request the determination.

13.18 It does not matter if the Commissioner makes the determination in response to an application made in the 2019-20 financial year after the end of that year. In such cases, the individual can still apply for the second determination, provided they do so before the end of the six month period.

13.19 A person who applies for the determination may specify the amount they wish to have released. They may also specify the superannuation entity from which the amount is to be released. An individual who has a superannuation account with more than one superannuation entity can also specify the entity or entities from which amounts are to be released, as well as the respective amounts from each entity. *[Schedule 13, item 10, subregulation 6.19B(1) of the SIS Regulations]*

When the Commissioner must make the determination

13.20 The Commissioner must determine that a person is eligible to have an amount (or amounts) released on compassionate grounds relating to Coronavirus if the Commissioner is satisfied that a determination on compassionate grounds relating to Coronavirus has not already been made in response to an application made by the person in that same financial year. *[Schedule 13, item 10, regulations 6.19B(3) of the SIS Regulations]*

13.21 The requirement that the Commissioner has not already made a determination for an application lodged in the same financial year complements the related conditions for when a person can make an application. The combined effect of these rules is that each person is permitted to have up to two releases— one for an application made during the 2019-20 financial year and another for an application made during the 2020-21 financial year.

Requirements in relation to the determination

13.22 If the Commissioner makes a determination that a person is eligible to have an amount (or amounts) released on the new compassionate ground, the Commissioner must specify the amount (or amounts) to be released and the superannuation entity (or superannuation entities) from which the amount is to be released. The total amount that the Commissioner may determine cannot exceed \$10,000.

[Schedule 13, item 10, subregulation 6.19B(5) of the SIS Regulations]

13.23 The Commissioner must also provide a copy of the determination to the person who requested it and any superannuation entity covered by the determination.

[Schedule 13, item 10, subregulation 6.19B(6) of the SIS Regulations]

13.24 These requirements about the determination are consistent with the requirements for determinations on existing compassionate grounds. They ensure that superannuation entities obtain information directly from the Commissioner in respect of the amount that they are authorised to release.

13.25 The amendments make it clear that a determination that has been revoked does not prevent the Commissioner from making a subsequent determination. *[Schedule 13, item 10, subregulation 6.19B(4) of the SIS Regulations]*

13.26 The Commissioner might revoke a previous determination where it was made in error, or it was made because of an incorrect or misleading statement.

13.27 Although the determination would generally constitute protected information that is prohibited from being disclosed under section 355-25 of Schedule 1 to the TAA 1953, disclosure of the determination by a taxation officer to the superannuation entity or entities specified in the determination is permitted under the performance of duties exception in section 355-50 of Schedule 1 to the TAA 1953. This exception is relevant because the amendments require the disclosure of the determination to the specified superannuation entity or entities.

Other amendments

13.28 The amendments introduce new conditions of release in Schedule 1 to the SIS Regulations for determinations made in respect of the new compassionate ground. These conditions of release authorise superannuation entities covered by such determinations to release the amount specified in the determination. *[Schedule 13, items 11 and 12, items 107A and 207AA in Schedule 1 to the SIS Regulations]*

13.29 The amendments also update the definition of compassionate ground in regulation 6.01 of the SIS Regulations to include the ground specified in the new determination. *[Schedule 13, item 8, definition of 'compassionate ground' in regulation 6.01 of the SIS Regulations]*

13.30 This ensures that releases on the new compassionate ground relating to Coronavirus are characterised in the same way as other releases on existing compassionate grounds. It also ensures that the Commissioner has administrative responsibility for the regulations in accordance with paragraph 6(1)(g)(iii) of the SIS Act (which relates to regulations made in relation to the early release from superannuation).

13.31 The amendments also insert a new operating standard for regulated superannuation funds and approved deposit funds. This new standard requires funds to release an amount specified in relation to them in a determination they receive from the Commissioner about a member. In such cases, the superannuation entity is required to release the amount to the member as soon as practicable without requiring any additional application from the member.

[Schedule 13, item 9, subregulation 6.17D of the SIS Regulations]

13.32 However, this new operating standard does not apply to amounts that would otherwise be required to be released from defined benefit interests (which are separately defined in regulations 1.03AA of the SIS Regulations). This reflects that members' entitlements under defined benefit interests are calculated on a different basis to other interests and is consistent with other rules for releasing amounts from superannuation (for example, the obligations on superannuation funds under section 131-35 of Schedule 1 to the TAA 1953 to comply with certain release authorities). Superannuation funds that are able to release amounts from defined benefit interests continue to have the discretion to do so.

Amendment to the RSA Regulations

13.33 Amendments equivalent to those described above to the SIS Regulations are also made to the RSA Regulations.

[Schedule 13, items 2, to 4, 6 and 7, definition of 'compassionate ground' in subregulation 4.01(2), regulation 4.19, regulation 4.20B, regulation 4.22B and item 109AA in Schedule 2 to the RSA Regulations]

13.34 These amendments ensure that individuals may apply for a determination to have up to \$10,000 released from their retirement savings accounts on the ground that the amount is required to assist the person to deal with the adverse economic effects of the Coronavirus.

13.35 These amendments apply in exactly the same way as amendments to the SIS Regulations, with minor wording changes to account for the differences between the respective regulations. For example, the amendments to the RSA Regulations refer to the release of amounts from a person's retirement savings account instead of a person's preserved benefits, or restricted non-preserved benefits, in a specified superannuation entity.

13.36 The amendments also correct an incorrect cross-reference in existing subregulation 4.22A(2). The provision relates to determinations

made for particular conditions of release. However, one of the existing cross-references erroneously refers to a provision about the amount that may be cashed under a condition rather than the actual condition. The amendments correct this error by updating the reference so that it correctly refers to the relevant condition of release. [*Schedule 13, item 5, subregulation 4.22A(2) of the RSA Regulations*]

Tax treatment of released amounts

13.37 The amendments ensure that any superannuation lump sum amounts released to an individual because of the new condition of release on compassionate grounds relating to the Coronavirus are non-assessable non-exempt income. [*Schedule 13, item 1, sections 303-15 of the ITTP Act 1997*]

13.38 This ensures that individuals are not taxed on any lump sums that they receive from a superannuation fund or retirement savings account. As such amounts do not count as income and are not taken into account under any income or means tests.

Application and transitional provisions

13.39 The amendments in Schedule 13 to this Bill will commence on the day after this Bill receives Royal Assent.

Chapter 14

Medicare levy and Medicare levy surcharge low-income thresholds

Outline of chapter

14.1 Schedule 14 to this Bill amends the *Medicare Levy Act 1986* and the *A New Tax System (Medicare Levy Surcharge – Fringe Benefits) Act 1999* to increase:

- the Medicare levy low-income thresholds for individuals and families (along with the dependent child/student component of the family threshold) in line with movements in the CPI;
- the Medicare levy low-income thresholds for individuals and families eligible for Seniors and Pensioners Tax Offset (along with the dependent child/student component of the family threshold), in line with movements in the CPI; and
- the Medicare levy surcharge low-income threshold in line with movements in the CPI.

Context of amendments

Medicare levy low-income thresholds

14.2 The *Medicare Levy Act 1986* provides that no Medicare levy is payable by low-income individuals and families where their taxable income or combined family taxable income does not exceed the stated threshold amounts.

14.3 The Medicare levy phases in at a rate of 10 cents in the dollar where the taxable income or combined family taxable income exceeds the threshold amounts (section 7 of the *Medicare Levy Act 1986*).

Medicare levy surcharge low-income threshold

14.4 A surcharge of between one and one and a half per cent applies on taxable income in certain cases where taxpayers do not have appropriate private patient hospital cover (sections 8B and 8G of the *Medicare Levy Act 1986*). The surcharge also applies to reportable fringe benefits in certain cases where taxpayers do not have appropriate private hospital cover (sections 12 to 16 of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*).

14.5 A family member who otherwise would be liable for the surcharge is not required to pay the surcharge where the total of that person’s income for surcharge purposes does not exceed the individual low-income threshold amount. Unlike the Medicare levy, there is no phase-in of the surcharge above the threshold amount.

Summary of new law

- 14.6 Schedule 14 to this Bill amends:
- subsections 3(1) and 8(5) to 8(7) of the *Medicare Levy Act 1986* to increase the threshold amounts and phase-in limits for individuals, families and individual taxpayers and families eligible for the Seniors and Pensioners Tax Offset;
 - paragraphs 8D(3)(c) and 8G(2)(c), and subparagraphs 8D(4)(a)(ii) and 8G(3)(a)(ii), of the *Medicare Levy Act 1986* to raise the threshold below which a family member is not required to pay the surcharge on taxable income; and
 - paragraphs 15(1)(c) and 16(2)(c) of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* to raise the threshold below which a family member is not required to pay the surcharge on reportable fringe benefits.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Medicare levy low-income thresholds	
The individual income threshold for the 2019-20 income year is \$22,801.	The individual income threshold for the 2018-19 income year is \$22,398.
The family income threshold for the 2019-20 income year is \$38,474.	The family income threshold for the 2018-19 income year is \$37,794.
The income threshold for individual taxpayers eligible for the Seniors and Pensioners Tax Offset for the 2019-20 income year is \$36,056.	The income threshold for individual taxpayers eligible for the Seniors and Pensioners Tax Offset for the 2018-19 income year is \$35,418.
The income threshold for families eligible for the Seniors and Pensioners Tax Offset for the 2019-20 income year is \$50,191.	The income threshold for families eligible for the Seniors and Pensioners Tax Offset for the 2018-19 income year is \$49,304.

<i>New law</i>	<i>Current law</i>
The child-student component of the income threshold for families (whether eligible for Seniors and Pensioners Tax Offset or not) for the 2019-20 income year is \$3,533.	The child-student component of the income threshold for families (whether eligible for Seniors and Pensioners Tax Offset or not) for the 2018-19 income year is \$3,471.
Phase-in limit	
The individual phase-in limit for the 2019-20 income year is \$28,501.	The individual phase-in limit for the 2018-19 income year is \$27,997.
The phase-in limit for individual taxpayers eligible for the Seniors and Pensioners Tax Offset for the 2019-20 income year is \$45,069.	The phase-in limit for individual taxpayers eligible for the Seniors and Pensioners Tax Offset for the 2018-19 income year is \$44,272.
The phase-in limit for families for the 2019-20 income year is \$48,092.	The phase-in limit for families for the 2018-19 income year is \$47,242.
The phase-in limit for families eligible for the Seniors and Pensioners Tax Offset for the 2019-20 income year is \$62,739.	The phase-in limit for families eligible for the Seniors and Pensioners Tax Offset for the 2018-19 income year is \$61,630.
The child-student component of the phase-in limit for families (whether eligible for Seniors and Pensioners Tax Offset or not) for the 2019-20 income year is \$4,416.	The child-student component of the phase-in limit for families (whether eligible for Seniors and Pensioners Tax Offset or not) for the 2018-19 income year is \$4,338.

Detailed explanation of new law

14.7 Schedule 14 to this Bill increases the low-income threshold for individuals and families (including the dependent child-student component of the family threshold) in line with annual movements in the CPI.

14.8 Section 7 of the *Medicare Levy Act 1986* states that no levy is payable where a taxpayer has a taxable income at or below the applicable threshold amount as specified in subsection 3(1) of the *Medicare Levy Act 1986*.

14.9 The individual threshold amount (specified in paragraph (c) of the definition of the threshold amount in subsection 3(1) of the *Medicare Levy Act 1986*) increases from \$22,398 to \$22,801. *[Schedule 1, item 5, paragraph (c) of the definition of 'threshold amount' in subsection 3(1) of the Medicare Levy Act 1986]*

14.10 The level of the family income threshold referred to in subsections 8(5) to 8(7) of the *Medicare Levy Act 1986* increases from \$37,794 to \$38,474. For each dependent child or student, the family

income threshold increases by a further \$3,533 instead of the previous amount of \$3,471. *[Schedule 1, items 6, 7 and 8, the definition of ‘family income threshold’ in subsections 8(5), (6) and (7) of the Medicare Levy Act 1986]*

14.11 Schedule 14 to the Bill also increases the threshold amount for individual taxpayers eligible for the Seniors and Pensioners Tax Offset for the 2019-20 income year. The increase ensures that these people do not have a Medicare levy liability if they are not liable for income tax.

14.12 The threshold amount for individual taxpayers eligible for the Seniors and Pensioners Tax Offset (specified in paragraph (a) of the definition of the threshold amount in subsection 3(1) of the *Medicare Levy Act 1986*) increases from \$35,418 to \$36,056. *[Schedule 1, item 4, paragraph (a) of the definition of ‘threshold amount’ in subsection 3(1) of the Medicare Levy Act 1986]*

14.13 The threshold amount for families eligible for the Seniors and Pensioners Tax Offset increases from \$49,304 to \$50,191. For each dependent child or student, the income threshold increases by a further \$3,533 instead of the previous figure of \$3,471. *[Schedule 1, item 9, subsection 8(7) of the Medicare Levy Act 1986]*

Phase-in limits

14.14 Section 7 of the *Medicare Levy Act 1986* also provides that the Medicare levy applies at a reduced rate to taxpayers with taxable incomes above the threshold amount but not more than the phase-in limit specified in subsection 3(1). The rate of Medicare levy payable in these circumstances is limited to 10 per cent of the excess over the threshold amount that is relevant to the particular person.

14.15 The phase-in limit for individuals (specified in paragraph (c) of the definition of phase-in limit in subsection 3(1) of the *Medicare Levy Act 1986*) increases from \$27,997 to \$28,501. *[Schedule 1, item 3, paragraph (c) of the definition of ‘phase-in limit’ in subsection 3(1) of the Medicare Levy Act 1986]*

14.16 The phase-in limit for individual taxpayers eligible for Seniors and Pensioners Tax Offset (specified in paragraph (a) of the definition of ‘phase-in limit’ in subsection 3(1) of the *Medicare Levy Act 1986*) increases from \$44,272 to \$45,069. *[Schedule 1, item 2, paragraph (a) of the definition of ‘phase-in limit’ in subsection 3(1) of the Medicare Levy Act 1986]*

14.17 There is no phase-in limit for families in the *Medicare Levy Act 1986* as the limit changes with the number of dependants. Instead, subsection 8(2) of the *Medicare Levy Act 1986* contains a formula that limits the levy payable by persons with families to 10 per cent of the amount of family income that exceeds their family income threshold.

14.18 The increased threshold amounts and phase-in ranges for the 2019-20 income year are as shown in Table 1.1.

Table 1.1: 2019-20 Medicare levy low-income threshold amounts and phasing-in ranges

<i>Category of taxpayer</i>	<i>No levy payable in 2019-20 if taxable income or family income does not exceed (figure for 2018-19)</i>	<i>Reduced levy in 2019-20 (if taxable income or family income is within range (inclusive))</i>	<i>Ordinary rate of levy payable in 2019-20 where taxable income or family income is equal to or exceeds (figure for 2018-19)</i>
Individual taxpayer	\$22,801 (\$22,398)	\$22,802-\$28,501	\$28,502 (\$27,998)
Individual taxpayers eligible for the Seniors and Pensioners Tax Offset	\$36,056 (\$35,418)	\$36,057-\$45,069	\$45,070 (\$44,273)
Families eligible for the Seniors and Pensioners Tax Offset	\$50,191 (\$49,304)	\$50,192-\$62,739	\$62,740 (\$61,631)
Families with the following number of children and/or students	(family income)	(family income)	(family income)
0	\$38,474 (\$37,794)	\$38,475-\$48,092	\$48,093 (\$47,243)
1	\$42,007 (\$41,265)	\$42,008-\$52,508	\$52,509 (\$51,582)
2	\$45,540 (\$44,736)	\$45,541-\$56,924	\$56,925 (\$55,921)
3	\$49,073 (\$48,207)	\$49,074-\$61,340	\$61,341 (\$60,259)
4	\$52,606 (\$51,678)	\$52,607-\$65,756	\$65,757 (\$64,598)
5	\$56,139 (\$55,149)	\$56,140-\$70,172	\$70,173 (\$68,937)

Medicare levy surcharge low-income threshold

14.19 References to the individual low-income threshold amount of \$22,398 in the Medicare levy surcharge provisions (in sections 8D and 8G of the *Medicare Levy Act 1986*) in respect of the surcharge payable on taxable income for a person who is married (or both married and a beneficiary of a trust) are also increased to \$22,801.

[Schedule 1, items 10 to 13, paragraphs 8D(3)(c) and 8G(2)(c) and subparagraphs 8D(4)(a)(ii) and 8G(3)(a)(ii) of the Medicare Levy Act 1986]

14.20 References to the individual low-income threshold amount of \$22,398 in the Medicare levy surcharge provisions (in sections 15 and 16 of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*) in respect of the surcharge on reportable fringe benefits are also increased to \$22,801. *[Schedule 1, item 1, paragraphs 15(1)(c) and 16(2)(c) of the A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999]*

Application and transitional provisions

14.21 Schedule 14 to this Bill commences on the day after this Bill receives Royal Assent. *[Clause 2 to the Bill]*

14.22 The amendments in Schedule 14 to this Bill applies to assessments for the 2019-20 income year and later income years. *[Schedule 14, item 14 to the Bill]*

14.23 The amendments apply retrospectively from the start of the 2019-20 income year. However, they are beneficial to all affected taxpayers as they retrospectively reduce or remove liability for Medicare levy and the surcharge that would otherwise apply to affected taxpayers.

Chapter 15

Delaying the next intergenerational report until mid-2021

Outline and context of amendments

15.1 Schedule 15 to this Bill amends the Charter of Budget Honesty to delay the next intergenerational report from 2020 to mid-2021.

15.2 The Charter of Budget Honesty requires the Treasurer to publicly release and table an intergenerational report every five years. The most recent intergenerational report was published in 2015 with the next due to be released in 2020.

15.3 The impact of the Coronavirus makes it difficult to make forecasts around the economy. Delaying the intergenerational report to mid-2021 will ensure there is adequate time to produce long term projections that are based on robust budget estimates.

Detailed explanation of new law

15.4 The Charter of Budget Honesty is amended to require the next intergenerational report to be publicly released and tabled by mid-2021. Thereafter the Treasurer will be required to publicly release and table an intergenerational report every five years.

[Schedule 15, paragraph 20(1)(a) of Schedule 1 to the Charter of Budget Honesty]

Application and transitional provisions

15.5 Schedule 15 to this Bill commences on the day after this Bill receives Royal Assent.

Chapter 16

Deferral of Sunsetting

Outline of chapter

16.1 Schedule 16 to this Bill grants the relevant Minister the power to determine a new sunset day for legislation that is due to sunset on or before 15 October 2020.

Context of amendments

16.2 The *Legislation Act 2003* provides that most laws sunset, or automatically repeal, after a certain date unless they are remade. The sunset date for most legislative instruments is 10 years after registration.

Summary of new law

16.3 Schedule 16 to this Bill allows the relevant Minister for an Act or legislative instrument that is scheduled to sunset on or before 15 October 2020 to determine a new day on which the legislation sunsets. This new date must be no longer than six months after the original sunset date.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The relevant minister for an Act or legislative instrument that is scheduled to sunset on or before 15 October 2020 may determine a new day on which the legislation sunsets.	No equivalent.

Detailed explanation of new law

16.4 The relevant minister for an Act or legislative instrument that is scheduled to cease to have operation on or before 15 October 2020 may determine a new day on which the legislation would cease to have operation. The new day on which the Act or legislative instrument would

cease to have operation must be no longer than six months after the original sunset day. The determination is made by way of legislative instrument. *[Schedule 16, subitems 1(1) and (2)]*

16.5 For an Act or a provision of an Act that sunsets, the relevant Minister is any Minister who administers the Act. For a legislative instrument, the relevant Minister is any Minister who administers the Act under which that legislative instrument is made. *[Schedule 16, subitem 1(5)]*

16.6 These provisions apply notwithstanding any other law of the Commonwealth. This overrides any express provision in an Act or legislative instrument. It also overrides the operation of section 50 of the *Legislation Act 2003* which provides for the automatic repeal of certain legislative instruments. While section 51 of the *Legislation Act 2003* allows for the automatic repeal of a legislative instrument to be deferred, this can only occur for a period of up to two years from the original sunset day. Accordingly, it is necessary to provide an additional mechanism to ensure the continued operation of certain legislative instruments. *[Schedule 16, subitem 1(3)]*

16.7 Schedule 16 to this Bill captures all legislative provisions which sunset on or before 15 October 2020, regardless of the way that they sunset. This includes where the Act or legislative instrument is automatically repealed by way of express provision or, in the case of legislative instruments, by the operation of section 50 of the *Legislation Act 2003*. It also captures legislative provisions that, rather than being repealed, cease to have effect beyond a given date. These may be expressed in a number of ways such as a statement that provisions cease to be in force or cease to apply or a statement. *[Schedule 16, subitem 1(4)]*

Application and transitional provisions

16.8 The amendments in Schedule 16 to this Bill will commence on the day after this Bill receives Royal Assent.

Chapter 17

Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Bill 2020

Outline and context of chapter

17.1 The SME Lending Guarantee Bill gives effect to the Government's commitment to enter into risk-sharing agreements with financial institutions to ensure that credit continues to flow to SMEs so that SMEs can continue to meet their immediate financing needs during the uncertain economic conditions caused by the Coronavirus.

17.2 The SME Lending Guarantee Bill provides that the Minister may, on behalf of the Commonwealth, grant a guarantee to a financial institution in connection with loans made, or to be made, by the financial institution if granting the guarantee is likely to assist in dealing with the economic impacts of the Coronavirus.

17.3 The SME Lending Guarantee Bill further provides that the Consolidated Revenue Fund is appropriated for the purpose of meeting any liabilities that the Commonwealth incurs under those guarantees.

Detailed explanation of new law

17.4 The SME Lending Guarantee Bill provides that the Minister has the power, on behalf of the Commonwealth, to grant a guarantee to a financial institution in connection with loans made, or to be made, to SME entities. *[Subsection 5(1) of the SME Lending Guarantee Bill]*

17.5 The power to grant a guarantee is limited by the criteria that:

- the Minister must be satisfied that it is likely to assist in dealing with the economic impacts of the Coronavirus – for example, the guarantee could assist in boosting confidence in lending by financial institutions to SME entities affected by the economic downturn as a result of the pandemic; and
- the guarantee must be in connection with loans made, or to be made, by a financial institution that is a corporation within the meaning of paragraph 51(xx) of the Constitution.

[Subsection 5(2) of the SME Lending Guarantee Bill]

17.6 The grant of a guarantee must also be in accordance with the legislative rules. The Minister has the power to make rules as required or permitted, or that are necessary or convenient to give effect to provisions in the SME Lending Guarantee Bill.

[Subsection 5(3) and section 8 of the SME Lending Guarantee Bill]

17.7 In addition to defining SME entity, these rules may include, but are not limited to, one or more of the matters outlined below:

- the eligibility criteria for a financial institution to receive a guarantee;
- the proportion of risk to be held by the Commonwealth and a financial institution subject to a guarantee;
- the types and terms of loans subject to a guarantee; and/or
- the maximum size of an individual loan subject to a guarantee.

17.8 The meaning of SME entity is prescribed by the legislative rules made by the Minister.

[Definition of ‘SME entity’, section 4 of the SME Lending Guarantee Bill]

17.9 Financial institution is defined as a body corporate that is an ADI (short for authorised deposit-taking institution) for the purposes of the *Banking Act 1959*, or a non-ADI lender within the meaning of the *Banking Act 1959*.

[Definition of ‘financial institution’, section 4 of the SME Lending Guarantee Bill]

17.10 It is intended that guarantees will only be available for new loans made after the Government’s announcement. In that context, loans made prior to the commencement, but after the announcement can be covered by a guarantee made under section 5.

[Subsection 5(4) of the SME Lending Guarantee Bill]

17.11 The Consolidated Revenue Fund is appropriated for the purpose of meeting any liabilities the Australian Government may incur as a result of a guarantee to a financial institution.

[Subsection 6(1) of the SME Lending Guarantee Bill]

17.12 The total amount of appropriation for meeting liabilities under the guarantee cannot exceed \$20 billion.

[Subsection 6(2) of the SME Lending Guarantee Bill]

17.13 The Minister has the power to delegate the powers or functions provided for in the SME Lending Guarantee Bill.

[Section 7 of the SME Lending Guarantee Bill]

- 17.14 The Minister can delegate the power to grant a guarantee to:
- the Secretary of the Department; or
 - an SES employee, or acting SES employee, in the Department.

[Subsection 7(1) of the SME Lending Guarantee Bill]

17.15 A person delegated with the powers or functions provided by the SME Lending Guarantee Bill must act in accordance with any directions of the Minister. *[Subsection 7(2) of the SME Lending Guarantee Bill]*

17.16 This delegation is appropriate in these circumstances and is provided to allow guarantees to be entered into in a timely manner to support the proper function of lending to SMEs in a time of economic uncertainty.

17.17 The SME Lending Guarantee Bill contains a simplified outline that summarises its operation. The simplified outline is only intended to assist readers to understand the legislative framework, but is not otherwise operational. For a detailed understanding, readers of the SME Lending Guarantee Bill will need to refer to the substantive provisions and explanation in this Explanatory Memorandum.

[Section 3 of the SME Lending Guarantee Bill]

Application and transitional provisions

17.18 The SME Lending Guarantee Bill commences on the day after the Bill receives Royal Assent.

Chapter 18

Australian Business Growth Fund (Coronavirus Economic Response Package) Bill 2020

Outline of chapter

18.1 The Business Growth Fund Bill authorises investment by the Commonwealth in the Australian Business Growth Fund and appropriates \$100 million for that purpose.

Context of the measure

18.2 A challenge for SMEs seeking to grow can be access to capital. In 2018, the Reserve Bank of Australia and the Small Business and Family Enterprise Ombudsman released separate reports outlining the difficulties Australian SMEs face in accessing finance.

18.3 The Reserve Bank of Australia found that banks were reluctant to finance start-ups given the high risks involved. Entrepreneurs found it difficult to borrow more than around \$100,000 on an unsecured basis to support their day-to-day trading activities. In addition, medium-sized businesses reported that it was hard to obtain additional finance once they have pledged all of their real estate as collateral. As a result, many entrepreneurs delay expanding their businesses until the expansion can be funded from retained profits.

18.4 Both the Reserve Bank of Australia and Small Business and Family Enterprise Ombudsman reports concluded that certain business models are not suited to debt finance as there is often a distinct time gap between investing in a business's future growth and realising sufficient profits to repay the debt. Equity financing would often be more appropriate for these business models. However, this is not always an attractive option for SMEs because of the loss of management control of the enterprise if traditional private equity funds are used.

18.5 Australia currently lacks a patient capital market for SMEs. Patient capital can provide entrepreneurs the finance needed to expand without relinquishing control of their business. Patient capital equity funds established in the United Kingdom and Canada have shown that there is a need for this type of finance and that patient capital investment can be profitable for investors.

18.6 The Government will help SMEs grow by co-investing with other financial institutions to establish an Australian Business Growth Fund that will provide equity finance to SMEs across a range of industries and locations.

18.7 The Government has recognised the potential for an Australian Business Growth Fund to support SMEs during economic conditions as result of the impact of the Coronavirus. As a result, the Government has extended the intended use of an Australian Business Growth Fund to enable an increased availability of equity finance for SMEs during the economic impact of the Coronavirus.

18.8 The Business Growth Fund Bill also gives effect to amendments to the Australian Business Growth Fund Bill 2019 as agreed to by the Senate.

Summary of new law

18.9 Part 1 of the Business Growth Fund Bill sets out when the Business Growth Fund Bill commences, the objects of the Business Growth Fund Bill, definitions of key terms used in the Business Growth Fund Bill, and the application of the Business Growth Fund Bill. This Part also contains a simplified outline of the Business Growth Fund Bill.

18.10 Part 2 of the Business Growth Fund Bill authorises the Minister to invest in the Australian Business Growth Fund and places limitations on the exercise of the Minister's investment powers.

18.11 Part 3 of the Business Growth Fund Bill contains administrative provisions that support and govern the Minister's powers to invest in the Australian Business Growth Fund.

Detailed explanation of new law

Part 1—Preliminary provisions

Short title

18.12 The Business Growth Fund Bill, once enacted, may be cited as the *Australian Business Growth Fund (Coronavirus Economic Response Package) Act 2020*. [*Section 1 of the Business Growth Fund Bill*]

Commencement

18.13 The Business Growth Fund Bill will commence on the day after it receives Royal Assent. [*Section 2 of the Business Growth Fund Bill*]

Objects and simplified outlines

18.14 The object of the Business Growth Fund Bill is to increase investment in Australian SMEs by the Commonwealth participating in, and investing in (together with other persons), the Australian Business Growth Fund in accordance with the Business Growth Fund Bill. *[Section 3 of the Business Growth Fund Bill]*

18.15 The Business Growth Fund Bill contains a simplified outline, as do Parts 2 and 3 of the Business Growth Fund Bill for those individual parts. The simplified outlines are included to assist readers to understand the substantive provisions of the Business Growth Fund Bill. These outlines are not intended to be comprehensive. It is intended that readers should rely on the substantive provisions of the Business Growth Fund Bill. *[Sections 4, 9 and 17 of the Business Growth Fund Bill]*

Definitions

18.16 The Business Growth Fund Bill includes definitions of expressions used in the Business Growth Fund Bill. Key definitions are explained throughout this explanatory memorandum as part of the explanation of the substantive provision to which they relate. *[Section 5 of the Business Growth Fund Bill]*

Crown and geographic application

18.17 The Business Growth Fund Bill, once enacted, will bind the Crown in each of its capacities. However, the Business Growth Fund Bill will not make the Crown liable to be prosecuted for an offence. *[Section 6 of the Business Growth Fund Bill]*

18.18 The Business Growth Fund Bill, once enacted, will extend to every external Territory and will extend to acts, omissions, matters and things outside Australia. *[Sections 7 and 8 of the Business Growth Fund Bill]*

Part 2—Commonwealth investment in the Australian Business Growth Fund

18.19 The Business Growth Fund Bill authorises investment by the Commonwealth in a Corporations Act company that will become the Australian Business Growth Fund.

18.20 This investment may be given effect by the Minister, on behalf of the Commonwealth, doing one or more of the following:

- forming, or participating in the formation of, a Corporations Act company; *[Paragraph 10(1)(a) of the Business Growth Fund Bill]*

- acquiring shares (either by purchase or subscription) in a Corporations Act company or becoming a member of a Corporations Act company;
[Paragraph 10(1)(b) of the Business Growth Fund Bill]
- acquiring debentures of a Corporations Act company.
[Subsection 10(2) of the Business Growth Fund Bill]

18.21 A **Corporations Act company** is defined as a body corporate that is incorporated, or is taken to be incorporated, under the Corporations Act. **Debenture** has the same meaning as in the Corporations Act.
[The definitions of ‘Corporations Act company’ and ‘debenture’ in section 5 of the Business Growth Fund Bill]

18.22 These powers can only be exercised in relation to one company. Once these powers are exercised in relation to a company, that company is known as the **Australian Business Growth Fund** or **Fund** for the purposes of the Business Growth Fund Bill.
[The definitions of ‘Australian Business Growth Fund’ and ‘Fund’ in section 5, and subsections 10(3) and (4) of the Business Growth Fund Bill]

18.23 The Minister may, on behalf of the Commonwealth, enter into arrangements with the Fund, a member of the Fund, or a subsidiary of the Fund, relating to the operations of the Fund if the arrangements would not result in the Fund becoming a Commonwealth company. **Subsidiary** has the same meaning as in the Corporations Act. **Commonwealth company** has the same meaning as in the PGPA Act.
[The definitions of “Commonwealth company” and “subsidiary” in section 5, and section 11 of the Business Growth Fund Bill]

18.24 The Minister has the rights, responsibilities, duties and powers associated with being a member or shareholder of the Fund, holding debentures of the Fund or being a party to an arrangement with the Fund.
[Section 12 of the Business Growth Fund Bill]

18.25 The Business Growth Fund Bill primarily relies on the power of the Parliament to make laws with respect to:

- ‘trade and commerce with other countries, and among the States’;
- the government of Territories;
- with respect to nationhood; or
- otherwise with respect to the executive power of the Commonwealth.

[Subsections 13(1) to (3) of the Business Growth Fund Bill]

18.26 Subsections 13(1) to (3) of the Business Growth Fund Bill are not intended to prevent the Fund from generating a commercial return.
[Example to subsection 13(2) of the Business Growth Fund Bill]

18.27 The Minister is required to divest any shares in, or debentures of, the Fund as soon as practicable if these arrangements are not in place by the time the Fund starts making investments, or cease to be in place. *[Subsection 13(4)]*

18.28 The restrictions on the exercise of Ministerial powers apply equally to the exercise of the Minister's rights, responsibilities and duties under section 12. *[Subsection 13(5) of the Business Growth Fund Bill]*

18.29 The Minister must also ensure that the Fund does not become a Commonwealth company (see section 89 of the PGPA). This means that the Minister must ensure that the Commonwealth:

- does not control the composition of the Fund's board; and
- is not in a position to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the Fund; and
- does not hold more than one half of the issued share capital of the Fund (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

[Section 14 of the Business Growth Fund Bill]

18.30 The provisions of Part 2 do not have the effect of limiting the executive power of the Commonwealth.

[Section 15 of the Business Growth Fund Bill]

18.31 Rules can be made in relation to the exercise of rights, responsibilities, duties or powers by the Minister under the Business Growth Fund Bill. This power may be used particularly in the case where these powers are delegated. *[Section 16 of the Business Growth Fund Bill]*

Part 3—Miscellaneous provisions

Appropriation

18.32 The Consolidated Revenue Fund is appropriated to the extent of \$100 million for the purposes of paying costs, expenses and other obligations incurred by the Commonwealth in connection with its investment in the Fund. This may include, for example, paying the Commonwealth's costs of acquiring shares in the Fund, or paying amounts payable under arrangements made with the Fund or its members. *[Subsection 18(1) of the Business Growth Fund Bill]*

18.33 There is a time limit on this appropriation. If no amounts are debited within 2 years after commencement, the appropriation ceases. However, if any amount is debited within the two-year timeframe, there is no time limit on debiting any remaining amounts of the \$100 million appropriation. *[Subsection 18(2) of the Business Growth Fund Bill]*

Delegation

18.34 The Minister may delegate the Minister's powers, functions or duties under the Business Growth Fund Bill to:

- the Secretary of the Department; or
- an SES employee, or an acting SES employee, in the Department.

[Subsection 19(1) of the Business Growth Fund Bill]

18.35 The Minister will not be able to delegate the power to make rules under section 22. The Minister will also not be able to delegate the power to delegate (see paragraph 34AB(1)(b) of the Acts Interpretation Act).

18.36 The delegate must comply with any relevant rules made by the Minister. ***[Subsection 19(2) of the Business Growth Fund Bill]***

18.37 It is intended that the powers, functions and duties delegated under section 19 will only be delegated to officials in certain areas of the Department of the Treasury that are best placed to exercise those powers, or perform those functions or duties. This ensures that there is not a wide delegation of the Minister's powers, functions or duties under the Business Growth Fund Bill.

Governance

18.38 The Department's annual reports under the PGPA Act will be required to include a report on the operation of the Business Growth Fund Bill. ***[Section 20 of the Business Growth Fund Bill]***

18.39 Three years after commencement, the Minister must cause a review of the operation of the Business Growth Fund Bill to be undertaken. The review must include:

- the effectiveness of the Business Growth Fund Bill in meeting the Business Growth Fund Bill's objects; and
- the effectiveness of any investment by the Commonwealth in the Fund in relation to the following:
 - demand for equity investments by business;
 - the impact of the creation of the Fund on the overall access to capital for small and medium Australian enterprises;
 - the impact of the creation of the Fund on competition within capital markets in relation to small and medium Australian enterprises; and

- the operation of the rights and powers of the Commonwealth in relation to the governance arrangements of the Fund.

[Subsections 21(1) and (2)]

18.40 A written report of the review must be given to the Minister and must not include information that is commercially sensitive. The Minister must table a copy of the report in each House of the Parliament within 15 sitting days of that House.

[Subsections 21(3) and (4) of the Business Growth Fund Bill]

Rules

18.41 The Minister will have the power to, by legislative instrument, make rules prescribing matters:

- required or permitted by the Business Growth Fund Bill to be prescribed by the rules; or
- necessary or convenient to be prescribed for carrying out or giving effect to the Business Growth Fund Bill.

[Subsection 22(1) of the Business Growth Fund Bill]

18.42 The rules cannot:

- create an offence or civil penalty;
- provide coercive enforcement powers;
- impose a tax;
- set an amount to be appropriated from the Consolidated Review Fund; or
- directly amend the text of the Business Growth Fund Bill.

[Subsection 22(2) of the Business Growth Fund Bill]

18.43 The only matter covered by paragraph 22(1)(a) is set out in section 16, relating to limitations on the Minister's rights, responsibilities, duties or powers under the Business Growth Fund Bill.

Application and transitional provisions

18.44 The Business Growth Fund Bill commences on the day after the Bill receives Royal Assent.

Chapter 19

Assistance for Severely Affected Regions (Special Appropriation) (Coronavirus Economic Response Package) Bill 2020

Outline of chapter

19.1 The Assistance for Severely Affected Regions (Special Appropriation) (Coronavirus Economic Response Package) Bill 2020 gives effect to the Government's commitment to set aside \$1 billion to support regions, communities and industry sectors most severely affected by the Coronavirus. The funds will be available to assist during the next few months and over the year ahead to ensure these communities are well placed to recover from the economic effects of the Coronavirus.

Context of amendments

19.2 The Government recognises that some regions, communities and industry sectors will be severely affected by the economic impacts of the Coronavirus. Those affected will be able to receive support through new or existing programs that are funded through the \$1 billion set aside in the Assistance for Severely Affected Regions Bill.

19.3 It is expected that regions and communities that are heavily reliant on industries such as tourism, agriculture and education will be among those most severely affected by the economic impacts of the Coronavirus. The support provided by the Assistance for Severely Affected Regions Bill initially include:

- funds to reimburse the Great Barrier Reef Marine Park Authority and the Director of National Parks for a reduction in their revenue from the waiver of government fees and charges for tourism businesses that operate in the Great Barrier Reef Marine Park and three Commonwealth National Parks;
- additional assistance to help businesses identify alternative export markets or supply chains; and
- targeted measures to promote the Australian tourism industry.

19.4 Further plans and measures to support recovery will be designed for affected industries and communities through the funding allocated in the Assistance for Severely Affected Regions Bill.

Summary of new law

19.5 The Assistance for Severely Affected Regions Bill appropriates \$1 billion for the purposes of making payments to support regions, industry sectors and communities severely affected regions.

19.6 The Assistance for Severely Affected Regions Bill also allows the Minister to make rules setting out the circumstances in which the money appropriated by the Assistance for Severely Affected Regions Bill may be spent. The Minister will also be able to make rules that provide for another Minister to administer a specified amount appropriated by the Assistance for Severely Affected Regions Bill. This means that the support programs can be delivered by a range of Government agencies.

19.7 There must be no spending under the special appropriation after 30 June 2021.

Detailed explanation of new law

19.8 The Assistance for Severely Affected Regions Bill commences on the day after it receives Royal Assent.
[Section 2 of the Assistance for Severely Affected Regions Bill]

19.9 The Assistance for Severely Affected Regions Bill includes a special appropriation of \$1 billion for the purpose of making payments that will support those sectors, regions and communities that have been particularly affected by the economic impacts of the Coronavirus. This could include expenditure on:

- programs to assist businesses and others identify alternative export markets or supply chains;
- promoting tourism; and
- support and recovery measures for affected communities, regions and industries.

[Section 4 of the Assistance for Severely Affected Regions Bill]

19.10 The Assistance for Severely Affected Regions Bill authorises the making of payments from the special appropriation to a State or Territory to support communities, regions and industry sectors affected. This gives the Government the ability to tailor the delivery mechanism for the funds as required on a case-by-case basis.

[Section 4 of the Assistance for Severely Affected Regions Bill]

19.11 The Government has committed to waive the Environmental Management Charge for tourism businesses that operate in the Great Barrier Reef Marine Park and park entry fees for Kakadu, Uluru and Booderee National Parks until the end of 2020. The special appropriation will be used to reimburse the Great Barrier Reef Marine Park Authority and the Director of National Parks for these fees and charges to ensure that there is no overall reduction in their revenue. The special appropriation could also be used to reimburse other Commonwealth entities if required.

[Sections 3 and 4 of the Assistance for Severely Affected Regions Bill]

19.12 All spending under the special appropriation must be before 30 June 2021. The special appropriation is intended to provide short-term relief for affected regions, communities and industry sectors, so it is appropriate for the authorisation to spend money from the special appropriation to end at this time.

[Section 8 of the Assistance for Severely Affected Regions Bill]

Agreements relating to spending

19.13 Spending under the special appropriation must be agreed in writing between the recipient of the funds and the Commonwealth. The Assistance for Severely Affected Regions Bill requires that the recipient comply with the terms and conditions of the agreement. This will ensure appropriate oversight and governance of the amounts spent.

[Sections 3 and 5 of the Assistance for Severely Affected Regions Bill]

19.14 The written agreement with a recipient can be entered into by a Minister or the accountable authority of a non-corporate Commonwealth entity (for example, the head of an agency or secretary of a department).

[Sections 3 and 5 of the Assistance for Severely Affected Regions Bill]

19.15 The power to enter into an agreement may be delegated to a senior executive officer of a non-corporate Commonwealth entity. This will allow senior officials to enter into agreements for expenditure under the appropriation. A delegate must comply with any directions provided by the Minister or accountable authority of a non-corporate Commonwealth entity who made the delegation.

[Sections 3 and 6 of the Assistance for Severely Affected Regions Bill]

The Minister may make rules

19.16 It is expected that much of the spending that will be funded from the special appropriation will be extensions of existing programs or arrangements. This is likely to include spending across a range of Government agencies and portfolios.

19.17 To enable the special appropriation to be used in this way, the Assistance for Severely Affected Regions Bill includes provisions that

allow the Minister to set amounts to be appropriated for specified purposes under the Assistance for Severely Affected Regions Bill and to allow other Ministers to administer amounts appropriated.

[Section 6 of the Assistance for Severely Affected Regions Bill]

19.18 The rules can also provide authority for the spending of money appropriated under the Act. Legislative authority for spending from the special appropriation could come from these rules, from the purposes of the special appropriation or from another source (for example, the *Financial Framework (Supplementary Powers) Regulations 1997* or arrangements made under the *Industry Research and Development Act 1986*). *[Section 6 of the Assistance for Severely Affected Regions Bill]*

19.19 The Assistance for Severely Affected Regions Bill allows the Minister to make rules to ensure that arrangements for the administration of amounts appropriated can be put in place quickly to ensure those regions, communities and industry sectors most affected by the Coronavirus can be provided with support as soon as is practicable. This will ensure that the Government can respond rapidly to provide support to industries, communities and regions as required. The rules can also authorise the use of funds by another Minister, but cannot create an offence or civil penalty, provide powers of arrest, detention, search, or seizure, impose a tax, or amend the text of the primary law. The rules are subject to Parliamentary scrutiny and disallowance in accordance with the requirements set out in the *Legislation Act 2003*.

[Section 7 of the Assistance for Severely Affected Regions Bill]

Application and transitional provisions

19.20 The Assistance for Severely Affected Regions Bill commences on the day after the Bill receives Royal Assent.

Chapter 20

Structured Finance Support (Coronavirus Economic Response Package) Bill 2020

Outline of chapter

20.1 The Structured Finance Support Bill establishes the Structured Finance Support (Coronavirus Economic Response) Fund, initially consisting of \$15 billion. The Fund will enable the Government to ensure continued access to funding markets impacted by the economic effects of the Coronavirus, and to mitigate impacts on competition in consumer and business lending markets resulting from the Coronavirus. In particular, this will ensure smaller lenders can maintain access to funding, by the Government making targeted investments in structured finance markets.

20.2 The Structured Finance Support Bill:

- establishes the Structured Finance Support (Coronavirus Economic Response) Fund and the Structured Finance Support (Coronavirus Economic Response) Fund Special Account; and
- credits the Account with \$15 billion on the commencement of the Structured Finance Support Bill (on the day after the Structured Finance Support Bill receives Royal Assent).

20.3 Further amounts can be credited to the Account under the Structured Finance Support Bill, if required.

20.4 The Structured Finance Support Bill provides a framework for investing funds of the Fund in authorised debt securities and other investments prescribed by rules made under the Structured Finance Support Bill.

Context of amendments

20.5 Uncertainty in the economic outlook due to the Coronavirus has disrupted funding markets. The Structured Finance Support (Coronavirus Economic Response) Fund is being established to ensure continued access to these funding markets.

20.6 The focus of the Fund's activities will be investing in securitised loans, including residential mortgages, written by smaller lenders, through either warehouses or the term market. This will support the ability of smaller lenders to:

- continue to issue new loans in the current economic conditions resulting from the impact of the Coronavirus; and
- obtain funding from markets at a competitive price.

20.7 Securitisation is a method of funding whereby the cash flows from assets, such as loans, are packaged into tradeable debt securities that are generally (but do not need to be) tranching.

20.8 Each tranche has different risk characteristics. The cash flows from the underlying loans are used to make interest and principal payments to investors in the securities. These securities often only have recourse to the underlying assets, with generally no recourse to the originator of the assets.

20.9 Securitisation may be undertaken on a warehouse or term basis. Warehouses are securitisation facilities that allow a lender to fund loans until they have built up a large enough pool and track record to refinance them into the term securitisation markets.

20.10 The securitisation market has been an important source of funding for smaller lenders and has been an important driver of competition for residential mortgages and other types of loans. Ensuring continued access to this market for smaller lenders will allow these lenders to have greater liquidity in their portfolios and continue to compete effectively. This will ensure the greatest availability of lending in the market during the economic conditions resulting from the impact of the Coronavirus.

Summary of new law

20.11 Part 1 to the Structured Finance Support Bill sets out the objects of the Bill, arrangements for commencement, application to the Crown, key definitions, its extension to external territories and extra-territorial application.

20.12 Part 2 to the Structured Finance Support Bill:

- establishes the Structured Finance Support (Coronavirus Economic Response) Fund and the Structured Finance Support (Coronavirus Economic Response) Fund Special Account;
- provides for the types of investments that can be made using the Fund; and
- credits \$15 billion into the Account on the day after the Structured Finance Support Bill receives Royal Assent, and enables further amounts to be credited to the Account.

20.13 Part 3 to the Structured Finance Support Bill sets out the constitutional limits of investments made under the Fund, provides for the Minister's powers to be delegated, and provides for regular reporting in relation to the Fund.

Detailed explanation of new law

Part 1 – Preliminary

Short title

20.14 The Structured Finance Support Bill, when enacted, may be cited as the *Structured Finance Support (Coronavirus Economic Response Package) Act 2020*. [Section 1 of the Structured Finance Support Bill]

Commencement, objects and simplified outline

20.15 The Structured Finance Support Bill commences and applies on the day after Royal Assent. [Section 2 of the Structured Finance Support Bill]

20.16 The objects of the Structured Finance Support Bill are to:

- ensure continued access to funding markets impacted by the economic effects of the Coronavirus; and
- mitigate impacts on competition in consumer and business lending markets resulting from the Coronavirus;

by the Commonwealth making investments in accordance with the Structured Finance Support Bill.

[Section 3 of the Structured Finance Support Bill]

20.17 The Structured Finance Support Bill contains simplified outlines that summarise its operation. The simplified outlines are only intended to assist readers to understand the legislative framework, but are not otherwise operational. For a detailed understanding, readers of the Structured Finance Support Bill will need to refer to the substantive provisions and explanation in this Explanatory Memorandum.

[Sections 4, 9 and 16 of the Structured Finance Support Bill]

Definitions, crown to be bound, extension to external territories and extra-territorial application

20.18 The Structured Finance Support Bill defines the terms and expressions used in it. [Section 5 of the Structured Finance Support Bill]

20.19 The Crown will be bound in each of its capacities, but is not liable to prosecution for an offence.

[Section 6 of the Structured Finance Support Bill]

20.20 This Structured Finance Support Bill, once enacted, will extend to every external Territory. *[Section 7 of the Structured Finance Support Bill]*

20.21 This Structured Finance Support Bill, once enacted, will extend to acts, omissions, matters and things outside Australia. *[Section 8 of the Structured Finance Support Bill]*

Part 2 – The Structured Finance Support (Coronavirus Economic Response) Fund and the Structured Finance Support (Coronavirus Economic Response) Fund Special Account

Establishment of the Structured Finance Support (Coronavirus Economic Response) Fund and Structured Finance Support (Coronavirus Economic Response) Fund Special Account

20.22 The Structured Finance Support Bill establishes the Structured Finance Support (Coronavirus Economic Response) Fund and the Structured Finance Support (Coronavirus Economic Response) Fund Special Account. The Fund consists of the Account and the investments of the Fund. The Account is a special account for the purposes of section 80 of the PGPA Act. *[Sections 10 and 11 of the Structured Finance Support Bill]*

20.23 The purpose of the Account is to provide the Commonwealth with an appropriation to make payments under investments it has made under subsection 12(1) of the Structured Finance Support Bill.

Investments of the Fund

20.24 The Minister is given the power, on behalf of the Commonwealth and to further an object of this Act, to invest amounts in the Account in authorised debt securities that meet the requirements of subsection 12(4), or in other investments (each other investment being of a kind prescribed by the rules and that comply with the requirements or restrictions (if any) prescribed in the rules). These investments are the investments of the Fund.

[Subsections 12(1) and (2) of the Structured Finance Support Bill]

20.25 An authorised debt security is a debt security that:

- is issued by a trustee of a trust, or by a body corporate that is a special purpose vehicle;
- is expressed in Australian dollars;
- relates to one or more amounts of credit; and
- complies with the requirements or restrictions (if any) prescribed in the rules relating to authorised debt securities.

[Subsection 12(4) of the Structured Finance Support Bill]

20.26 This reflects the Fund’s objectives of supporting access to finance for smaller lenders, principally via the securitisation market.

20.27 This approach is designed to support competition in consumer and business lending markets and to ensure finance continues to flow to both consumers and businesses. For example, this approach will involve investing in mezzanine tranches and warehouse facilities.

20.28 The Structured Finance Support Bill sets the outer limits on the types of investments the Minister can make. The rules have the flexibility to prescribe other limitations as required depending on how the market develops. It is appropriate for the rules to have the flexibility to further constrain the types of investments the Minister can make.

20.29 As the Structured Finance Support Bill provides for the investment of amounts in the Fund, it is not necessary for the standard provisions relating to investments by the Commonwealth provided for in section 58 of the PGPA Act to apply. While the Structured Finance Support Bill mirrors the majority of these standard provisions, the investment framework provided in the Structured Finance Support Bill provides the Fund with flexibility and agility to meet the objectives of the Structured Finance Support Bill.

[Subsection 12(5) of the Structured Finance Support Bill]

20.30 The Minister is able to authorise re-investment. This ensures that once an investment reaches its legal final maturity date, it can be reinvested in investments with the same entity (meeting the criteria in subsection 12(1)) without the proceeds having to first be credited back into the Account. *[Subsection 12(3) of the Structured Finance Support Bill]*

20.31 The power for the Minister to reinvest the amounts of the Fund in these securities has been provided for convenience. It does not mean that the Minister must reinvest the funds, and it does not limit the ability for the principal and returns on investments to be credited back to the Fund to be invested elsewhere.

Credits to and withdrawals from the Account

20.32 The Account will be credited with \$15 billion on the day the Structured Finance Support Bill commences (on the day after it receives the Royal Assent). *[Paragraph 13(1)(a) of the Structured Finance Support Bill]*

20.33 The Account will also be credited with income derived from the Fund’s investments, capital returns or other financial distributions relating to the Fund’s investments, and the proceeds of realising the Fund’s investments. This will allow the Fund to reinvest its capital and earnings. *[Paragraphs 13(1)(b) to (d) of the Structured Finance Support Bill]*

20.34 Additional amounts can be credited to the Account as determined by the Minister in a notifiable instrument, following agreement with the Finance Minister. These amounts are to be credited to

the Account on the date provided for in the determination, but that date must be on or after the date on which the instrument is made. The determination must also be expressed to be for a specified budget year.
[Subsections 13(2) to (5) of the Structured Finance Support Bill]

20.35 The purposes of the Account are to:

- pay the costs of, including the costs incidental to, making an investment under section 12;
- pay or discharge any other costs, expenses and other obligations incurred by the Commonwealth exclusively in connection with the Fund; and
- reduce the balance of the Account.

[Section 14 of the Structured Finance Support Bill]

20.36 The Minister may make a written direction to debit specified amounts from the Account on a specified day. The purpose of this is to reduce the balance of the Account to reduce the available appropriation for the Account without making a real or notional payment. The date of withdrawal must be on or after the date on which a direction is made. A copy of the direction must be given to the Finance Minister. The direction is declared not to be a legislative instrument.

[Section 15 of the Structured Finance Support Bill]

Part 3 – Miscellaneous

Constitutional limits

20.37 The Structured Finance Support Bill primarily relies on the power of the Parliament to make laws:

- with respect to nationhood; and
- otherwise with respect to the executive power of the Commonwealth; and
- in relation to trade or commerce:
 - between Australia and places outside Australia; and
 - among the States; and
 - within a Territory, between a State and a Territory or between two Territories; and
- with respect to banking (other than State banking not extending beyond the limits of the States concerned).

[Section 17 of the Structured Finance Support Bill]

Delegation

20.38 The Minister has the power to delegate in writing the powers or functions provided for in the Structured Finance Support Bill except for the power to:

- credit additional amounts into the Account under section 13; and
- make rules under section 20.

[Subsection 18(1) of the Structured Finance Support Bill]

20.39 The Minister can only delegate powers to an eligible delegate. An eligible delegate is an official of the Department of the Treasury or a listed entity that is prescribed by the rules, who:

- is an SES employee; or
- is an APS employee who holds or performs the duties of an Executive Level 2, or equivalent position; or
- occupies an office or position that is the equivalent level to that of an SES employee or an Executive Level 2 position.

[Subsection 18(2) of the Structured Finance Support Bill]

20.40 Where the Minister is delegating a power or function to a particular office or position, the Minister must take into account whether the person(s) holding the office or position are sufficiently senior to exercise the power or perform the function or duty.

[Paragraph 18(3)(a) of the Structured Finance Support Bill]

20.41 Where the Minister is delegating a power or function to a particular person, the Minister must consider if the person has the appropriate qualifications or expertise to exercise the power or perform the function. *[Paragraph 18(3)(b) of the Structured Finance Support Bill]*

20.42 Eligible delegates are required to comply with any written directions given by the Minister.

[Subsection 18(4) of the Structured Finance Support Bill]

20.43 Eligible delegates may be given a written direction by the Minister about any of the following:

- strategies and policies to be followed for making investments;
- decision making criteria for making investments;
- limits on making investments;
- risk and return relating to investments;
- governance arrangements relating to investments; and

- any other matters that the Minister thinks appropriate.

[Subsection 18(5) of the Structured Finance Support Bill]

20.44 However, the written direction must not:

- have the purpose, or be likely to have the effect, of directly or indirectly requiring the Minister to make, or not to make, a particular investment; or
- be inconsistent with the Structured Finance Support Bill (including the objects of the Bill) or a legislative instrument made under this Bill.

[Subsection 18(6) of the Structured Finance Support Bill]

20.45 It is intended that powers and functions delegated under section 18 will be delegated to officials of the AOFM.

20.46 The AOFM is a relatively small agency with approximately 40 staff in the 2018-19 financial year. The CEO of the AOFM is the only position that is equivalent to an SES. The remaining eight senior positions are at a level equivalent to an Executive Level 2. These positions are specialist positions, and position holders have often been recruited for their specialist knowledge and expertise in securities and debt management.

20.47 The requirement for the Minister to consider if the person has the appropriate qualifications or expertise to exercise the power or perform the function before making a delegation ensures there is not a wide delegation under this Structured Finance Support Bill.

Annual reporting

20.48 There will be a yearly update on the operation of the Fund in an annual report prepared by the CEO of the AOFM and given to the Minister under section 46 of the PGPA Act.

[Section 19 of the Structured Finance Support Bill]

Rules

20.49 The Minister has the power to make rules as required or permitted, or that are necessary or convenient to give effect to provisions in the Structured Finance Support Bill. The rule making power will allow the Minister to prescribe additional restrictions on the types of investments that can be acquired.

[Subsection 20(1) of the Structured Finance Support Bill]

20.50 To avoid doubt, the rule making power cannot:

- allow the creation of an offence or civil penalty;
- provide powers of arrest, detention, entry, search or seizure;

- impose a tax;
- set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in the Structured Finance Support Bill; or
- directly amend the text of the Structured Finance Support Bill.

[Subsection 20(2) of the Structured Finance Support Bill]

Application and transitional provisions

20.51 The Assistance for Structured Finance Support Bill commences on the day after the Bill receives Royal Assent.

Chapter 21

Appropriation (Coronavirus Economic Response Package) Bill (No. 1) 2019-2020

Outline of chapter

21.1 The *Appropriation (Coronavirus Economic Response Package) Bill (No. 1) 2019-2020* (the Appropriation Bill No. 1) proposes appropriations from the Consolidated Revenue Fund for the ordinary annual services of the Government in addition to amounts appropriated through the *Appropriation Act (No. 1) 2019-2020* and the *Supply Act (No. 1) 2019-2020*.

Context of amendments

21.2 Appropriations for the ordinary annual services of the Government must be contained in a separate Bill from other appropriations in accordance with sections 53 and 54 of the Australian Constitution. Consequently, the Appropriation Bill No. 1 proposes appropriations for the ordinary annual services of the Government. Other annual appropriations that are not for the ordinary annual services of the Government are proposed in the Appropriation Bill No. 2.

Summary of new law

21.3 The Appropriation Bill No. 1 provides for the appropriation of specified amounts for expenditure by Australian Government entities, primarily being non-corporate Commonwealth entities (non-corporate entities) under the PGPA Act.

Detailed explanation of new law

Portfolio statements

21.4 Portfolio statements are defined in the Appropriation Bill No. 1 to mean the Portfolio Budget Statements 2019-20 and the Portfolio Additional Estimates Statements tabled in relation to the Bill for the *Appropriation Act (No. 3) 2019-2020* and the Bill for the *Appropriation Act (No. 4) 2019-2020*. [Clause 3 of the *Appropriation Bill No. 1*]

21.5 Portfolio statements are relevant documents under paragraph 15AB(2)(g) of the Acts Interpretation Act, which provides for material to be considered in the interpretation of an Act if the material is declared by the Act to be relevant material for the purposes of section 15AB of the Acts Interpretation Act.

[Clause 4 of the Appropriation Bill No. 1]

21.6 The purpose of the portfolio statements is to provide information on the proposed allocation of resources to Government outcomes by Commonwealth entities within each portfolio.

Notional transactions between entities that are part of the Commonwealth

21.7 Notional transactions between non-corporate entities are to be treated as if they are real transactions. *[Clause 5 of the Appropriation Bill No. 1]*

21.8 Notional transactions, therefore, require the debiting of an appropriation made by Parliament. The payments of the amounts in Schedule 1 from one non-corporate entity to another do not require, in a constitutional sense, an appropriation, because both non-corporate entities operate within the Consolidated Revenue Fund. For reasons of financial discipline and transparency, the practice has arisen for these payments between non-corporate entities to be treated as though they required an appropriation, and to debit an appropriation when such notional payments are made. This is consistent with section 76 of the PGPA Act.

21.9 When a non-corporate entity makes a payment, whether to another non-corporate entity or another part of the same non-corporate entity (such as a different ‘business unit’ within the entity), it is to be treated as a ‘real’ payment. This means that the appropriation made by Parliament is extinguished by the amount of the notional payment, even though no payment is actually made from the Consolidated Revenue Fund. Similarly, a notional receipt in such a situation is to be treated by the receiving non-corporate entity (where relevant) as if it were a real receipt. This does not mean every internal transfer of public money involves a notional payment and receipt.

Appropriations

21.10 The total of the appropriations in Schedule 1 of the Appropriation Bill No. 1 is \$1,6251,133,000. The amounts in Schedule 1 may be increased by a determination under clause 10 (Advance to the Finance Minister). *[Clause 6 of the Appropriation Bill No. 1]*

21.11 The amounts in Schedule 1 of the Appropriation Bill No. 1 may be adjusted further in accordance with sections 74 to 75 of the PGPA Act. Specifically:

- Section 74 of the PGPA Act, when read with Rule 27 of the *Public Governance, Performance and Accountability Rule 2014*, permits non-corporate entities to retain certain types of receipts by adding them to their most recent departmental item or other type of appropriation in an Appropriation Act when prescribed.
- Appropriations may be adjusted by amounts recoverable by a non-corporate entity from the ATO for GST, in accordance with section 74A of the PGPA Act. The amounts specified in Schedule 1 exclude recoverable GST. The appropriations shown represent the net amount that Parliament is asked to allocate to particular purposes.
- Section 74A has the effect of increasing an appropriation by the amount of the GST qualifying amount arising from payments in respect of the appropriation. As a result, there is sufficient appropriation for payments under an appropriation item, provided that the amount of those payments, less the amount of recoverable GST, can be met from the initial amount shown against the item in Schedule 1. Section 74A also applies to notional transactions between and within non-corporate entities.
- Items may be adjusted to take into account the transfer of functions between non-corporate entities, in accordance with section 75 of the PGPA Act. It is possible that adjustments under section 75 may result in new items and/or outcomes being created in an Appropriation Act.

21.12 Additionally, the Finance Minister manages the payment from items in the Appropriation Bill No. 1 by non-corporate entities using a discretionary power under section 51 of the PGPA Act. Section 51 allows the Finance Minister to manage the timing and the amount of appropriated money to be made available to a Commonwealth entity (an entity as defined in section 10 of the PGPA Act, except as required by law).

Departmental items

21.13 A ***departmental item*** is defined to mean the total amount set out in Schedule 1 to the Appropriation Bill No. 1 in relation to a non-corporate entity under the heading 'Departmental'. Expenditure means payments for expenses, acquiring assets, making loans or paying liabilities. [*Clause 3 of the Appropriation Bill No. 1*]

21.14 The amount specified in a departmental item for a non-corporate entity may be applied for the departmental expenditure of the non-corporate entity. [*clause 7 of the Appropriation Bill No. 1*]

21.15 While the departmental items in Schedule 1 to the Appropriation Bill No. 1 may be divided between outcomes, the different amounts against outcomes are notional. The total appropriation for departmental expenses represents the departmental item.

21.16 Departmental items involve costs over which a non-corporate entity has control. Departmental appropriations can be used to make any payment related to the functions of the non-corporate entity including on purposes covered by other items whether or not they are in the Act for an entity. Expenditure typically covered by departmental items includes:

- employee expenses, suppliers and other operational expenses (e.g. interest and finance expenses); and
- the acquisition and capitalised maintenance of departmental assets valued at \$10 million or less.

21.17 The cash to meet departmental expenses may be required at times other than when the expenses are incurred. Departmental items are available until they are spent, or until the Act through which they were appropriated is repealed. Annual Appropriation Acts have a lifespan of up to three years after which they automatically repeal.

21.18 Generally, if non-corporate entities are directed by Government to perform additional activities, they are expected to meet the cost of the additional activities from their existing appropriations, which may then be replenished by a departmental appropriation in the following financial year. This is known as supplementation and applies when the direction was given, or a decision to propose further appropriations is made, in a timeframe within which it is not practicable to include the expected expenses in a further Appropriation Bill for that financial year.

21.19 There can also be occasions when a non-corporate entity, such as a portfolio Department, is required to assist with matters in relation to other areas of the Government. Examples can include whole-of-Government activities or a portfolio Department assisting with the formation and initial costs of a new portfolio body (for which the Department might later be supplemented). Another example would be where government has decided to implement shared services arrangements, and one non-corporate entity is providing corporate services assistance to another non-corporate entity.

Administered items

21.20 The Appropriation Bill No. 1 also provides for the appropriation of administered amounts to be applied by a non-corporate entity for the purpose of contributing to the outcome for a non-corporate entity.

[Subclause 8(1) of the Appropriation Bill No. 1]

21.21 ***Administered item*** is defined as the amount set out in Schedule 1 opposite an outcome for a non-corporate entity under the

heading ‘Administered’. Administered amounts are appropriated separately for each outcome, so, unlike departmental items, the split across outcomes is not notional. This makes it clear what the funding is intended to achieve. *[Clause 3 of the Appropriation Bill No. 1]*

21.22 The appropriations for administered items in Schedule 1 represent the amounts required to meet the additional estimated expenses for the administered outcomes for 2019-2020.

21.23 The Appropriation Bill No. 1 also sets out the purposes for which each administered item can be spent. Where the portfolio statements indicate a particular activity is in respect of a particular outcome, then expenditure on that activity is taken to be expenditure for the purpose of contributing to achieving that outcome.

[Subclause 8(2) of the Appropriation Bill No. 1]

21.24 Administered items are those administered by a non-corporate entity on behalf of the Government (e.g. certain grants, benefits and transfer payments). These payments are usually made pursuant to eligibility rules and conditions established by the Government or the Parliament. Specifically, administered items are tied to outcomes (departmental items are not).

Corporate entity items

21.25 Appropriations of money for corporate entities are to be paid from the Consolidated Revenue Fund by the relevant Department. Payments for corporate entities must be used for the purposes of those entities. *[Clause 9 of the Appropriation Bill No. 1]*

21.26 A corporate entity is defined to be a corporate Commonwealth entity or a Commonwealth company within the meaning of the PGPA Act. *[Clause 3 of the Appropriation Bill No. 1]*

21.27 Many corporate entities receive funding from appropriations. However, these entities are legally separate from the Commonwealth, and as a result, do not debit appropriations or make payments from the Consolidated Revenue Fund.

21.28 Corporate entity payments are initiated by requests to the relevant portfolio Departments from the corporate entity. The Finance Minister manages appropriations for corporate entities through a discretionary power to control the timing and amount made available under section 51 of the PGPA Act, except as required by law. Corporate entities hold the amounts paid to them on their own account.

21.29 If a corporate entity is subject to another Act that requires amounts appropriated by Parliament for the purposes of that entity to be paid to the entity, then the full amount of the corporate entity payment must be paid to the entity. The purpose of this is to clarify that the new law is not intended to qualify any obligations in other legislation

regulating a corporate entity, where that other legislation requires the Commonwealth to pay the full amount appropriated for the purposes of the entity. *[Subclause 9(2) of the Appropriation Bill No. 1]*

21.30 In addition to the annual appropriations, some corporate entities may also receive public money from related entities such as a portfolio Department and from special appropriations managed by those Departments. Many corporate entities also receive funds from external sources.

Advance to the Finance Minister

21.31 The Finance Minister may allocate additional amounts for items when satisfied that there is an urgent need for expenditure and the existing appropriation in the current year is not provided for or is insufficiently provided for. The allocated amount is referred to as the Advance to the Finance Minister. *[Clause 10 of the Appropriation Bill No. 1]*

21.32 The maximum total of amounts that can be determined under the Advance to the Finance Minister provision is \$800 million. *[Subclause 10(3) of the Appropriation Bill No. 1]*

21.33 This provides the Finance Minister with capacity to allocate additional amounts for the Coronavirus expenditures that were not contemplated when preparing the Appropriation Bill No. 1.

21.34 The quantum of the Advance to the Finance Minister provision has been determined by extrapolating the Coronavirus related Advances to the Finance Minister approved since the beginning of March 2020 through until the end of the 2019 20 financial year. The quantum of the Advance to the Finance Minister also takes into consideration the evolving nature of the Coronavirus outbreak, the associated uncertainty around what may be required as part of the Government's response and the likely need for the Government to act quickly. While this new Advance to the Finance Minister provision is significant, it will be limited to the Coronavirus response requirements only (including responses to health and economic impacts).

21.35 The proposed Advance to the Finance Minister is in addition to the ordinary Advance to the Finance Minister provided through the Annual Appropriations Acts of \$295 million for Appropriation Bill No. 1 and \$380 million for Appropriation Bill No. 2. These ordinary Advance to the Finance Minister provisions are intended to meet urgent expenditure associated with the ongoing operations of Government which will continue throughout the Coronavirus response.

21.36 The Finance Minister will only consider issuing an amount if satisfied there is an urgent need for expenditure that is not provided for, or is insufficiently provided for, in Schedule 1 because of an omission or understatement or because of unforeseen circumstances. Generally,

options under sections 74 to 75 of the PGPA Act must be considered, where applicable, before the Finance Minister will make a determination. *[Subclause 10(1) of the Appropriation Bill No. 1]*

21.37 The Finance Minister may make a determination to allocate an amount from the Advance to the Finance Minister to an existing item in Schedule 1 to:

- a new item not already in Schedule 1; or
- a new outcome.

[Subclause 10(2) of the Appropriation Bill No. 1]

21.38 Such a determination is a legislative instrument, which must be tabled in Parliament. *[Subclause 10(4) of the Appropriation Bill No. 1]*

21.39 The determinations are not subject to disallowance under section 42 of the *Legislation Act 2003* as this would frustrate the purpose of the provision, which is to provide additional appropriation for urgent expenditure. Further, an Advance to the Finance Minister does not sunset. Legislative instruments enabled by the Bill, once enacted, automatically repeal when the Act itself repeals. *[Clause 13 of the Appropriation Bill No. 1]*

Miscellaneous

Crediting Amounts to Special accounts

21.40 Special accounts may be established under the PGPA Act by a determination of the Finance Minister (section 78) that is disallowable by Parliament or by another Act (sections 79 and 80). The determination or Act that establishes the special account will specify the purposes of the special account.

21.41 If the purpose of an item in Schedule 1 to the Appropriation Bill No. 1 is also the purpose of a special account (regardless of whether the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to the special account. *[Clause 11 of the Appropriation Bill No. 1]*

Appropriations of the Consolidated Revenue Fund

21.42 The Consolidated Revenue Fund is appropriated as necessary for the purposes of the Appropriation Bill No. 1. *[clause 12 of the Appropriation Bill No. 1]*

21.43 Significantly, this means that there is an appropriation in law when the Act commences. That is, the appropriations are not made or brought into existence just before they are paid, but when the Act commences. This indicates that the amounts appropriated may be affected by the PGPA Act, in particular sections 74 to 75, after the Act commences.

Schedule 1 - Services for which money is appropriated

21.44 Schedule 1 to the Appropriation Bill No. 1 specifies the appropriations proposed for the ordinary annual services of the Government. It contains a summary table which lists the total amounts for each portfolio. A separate summary table is included for each portfolio, with other tables detailing the appropriations for each Commonwealth entity. [*Schedule 1 to the Appropriation Bill No. 1*]

21.45 Schedule 1 to the Appropriation Bill No. 1 includes, for information purposes, the amount appropriated in the *Appropriation Act (No. 1) 2019-2020* and the *Supply Act (No. 1) 2019-2020*, which is printed in italics and labelled as ‘Budget Appropriation (italic figures) – 2019-2020’, and a figure for the previous financial year labelled ‘Actual Available Appropriation (light figures) – 2018-2019’. The Budget Appropriation and Actual Available Appropriation are estimates that do not affect the amount available at law. These figures provide a comparison with the proposed appropriations.

21.46 The Budget Appropriation and Actual Available Appropriation are calculated for each item by adding the amounts appropriated in the relevant financial year’s annual Appropriation Acts, plus any Advances to the Finance Minister, and any adjustments under sections 51 and 75 of the PGPA Act. In some instances, the figures may also be affected by limits applied administratively by the Department of Finance. In addition, where an entity’s outcome structure has changed since the last Appropriation Act, only ongoing outcomes may be shown in the Appropriation Bill No. 1. For these reasons, the Actual Available Appropriation figures may be different from the sum of amounts provided in earlier Appropriation Acts.

Decisions included in the Appropriation Bill No. 1

21.47 The Appropriation Bill No. 1 proposes appropriations totalling \$1.651 billion.

21.48 The majority of appropriations proposed in the Bill are for the Department of Education, Skills and Employment, the Department of Health and the Department of Infrastructure, Transport, Regional Development and Communications. Specific items for these entities are detailed below:

- the Department of Education, Skills and Employment (\$273.6 million) including:
 - \$188.6 million, to provide support for small businesses to retain their apprentices and trainees by providing a wage subsidy of 50 per cent of the apprentices’ or trainees’ wage, capped at \$7,000 per quarter per eligible apprentice, for up to nine months from 1 January 2020 to 30 September 2020. This measure will support up to

- 70,000 businesses, employing around 117,000 apprentices and trainees; and
- \$85.0 million to provide the Employment Services program with sufficient funding to meet potential demands.
- the Department of Health (\$571.6 million) including:
 - \$234.9 million to ensure continuity of the aged care workforce for residential and home care;
 - \$113.5 million to establish and operate dedicated respiratory clinics to assist with diagnosing and managing respiratory cases, including the Coronavirus, influenza, and pneumonia;
 - \$69.1 million to support a key public health national information campaign;
 - \$48.0 million will be provided to support aged care providers experiencing the Coronavirus outbreak;
 - \$29.1 million to support remote communities to minimise exposure through planning and preparedness activities, early retrieval and evacuation of at risk patients, and emergency support in the event of acute the Coronavirus outbreak;
 - \$18.0 million establish a Central Patient Coronavirus Triage Hotline to advise people whether to attend a hospital, clinic, to self-isolate at home, to consult a General Practitioner or to take no further action;
 - \$13.4 million to contract expert training providers to train staff in medical clinics and the broader primary care sector;
 - \$12.5 million for pharmacy businesses to fill prescriptions and deliver them to homes of eligible Coronavirus patients and other at-risk populations in self-isolation;
 - \$9.1 million additional resourcing for the National Incident Room to respond to the Coronavirus;
 - \$5.1 million to provide pathology testing for the Coronavirus in aged care facilities;
 - \$5.0 million to accelerate implementation of electronic prescribing (ePrescribing) used by clinicians to prescribe medicines and share prescriptions electronically with a patient’s pharmacy;

- \$5.0 million to temporarily boost the health workforce in Australia during the Coronavirus outbreak;
- \$2.8 million for the expansion of existing surveillance, modelling and data activities to include the Coronavirus; and
- \$6.1 million to support the continuity of the aged care workforce and additional funding for the My Aged Care contact centre.2.8
- The Department of Infrastructure, Transport, Regional Development and Communications (\$437.0 million) for airline relief including:
 - \$250.0 million in relation to the waiver of Airservices Australia charges for domestic airlines;
 - \$108.0 million for domestic aviation security rebates to airlines;
 - \$33.0 million for enhanced regional aviation security requirements at regional airports;
 - \$31.0 million for relief from aviation fuel tax for airlines; and
 - the Civil Aviation Safety Authority (\$15.0 million) to continue to deliver aviation safety activities.

21.49 The Appropriation Bill No. 1 also proposes appropriations totalling \$268.9 million for the following entities:

- Services Australia (\$221.0 million) to facilitate stimulus and other payments, and to meet the cost of processing additional Medicare benefits as part of COVID 19 pathology testing;
- the Department of Home Affairs (\$18.7 million) to manage detention and quarantine facilities on Christmas Island and in the Northern Territory and other measures in response to the Coronavirus outbreak;
- the Department of Agriculture, Water and the Environment (\$15.3 million) to support increased biosecurity officer interventions to contain and slow the transmission of the Coronavirus;
- the Department of Foreign Affairs and Trade (\$10.6 million) to reimburse costs associated with QANTAS charter flights and additional consular support costs;

- the Aged Care Quality and Safety Commission (\$2.7 million) to support aged care providers to implement infection control measures; and
- the Department of Veterans' Affairs (\$0.6 million) to facilitate stimulus payments to eligible Department of Veterans' Affairs clients.

Application and transitional provisions

21.50 The Appropriation Bill No. 1 commences as an Act on the day the Bill receives Royal Assent. *[Clause 2 of the Appropriation Bill No. 1]*

21.51 The Appropriation Bill No. 1, once enacted, will repeal at the start of 1 July 2022. *[Clause 13 of the Appropriation Bill No. 1]*

Chapter 22

Appropriation (Coronavirus Economic Response Package) Bill (No. 2) 2019-2020

Outline of chapter

22.1 The main purpose of the Appropriation Bill No. 2 is to propose appropriations from the Consolidated Revenue Fund for services that are not the ordinary annual services of the Government in addition to amounts appropriated through the *Appropriation Act (No. 2) 2019-2020* and the *Supply Act (No. 2) 2019-2020*.

Context of amendments

22.2 Appropriations for the ordinary annual services of the Government must be contained in a separate Bill from other appropriations in accordance with sections 53 and 54 of the Australian Constitution.

22.3 Consequently, the Appropriation Bill No. 2 appropriates amounts that are not for the ordinary annual services of the Government. Annual appropriations that are for the ordinary annual services of the Government are proposed in the Appropriation Bill No. 1.

Summary of new law

22.4 The Appropriation Bill No. 2 provides for the appropriation of specified amounts for expenditure by Australian Government entities, primarily being non-corporate Commonwealth entities (non-corporate entities) under the PGPA Act.

Detailed explanation of new law

Portfolio statements

22.5 Portfolio statements are defined in the Appropriation Bill No. 2 to mean the Portfolio Budget Statements 2019-20 and the Portfolio Additional Estimates Statements tabled in relation to the Bill for the *Appropriation Act (No. 3) 2019-2020* and the Bill for the *Appropriation Act (No. 4) 2019-2020*. [Clause 3 of the *Appropriation Bill No. 2*]

22.6 Portfolio statements are relevant documents under paragraph 15AB(2)(g) of the Acts Interpretation Act which provides for material to be considered in the interpretation of an Act if the material is declared by the Act to be relevant material for the purposes of section 15AB of the Acts Interpretation Act.

[Clause 4 of the Appropriation Bill No. 2]

22.7 The purpose of the portfolio statements is to provide information on the proposed allocation of resources to Government outcomes by Commonwealth entities within each portfolio.

Notional transactions between entities that are part of the Commonwealth

22.8 Notional transactions between non-corporate entities are to be treated as if they are real transactions. *[Clause 5 of the Appropriation Bill No. 2]*

22.9 Notional transactions, therefore, require the debiting of an appropriation made by Parliament. The payments of the amounts in Schedule 1 from one non-corporate entity to another do not require, in a constitutional sense, an appropriation, because both non-corporate entities operate within the Consolidated Revenue Fund. For reasons of financial discipline and transparency, the practice has arisen for these payments between non-corporate entities to be treated as though they required an appropriation, and to debit an appropriation when such notional payments are made. This is consistent with section 76 of the PGPA Act.

22.10 When a non-corporate entity makes a payment, whether to another non-corporate entity or another part of the same non-corporate entity (such as a different ‘business unit’ within the entity), it is to be treated as a ‘real’ payment. This means that the appropriation made by Parliament is extinguished by the amount of the notional payment, even though no payment is actually made from the Consolidated Revenue Fund. Similarly, a notional receipt in such a situation is to be treated by the receiving non-corporate entity (where relevant) as if it were a real receipt. This does not mean every internal transfer of public money involves a notional payment and receipt.

Appropriations

22.11 The total of the appropriations in Schedule 1 of the Appropriations Bill No. 2 is \$744,197,000. The amounts in Schedule 1 may be increased by a determination under clause 12 (Advance to the Finance Minister). *[Clause 6 of the Appropriation Bill No. 2]*

22.12 The amounts in Schedule 1 of the Appropriations Bill No. 2 may be adjusted further in accordance with sections 74 to 75 of the PGPA Act. Specifically:

- Section 74 of the PGPA Act, when read with Rule 27 of the *Public Governance, Performance and Accountability Rule 2014*, permits non-corporate entities to retain certain types of receipts by adding them to their most recent departmental item or other type of appropriation in an Appropriation Act when prescribed.
- Appropriations may be adjusted by amounts recoverable by a non-corporate entity from the ATO for GST, in accordance with section 74A of the PGPA Act. The amounts specified in Schedule 1 exclude recoverable GST. The appropriations shown represent the net amount that Parliament is asked to allocate to particular purposes.
- Section 74A of the PGPA Act has the effect of increasing an appropriation by the amount of the GST qualifying amount arising from payments in respect of the appropriation. As a result, there is sufficient appropriation for payments under an appropriation item, provided that the amount of those payments, less the amount of recoverable GST, can be met from the initial amount shown against the item in Schedule 1. Section 74A of the PGPA Act also applies to notional transactions between and within non-corporate entities.
- Items may be adjusted to take into account the transfer of functions between non-corporate entities, in accordance with section 75 of the PGPA Act. It is possible that adjustments under section 75 may result in new items and/or outcomes being created in an Appropriation Act.

22.13 Additionally, the Finance Minister manages the payment from items in the Appropriation Bill No. 2 by non-corporate entities using a discretionary power under section 51 of the PGPA Act. Section 51 allows the Finance Minister to manage the timing and the amount of appropriated money to be made available to a Commonwealth entity (an entity as defined in section 10 of the PGPA Act, except as required by law.

State, Australian Capital Territory, Northern Territory and local government items

22.14 Schedule 1 of the Appropriation Bill No. 2 administered appropriations for financial assistance to the States, Australian Capital Territory, Northern Territory and local governments. State, Australian Capital Territory, Northern Territory and local government items are appropriated separately for each outcome, making it clear what the funding is intended to achieve. The amount specified in Schedule 1 of the Appropriation Bill No. 2 for an outcome may be applied by a non-corporate entity for the purpose of making payments to any of the States, Australian Capital Territory, Northern Territory or local government

authorities for the purpose of achieving that outcome.

[Clause 7 of the Appropriation Bill No. 2]

22.15 Additional information on payments to the States, Territories and local government can be found in the portfolio statements of the relevant entities. These documents can be found at www.budget.gov.au.

Administered items

22.16 The appropriation of new administered outcome amounts are to be applied by a non-corporate entity for the purpose of contributing to the outcome for a non-corporate entity. An ***administered item*** is defined in to be an amount set out in Schedule 1 of the Appropriation Bill No. 2 opposite an outcome for a non-corporate entity under the heading 'New Administered Outcomes'. As with administered items in the Appropriation Bill No. 1, New Administered Outcomes are appropriated separately for outcomes, making it clear what the funding is intended to achieve. *[Clause 3 and Subclause 8(1) of the Appropriation Bill No. 2]*

22.17 Where the portfolio statements indicate a particular activity is in respect of a particular outcome, then expenditure on that activity is taken to be expenditure for the purpose of contributing to achieving that outcome. *[Subclause 8(1) of the Appropriation Bill No. 2]*

22.18 New Administered Outcomes are those administered by a non-corporate entity on behalf of the Government (e.g. certain grants, benefits and transfer payments). These payments are usually made pursuant to eligibility rules and conditions established by the Government or the Parliament. Specifically, administered items are tied to outcomes (departmental items are not).

22.19 New Administered Outcomes are typically proposed when:

- a non-corporate entity's outcomes are changed to reflect new program objectives, strategies and/or activities;
- a non-corporate entity seeks administered operating appropriations for the first time (including existing non-corporate entities that have received departmental operating appropriations in the past); and/or
- annual administered operating appropriations are proposed for the first time for programs previously funded by special appropriations.

Administered assets and liabilities items

22.20 Schedule 1 of the Appropriation Bill No. 2 sets out the amounts to acquire administered assets, enhance existing administered assets and/or discharge administered liabilities relating to activities administered by non-corporate entities on behalf of the Government. Administered

assets and liabilities appropriations are provided for functions managed by a non-corporate entity on behalf of the Government. Administered assets and liabilities items can be applied for any outcomes of the non-corporate entity in:

- Schedule 1 of the Appropriation Bill No. 2;
- Schedule 1 of the Appropriation Bill No. 1;
- Schedule 1 of the *Appropriation Act (No. 1) 2019-2020*;
- Schedule 1 of the *Supply Act (No. 1) 2019-2020*;
- Schedule 1 of the *Appropriation Act (No. 2) 2019-2020*;
- Schedule 2 of the *Supply Act (No. 2) 2019-2020*;
- Schedule 1 of the *Appropriation Act (No. 3) 2019-2020*; or
- Schedule 2 of the *Appropriation Act (No. 4) 2019-2020*.

[Clause 9 of the Appropriation Bill No. 2]

Other departmental items

22.21 The new law appropriates departmental non-operating appropriations in the form of equity injections, over which the non-corporate entity also exercises control. This ensures that the amount specified in other departmental items for a non-corporate entity may be applied for the departmental expenditure of the entity. For example, ‘equity injections’ can be provided to non-corporate entities to enable investment in assets to facilitate departmental activities and for Designated Collecting Institutions to purchase heritage and cultural assets.

[Clause 10 of the Appropriation Bill No. 2]

22.22 Other departmental items are not expressed in terms of a particular financial year. This is because, for example, equity injection appropriations provide funding to meet the cost expected to be incurred in the Budget year to acquire a new asset but, for a number of reasons, some part of the appropriation may not be required until a later financial year.

22.23 Other departmental items are available until they are spent, or the Act through which they were appropriated is repealed.

22.24 Annual Appropriation Acts have a lifespan of up to three years after which they automatically repeal.

Corporate entity items

22.25 The new law provides for appropriations of money for corporate entities to be paid from the Consolidated Revenue Fund by the relevant Department. Payments for corporate entities must be used for the purposes of those entities. *[Clause 11 of the Appropriations Bill No. 2]*

22.26 A **corporate entity** is defined to be a corporate Commonwealth entity or a Commonwealth company within the meaning of the PGPA Act. Many corporate entities receive funding from appropriations. However, these entities are legally separate from the Commonwealth, and as a result, do not debit appropriations or make payments from the Consolidated Revenue Fund. *[Clause 3 of the Appropriations Bill No. 2]*

22.27 Corporate entity payments are initiated by requests to the relevant portfolio Departments from the corporate entity. The Finance Minister manages appropriations for corporate entities through a discretionary power to control the timing and amount made available under section 51 of the PGPA Act, except as required by law. Corporate entities hold the amounts paid to them on their own account.

22.28 If a corporate entity is subject to another Act that requires amounts appropriated by Parliament for the purposes of that entity to be paid to the entity, then the full amount of the corporate entity payment must be paid to the entity. *[Subclause 11(2) of the Appropriations Bill No. 2]*

22.29 This is not intended to qualify any obligations in other legislation regulating a corporate entity, where that other legislation requires the Commonwealth to pay the full amount appropriated for the purposes of the entity.

22.30 In addition to the annual appropriations, some corporate entities may also receive public money from related entities such as a portfolio Department and from special appropriations managed by those Departments. Many corporate entities also receive funds from external sources.

Advance to the Finance Minister

22.31 The Finance Minister may allocate additional amounts for items when satisfied that there is an urgent need for expenditure and the existing appropriation in the current year is not provided for or is insufficiently provided for. The allocated amount is referred to as the Advance to the Finance Minister. The total amount that can be determined under the Advance to the Finance Minister provision is \$1,200 million. *[Clause 12 of the Appropriation Bill No. 2]*

22.32 The maximum total of amounts that can be determined under the Advance to the Finance Minister provision is \$1,200 million *[Subclause 12(3) of the Appropriation Bill No. 2]*

22.33 This provides the Finance Minister with capacity to allocate additional amounts for Coronavirus expenditures that were not contemplated when preparing the Appropriation Bill No. 2.

22.34 The quantum of the Advance to the Finance Minister provision has been determined by extrapolating the Coronavirus related Advances to the Finance Minister approved since the beginning of March 2020 through until the end of the 2019-20 financial year. The quantum of the Advance to the Finance Minister also takes into consideration the evolving nature of the Coronavirus outbreak, the associated uncertainty around what may be required as part of the Government's response and the likely need for the Government to act quickly. While this new Advance to the Finance Minister provision is significant, it will be limited to Coronavirus response requirements only (including responses to health and economic impacts).

22.35 The proposed Advance to the Finance Minister is in addition to the ordinary Advance to the Finance Minister provided through the Annual Appropriations Acts of \$295 million for Appropriation Bill No. 1 and \$380 million for Appropriation Bill No. 2. These ordinary Advance to Finance Minister provisions are intended to meet urgent expenditure associated with the ongoing operations of Government which will continue throughout the Coronavirus response.

22.36 The Finance Minister will only consider issuing an amount if satisfied there is an urgent need for expenditure that is not provided for, or is insufficiently provided for, in Schedule 1 of the Appropriation Bill No. 2, because of an omission or understatement, or because of unforeseen circumstances. Generally, options under sections 71 to 75 of the PGPA Act must be considered, where applicable, before the Finance Minister will make a determination.

[Subclause 12(1) of the Appropriation Bill No. 2]

22.37 The Finance Minister may make a determination to allocate an amount from the Advance to Finance Minister to an item in Schedule 1, to a new item not already in Schedule 1, or to a new outcome.

[Subclause 12(2) of the Appropriation Bill No. 2]

22.38 Such a determination is a legislative instrument, which must be tabled in Parliament. *[Subclause 12(4) of the Appropriation Bill No. 2]*

22.39 The determinations are not subject disallowance under section 42 of the *Legislation Act 2003* as this would frustrate the purpose of the provision, which is to provide additional appropriation for urgent expenditure. Further, an Advance to the Finance Minister does not sunset. Legislative instruments enabled by the Appropriations Bill No. 2, once enacted, automatically repeal when the Act itself repeals.

Miscellaneous

Crediting amounts to special accounts

22.40 Special accounts may be established under the PGPA Act by a determination of the Finance Minister (section 78) that is disallowable by Parliament or by another Act (sections 79 and 80). The determination or Act that establishes the special account will specify the purposes of the special account.

22.41 If the purpose of an item in Schedule 1 of the Appropriation Bill No. 2 is also the purpose of a special account (regardless of whether the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to the special account. *[Clause 13 of the Appropriation Bill No. 2]*

Appropriation of the Consolidated Revenue Fund

22.42 The Consolidated Revenue Fund is appropriated as necessary for the purposes of the Appropriations Bill No. 2.
[Clause 14 of the Appropriation Bill No. 2]

22.43 Significantly, this means that there is an appropriation in law when the Act commences. That is, the appropriations are not made or brought into existence just before they are paid, but when the Act commences. This indicates that the amounts appropriated may be affected by the PGPA Act, in particular sections 74 to 75, after the Act commences.

Schedule 1 – Services for which money is appropriated

22.44 Schedule 1 of the Appropriation Bill No. 2 specifies the appropriations proposed for the other than ordinary annual services of the Government. It contains a summary table which lists the total amounts for each portfolio. A separate summary table is included for each portfolio, with other tables detailing the appropriations for each Commonwealth entity. *[Schedule 1 of the Appropriation Bill No. 2]*

22.45 Schedule 1 of the Appropriation Bill No. 2 includes, for information purposes, the amount appropriated in the *Appropriation Act (No. 2) 2019-2020* and the *Supply Act (No. 2) 2019-2020*, which is printed in italics and labelled as ‘Budget Appropriation (italic figures) – 2019-2020’, and a figure for the previous financial year labelled ‘Actual Available Appropriation (light figures) – 2018-2019’. The Budget Appropriation and Actual Available Appropriation are estimates that do not affect the amount available at law. These figures provide a comparison with the proposed appropriations

22.46 The Budget Appropriation and Actual Available Appropriation are calculated for each item by adding the amounts appropriated in the

relevant financial year's annual Appropriation Acts, plus any Advances to the Finance Minister, and any adjustments under sections 51 and 75 of the PGPA Act. In some instances, the figures may also be affected by limits applied administratively by the Department of Finance. In addition, where an entity's outcome structure has changed since the last Appropriation Act, only ongoing outcomes may be shown in the Appropriation Bill No. 2. For these reasons, the Actual Available Appropriation figures may be different from the sum of amounts provided in earlier Appropriation Acts.

Decisions included in the Appropriation Bill No. 2

22.47 The Appropriation Bill No. 2 proposes appropriations totalling \$744.2 million for the following entities:

- the Department of Health (\$740.0 million) with \$700.0 million for purchasing personal protective equipment for the National Medical Stockpile, including surgical and P2 masks, surgical gowns, gloves, and goggles. A further \$40.0 million will be provided to purchase antibiotics and antivirals for the National Medical Stockpile;
- the Department of Education, Skills and Employment (\$3.8 million) to facilitate support for small businesses to retain their apprentices and trainees by providing a wage subsidy of 50 per cent of the apprentices' or trainees' wage, capped at \$7,000 per quarter per eligible apprentice, for up to nine months from 1 January to 30 September 2020. This measure will support up to 70,000 businesses, employing around 117,000 apprentices and trainees; and
- the Department of Veterans' Affairs (\$0.4 million) to facilitate stimulus payments to eligible Department of Veterans' Affairs clients.

Application and transitional rules

22.48 The Appropriation Bill No. 2 commences as an Act on the day the Bill receives Royal Assent. *[Clause 2 of the Appropriation Bill No. 2]*

22.49 The Appropriation Bill No. 2, once enacted, will repeal at the start of 1 July 2022. *[Clause 15 of the Appropriation Bill No. 2]*

Chapter 23

Statement of Compatibility with Human Rights

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

Schedule 1 – Enhancing the instant asset write-off

23.1 Schedule 1 to this Bill 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

23.2 Schedule 1 to this Bill amends the income tax law to increase the cost threshold below which small business entities can access an immediate deduction for depreciating assets and certain related expenditure (instant asset write-off) from \$30,000 to \$150,000, from 12 March 2020 to 30 June 2020.

23.3 Schedule 1 to this Bill also amends the tax law to:

- provide access to an instant asset write-off to entities with an aggregated turnover of \$10 million or more but less than \$500 million (up from the existing cap of \$50 million); and
- make the instant asset write-off available for depreciating assets and certain related expenditure costing less than \$150,000, from 12 March 2020 to 30 June 2020.

23.4 These amendments complement the existing instant asset write-off for small and medium sized business entities.

23.5 The amendments are designed to support business investment over the period from the 2020 announcement time to 30 June 2020.

Human rights implications

23.6 Schedule 1 to this Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.7 Schedule 1 to this Bill is compatible with human rights as it does not raise any human rights issues.

Schedule 2 – Backing business investment

23.8 Schedule 2 to this Bill 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

23.9 The amendments in Schedule 2 to this Bill temporarily allow businesses with aggregated turnover of less than \$500 million in an income year to deduct depreciation expenses at an accelerated rate in those income years that the asset was first used or installed and ready for use for a taxable purpose if it meets certain conditions.

23.10 Generally, to be eligible to apply the accelerated rate of deduction, the depreciating asset must satisfy a number of conditions including that the asset:

- is new and has not previously been held (and used or installed ready for use) by another entity (other than as trading stock or for testing and trialling purposes);
- is an asset for which an entity has not claimed depreciation deductions, including under the instant asset write-off rules; and
- is first held, and first used or installed ready for use for a taxable purpose between 12 March 2020 and 30 June 2021 (inclusive).

23.11 Under the amendments, different rules apply depending on whether or not an entity is using the simplified rules for capital allowances for small businesses.

23.12 An entity with aggregated turnover of less than \$500 million in the income year that does not use the simplified depreciation rules may deduct an amount at an accelerated rate for qualifying assets.

23.13 A small business entity (generally, an entity with an aggregated turnover less than \$10 million in the income year) that uses the simplified depreciation rules may deduct an amount equal to 57.5 per cent (rather than 15 per cent) of the taxable purpose proportion of the adjusted value of a qualifying depreciating asset added to the general small business pool in an income year.

Human rights implications

23.14 Schedule 2 to this Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.15 Schedule 2 to this Bill is compatible with human rights as it does not raise any human rights issues.

Schedule 3 - Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Bill 2020

23.16 The Cash Flow Boost Bill and Schedule 3 to this Bill are 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

23.17 The Cash Flow Boost Bill provides that the Commissioner must make cash flow boost payments to eligible entities comprising the first cash flow boost payments and the second cash flow boost payments. The first cash flow boost payments are required to be made by the Commissioner to an eligible entity for a period ending from March 2020 to June 2020 for which the entity notifies the Commissioner of an amount the entity has withheld if:

- the entity makes a payment that is subject to withholding obligations under Subdivisions 12-B, 12-C or 12-D (broadly, a payment of wages or salary or similar remuneration), whether or not any amount is actually withheld, in the period;
- either:
 - the entity was a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the most recent income year of the entity for which an assessment of income tax has been made by the Commissioner; or
 - the Commissioner is reasonably satisfied that it is likely that the entity is a small or medium business entity, or a charity or other not-for-profit entity of equivalent size, for the income year that includes the period;
- the entity has notified the Commissioner of their entitlement in the approved form;

- the period is one of the following:
 - the quarters ending in March 2020 or June 2020; and
 - the months of March 2020, April 2020, May 2020 or June 2020;
- if the entity is not an Australian Charities and Not-for-profits Commission registered charity, it both:
 - held an ABN on 12 March 2020; and
 - either derived assessable income from carrying on a business in the 2018-19 income year or made one or more supplies for consideration in the course of an enterprise it carried on within Australia in tax periods commencing after 1 July 2018 and ending before 12 March 2020 and notice of the income or supplies was held by the Commissioner on or before 12 March 2020 or within such further time as the Commissioner allows; and
- the entity (or an associate or agent of an entity) has not engaged in a scheme for the sole or dominant purpose of seeking to make the entity entitled to the first cash flow boost or increase the entitlement of the entity to the first cash flow boost.

23.18 The payment will generally be made on lodgement of the activity statement notifying the Commissioner of their withholding liabilities for the period and can be provided as a credit against tax liabilities.

23.19 All eligible entities will receive a minimum cash flow boost payment of \$10,000 in the first period for which they are eligible. Entities will receive further amounts, based on the amount withheld, up to a maximum total of \$50,000 across all cash flow bonus payments to the entity.

23.20 The Commissioner must also make the second cash flow boost payments to an entity for a total amount equal to the amount of the first cash flow boost payments to which the entity is entitled.

23.21 These second cash flow boost payments are payable in equal instalments for either:

- the months of June, July, August and September 2020; or
- the June and September 2020 quarters.

23.22 The second cash flow boost payments will generally be made on lodgement of the activity statement containing the GST return of the entity for the period.

23.23 Schedule 3 to this Bill make consequential amendments to various Acts arising from the Cash Flow Boost Bill.

Human rights implications

23.24 The Cash Flow Boost Bill and Schedule 3 to this Bill do not engage any of the applicable rights or freedoms.

Conclusion

23.25 The Cash Flow Boost Bill and Schedule 3 to this Bill are compatible with human rights as they do not raise any human rights issues.

Schedule 4 - Stimulus payments to households to support growth

23.26 Schedule 4 to this Bill 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

23.27 Schedule 4 to this Bill provides for the payment of economic support payments of \$750 to approximately 6.6 million Social Security and Veterans' income support and compensation recipients, Farm Household Allowance recipients, Family Tax Benefit recipients and holders of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card.

23.28 To be eligible for the first economic support payment, a person must be residing in Australia and be receiving one of the qualifying payments or hold one of the qualifying concession cards on a day during the period starting on 12 March 2020 and ending on 13 April 2020 (inclusive).

23.29 The second economic support payment is be available to Social Security and Veterans' income support recipients, , Family Tax Benefit recipients and holders of a of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card who receive their payment or hold their concession card on 10 July 2020.

Human rights implications

23.30 This Schedule engages the following human rights:

- The right of everyone to social security in Article 9, and the right of everyone to an adequate standard of living for an

individual and their family, including adequate food, clothing and housing, and the continuous improvement of living conditions in Article 11 of the International Covenant on Economic, Social and Cultural Rights; and

- The rights of the child in Article 26 of the Convention on the Rights of the Child.

The right of everyone to social security and an adequate standard of living

23.31 The objective of creating a new Economic Support Payment promotes Article 9 and 11 by providing further payment to assist in achieving an adequate standard of living. The pursuit of this objective also promotes human rights by supporting the Convention on the Rights of Persons with Disabilities.

The rights of the child

23.32 This Economic Support Payment promotes Article 26 by enhancing the rights of the child to social security, as the payment will be made to a group of recipients with children, including recipients of Parenting Payment Single and FTB. The payment is targeted at vulnerable groups who receive Government assistance and has a flow on effect to the children of recipients by increasing the support for families.

Conclusion

23.33 Schedule 4 to this Bill is compatible with human rights because it promotes the protection of human rights for some of the most vulnerable groups in society.

Schedule 5 – Delegation power for the Director of Human Biosecurity

23.34 Schedule 5 to this Bill 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

23.35 Schedule 5 to this Bill provides for the Director of Human Biosecurity to delegate functions or powers under Part 3 of Chapter 2, in relation to human biosecurity control orders, to an SES employee or acting SES employee in the Department of Health who is a human biosecurity officer.

Human rights implications

23.36 Schedule 5 to this Bill engages the following list of rights:

- Article 12 of the ICESCR – right to health;
- Article 9 of the ICCPR – right to liberty and freedom from arbitrary detention / security of the person; and
- Articles 9(4) and 14(5) of the ICCPR – right to seek review.

23.37 Article 12 of the International Covenant on Economic, Social and Cultural Rights protects the right of all individuals to enjoy the highest attainable standards of physical and mental health. This includes the application of measures for the prevention, treatment and control of epidemic, endemic, occupational and other diseases.

23.38 Schedule 5 to this Bill promotes the right to health by providing powers to control the spread of communicable diseases that may cause serious harm to human health, and ensures that any person developing signs or symptoms of these diseases are provided with prompt medical assessment and treatment.

23.39 The right to liberty and freedom from arbitrary detention under Article 9 of the International Covenant on Civil and Political Rights protects the right of all individuals to liberty and freedom from arbitrary detention. The right to personal liberty requires that persons not be subject to arrest and detention except as provided for by law and provided that neither the arrest nor the detention is arbitrary. The right applies to all forms of detention where people are deprived of their liberty.

23.40 In all decisions relating to the management of human biosecurity risk, the conflicting interests of the individual and the community must be considered. In some circumstances, the community risk is such that an individual's liberty must be restricted to ensure they do not endanger the health of others.

23.41 The provisions in Schedule 5 to this Bill may operate to restrict the right to liberty and freedom from arbitrary detention, through giving directions to individuals requiring compliance with biosecurity measures under a human biosecurity control order. Some of these biosecurity measures will restrict an individual's liberty and freedom from detention. These provisions operate to ensure that measures imposed under a human biosecurity control order are reasonable and proportionate to the objective of reducing or preventing the spread of listed human diseases.

23.42 If an individual does not consent to a biosecurity measure, then they may seek internal review by the Director of Human Biosecurity or their delegate. In conducting a review, the Director of Human Biosecurity or their delegate must give consideration to the factors affecting the health of the individual, and the reasons why they do not consent to the

biosecurity measure. The *Biosecurity Act 2015* prescribes timeframes for the Director or their delegate to complete the review to limit the time that the individual's liberty may be restricted.

Conclusion

23.43 Schedule 5 to this Bill is compatible with human rights as it does not raise any human rights issues.

Schedule 6 – Environmental Management Charge

23.44 Schedule 6 to this Bill 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

23.45 Schedule 6 to this Bill amends the *Great Barrier Reef Marine Park Regulations 2019* to effectively waive the Environmental Management Charge for the period 1 April 2020 to 31 December 2020.

Human rights implications

23.46 Schedule 6 to this Bill engages the right to freedom of movement (International Covenant on Civil and Political Rights, article 12) and the prohibition on interference with privacy and attacks on reputation (International Covenant on Civil and Political Rights, article 17).

Freedom of movement

23.47 The funds received from the Environmental Management Charge are vitally important in the day-to-day management of the Great Barrier Reef Marine Park (Marine Park) and in improving its long-term resilience. The Environmental Management Charge is a charge associated with most commercial activities, including tourism operations, non-tourist charter operations, and construction and operation of facilities. For most standard tourism operations, Marine Park visitors participating in a tourist activity are liable to pay the charge to the permittee, who then remits the charge to the Great Barrier Reef Marine Park Authority. Other operations in the Marine Park such as those involving the hire of equipment, installation and operation of tourist facilities, underwater observatories, sewage outfalls and vending operations, attract quarterly Environmental Management Charge charges to the Great Barrier Reef Marine Park Authority. All funds received as Environmental Management Charge payments are applied directly to management of the Marine Park.

23.48 The Environmental Management Charge restricts the freedom of movement as without payment of the charge visitors to the Marine Park are not able to engage in activities that attract the charge in the Marine Park, and permit holders are not permitted to operate. This restriction is reasonable as it is consistent with the overall balancing of providing for entry and use to the Marine Park and protection and conservation of the environment. It is also a necessary and proportionate measure given that the funds are directed to the day-to-day management of the Marine Park and in improving its long-term resilience, and the funds are raised from the users of the Marine Park.

23.49 The amendments made by Schedule 6 to this Bill temporarily decrease the restriction on the freedom of movement by waiving the Environmental Management Charge from the period 1 April 2020 to 31 December 2020.

Prohibition on interference with privacy and attacks on reputation

23.50 Article 17 of the International Covenant on Civil and Political Rights prohibits unlawful or arbitrary interferences with a person's privacy, family, home and correspondence. It also prohibits unlawful attacks on a person's reputation. It provides that persons have the right to the protection of the law against such interference or attacks.

23.51 The Great Barrier Reef Marine Park Regulations engage rights regarding personal information to the extent that quarterly Environmental Management Charge returns and logbook information containing personal information is required to be provided to the Great Barrier Reef Marine Park Authority and is used by the Authority to determine whether the correct amount of Environmental Management Charge is being collected (sections 229 to 231 of the Great Barrier Reef Marine Park Regulations).

23.52 The limitation on privacy imposed by the Great Barrier Reef Marine Park Regulations is necessary for attaining the objects of the *Great Barrier Reef Marine Park Act 1975*, protecting the rights and freedoms of others, and in the interests of public order. Specifically, the provisions are necessary for law enforcement purposes.

23.53 Although article 17 of the International Covenant on Civil and Political Rights does not set out reasons for which the right to privacy may be limited, permissible limitations recognised in other articles, such as limitations which are necessary for the protection of public health, might be legitimate objectives by which the right to privacy may be limited. On that basis, it appears the aim of protecting the environment in the Marine Park (which promotes the protection of public health) may be a legitimate basis for limiting the right to privacy. Limitations on the right to privacy must be authorised by law and must not be arbitrary. The limitations are not arbitrary. They apply only in very specific circumstances and do not allow decision makers much discretion on

authorising interferences with privacy. They do not go beyond what is reasonable to achieve their objectives and are subject to the protections in the *Privacy Act 1988* (the Privacy Act) that apply to the collection and use of personal information by the Great Barrier Reef Marine Park Authority.

23.54 The amendments made by Schedule 6 to this Bill temporarily decrease the limitation on privacy by waiving Environmental Management Charge from the period 1 April 2020 to 31 December 2020, quarterly logbook returns and Environmental Management Charge logbook information would not be required under the Great Barrier Reef Marine Park Regulations for the period during which Environmental Management Charge is waived.

Conclusion

23.55 Schedule 6 to this Bill is compatible with human rights as it temporarily decreases existing limitations on human rights, and the existing restrictions are necessary, reasonable and proportionate.

Schedule 7 – Assistance for apprentices and trainees and the aviation sector

23.56 Schedule 7 to this Bill 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

23.57 Section 32B of the *Financial Framework (Supplementary Powers) Act 1997* authorises the Commonwealth to make, vary and administer arrangements and grants specified in the *Financial Framework (Supplementary Powers) Regulations 1997* and to make, vary and administer arrangements and grants for the purposes of programs specified in those regulations. Schedule 1AA and Schedule 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997* specify the arrangements, grants and programs. The *Financial Framework (Supplementary Powers) Act 1997* applies to Ministers and the accountable authorities of non-corporate Commonwealth entities, as defined under section 12 of the PGPA Act.

23.58 Schedule 7 to this Bill amends Schedule 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997* to establish legislative authority for government spending for two new measures:

- a new measure designed to assist employers retain apprentices and trainees, which will be administered by the Department of Education, Skills and Employment; and

- a measure to provide financial assistance to participants in the Australian aviation sector to assist with the impact on the sector of the Coronavirus, which will be administered by the Department of Infrastructure, Transport, Regional Development and Communications.

23.59 New **table item 408** establishes legislative authority for government spending on a measure that provides financial assistance to businesses impacted by the Coronavirus, to support them to retain their existing apprentices and trainees. It also aims to encourage employers and Group Training Organisations to re-employ apprentices and trainees displaced as a result of the impact of the Coronavirus on their employer.

23.60 Funding will be provided:

- for wage subsidies as part of the existing Australian Apprenticeships Incentives Program to support small businesses (including those using a Group Training Organisation) to retain their existing apprentices and trainees, and businesses of any size and Group Training Organisations to re-engage apprentices and trainees displaced from small businesses;
- to Australian Apprentice Support Network providers, under their existing contractual arrangements with the department, to support implementation of the initiative; and
- to the National Apprentice Employment Network to co-ordinate reemployment of displaced apprentices throughout their network of host employers across Australia.

23.61 New **table item 409** establishes legislative authority for government spending on a measure that provides financial assistance to aviation sector participants impacted by the Coronavirus. This measure includes funding for airlines and airports who are bearing the brunt of the impact of the dramatic reductions in international and domestic air travel due to the Coronavirus. The funding will include:

- reimbursing airlines to give effect to a waiver of aviation fuel excise;
- providing a rebate to airline operators for domestic aviation screening costs; and
- providing additional funding for infrastructure implementation costs and operational costs associated with enhanced security requirements at regional airports.

Human rights implications

Assistance for Apprentices and Trainees

- 23.62 The measure promotes the following rights:
- the right to education – Article 13 of the International Covenant on Economic, Social and Cultural Rights and Articles 4, 6 and 28 of the United Nations Convention on the Rights of the Child; and
 - the right to work – Article 6 of the International Covenant on Economic, Social and Cultural Rights.

Right to education

- 23.63 The measure engages:
- the right to education in Article 13 of the International Covenant on Economic, Social and Cultural Rights. Article 13 recognises the right of everyone to education. Article 13 provides that vocational education is part of secondary education (Article 13(2)(b)), and secondary education must be available and accessible to all on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education (Article 13(2)(c)); and
 - the right of children to education in Articles 4, 6 and 28 of the United Nations Convention on the Rights of the Child. Article 28 encourages:
 - the development of different forms of secondary education, including general and vocational education;
 - making vocational education information and guidance available and accessible to all children; and
 - taking appropriate measures such as the introduction of free education and offering financial assistance in case of need.

23.64 The measure promotes the right of all people (including children) to education through the provision of financial assistance to assist employers retain apprentices and to, therefore, allow apprentices remain in an apprenticeship as part of their vocational education.

23.65 The measure is compatible with and promotes the right to education.

Right to work

23.66 The measure engages the right to work in Article 6 of the International Covenant on Economic, Social and Cultural Rights. Article 6 recognises the right to work which includes the right of everyone to have the opportunity to gain their living by work which they freely choose or accept. Article 6(2) provides that the steps to be taken by States Parties to achieve the full realisation of this right include providing technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedom to the individual.

23.67 The measure promotes the right to work by financially supporting employers to retain, re-engage and support Australian Apprentices in the workplace while the Australian Apprentice undertakes vocational education and training, which is freely chosen by the Australian Apprentice, meets workplace needs, and improves the Australian Apprentice's employment opportunities and outcomes. This contributes to the development of a highly skilled and relevant Australian workforce that supports economic, social and cultural development.

23.68 The measure is compatible with and promotes the right to work.

Aviation Support Program

23.69 The measure promotes the following rights:

- the right to security of person in Article 3 of the *Universal Declaration of Human Rights*.
- Article 3 of the Universal Declaration of Human Rights recognises 'everyone has the right to life, liberty and the security of person.'

23.70 The measure includes funding that will enable aviation sector passengers and staff to travel and work in a secure environment.

Conclusion

23.71 Table item 408 is compatible with human rights because it promotes:

- the right to education under the International Covenant on Economic, Social and Cultural Rights; and
- the right to work under the International Covenant on Economic, Social and Cultural Rights.

23.72 Table item 409 is compatible with human rights because it promotes the right to security of person under Article 3 of the Universal Declaration of Human Rights.

Schedule 8 – Providing flexibility in the Corporations Act

23.73 Schedule 8 to this Bill 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

23.74 Schedule 8 to this Bill amends the Corporations Act to establish a temporary mechanism to provide short-term regulatory relief to classes of persons that, due to the Coronavirus, are unable to meet their obligations under the Corporations Act or the Corporations Regulations.

23.75 The new mechanism enables the Treasurer to determine that, due to the Coronavirus pandemic, specified classes of persons are exempt from specified obligations under the Corporations Act or the Corporations Regulations. The Treasurer may also determine that the specified obligations are modified to enable specified classes of persons to comply with their legal obligations during the Coronavirus crisis.

23.76 This mechanism is temporary and will be operative for six months only. The Treasurer’s power to exempt specified classes of persons or modify the operation of specified provisions is temporary and is available for a period of up to six months. Relief would only be given where a class of companies is unable to comply with their obligations—because it would not be reasonable to expect them to comply with the provisions or because the exemption or modification is otherwise necessary or appropriate to facilitate the continuation of business or mitigate economic impacts due to the Coronavirus pandemic.

Human rights implications

23.77 Schedule 8 to this Bill is compatible with human rights and does not limit any of the applicable human rights and freedoms, as it implements an instrument making power that provides relief from obligations under the Corporations Act and the Corporations Regulations.

23.78 Schedule 8 to this Bill provides relief from requirements under the corporations legislation that would otherwise apply, thereby facilitating the continuation of business during the Coronavirus health crisis and mitigating its economic impact.

23.79 Each instrument made under the power provided for in Schedule 8 will be disallowable and will include a human rights compatibility statement assessing the impact of the instrument on human rights and freedoms.

Conclusion

23.80 Schedule 8 to this Bill is compatible with human rights as it does not limit any of the applicable human rights and freedoms.

Schedule 9 – Child Care

23.81 Schedule 9 to this Bill 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

23.82 Schedule 9 to this Bill amends the Family Assistance Act and Family Assistance Administration Act to provide the Government with limited flexibility to manage the impact of the Coronavirus, as well as future disasters, on families and on business continuity for child care services.

23.83 The amendments allocate extra allowable absence days, in addition to the current 42 days, for an event or circumstance specified in the Minister's rules. The allocation of extra allowable absence days is intended to help offset absence days taken as a result of the impact of the Coronavirus. This will help ensure continued subsidised fee relief for families with children enrolled in approved child care.

23.84 The amendments also allow the Minister's rules to prescribe where a service does not need to receive a certificate issued by a medical practitioner for an additional absence caused by an illness either to:

- the child;
- the individual;
- the partner of the individual; or
- an individual with whom the child lives.

23.85 Finally, the amendments waive the current obligation of services duty to enforce payment of gap fees for a particular event or circumstance and the period specified in the Minister's rules. This will enable services to provide fee relief to families, for example, in the circumstance where a service is forced to close on and for the period of public health advice. In this situation, services cannot charge more than the hourly session fee that was charged immediately before the period specified in the Minister's rules.

Human rights implications

The rights of parents and children

23.86 Article 3 of the Convention on the Rights of the Child recognises that in all actions concerning children, the best interests of the child shall be a primary consideration. Article 19 of the Convention requires that appropriate measures are taken to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.

23.87 Early childhood education and child care play a vital role in the development of Australian children. Their preparation for school and access to this care is also one of the most effective early intervention strategies to break the cycle of poverty. This Schedule supports families to access quality child care.

23.88 Schedule 9 to this Bill supports this objective by providing the Government with limited flexibility to manage the impact of the Coronavirus, as well as future disasters, on families and on business continuity for child care services.

23.89 The measures in Schedule 9 to this Bill continue to advance this right by:

- permitting extra allowable absence days for an event or circumstance specified in the Minister's rules;
- permitting a Minister's rules to prescribe circumstances in which a service does not need to receive a certificate issued by a medical practitioner for an absence caused by an illness; and
- permitting waiver of an approved provider's current obligation in section 201B to 'take all reasonable steps' to ensure payment of the gap fee for a particular event or circumstance and the period specified in the Minister's rules; and requiring approved providers not to charge higher fees than the hourly session fee that was charged immediately before the period specified in the Minister's rules.

Right to adequate standard of living

23.90 Article 27 of the Convention on the Rights of the Child requires that State Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. This Schedule advances this right through amendments that help ensure children have access to an adequate amount of child care to aid socialisation and development. For example, the amendments relating to increasing allowable absence days promote this right by reducing

barriers to children accessing early childhood education and child care, such as exhausting allowable absences as a result of the Coronavirus, so families do not have to pay fees without subsidy.

23.91 This Schedule restricts services from charging higher fees than the hourly session fee that was charged immediately before the period specified in the Minister's rules.

Right to social security

23.92 Article 9 of the International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to social security.

23.93 This Schedule promotes this right by:

- extending social security entitlements in the form of extra allowable absence days in circumstances prescribed by the Minister's rules; and
- addressing the risk that an inability to see a medical practitioner to obtain a medical certificate does not prevent an individual from having access to additional absence days.

Conclusion

Schedule 9 to this Bill is compatible with human rights for the reasons above.

Schedule 10 – Superannuation drawdowns

23.94 Schedule 10 to this Bill 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

23.95 Schedule 10 to this Bill amends the SIS Regulations and the RSA Regulations to give effect to the Government's announced measure to reduce the minimum payment amounts for account based pensions, allocated pensions and market linked pensions (and for the equivalent annuity product) by half for the 2019-20 and 2020-21 financial years.

23.96 The Regulations require that a minimum payment be made from a pension or annuity at least annually. Minimum payments are determined by age and the value of the account balance at 1 July of each year.

23.97 Minimum annual payment rules are designed so that retirees draw down on their superannuation capital over their retirement. This rule recognises that superannuation is a retirement savings vehicle, supported by substantial tax concessions, designed to provide income in retirement.

23.98 The measure is designed to assist pension and annuity account balances to recover from capital losses associated with economic shock from the Coronavirus health crisis by allowing retirees to adjust their drawdowns to their depreciated asset holdings and avoid being forced to sell assets in loss positions to fund income stream payments.

Human rights implications

23.99 Schedule 10 to this Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.100 Schedule 10 to this Bill is compatible with human rights as it does not raise any human rights issues.

Schedule 11 – Additional support for income support recipients

23.101 Schedule 11 to this Bill 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

23.102 Schedule 11 to this Bill creates a time-limited Coronavirus Supplement of \$550 per fortnight for recipients of JobSeeker Payment; Youth Allowance (other) jobseeker; Sickness Allowance; Widow Allowance; Parenting Payment Single; Parenting Payment Partnered; Special Benefit; and Farm Household Allowance.

23.103 Schedule 11 to this Bill also expands eligibility for Jobseeker Payment and Youth Allowance (other) to provide payment access to a wider group of people. This includes temporarily waiving the asset test and certain waiting periods, including the Newly Arrived Resident's Waiting Period, in recognition of the need to provide financial support to people as quickly as possible. The temporary waiver of the Newly Arrived Resident's Waiting Period also applies to Parenting Payment Single, Parenting Payment Partnered and Special Benefit.

23.104 Schedule 11 to this Bill also creates a new category of Crisis Payment that enables people claiming an income support payment, such as JobSeeker Payment, to be paid a Crisis Payment where they are required to remain at home during a period of isolation due to the Coronavirus. The Crisis Payment is a one off payment equivalent to one week of the person's maximum basic rate of income support (excluding supplementary payments such as Commonwealth Rent Assistance).

Human rights implications

- 23.105 Schedule 11 to this Bill engages the following human rights:
- The right of everyone to social security in article 9, and the right of everyone to an adequate standard of living for an individual and their family, including adequate food, clothing and housing, and the continuous improvement of living conditions in Article 11 of the International Covenant on Economic, Social and Cultural Rights; and
 - The rights of the child in article 26 of the Convention on the Rights of the Child.

23.106 Articles 9 and 11 are promoted by providing further payment to assist in achieving an adequate standard of living. This is achieved by creating a new category of supplementary payment where there is a national health emergency. The pursuit of this objective also promotes human rights by supporting the Convention on the Rights of Persons with Disabilities.

23.107 Schedule 11 to this Bill promotes article 26 by enhancing the rights of the child to social security, as the payment is made to recipients with children. The payments targeted at vulnerable groups who receive Government assistance and has a flow on effect to the children of recipients by increasing the support for families.

Conclusion

23.108 Schedule 11 to this Bill is compatible with human rights because it promotes the protection of human rights for some of the most vulnerable groups in society.

Schedule 12 – Temporary relief for individuals and businesses in financial distress

23.109 Schedule 12 to this Bill 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

23.110 Schedule 12 to this Bill amends the *Bankruptcy Act 1966* to temporarily increase the minimum amount of debt required to be owed before a creditor can initiate involuntary bankruptcy proceedings against a debtor from \$5,000 to \$20,000. The amendments:

- temporarily provide debtors more time to respond to a bankruptcy notice – the period is extended from 21 days to six months; and
- temporarily extends the timeframe in which a debtor is protected from enforcement action by a creditor following presentation of a declaration of intention to present a debtor’s petition – the period is extended from 21 days to three months.

23.111 Schedule 12 to this Bill amends the Corporations Act to increase the statutory minimum for a creditor to issue a statutory demand to a debtor from \$2,000 to \$20,000. This raises the thresholds for creditor demands that can push businesses into insolvency. The amendments also temporarily provide debtors more time to respond to a statutory demand – the period is extended from 21 days to six months.

23.112 Schedule 12 to this Bill also amends the Corporations Act to provide temporary relief for directors from their personal duty to prevent insolvent trading. This is achieved by introducing a new temporary safe harbour from the duty to prevent insolvent trading.

Human rights implications

23.113 Schedule 12 to this Bill does not limit any of the human rights and freedoms, but in a limited way engages Article 14(2) of the *International Covenant on Civil and Political Rights*. Article 14(2) recognises that all persons shall be presumed innocent until proven guilty according to the law.

23.114 Article 14(2) is engaged because Part 3 of Schedule 12 to this Bill introduces a new temporary safe harbour from the directors’ duty to prevent insolvent trading by a corporation under the Corporations Act. Directors and holding companies (with respect to insolvent trading by a subsidiary) wishing to rely on the temporary safe harbour in a proceeding in which unlawful insolvent trading is alleged bear an evidential burden in relation to that matter.

23.115 These amendments are consistent with Article 14(2) because *evidential burden* is defined to mean the burden of adducing or pointing to evidence that suggests a reasonable possibility that some matter exists or does not exist.

23.116 In particular, a director wishing to rely on the temporary safe harbour must point to or adduce some evidence that suggests a reasonable possibility that:

- the debt incurred was in the ordinary course of the company’s business;

- the debt was incurred during the six month period or longer period prescribed, beginning on the day the amendments commence; and
- no administrator or liquidator was appointed, within the six month period, before the debt was incurred.

23.117 A holding company wishing to rely on the temporary safe harbour must point to or adduce some evidence to suggest a reasonable possibility that:

- the corporation took reasonable steps to ensure that the temporary safe harbour applies in relation to the director and the debt incurred; and
- the temporary safe harbour provision does so apply.

23.118 Consistent with the *Guide to Framing Commonwealth Offences*, it is appropriate for the evidential burden to fall on the director or holding company seeking to rely on the temporary safe harbour because:

- matters such as whether the debt incurred was in the ordinary course of the company's business, whether and when the debt was incurred or a liquidator or administrator was appointed, and whether the corporation takes reasonable steps to ensure that the temporary safe harbour provision applies are peculiarly within the knowledge of the director or holding company; and
- it is significantly more difficult and costly for the opposing party to disprove the fact that:
 - for a company director – that the debt incurred was within the ordinary course of the company's business, the period in which the debt was incurred and whether an administrator or liquidator was appointed before the debt was incurred; and
 - for a holding company – that the directors of the subsidiary had the benefit of the temporary safe harbour and the holding company took reasonable steps to ensure the temporary safe harbour applied to the director and the debt.

Conclusion

23.119 Schedule 12 to this Bill is compatible with human rights as it does not limit any of the applicable human rights and freedoms.

Schedule 13 – Early release of superannuation

23.120 Schedule 13 to this Bill 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

23.121 Schedule 13 to this Bill amends the SIS Regulations and RSA Regulations to allow individuals affected by the adverse economic effects of the Coronavirus health crisis to have up to \$10,000 released from their superannuation or retirement savings account on compassionate grounds.

23.122 Each person is permitted to have up to two releases – one for an application made during the 2019-20 financial year and another for an application made during the 2020-21 financial year.

Human rights implications

23.123 Schedule 13 to this Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.124 Schedule 13 to this Bill is compatible with human rights as it does not raise any human rights issues.

Schedule 14 – Medicare levy and medicare levy surcharge low-income thresholds

23.125 Schedule 14 to this Bill 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

23.126 Schedule 14 to this Bill amends the *Medicare Levy Act 1986* and the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* to:

- increase the Medicare levy low-income thresholds for individuals and families (along with the dependent child-student component of the family threshold) in line with movements in the CPI;
- increase the Medicare levy low-income thresholds for individuals and families eligible for the Seniors and

Pensioners Tax Offset (along with the dependent child-student component of the family threshold), in line with movements in the CPI; and

- increase the Medicare levy surcharge low-income threshold in line with movements in the CPI.

23.127 This will ensure that low-income individuals, families, seniors and pensioners who were exempt from the Medicare levy in the 2018-19 income year continue to be exempt in the 2019-20 income year if their income has increased in line with, or less than, movements in the CPI.

Human rights implications

23.128 Schedule 14 to this Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.129 Schedule 14 to this Bill is compatible with human rights as it does not raise any human rights issues.

Schedule 15 - Delaying the next intergenerational report until mid-2021

23.130 Schedule 15 to this Bill 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

23.131 Schedule 15 to this Bill amends the Charter of Budget Honesty to delay the next intergenerational report from 2020 to mid-2021 to ensure there is adequate time to produce long term projections that are based on robust budget estimates.

Human rights implications

23.132 Schedule 15 to this Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.133 Schedule 15 to this Bill is compatible with human rights as it does not raise any human rights issues.

Schedule 16 – Deferral of sunseting

23.134 Schedule 16 to this Bill 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

23.135 Schedule 16 to this Bill allows the relevant Minister for an Act or legislative instrument that is scheduled to sunset on or before 15 October 2020 to determine a new day on which the legislation sunsets. This new date must be no longer than six months after the original sunset date.

Human rights implications

23.136 This Schedule does not engage any of the applicable rights or freedoms.

Conclusion

23.137 Schedule 16 to this Bill is compatible with human rights as it does not raise any human rights issues.

Guarantee of Lending to Small and Medium Enterprises (Coronavirus Economic Response Package) Bill 2020

23.138 The SME Lending Guarantee Bill 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

23.139 The Australian Government announced that it would enter into agreements with financial institutions to guarantee certain loans made to SMEs.

23.140 The purpose of these guarantees is to ensure that credit continues to flow to SMEs, and that SMEs can meet their immediate financing needs during the uncertain economic conditions caused by the Coronavirus.

23.141 The SME Lending Guarantee Bill provides that the Minister may, on behalf of the Commonwealth, grant a guarantee to a financial institution in connection with loans made, or to be made, if granting the

guarantee is likely to assist in dealing with the economic impacts of Coronavirus.

Human rights implications

23.142 The SME Lending Guarantee Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.143 The SME Lending Guarantee Bill is compatible with human rights as it does not raise any human rights issues.

Australian Business Growth Fund (Coronavirus Economic Response Package) Bill 2020

23.144 The Business Growth Fund Bill 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

23.145 The Business Growth Fund Bill authorises investment by the Commonwealth in the Australian Business Growth Fund, and appropriates \$100 million for that purpose.

23.146 Part 1 of the Business Growth Fund Bill sets out:

- when the Business Growth Fund Bill commences;
- the objects of the Business Growth Fund Bill;
- definitions of key terms used in the Business Growth Fund Bill; and
- the application of the Business Growth Fund Bill.

23.147 Part 2 of the Business Growth Fund Bill:

- authorises the Minister to invest in the Australian Business Growth Fund; and
- places limitations on the exercise of the Minister's investment powers.

23.148 Part 3 of the Business Growth Fund Bill:

- provides for a standing appropriation of \$100 million for the purposes of the powers set out in Part 2;

- allows the Minister to delegate powers, functions and duties under the Business Growth Fund Bill;
- requires annual reporting on the investment;
- requires a review of the operation of the Business Growth Fund Bill; and
- includes a rule-making power for the Minister.

Human rights implications

23.149 The Business Growth Fund Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.150 The Business Growth Fund Bill is compatible with human rights as it does not raise any human rights issues.

Assistance for Severely Affected Regions (Special Appropriation) (Coronavirus Economic Response Package) Bill 2020

23.151 The Assistance for Severely Affected Regions Bill 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

23.152 The Assistance for Severely Affected Regions Bill gives effect to the Government's commitment to set aside \$1 billion to support regions, communities and industry sectors most severely affected by the Coronavirus. The funds will be available to assist during the next few months and over the year ahead to ensure these communities are well placed to recover from the economic effects of the Coronavirus.

Human rights implications

23.153 The Assistance for Severely Affected Regions Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.154 The Assistance for Severely Affected Regions Bill is compatible with human rights as it does not raise any human rights issues.

Structured Finance Support (Coronavirus Economic Response Package) Bill 2020

23.155 The Structured Finance Support Bill 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

23.156 The Structured Finance Support Bill will establish the Structured Finance Support (Coronavirus Economic Response) Fund, initially consisting of \$15 billion. The Fund will enable the Government to ensure continued access to funding markets impacted by the economic effects of the Coronavirus, and to promote competition in consumer and business lending markets. In particular, this will ensure smaller lenders can maintain access to funding, by the Government making targeted investments in structured finance markets.

23.157 Part 1 of the Structured Finance Support Bill sets out the objects of the Structured Finance Support Bill, arrangements for commencement, application to the Crown, key definitions, its extension to external territories and extra-territorial application.

23.158 Part 2 of the Structured Finance Support Bill:

- establishes the Structured Finance Support (Coronavirus Economic Response) Fund and the Structured Finance Support (Coronavirus Economic Response) Fund Special Account;
- provides for the types of investments that can be made by the Fund; and
- credits \$15 billion into the Account on the day after the Structured Finance Support Bill receives Royal Assent, and enables further amounts to be credited to the Account.

23.159 Part 3 of the Structured Finance Support Bill sets out the constitutional limits of the investments of the Fund, provides for the Minister to delegate his powers and provides for regular reporting in relation to the Fund.

Human rights implications

23.160 The Structured Finance Support Bill does not engage any of the applicable rights or freedoms.

Conclusion

23.161 The Structured Finance Support Bill is compatible with human rights as it does not raise any human rights issues.

Appropriation (Coronavirus Economic Response Package) Bill (No. 1) 2019-2020

23.162 The Appropriation Bill No. 1 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

23.163 The Appropriation Bill No. 1 seeks to appropriate money for services that are not considered to be the ordinary annual services of the Government.

23.164 Accordingly, the Appropriation Bill No. 1 performs an important constitutional function, by authorising the withdrawal of money from the Consolidated Revenue Fund for the broad purposes identified in the Appropriation Bill No. 1.

23.165 However, as the High Court has emphasised, beyond this, the Appropriation Acts for the ordinary annual services of Government do not confer authority to engage in executive action. In particular, they do not confer legal authority to spend.

23.166 Given that the legal effect of Appropriation Bills is limited in this way, the Appropriation Bill No. 1 is not seen as engaging, or otherwise affecting, the rights or freedoms relevant to the *Human Rights (Parliamentary Scrutiny) Act 2011*.

23.167 Detailed information on the relevant appropriations, however, is contained in the portfolio statements.

Human rights implications

23.168 The Appropriation Bill No. 1 does not engage any of the applicable rights or freedoms.

Conclusion

23.169 The Appropriation Bill No. 1 is compatible with human rights as it does not raise any human rights issues.

Appropriation (Coronavirus Economic Response Package) Bill (No. 2) 2019-2020

23.170 The Appropriation Bill No. 2 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

23.171 The Appropriation Bill No. 2 seeks to appropriate money for services that are not considered to be the ordinary annual services of the Government.

23.172 Accordingly, the Appropriation Bill No. 2 performs an important constitutional function, by authorising the withdrawal of money from the Consolidated Revenue Fund for the broad purposes identified in the Appropriation Bill No. 2.

23.173 However, as the High Court has emphasised, beyond this, the Appropriation Acts do not ordinarily confer authority to engage in executive action. In particular, they do not ordinarily confer legal authority to spend. To the extent that any item of the Appropriation Bill No. 2 might be read as purporting to confer such authority, the Government does not rely on the item to provide it.

23.174 Given that the legal effect of Appropriation Bills is limited in this way, the Appropriation Bill No. 2 is not seen as engaging, or otherwise affecting, the rights or freedoms relevant to the *Human Rights (Parliamentary Scrutiny) Act 2011*.

23.175 Detailed information on the relevant appropriations, however, is contained in the portfolio statements.

Human rights implications

23.176 The Appropriation Bill No. 2 does not engage any of the applicable rights or freedoms.

Conclusion

23.177 The Appropriation Bill No. 2 is compatible with human rights as it does not raise any human rights issues.