



Financial Corporations Act 1974

Act No. 36 of 1974 as amended

This compilation was prepared on 23 January 2001
taking into account amendments up to Act No. 160 of 2000

The text of any of those amendments not in force
on that date is appended in the Notes section

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An Act relating to Corporations engaged in certain Financial Operations

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Financial Corporations Act 1974*.

2 Commencement [see Note 1]

- (1) Parts I, II and V shall come into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act shall come into operation on such day as is, or on such days as respectively are, fixed by Proclamation.

3 Object of Act

The object of this Act is to assist the Reserve Bank by providing for the collection of information to facilitate the formulation of monetary policy.

4 Interpretation

- (1) In this Act, unless the contrary intention appears:

ADI (authorised deposit-taking institution) means a corporation that is an ADI for the purposes of the *Banking Act 1959*.

Australia includes all the external Territories.

balance-sheet includes a statement of assets and liabilities or any similar document.

category means one of the categories into which registered corporations are divided in the list prepared for the purposes of section 10.

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co-operative housing society means a society registered or incorporated as a co-operative housing society or similar society under a law of a State or Territory.

financial corporation means a financial corporation to which paragraph 51(xx) of the Constitution applies.

foreign corporation means a foreign corporation within the meaning of paragraph 51(xx) of the Constitution.

Governor means the Governor of the Reserve Bank.

registered corporation means a corporation the name of which is entered in the Register of Corporations kept by the Reserve Bank under subsection 9(9).

Reserve Bank means the Reserve Bank of Australia.

share includes stock, and also includes an interest in a share or in any stock.

trading corporation means a trading corporation to which paragraph 51(xx) of the Constitution applies.

- (2) A reference in this Act to the provision of finance includes a reference to:
- (a) the lending of money, with or without security;
 - (b) the supplying of goods by way of hire-purchase;
 - (c) the sale (other than a lay-by sale), in the course of the carrying on of a business of selling goods by retail, of goods on terms under which payment in full for the goods is not required to be made before the expiration of 3 months from the day on which the goods are sold or agreed to be sold;
 - (d) the letting on hire of goods;
 - (e) the acquisition of debts due to another person;
 - (f) the purchase of bills of exchange or promissory notes;
 - (g) the purchase of securities issued by Australia, a State or an authority of Australia or of a State; and
 - (h) the purchase of debentures or other securities (other than shares) issued by a corporation.

- (3) For the purposes of this Act, the receipt of moneys by a co-operative housing society in respect of the issue of shares in the capital of the co-operative housing society shall be deemed to constitute the borrowing of those moneys by the co-operative housing society.
- (4) For the purposes of this Act, a debt shall be taken to be due notwithstanding that the time for payment of the debt has not arrived.

5 Extension to external Territories

This Act extends to every external Territory.

6 Assets and liabilities of corporations

- (1) Subject to this section, for the purposes of the application of sections 7 and 8 in relation to a corporation:
 - (a) the assets and liabilities of the corporation on any day shall be taken to be the assets and liabilities in Australia of the corporation that were included in the assets and liabilities of the corporation in the last balance-sheet of the corporation prepared and audited before that day;
 - (b) the value on that day of any of those assets shall be taken to be the value of the assets concerned as shown in that balance-sheet; and
 - (c) the amount on that day of any of those liabilities shall be taken to be the amount of the liabilities concerned as shown in that balance-sheet.
- (2) If, for the purposes of the application of this section in relation to a corporation on any day, there is not such a balance-sheet as is mentioned in subsection (1), then, for the purposes of the application of sections 7 and 8 in relation to the corporation:
 - (a) the assets and liabilities of the corporation on that day shall be taken to be the assets and liabilities in Australia of the corporation;
 - (b) the value on that day of any of those assets shall be taken to be the value of the assets concerned as shown in the accounting records of the corporation; and

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- (c) the amount on that day of any of those liabilities shall be taken to be the amount of the liabilities concerned as shown in the accounting records of the corporation.

7 Related corporations

- (1) Subject to subsections (2) and (3), the question whether corporations are related to each other for the purposes of this Act shall be determined in the same manner as the question whether bodies corporate are related to each other is determined under the Corporations Law.
- (2) A corporation shall not be taken for the purposes of this Act to be related to another corporation (not being a corporation that carries on in Australia a business, whether or not that business is its sole or principal business, of selling goods by retail) unless the first-mentioned corporation is a foreign corporation, a trading corporation formed within the limits of Australia or a financial corporation so formed and:
 - (a) the sole or principal business activities in Australia of the first-mentioned corporation are the borrowing of money and the provision of finance; or
 - (b) the sum of the amounts of such of the assets in Australia of the first-mentioned corporation as consist of debts due to that corporation, being debts resulting from transactions entered into in the course of the provision of finance by that corporation, exceeds:
 - (i) 50 per centum; or
 - (ii) if a greater or lesser percentage is prescribed by the regulations—the percentage so prescribed;of the sum of the values of all the assets in Australia of that corporation.
- (3) A corporation shall not be taken for the purposes of this Act to be related to another corporation (being a corporation that carries on in Australia a business, whether or not that business is its sole or principal business, of selling goods by retail) unless the first-mentioned corporation:
 - (a) is a foreign corporation, a trading corporation formed within the limits of Australia or a financial corporation so formed; and

- (b) engages in the provision of finance in the course of carrying on in Australia a business, whether or not that business is its sole or principal business, of selling goods by retail.

8 Corporation to which Act applies

- (1) Subject to subsection (2), this Act applies to a corporation if, and only if, the corporation is a foreign corporation, a trading corporation formed within the limits of Australia or a financial corporation so formed and:
 - (a) the sole or principal business activities in Australia of the corporation are the borrowing of money and the provision of finance;
 - (b) the sum of the values of such of the assets in Australia of the corporation as consist of debts due to the corporation, being debts resulting from transactions entered into in the course of the provision of finance by the corporation, exceeds:
 - (i) 50 per centum; or
 - (ii) if a greater or lesser percentage is prescribed by the regulations—the percentage so prescribed;of the sum of the values of all the assets in Australia of the corporation; or
 - (c) the corporation engages in the provision of finance in the course of carrying on in Australia a business (whether or not that business is its sole or principal business) of selling goods by retail and the sum of the values of such of the assets of the corporation and of any corporation that is related to the corporation as consist of debts due to the corporation concerned, being debts resulting from transactions entered into in the course of the provision of finance by that corporation, exceeds:
 - (i) \$25,000,000; or
 - (ii) if a greater or lesser amount is prescribed by the regulations—the amount so prescribed.
- (2) This Act does not apply to a corporation if:
 - (a) the corporation, not being a company, society or association, is established for a public purpose by a law of Australia, of a State or of a Territory;
 - (b) the corporation is an ADI;

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- (d) the corporation is a benefit society registered under a law of a State or of a Territory providing for the registration of benefit societies;
 - (e) the corporation is a medical benefits organization or hospital benefits organization registered under the *National Health Act 1953*;
 - (f) the corporation is registered under the *Life Insurance Act 1995*;
 - (g) the sole or principal business in Australia of the corporation is insurance business as defined by subsection 3(1) of the *Insurance Act 1973*;
 - (h) the corporation is authorized by a law of a State or of a Territory to act as an executor, administrator and trustee;
 - (j) the sole or principal purpose for which the corporation borrows money is to lend money to a corporation or corporations that, by reason of subsection 7(2) or (3), is not or are not to be taken to be related to the first-mentioned corporation but would, but for that subsection, be treated as being so related by reason of subsection 7(1);
 - (k) the sum of the values of all the assets of the corporation and of every corporation that is related to the corporation does not exceed:
 - (i) \$5,000,000; or
 - (ii) if a greater or lesser amount is prescribed by the regulations—the amount so prescribed; or
 - (l) the Reserve Bank has, by order in writing published in such manner and form as the Reserve Bank determines to be appropriate, exempted the corporation from the application of this Act.
- (3) The reference in paragraph (2)(j) to the lending of money to a corporation does not include a reference to the provision of finance to the corporation by way of acquiring debts due to the corporation or of purchasing securities other than securities issued by the corporation.

Part II—Registration of corporations

9 Corporations to furnish information to Reserve Bank

- (1) If, at the commencement of this Part, a corporation is a corporation to which this Act applies, the corporation shall, before the expiration of the period of 60 days after the date of commencement of this Part, furnish to the Reserve Bank the documents mentioned in subsection (6).
- (2) Where, after the commencement of this Part, a corporation becomes a corporation to which this Act applies, whether at the time of its incorporation or at a later time and whether or not the corporation has previously been a corporation to which this Act applies, the corporation shall, before the expiration of the period of 60 days after the day on which it becomes a corporation to which this Act applies, furnish to the Reserve Bank the documents mentioned in subsection (6).
- (3) If a corporation to which subsection (1) or (2) applies fails to furnish to the Reserve Bank the documents referred to in that subsection before the expiration of the period so referred to, the corporation is guilty of a separate offence on each day occurring after the expiration of that period and before the corporation furnishes the documents and is punishable, on conviction of such an offence in respect of a day, by a fine not exceeding 50 penalty units.
- (4) The Reserve Bank may, before the expiration of the period referred to in subsection (1) or (2) (including any period that is deemed to be substituted for that period by any other application or applications of this subsection) allow a longer period for the furnishing by a particular corporation of documents in accordance with that subsection and, in that case, the longer period shall, for the purposes of the application of that subsection in relation to that corporation, be deemed to be substituted for the period referred to in that subsection.
- (5) Neither subsection (1) nor (2) applies to a corporation if, before the expiration of the period referred to in that subsection

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(including any period that is deemed to be substituted for that period by any application or applications of subsection (4) in relation to that corporation), the corporation ceases to be a corporation to which this Act applies.

(6) The documents referred to in subsections (1) and (2) are:

- (a) a notice in writing setting out:
 - (i) the name, the place and date of incorporation and the address of the registered office of the corporation;
 - (ii) the name, and the address of the registered office, of every corporation that is related to the corporation;
 - (iii) particulars of the principal methods by which the corporation ordinarily borrows moneys; and
 - (iv) particulars of the principal kinds of finance ordinarily provided by the corporation;
- (b) a copy of the last audited balance-sheet of the corporation; and
- (c) if there is not such a balance-sheet as is mentioned in paragraph (b) or the balance-sheet so mentioned includes both assets and liabilities in Australia and assets and liabilities outside Australia but does not show the assets and liabilities in Australia separately from the assets and liabilities outside Australia—a statement showing the assets and liabilities in Australia of the corporation.

(7) If:

- (a) a registered corporation changes its name or the address of its registered office;
 - (b) a change takes place in the principal methods by which a registered corporation ordinarily borrows moneys or in the principal kinds of finance ordinarily provided by a registered corporation;
 - (c) a corporation that is related to a registered corporation ceases to be so related; or
 - (d) a corporation becomes related to a registered corporation;
- the registered corporation shall, before the expiration of the period of 60 days after the occurrence of the event concerned, notify the Reserve Bank in writing accordingly.

Penalty: 10 penalty units.

- (8) A corporation is not required by this section to furnish to the Reserve Bank a notice or notification in relation to a matter if a notice or notification in relation to that matter has already been furnished to the Reserve Bank by another corporation.
- (9) The Reserve Bank shall cause a Register of Corporations to be kept for the purposes of this Act and shall:
 - (a) cause to be entered in the Register the name, the address of the registered office, and any other particulars that it considers appropriate to be entered, of every corporation that furnishes to the Reserve Bank the documents mentioned in subsection (6);
 - (b) if a registered corporation notifies the Reserve Bank in accordance with subsection (7), or the Reserve Bank otherwise becomes aware, of a change in the name or the address of the registered office of the corporation, or of a change in any other particulars relating to the corporation that are entered in the Register, cause the Register to be altered accordingly; and
 - (c) if a corporation included in the Register ceases to exist, or ceases to be a corporation to which this Act applies—cause the corporation's name, address of registered office, and any other particulars of the corporation, to be removed from the Register.
- (10) A written notice or notification by a corporation to the Reserve Bank under this section shall be signed by a senior officer of the corporation.
- (11) The Reserve Bank shall, if requested to do so by the Secretary to the Department, give the Secretary a copy of a document received by the Reserve Bank under this section.

10 Categories of registered corporations

- (1) For the purposes of this Act the Reserve Bank shall prepare a list of registered corporations, being a list in which the corporations are divided into such categories as the Reserve Bank determines.
- (2) The Reserve Bank may at any time vary the list prepared for the purposes of subsection (1) for the purpose of adding to it corporations that become registered corporations, or removing

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from it corporations that are found not to be or cease to be registered corporations, after the list is prepared or for the purpose of transferring a corporation from one category to another category.

- (4) In determining the category in which a corporation is to be included or in determining whether a corporation should be transferred from one category to another category, the Reserve Bank shall have regard to:
- (a) the assets and liabilities of the corporation;
 - (b) the principal methods by which the corporation ordinarily borrows moneys; and
 - (c) the principal kinds of finance ordinarily provided by the corporation;
- and shall endeavour to ensure that, as far as practicable, corporations carrying on the same or similar kinds of business are included in the same category.
- (5) The Reserve Bank shall cause a copy of the list prepared for the purposes of subsection (1), and, if a variation of the list is made before subsection (5D) commences, a copy of the variation, to be published in the *Gazette*.
- (5A) If, after this subsection commences, the Reserve Bank prepares a list under subsection (1) in substitution for the existing list prepared under that subsection and any variations made to that list, the Reserve Bank must publish a copy of the list in such manner and form as the Reserve Bank determines to be appropriate.
- (5D) A variation of the list prepared under subsection (1) must be published in such manner and form as the Reserve Bank determines to be appropriate.
- (6) As soon as practicable after a corporation is included in a category or is transferred from one category to another category, the Reserve Bank shall notify the corporation of the category in which it has been included or to which it has been transferred.
- (7) If:
- (a) after a corporation has been included in a category the corporation requests the Reserve Bank to transfer the corporation to another category; or

- (b) after a corporation has been transferred from one category to another category the corporation requests the Reserve Bank to re-transfer the corporation to the former category or to transfer the corporation to a third category;

and the corporation furnishes information or makes submissions to the Reserve Bank in support of the request, the Reserve Bank must, after taking into account the information or submissions:

- (c) reconsider the question of the category in which the corporation should be included; and
- (d) if the Reserve Bank thinks that the corporation should be transferred to a different category, vary the list prepared for the purposes of subsection (1) accordingly.

Part III—Statistics

11 Standards requiring the provision of information

- (1) The Reserve Bank may, by written instrument, determine standards, consistent with the object of this Act, requiring the provision of information by:
 - (a) all registered corporations; or
 - (b) a specified class of registered corporations.
- (2) A standard may impose requirements about the way in which information is to be provided.
- (3) A standard may impose different requirements to be complied with in different situations or in respect of different activities.
- (4) A standard:
 - (a) comes into force:
 - (i) unless subparagraph (ii) applies—on the day on which the determination of the standard is made; or
 - (ii) if that determination specifies a later day as the day on which the standard comes into force—on the day so specified; and
 - (b) continues in force until it is revoked.
- (5) The Reserve Bank may, by written instrument, vary or revoke a standard.
- (6) An instrument determining, varying or revoking a standard is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (7) The Reserve Bank must ensure that registered corporations and other persons can have access to the current text of the standards by such means as the Reserve Bank considers appropriate.

12 Exemption from obligation to comply with a standard

- (1) The Reserve Bank may, by written instrument, exempt a registered corporation from the obligation to comply with a requirement in a
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standard in force under section 11. The exemption may be granted subject to conditions specified in the instrument of exemption.

- (2) The Reserve Bank may, by written instrument, vary or revoke an exemption granted under subsection (1).
- (3) The Reserve Bank must ensure that registered corporations and other persons can have access to the current text of exemptions granted under subsection (1) by such means as the Reserve Bank considers appropriate.
- (4) An instrument granting an exemption or varying or revoking an exemption is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

13 Offences of failing to comply with requirements of a standard

- (1) A registered corporation is guilty of an offence if:
 - (a) it fails to comply with a requirement of a standard in force under section 11 that is applicable to the corporation, other than a requirement about the way in which information is to be provided; and
 - (b) there is no exemption in force under section 12 exempting the corporation from the obligation to comply with the requirement.

Maximum penalty: 200 penalty units

- (2) A registered corporation is guilty of an offence if:
 - (a) it fails to comply with a requirement of a standard in force under section 11 that is applicable to the corporation, that is a requirement about the way in which information is to be provided; and
 - (b) there is no exemption in force under section 12 exempting the corporation from the obligation to comply with the requirement.

Maximum penalty: 50 penalty units

Part V—Miscellaneous

19 Saving of other laws

This Act is not intended to exclude or limit the operation of any other laws of Australia, or the operation of any laws of a State or Territory, in so far as those laws are capable of operating concurrently with this Act.

20 Furnishing of information and statements to Reserve Bank

- (1) A registered corporation shall furnish to the Reserve Bank such information in writing or statements in respect of its business as the Reserve Bank directs.

Penalty: 20 penalty units.

- (2) A direction under this section may require a corporation to cause a statement referred to in the direction to be audited by an auditor approved by the Reserve Bank before it is furnished to the Reserve Bank.
- (3) A direction under this section shall not require information or statements to be furnished with respect to the affairs of a particular person who has entered into a contract or transaction with a corporation.
- (4) Where the Reserve Bank has directed a corporation under this section to furnish information or a statement within a particular period, the Reserve Bank may extend, or further extend, the period for the furnishing of the information or statement.

21 Manner of furnishing documents

A document that is required by or under this Act or the regulations to be furnished to the Reserve Bank is to be delivered to the Head Office of the Reserve Bank.

22 Disclosure of information received under Act prohibited in certain circumstances

Section 79A of the *Reserve Bank Act 1959* prohibits certain disclosures of information received under this Act.

22A Delegation of functions or powers of Reserve Bank

- (1) Subject to subsection (3), the Governor may, by signed instrument, delegate any of the Reserve Bank's functions or powers under this Act to any of the following persons:
 - (a) a member of the Reserve Bank Board;
 - (b) a staff member of the Reserve Bank Service.
- (2) Subject to subsection (3), the Governor may, by signed instrument, delegate any of the Reserve Bank's functions or powers under this Act:
 - (a) to the Chief Executive Officer of APRA, or to an APRA staff member, if the Chief Executive Officer of APRA agrees to the delegation; or
 - (b) to the Australian Statistician, or to an ABS staff member, if the Australian Statistician agrees to the delegation.
- (3) Subsections (1) and (2) do not apply to the Reserve Bank's functions and powers in relation to determining, varying or revoking standards under section 11.
- (4) In performing or exercising functions or powers under a delegation, the delegate must comply with any directions of the Governor.

Note: For information about delegations, see sections 34AA to 34A of the *Acts Interpretation Act 1901*.
- (5) The Governor may, by signed instrument, vary or revoke a delegation under this section.
- (6) In this section:

ABS staff member means a person referred to in subsection 16(1) or (2) of the *Australian Bureau of Statistics Act 1975*.

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APRA means the Australian Prudential Regulation Authority established by section 7 of the *Australian Prudential Regulation Authority Act 1998*.

APRA staff member has the same meaning as in the *Australian Prudential Regulation Authority Act 1998*.

Australian Statistician means the Australian Statistician referred to in subsection 5(2) of the *Australian Bureau of Statistics Act 1975*.

Reserve Bank Board means the Board referred to in section 9 of the *Reserve Bank Act 1959*.

Reserve Bank Service means the Reserve Bank Service referred to in section 66 of the *Reserve Bank Act 1959*.

22B References to Reserve Bank—direction by the Governor

- (1) If, under section 22A:
 - (a) the Governor delegates to a person a function or power of the Reserve Bank; and
 - (b) the delegation makes a reference to the Reserve Bank in another provision of this Act inappropriate, whether for administrative reasons or any other reason;the Governor may, by signed instrument, direct that the provision is to have effect as if the reference to the Reserve Bank were a reference to the person referred to in paragraph (a).
- (2) If the Governor gives a direction in relation to a provision, the provision has effect in accordance with the direction while the direction is in force.
- (3) A direction:
 - (a) comes into force:
 - (i) unless subparagraph (ii) applies—on the day on which it is made; or
 - (ii) if the direction specifies a later day as the day on which the direction comes into force—on the day so specified; and
 - (b) continues in force until it is revoked.

- (4) The Governor may, by signed instrument, vary or revoke a direction.
- (5) An instrument making, varying or revoking a direction is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

23 Corporations may be directed to comply with Act

- (1) Where a corporation is convicted of an offence against this Act, the Federal Court of Australia may, upon the application of the Attorney-General by motion, direct compliance by the corporation, within a period specified by the Court, with the provisions of this Act or the regulations, or of a determination or direction, with which the corporation failed to comply.
- (2) Jurisdiction is conferred on the Federal Court of Australia to hear and determine an application made under subsection (1).

24 Validity of acts and transactions of corporation

The validity of an act or transaction of a corporation shall not be called in question in any legal proceedings on the ground that any provision of this Act or the regulations, or of a determination or direction, has not been complied with.

25 Policy of Reserve Bank

- (1) References in subsection 10(2) and section 11 of the *Reserve Bank Act 1959* to the monetary and banking policy of the Reserve Bank include references to the policy of the Reserve Bank in the performance of its functions under this Act and the regulations.
- (2) Subsection 10(2) of the *Reserve Bank Act 1959* applies in relation to the exercise of the powers of the Reserve Bank under this Act and the regulations in like manner as it applies in relation to the exercise of the powers of the Reserve Bank under the *Reserve Bank Act 1959*.

26 Corporation not to hold out that it is registered under the Act

A corporation shall not, in the course of carrying on any business, advertise or hold out, by the use of the words “registered under the *Financial Corporations Act 1974*”, the words “registered with the Reserve Bank” or words of like import, that the corporation is registered under this Act or has any special status under or by virtue of this Act, whether or not the corporation is registered under this Act.

Penalty: 50 penalty units.

28 Defence to prosecutions

- (1) It is a defence to a prosecution of a corporation for an offence constituted by a contravention of or a failure to comply with a provision of this Act if the defendant proves that the contravention or failure was due to the defendant’s not being aware of a fact or occurrence the existence of which was necessary to constitute the offence.
- (2) For the purposes of subsection (1), a corporation shall conclusively be presumed to have been aware at a particular time of a fact or occurrence of which a director of the corporation was aware at that time or of which a servant or agent of the corporation, being a servant or agent having duties or acting on behalf of the corporation in relation to the matter concerned, was aware at that time.

31 Consultations by Reserve Bank

The Reserve Bank shall, from time to time as it considers desirable, consult associations or other bodies representing registered corporations with the object of keeping itself informed of their views in relation to the exercise by the Reserve Bank of its powers under this Act and the regulations and in relation to trends in activities of their members.

32 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Table of Acts**Notes to the *Financial Corporations Act 1974*****Note 1**

The *Financial Corporations Act 1974* as shown in this compilation comprises Act No. 36, 1974 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 29 June 1998 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Financial Corporations Act 1974</i>	36, 1974	7 Aug 1974	Part III (s. 11): 1 Oct 1974 (see <i>Gazette</i> 1974, No. 78B) Part IV (ss. 12-18): (a) Remainder: Royal Assent	
<i>Federal Court of Australia (Consequential Provisions) Act 1976</i>	157, 1976	9 Dec 1976	1 Feb 1977 (see s. 2 and <i>Gazette</i> 1977, No. S3)	S. 4
<i>Companies (Miscellaneous Amendments) Act 1981</i>	92, 1981	18 June 1981	Ss. 1 and 2: 18 June 1981 S. 36: 1 July 1981 (see s. 2(2) and <i>Gazette</i> 1981, No. S118) Remainder: 1 July 1982 (see s. 2(3) and <i>Gazette</i> 1982, No. S124)	—
<i>Public Service Reform Act 1984</i>	63, 1984	25 June 1984	S. 152(1): (b)	S. 158
<i>Financial Legislation Amendment Act 1992</i>	11, 1992	13 Mar 1992	13 Mar 1992	—
<i>Life Insurance (Consequential Amendments and Repeals) Act 1995</i>	5, 1995	23 Feb 1995	1 July 1995 (see s. 2 and <i>Gazette</i> 1995, No. GN24)	—
<i>Crimes and Other Legislation Amendment Act 1997</i>	20, 1997	7 Apr 1997	Schedule 2 (item 4): Royal Assent (c)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Financial Laws Amendment Act 1997</i>	107, 1997	30 June 1997	Schedule 3 (items 1-14, 21-25): Royal Assent (<i>d</i>) Schedule 3 (items 15-20): (<i>d</i>)	S. 2(2) (rep. by 24, 2000, Sch. 5 [item 1])
as amended by				
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 2000</i>	24, 2000	3 Apr 2000	Schedule 5 (items 1, 3): Royal Assent (<i>da</i>)	—
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act 1998</i>	54, 1998	29 June 1998	Schedule 7 (items 1-19): 1 July 1998 (see <i>Gazette</i> 1998, No. S316) (<i>e</i>) Schedule 19 (Parts 2, 7): Royal Assent	Sch. 19 (Parts 2, 7) [see Table A]
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i>	44, 1999	17 June 1999	Schedule 7 (items 35-42): 1 July 1999 (see <i>Gazette</i> 1999, No. S283) (<i>f</i>) Schedule 7 (items 43, 44): (<i>f</i>)	Sch. 8 (items 22, 23) [see Table A] S. 3(2)(e) (am. by 160, 2000, Sch. 4 [item 4])
as amended by				
<i>Financial Sector Legislation Amendment Act (No. 1) 2000</i>	160, 2000	21 Dec 2000	(see 160, 2000 below)	—
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 2000</i>	24, 2000	3 Apr 2000	Schedule 3: Royal Assent (<i>g</i>) Schedule 12 (items 1-7): 3 Apr 2000 (<i>g</i>)	Sch. 12 (items 1-7) [see Table A]
<i>Financial Sector Legislation Amendment Act (No. 1) 2000</i>	160, 2000	21 Dec 2000	Schedule 1 (item 21): Royal Assent Remainder: 18 Jan 2001	—

Act Notes

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- (a) Part IV (ss.12-18) was repealed by Schedule 3 (item 10) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 2000* before a date was fixed for its commencement.
- (b) The *Financial Corporations Act 1974* was amended by subsection 152(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:
- (4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.
- The date fixed in pursuance of subsection 2(4) was 20 July 1984 (see *Gazette* 1984, No. S276).
- (c) The *Financial Corporations Act 1974* was amended by Schedule 2 (item 4) only of the *Crimes and Other Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (d) The *Financial Corporations Act 1974* was amended by the *Financial Laws Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- Schedule 3 (items 15-20) of the *Financial Laws Amendment Act 1997* provided for the amendment of the *Financial Corporations Act 1974*. Schedule 3 (items 15-20) were repealed by the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 2000* before a date was fixed for their commencement.
- (da) The *Financial Laws Amendment Act 1997* was amended by Schedule 5 (item 3) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 2000*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (e) The *Financial Corporations Act 1974* was amended by Schedule 7 (items 1-19) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act 1998*, subsection 2(2)(e) of which provides as follows:
- (2) The following provisions of this Act commence on the commencement of the *Australian Prudential Regulation Authority Act 1998*:
- (e) Schedule 7;
- (f) The *Financial Corporations Act 1974* was amended by Schedule 7 (items 35-44) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*, subsections 3(2)(e), (10)(a) and (16) of which provide as follows:
- (2) The following provisions commence on the transfer date:
- (e) subject to subsection (12), Schedule 7, other than items 43, 44, 118, 205 and 207 (the commencement of those items is covered by subsections (10), (11) and (13)).
- (10) Items 43 and 44 of Schedule 7 commence on the later of:
- (a) the day fixed for the commencement of the section amended by those items, immediately after the commencement of that section; and
- (16) The Governor-General may, by Proclamation published in the *Gazette*, specify the date that is to be the transfer date for the purposes of this Act.
- Items 43 and 44 of Schedule 7 amended section 15 of the *Financial Corporations Act 1974*. Section 15 was repealed by Schedule 3 (item 10) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 2000* before a date was fixed for its commencement.
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- (g) The *Financial Corporations Act 1974* was amended by Schedule 3 only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 2000*, subsections 2(1), (12) and (13) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (12) Part 1 of Schedule 12 commences:
 - (a) after all of the Acts listed in subsection (13) have received the Royal Assent; and
 - (b) on the day that is the last day on which any of those Acts received the Royal Assent.
 - (13) These are the relevant Acts for the purposes of paragraph (12)(a):
 - (a) this Act;
 - (b) each of the Acts referred to in the definition of **Validation Act** in item 1 of Schedule 12 to this Act.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 3.....	rs. No. 24, 2000
S. 4.....	am. No. 107, 1997; No. 54, 1998; No. 44, 1999; No. 24, 2000
S. 5.....	am. No. 107, 1997
S. 7.....	am. No. 92, 1981; No. 107, 1997
S. 8.....	am. No. 11, 1992; No. 5, 1995; No. 54, 1998; No. 44, 1999; No. 24, 2000
S. 9.....	am. No. 107, 1997; No. 54, 1998
S. 10.....	am. No. 11, 1992; No. 107, 1997; No. 54, 1998; No. 24, 2000
S. 11.....	am. No. 107, 1997; No. 54, 1998 rs. No. 24, 2000
Ss. 12, 13.....	ad. No. 24, 2000
S. 20.....	am. No. 107, 1997
S. 21.....	rs. No. 24, 2000
S. 22.....	rs. No. 107, 1997
S. 22A.....	ad. No. 11, 1992 rs. No. 54, 1998; No. 24, 2000 am. No. 160, 2000
S. 22B.....	ad. No. 24, 2000
S. 23.....	am. No. 157, 1976
S. 25.....	am. No. 24, 2000
S. 26.....	am. No. 107, 1997; No. 24, 2000
S. 27.....	am. No. 63, 1984 rep. No. 107, 1997
S. 29.....	rep. No. 20, 1997
S. 30.....	am. No. 107, 1997 rep. No. 24, 2000

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Application, saving or transitional provisions

Financial Sector Reform (Amendments and Transitional Provisions) Act 1998
(No. 54, 1998)

Schedule 19

Part 2—Transitional provisions relating to amendments of the Financial Corporations Act 1974

20 Interpretation

In this Part:

amended Act means the *Financial Corporations Act 1974* as in force immediately after the APRA commencement.

APRA commencement means the commencement of the *Australian Prudential Regulation Authority Act 1998*.

old Act means the *Financial Corporations Act 1974* as in force immediately before the APRA commencement.

21 Treatment of exemptions and determinations under paragraph 8(2)(l)

An exemption or determination in force immediately before the APRA commencement under paragraph 8(2)(l) of the old Act continues to have effect after that commencement as if it were an exemption or determination under paragraph 8(2)(l) of the amended Act.

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22 Treatment of matters under section 10

The following provisions apply in relation to matters under section 10 of the old Act:

- (a) the list under subsection 10(1) of the old Act, being that list as is in force immediately before the APRA commencement, has effect after that commencement as if it were prepared by the Governor of the Reserve Bank under subsection 10(1) of the amended Act;
- (b) an obligation on the Treasurer to publish notice of a matter, or to notify a person of a matter, being an obligation that is undischarged as at the APRA commencement, becomes, on that commencement, an obligation that the Governor of the Reserve Bank is to discharge;
- (c) a determination in force under a provision of section 10 of the old Act immediately before the APRA commencement continues to have effect, after that commencement as if it were a determination under that provision of section 10 of the amended Act;
- (d) a request under subsection 10(7) of the old Act that has not been dealt with by the APRA commencement is, after that commencement, to be dealt with as if it were a request under subsection 10(7) of the amended Act.

23 Treatment of exemptions under subsection 11(14)

An exemption in force immediately before the APRA commencement under subsection 11(14) of the old Act continues to have effect after that commencement as if it were an exemption under subsection 11(14) of the amended Act.

Part 7—Regulations dealing with transitional matters

46 Regulations may deal with other transitional matters

The regulations may deal with other transitional matters relating to the amendments and repeals made by the Schedules to this Act, or relating to the establishment of the Australian Prudential Regulation Authority.

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47 Power to make regulations

The Governor-General may make regulations, not inconsistent with this Schedule, prescribing matters required or permitted by this Schedule to be prescribed.

Financial Sector Reform (Amendments and Transitional Provisions) Act (No 1) 1999 (No. 44, 1999)

Schedule 8

22 Regulations may deal with transitional, saving or application matters

- (1) The regulations may deal with matters of a transitional, saving or application nature relating to:
 - (a) the transition from the application of provisions of the replaced legislation to the application of provisions of the *Banking Act 1959*, the *Life Insurance Act 1995*, the *Financial Sector (Transfers of Business) Act 1999*, the *Financial Sector (Shareholdings) Act 1998* or the *Australian Prudential Regulation Authority Act 1998*; or
 - (b) the transition, for The Cairns Cooperative Weekly Penny Savings Bank Limited, from the application of provisions of the *Financial Intermediaries Act 1996* of Queensland to the application of provisions of any of the Acts referred to in paragraph (a); or
 - (c) the amendments and repeals made by the Schedules to this Act.
- (2) Without limiting subitem (1), the regulations may provide for a matter to be dealt with, wholly or partly, in any of the following ways:
 - (a) by applying (with or without modifications) to the matter:
 - (i) provisions of a law of the Commonwealth, or of a State or Territory; or
 - (ii) provisions of a repealed or amended law of the Commonwealth, or of a State or Territory, in the form that those provisions took before the repeal or amendment; or

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- (iii) a combination of provisions referred to in subparagraphs (i) and (ii);
 - (b) by otherwise specifying rules for dealing with the matter;
 - (c) by specifying a particular consequence of the matter, or of an outcome of the matter, for the purposes of a law of the Commonwealth.
 - (3) Without limiting subitems (1) and (2), the regulations may provide for the continued effect, for the purposes of a provision of a law of the Commonwealth, of a thing done or instrument made, or a class of things done or instruments made, before the transfer date under or for the purposes of a provision of a law of a State or Territory. In the case of an instrument or class of instruments, the regulations may provide for the instrument or instruments to continue to have effect subject to modifications.
 - (4) Without limiting subitem (3), regulations providing for the continued effect of things done or instruments made may permit all or any of the following matters to be determined in writing by a specified person, or by a person included in a specified class of persons:
 - (a) the identification of a thing done or instrument made, or a class of things done or instruments made, that is to continue to have effect;
 - (b) the purpose for which a thing done or instrument made, or a class of things done or instruments made, is to continue to have effect;
 - (c) any modifications subject to which an instrument made, or a class of instruments made, is to continue to have effect.
 - (5) Despite subsection 48(2) of the *Acts Interpretation Act 1901*, regulations for the purposes of this item:
 - (a) may be expressed to take effect from a date before the regulations are notified in the *Gazette*; and
 - (b) may provide for a determination of a kind referred to in subitem (4) to take effect from a date before the determination is made (including a date before the regulations are notified in the *Gazette*).
 - (6) In this item, a reference to a **law**, whether of the Commonwealth or of a State or Territory, includes a reference to an instrument made under such a law.
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(7) In this item:

replaced legislation means:

- (a) the AFIC Codes; and
- (b) the Financial Institutions Codes; and
- (c) the Friendly Societies Codes; and
- (d) the *Australian Financial Institutions Commission Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 21 of the *Australian Financial Institutions Commission Act 1992* of Queensland; and
- (e) the *Financial Institutions (Queensland) Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 30 of the *Financial Institutions (Queensland) Act 1992* of Queensland; and
- (f) the **Friendly Societies (Victoria) Act 1996** of Victoria, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in the Schedule to the **Friendly Societies (Victoria) Act 1996** of Victoria; and
- (g) the *Friendly Societies (Western Australia) Act 1999*; and
- (h) any other law of a State or Territory prescribed by the regulations for the purposes of this definition.

23 Power to make regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed.

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*Financial Sector Reform (Amendments and Transitional Provisions) Act
(No. 1) 2000 (No. 24, 2000)*

Schedule 12

**Part 1—Transitional provisions for validation of
determinations relating to financial sector
supervisory levies**

1 Definitions

In this Part:

Collection Act means the *Financial Institutions Supervisory Levies Collection Act 1998*.

deferred payment day means the day that is 6 weeks after the day on which this Part commences.

Imposition Act means any of the following Acts:

- (a) the *Authorised Non-operating Holding Companies Supervisory Levy Imposition Act 1998*;
- (b) the *General Insurance Supervisory Levy Imposition Act 1998*;
- (c) the *Life Insurance Supervisory Levy Imposition Act 1998*;
- (d) the *Retirement Savings Account Providers Supervisory Levy Imposition Act 1998*;
- (e) the *Superannuation Supervisory Levy Imposition Act 1998*.

levy paying entity has the same meaning as in the Collection Act.

Validation Act means any of the following Acts:

- (a) the *Authorised Non-operating Holding Companies Supervisory Levy Determination Validation Act 2000*;
- (b) the *General Insurance Supervisory Levy Determination Validation Act 2000*;
- (c) the *Life Insurance Supervisory Levy Determination Validation Act 2000*;
- (d) the *Retirement Savings Account Providers Supervisory Levy Determination Validation Act 2000*;
- (e) the *Superannuation Supervisory Levy Determination Validation Act 2000*.

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2 Deferral of date for paying levy

- (1) This item applies to a levy paying entity if, because of section 4 of a Validation Act:
- (a) the entity is liable to pay levy imposed by an Imposition Act; and
 - (b) the levy payable by the entity would, apart from this item, have been due and payable under section 9 of the Collection Act before the deferred payment day.
- (2) The levy payable by the entity is taken to be due and payable on the deferred payment day, despite section 9 of the Collection Act.

Note: This provision affects the calculation of late payment penalty (if any) under section 10 of the Collection Act.

3 No retrospective criminal liability

Nothing in this Part or the Validation Acts is taken to make a person criminally liable in respect of acts or omissions of the person before the day on which this Part commences, if the person would not have been so liable had this Part and the Validation Acts not been enacted.

Part 2—Transitional provisions relating to amendments of the Financial Corporations Act 1974

4 Definitions

In this Part:

amended Act means the *Financial Corporations Act 1974* as in force immediately after the commencement of Schedule 3 to this Act.

old Act means the *Financial Corporations Act 1974* as in force immediately before the commencement of Schedule 3 to this Act.

registered corporation has the same meaning as in the amended Act.

Reserve Bank means the Reserve Bank of Australia.

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5 Treatment of exemptions and determinations under paragraph 8(2)(l)

An exemption or determination in force immediately before the commencement of Schedule 3 to this Act under paragraph 8(2)(l) of the old Act continues in force after that commencement as if it were an exemption or determination under paragraph 8(2)(l) of the amended Act.

6 Treatment of matters under section 10

The following provisions apply in relation to matters under section 10 of the old Act:

- (a) the list under subsection 10(1) of the old Act, being that list as in force immediately before the commencement of Schedule 3 to this Act, has effect after that commencement as if it were prepared by the Reserve Bank under subsection 10(1) of the amended Act;
- (b) an obligation on the Governor of the Reserve Bank to publish notice of a matter, being an obligation that is undischarged as at the commencement of Schedule 3 to this Act, becomes, on that commencement, an obligation that the Reserve Bank is to discharge;
- (c) a determination in force under a provision of section 10 of the old Act immediately before the commencement of Schedule 3 to this Act continues to have effect, after that commencement, as if it were a determination under that provision of section 10 of the amended Act;
- (d) a request under subsection 10(7) of the old Act that has not been dealt with by the commencement of Schedule 3 to this Act is, after that commencement, to be dealt with as if it were a request under subsection 10(7) of the amended Act.

7 Standards taken to have been determined on commencement

- (1) Immediately after the commencement of Schedule 3 to this Act, the Reserve Bank is taken to have determined standards under section 11 of the amended Act that require classes of registered corporations:

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- (a) to provide to the Reserve Bank the same information that those classes of corporations were required to provide under section 11 of the old Act; and
 - (b) to provide that information in the same way in which those classes of corporations were required to provide that information under section 11 of the old Act.
- (2) The standards come into force on that commencement.
- (3) Subsection 11(6) of the amended Act does not apply in respect of the determination of the standards.