



Financial Sector (Transfer and Restructure) Act 1999

No. 45, 1999

Compilation No. 21

Compilation date: 14 October 2024

Includes amendments: Act No. 38, 2024

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Financial Sector (Transfer and Restructure) Act 1999* that shows the text of the law as amended and in force on 14 October 2024 (the *compilation date*).

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

Uncommenced amendments

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

Application, saving and transitional provisions for provisions and amendments

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

Editorial changes

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

Modifications

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

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title.....	1
2 Commencement	1
3 Additional operation of Act.....	1
4 Definitions	1
4A Related body corporate	7
4B Relevant group of bodies corporate	7
5 Act binds the Crown	7
6 External Territories	7
7 Application of <i>Criminal Code</i>	7
7A Application of sections 8 and 8A of the APRA Act.....	7
Part 2—Overview of Act	9
8 Overview of Act.....	9
Part 3—Voluntary transfers	11
Division 1—Outline of Part	11
9 Outline of Part.....	11
Division 2—Approval of voluntary transfers	12
10 Application for approval of voluntary transfer	12
11 Approval of applications.....	12
12 Consultation about approving the application	13
13 Adequate adoption	14
14 Complementary State or Territory legislation	15
15 Minister’s power to decide that his or her consent is not required.....	16
16 Approval may impose conditions	16
17 Notice of decision	17
Division 3—Process by which voluntary transfers take effect	18
18 Certificate of transfer	18
19 Partial transfer—statement of detail to be provided	19
20 Agreements about matters connected with the transfer	19
21 Notice of decision	19
22 Time and effect of voluntary transfer	20
23 Employment unaffected.....	22

Part 4—Compulsory transfers	23
Division 1—Outline of Part	23
24 Outline of Part.....	23
Division 2—Compulsory transfer determinations	25
25 Compulsory transfer of business determinations.....	25
25AA Compulsory transfer of shares determinations	33
25A Ministerial declaration that compulsory transfer should occur in relation to ADI.....	35
26 Consultation about making the determination	35
27 When consent of receiving body is in force	36
28 Complementary State or Territory legislation	37
29 Minister’s power to decide that his or her consent is not required	38
30 Agreements about matters connected with the transfer	38
31 Determination may impose conditions	39
32 Notice of determination	40
Division 3—Process by which compulsory transfers take effect	41
33 Certificate of transfer	41
34 Notice of certificate	42
35 Time and effect of compulsory transfer—transfer of business.....	42
35A Time and effect of compulsory transfer—transfer of shares	45
36 Employment unaffected.....	46
Division 4—Effect of compulsory transfer on contracts	47
36AA Compulsory transfer not ground for denial of obligations	47
36AB Partial transfer of netting contracts void.....	48
Division 5—Special provisions relating to compulsory transfers of shares	50
36AC Application of Division	50
36AD Extended meaning of <i>share</i>	50
36AE Regulations may make special provision in relation to compulsory transfer of shares	50
Part 4A—Restructures	52
Division 1—Outline of Part	52
36A Outline of Part.....	52
Division 2—Restructure approvals	54
36B Restructure approvals—application.....	54

36C	Restructure approvals—issued by Minister	55
36D	Restructure approvals—consultation	56
36E	Restructure approvals—conditions	56
36F	Restructure approvals—notice of decision	57
Division 3—Restructure instruments		58
36G	What is a <i>restructure instrument</i> ?	58
36H	Restructure instruments—coming into force	59
36J	Restructure instruments—legal effect	59
36K	Restructure instruments—amendment	59
Division 4—Internal transfer certificates		61
36L	What is an internal transfer certificate?	61
36M	Internal transfer certificates—issue	61
36N	Internal transfer certificates—notice of decision	62
36P	Internal transfer certificates—amendment	63
36Q	Internal transfer certificates—coming into force	64
36R	Internal transfer certificates—legal effect	66
Division 5—Engagements of employees and contractors		67
36S	Employment and contracts for services unaffected	67
Part 5—Evidentiary certificates		68
37	Certificates evidencing operation of Act etc	68
38	Certificates in relation to land and interests in land	68
39	Certificates in relation to other assets	69
40	Documents purporting to be certificates	69
Part 6—Miscellaneous		70
41	Information gathering powers	70
42	Compulsory transfer—APRA may provide information to receiving body	71
43	Relationship of Act with other laws etc	72
43A	Transfers of Australian regulated business of foreign body	74
44	Compensation for acquisition of property	74
45	Review of decisions	75
46	Transfer rules	76
47	Regulations	76

Endnotes	77
Endnote 1—About the endnotes	77
Endnote 2—Abbreviation key	79
Endnote 3—Legislation history	80
Endnote 4—Amendment history	83

An Act to provide for transfers of business between some kinds of financial institutions, to provide for transfers of shares and other interests in some kinds of financial institutions, and to make provision in relation to internal restructures within some groups of financial institutions

Part 1—Preliminary

1 Short title

This Act may be cited as the *Financial Sector (Transfer and Restructure) Act 1999*.

2 Commencement

This Act commences on the date that is the transfer date for the purposes of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*.

3 Additional operation of Act

Without prejudice to its effect apart from this section, this Act also has the effect it would have if each reference to a body corporate were, by express provision, confined to a body corporate that is a corporation to which paragraph 51(xx) of the Constitution applies.

4 Definitions

- (1) In this Act, the following words and expressions have the meanings set out below:

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

approved netting arrangement has the same meaning as in the *Payment Systems and Netting Act 1998*.

approved section 20 statement means a statement given to APRA under subsection 20(1) in relation to which an approval under subsection 20(2) is in force.

approved section 30 statement means a statement given to APRA under subsection 30(1) in relation to which an approval under subsection 30(2) is in force.

APRA means the Australian Prudential Regulation Authority.

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

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

asset means property, or a right, of any kind, and includes:

- (a) any legal or equitable estate or interest (whether present or future, vested or contingent, tangible or intangible, in real or personal property) of any kind; and
- (b) any chose in action; and
- (c) any right, interest or claim of any kind including rights, interests or claims in or in relation to property (whether arising under an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing); and
- (d) any CGT asset within the meaning of the *Income Tax Assessment Act 1997*.

Australian business assets and liabilities, of a body corporate that is a foreign ADI, a foreign general insurer or an eligible foreign life insurance company, means the following:

- (a) the assets and liabilities of the body corporate in Australia;
- (b) any other rights and liabilities of the body corporate that:
 - (i) are related to its operations in Australia; and

- (ii) if regulations are made for the purposes of this subparagraph—are of a kind specified in those regulations.

authorised APRA officer, when used in a particular provision of this Act, means a person authorised under subsection (2) to perform or exercise the functions or powers of an authorised APRA officer under that provision.

business in relation to a body, includes the assets and liabilities of the body.

certificate of transfer:

- (a) in relation to a voluntary transfer of business—means a certificate issued under section 18; and
- (b) in relation to a compulsory transfer of business—means a certificate issued under section 33; and
- (c) in relation to a compulsory transfer of shares—means a certificate issued under section 33.

close-out netting contract has the same meaning as in the *Payment Systems and Netting Act 1998*.

compulsory transfer determination means:

- (a) a compulsory transfer of business determination; or
- (b) a compulsory transfer of shares determination.

compulsory transfer of business determination means a determination under section 25.

compulsory transfer of shares determination means a determination under section 25AA.

eligible foreign life insurance company has the same meaning as in the *Life Insurance Act 1995*.

established—a body is established in a State or Territory if:

- (a) it is registered under the *Corporations Act 2001* and is taken, under section 119A or subsection 1378(4) of that Act, to be registered in that State or Territory; or

(b) it is established by or under a law of that State or Territory.

foreign ADI has the same meaning as in the *Banking Act 1959*.

foreign general insurer has the same meaning as in the *Insurance Act 1973*.

general insurer has the meaning given by the *Insurance Act 1973*.

holding company, of a body corporate, means another body corporate of which the first body corporate is a subsidiary.

instrument includes a document and an oral agreement.

interest, in relation to land, includes:

- (a) a legal or equitable estate or interest in the land; or
- (b) a right, power or privilege over, or in relation to, the land.

internal transfer certificate has the meaning given by section 36L.

liability includes a duty or obligation of any kind (whether arising under an instrument or otherwise, and whether actual, contingent or prospective).

life insurance company means a body corporate that is registered under section 21 of the *Life Insurance Act 1995*.

market netting contract has the same meaning as in the *Payment Systems and Netting Act 1998*.

NOHC is short for non-operating holding company.

non-operating holding company, of a body corporate, has the same meaning as in the *Banking Act 1959*.

operating body has the meaning given by section 36B.

partial transfer means a transfer of business described in subsection 8(2).

receiving body means:

- (a) in relation to a transfer of business under Part 3 or 4—a body corporate to which another body corporate is to transfer, or has transferred, business under that Part; or
- (aa) in relation to a transfer of shares under Part 4—a body corporate to which shares in another body corporate are to be transferred, or have been transferred under that Part; or
- (b) in relation to an internal transfer certificate (see section 36L)—a body corporate to which another body corporate is to transfer, or has transferred, assets or liabilities under the certificate.

regulated body means a body corporate that is:

- (a) an ADI; or
- (b) a life insurance company; or
- (c) a general insurer.

regulated business in relation to a regulated body, means:

- (a) for a body that is an ADI—the body’s banking business (within the meaning of the *Banking Act 1959*); or
- (b) for a body that is a life insurance company—the body’s life insurance business (within the meaning of the *Life Insurance Act 1995*); or
- (c) for a body that is a general insurer—the body’s insurance business (within the meaning of the *Insurance Act 1973*).

related body corporate, in relation to a body corporate, means a body corporate that is related to the first-mentioned body, as determined in accordance with section 4A.

relevant group of bodies corporate has the meaning given by section 4B.

restructure approval has the meaning given by section 36B.

restructure arrangement has the meaning given by section 36B.

restructure instrument has the meaning given by section 36G.

statement of detail, in relation to a partial transfer, means a statement that satisfies the requirements of section 19.

subsidiary, of a body corporate, means a body corporate that is a subsidiary of the first body by virtue of Division 6 of Part 1.2 of the *Corporations Act 2001*.

total transfer means a transfer of business described in subsection 8(3).

transferred asset, in relation to a receiving body, means an asset that has become, under this Act, an asset of the receiving body.

transferred liability, in relation to a receiving body, means a liability that has become, under this Act, a liability of the receiving body.

transferring body means:

- (a) in relation to a transfer of business under Part 3 or 4—a body corporate that is to transfer, or that has transferred, business under that Part; or
- (aa) in relation to a transfer of shares under Part 4—a body corporate, shares in which are to be transferred, or have been transferred, to another body corporate under that Part; or
- (b) in relation to an internal transfer certificate (see section 36L)—a body corporate that is to transfer, or that has transferred, assets or liabilities under the certificate.

transfer rules means rules in force under section 46.

voluntary transfer approval means an instrument of approval under section 11.

- (2) APRA may, in writing, authorise a person who is an APRA member, or an APRA staff member, to perform or exercise the functions or powers of an authorised APRA officer under a particular provision of this Act.

4A Related body corporate

For the purposes of this Act, the question whether a body corporate is related to another body corporate is to be determined in the same way as that question is determined for the purposes of the *Corporations Act 2001*.

4B Relevant group of bodies corporate

For the purposes of this Act, each of the following constitutes a *relevant group of bodies corporate*:

- (a) a regulated body and its subsidiaries;
- (b) an authorised NOHC (within the meaning of the *Banking Act 1959*) and its subsidiaries;
- (c) an authorised NOHC (within the meaning of the *Insurance Act 1973*) and its subsidiaries;
- (d) a registered NOHC (within the meaning of the *Life Insurance Act 1995*) and its subsidiaries.

5 Act binds the Crown

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

6 External Territories

This Act extends to every external Territory.

7 Application of *Criminal Code*

The *Criminal Code* applies to all offences against this Act.

7A Application of sections 8 and 8A of the APRA Act

To avoid doubt, sections 8 and 8A of the *Australian Prudential Regulation Authority Act 1998* (which deal with APRA's

Part 1 Preliminary

Section 7A

objectives and trans-Tasman cooperation respectively) apply to the performance of functions and the exercise of powers by APRA under this Act.

Part 2—Overview of Act

8 Overview of Act

- (1) This Act provides for 2 kinds of transfers of business of regulated bodies or bodies corporate related to regulated bodies:
 - (a) **voluntary transfers** (these are transfers of business under Part 3); and
 - (b) **compulsory transfers** (these are transfers of business under Part 4).

Either kind of transfer of business may be a partial transfer or a total transfer.

- (1A) This Act also provides for **compulsory transfers** of shares in regulated bodies.
- (2) A transfer of business of a regulated body, or of a body corporate related to a regulated body, is a **partial transfer** if it relates to some, but not all, of the transferring body's business (including any business that is not regulated business).
- (3) A transfer of business of a regulated body, or of a body corporate related to a regulated body, is a **total transfer** if it relates to all of the transferring body's business (including any business that is not regulated business).
- (4) For a voluntary transfer of business to take effect, APRA must:
 - (a) receive an application for the transfer from the regulated bodies concerned (the **transferring body** and the **receiving body**); and
 - (b) approve the application in writing (the **voluntary transfer approval**); and
 - (c) issue a certificate (the **certificate of transfer**) stating that the transfer is to take effect.

The transfer of business takes effect when the certificate of transfer comes into force.

Section 8

Note: The regulated bodies making the application cannot be general insurers (see section 10).

- (5) For a compulsory transfer of business to take effect, APRA must:
- (a) make a determination (the ***compulsory transfer of business determination***) that there is to be a transfer of business between the bodies concerned (the ***transferring body*** and the ***receiving body***); and
 - (b) issue a certificate (the ***certificate of transfer***) stating that the transfer is to take effect.

The transfer of business takes effect when the certificate of transfer comes into force.

- (5A) For a compulsory transfer of shares to take effect, APRA must:
- (a) make a determination (the ***compulsory transfer of shares determination***) that there is to be a transfer of shares in a body (the ***transferring body***) to another body (the ***receiving body***); and
 - (b) issue a certificate (the ***certificate of transfer***) stating that the transfer is to take effect.

The transfer of shares takes effect when the certificate of transfer comes into force.

- (6) Business of regulated bodies may also be transferred otherwise than under this Act, for example in accordance with section 63 of the *Banking Act 1959* or Part 9 of the *Life Insurance Act 1995*.
- (7) Part 4A deals with proposals by ADI, general insurer or life insurance company groups to restructure the group (under Part 5.1 of the *Corporations Act 2001*).

Note: For an overview of Part 4A, see section 36A.

Part 3—Voluntary transfers

Division 1—Outline of Part

9 Outline of Part

- (1) For a voluntary transfer of business to take effect, APRA must:
 - (a) receive an application for the transfer from the regulated bodies concerned (the *transferring body* and the *receiving body*) (see section 10); and
 - (b) approve the application in writing (the *voluntary transfer approval*) (see section 11); and
 - (c) issue a certificate (the *certificate of transfer*) stating that the transfer is to take effect (see section 18).

Note: The regulated bodies making the application cannot be general insurers (see section 10).

- (2) APRA must make the voluntary transfer approval if specified criteria are met (see section 11).
- (3) The voluntary transfer approval may impose conditions to be complied with by the transferring body or the receiving body either before or after the certificate of transfer is issued (see section 16).
- (4) APRA may only issue the certificate of transfer if specified criteria are met. The certificate must specify when it comes into force (see section 18).
- (5) The transfer of business takes effect when the certificate of transfer comes into force (see section 22).

Division 2—Approval of voluntary transfers

10 Application for approval of voluntary transfer

- (1) 2 regulated bodies of the same kind may apply in writing to APRA for approval of a transfer of business from one of the bodies to the other body. The transfer cannot relate only to business of the transferring body that is not regulated business.
- (2) The application must be in the form prescribed by the transfer rules and must contain or be accompanied by the information required by the transfer rules.

Note: APRA may impose a charge in respect of the application—see section 51 of the *Australian Prudential Regulation Authority Act 1998*.

- (3) For the purposes of this section, 2 regulated bodies are of the same kind if:
 - (a) they are both ADIs; or
 - (b) they are both life insurance companies.

11 Approval of applications

- (1) Subject to subsection (2), APRA must, in writing (the ***voluntary transfer approval***), approve a transfer of business if:
 - (a) APRA considers that application for approval of the transfer has been made in accordance with section 10; and
 - (b) APRA considers that the transfer has been adequately adopted (see section 13) by:
 - (i) the transferring body; and
 - (ii) the receiving body; and
 - (c) APRA considers that the transfer should be approved, having regard to:
 - (i) the interests of the depositors or policy owners of the transferring body when viewed as a group; and

- (ii) the interests of the depositors or policy owners of the receiving body when viewed as a group; and
 - (iii) the interests of the financial sector as a whole; and
 - (iv) any other matters that APRA considers relevant; and
- (d) where:
- (i) the transferring body is established in a State or Territory; and
 - (ii) the receiving body is established in a State or Territory; APRA has considered whether legislation to facilitate the transfer that satisfies the requirements of section 14 has been enacted in the State or Territory in which the transferring body is established and the State or Territory in which the receiving body is established; and
- (e) either:
- (i) the Minister has consented to the transfer; or
 - (ii) the Minister's consent to the transfer is not required (see section 15).
- (1A) To avoid doubt, APRA may make a voluntary transfer approval under this section even if the legislation mentioned in paragraph (1)(d) has not been enacted as mentioned in that paragraph.
- (2) APRA must not approve the transfer of business if it considers that the transfer should not be approved, having regard to provisions of another Act:
- (a) that are prescribed for the purposes of subsection 43(4); or
 - (b) referred to in subsection 43(5), (6), (7) or (8).
- (3) The voluntary transfer approval must be signed by an authorised APRA officer.

12 Consultation about approving the application

- (1) In deciding whether to approve the transfer of business, APRA may consult with any or all of the following:
- (a) officers or employees of the States and Territories;

Part 3 Voluntary transfers

Division 2 Approval of voluntary transfers

Section 13

- (b) the Reserve Bank of Australia;
 - (c) any other person or body that APRA considers should be consulted.
- (2) Subject to subsections (3) and (4), in deciding whether to approve the transfer of business, APRA must consult with:
- (a) the Australian Competition and Consumer Commission; and
 - (b) the Australian Securities and Investments Commission; and
 - (c) the Commissioner of Taxation.
- (3) APRA does not have to consult with the Australian Competition and Consumer Commission in relation to the transfer of business if the Commission has notified APRA, in writing, that it does not wish to be consulted about:
- (a) the transfer; or
 - (b) a class of transfers that includes the transfer.
- (4) APRA does not have to consult with the Australian Securities and Investments Commission in relation to the transfer of business if the Commission has notified APRA, in writing, that it does not wish to be consulted about:
- (a) the transfer; or
 - (b) a class of transfers that includes the transfer.
- (5) APRA does not have to consult with the Commissioner of Taxation in relation to the transfer of business if the Commissioner has notified APRA, in writing, that he or she does not wish to be consulted about:
- (a) the transfer; or
 - (b) a class of transfers that includes the transfer.

13 Adequate adoption

For the purposes of paragraph 11(1)(b), the transfer of business has been *adequately adopted* by a body if:

- (a) the transfer has been adopted by or on behalf of the body, or by or on behalf of the members or a class of the members of the body, in a way prescribed by the transfer rules; and

- (b) APRA considers that adoption of the transfer in that way adequately takes into account the interests of members of the body.

14 Complementary State or Territory legislation

- (1) State or Territory legislation referred to in paragraph 11(1)(d) must include provision to ensure that, when a certificate of transfer comes into force under Division 3, the receiving body is taken to be the successor in law to the transferring body, to the extent of the transfer. In particular, the legislation must provide that:
 - (a) assets of the transferring body vest in the receiving body, to the extent of the transfer; and
 - (b) liabilities of the transferring body become liabilities of the receiving body, to the extent of the transfer; and
 - (c) the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body, to the extent of the transfer; and
 - (d) if there is an approved section 20 statement in relation to the transfer that specifies:
 - (i) that particular things are to happen or are taken to be the case—those things are taken to happen, or to be the case, in accordance with the statement; or
 - (ii) a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with that mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism.
- (2) To avoid doubt, this section is enacted only for the purposes of paragraph 11(1)(d).

Note: Under that paragraph, in order to make a voluntary transfer approval under section 11 where both the transferring body and the receiving body are established in a State or Territory, APRA needs to consider whether legislation satisfying the requirements of this section has been enacted. However, APRA is not prevented from making such a voluntary transfer approval if such legislation has not been enacted (see subsection 11(1A)).

15 Minister's power to decide that his or her consent is not required

The Minister's consent to the transfer of business (see paragraph 11(1)(e)) is not required if the Minister has, in writing, determined that his or her consent is not required in relation to:

- (a) the transfer; or
- (b) a class of transfers that includes the transfer.

16 Approval may impose conditions

- (1) The voluntary transfer approval may impose conditions of either or both of the following kinds:
 - (a) conditions to be complied with by the transferring body or the receiving body before a certificate of transfer is issued in relation to the transfer of business;
 - (b) conditions to be complied with by the transferring body or the receiving body after a certificate of transfer has been issued or has come into force in relation to the transfer of business.

Note 1: Failure to comply with a condition referred to in paragraph (a) will mean that a certificate of transfer cannot be issued (see subsection 18(1)).

Note 2: Failure to comply with a condition referred to in paragraph (b) will not prevent the issue of a certificate of transfer, but will be an offence under subsection (4).

- (2) The transferring body or the receiving body may apply in writing to APRA to have a condition that applies to it varied or revoked.
- (3) APRA may, by notice in writing given to the body that made the application, approve the variation or revocation if it is satisfied that the variation or revocation is appropriate. A variation or revocation that is approved by APRA has effect accordingly.
- (4) The transferring body or the receiving body commits an offence if:
 - (a) a condition of a kind referred to in paragraph (1)(b) applies to that body; and
 - (b) that body fails to comply with the condition.

Penalty for contravention of this subsection: 200 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: If a body corporate is convicted of an offence against this subsection, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine of up to 5 times the penalty stated above.

17 Notice of decision

- (1) If APRA approves the transfer of business, APRA must give a copy of the voluntary transfer approval to the transferring body and the receiving body.
- (2) If APRA refuses to approve the transfer of business, APRA must give written notice of the refusal to the transferring body and the receiving body. The notice must include a statement of the reasons why the approval was refused.

Division 3—Process by which voluntary transfers take effect

18 Certificate of transfer

- (1) If APRA:
 - (a) has made a voluntary transfer approval; and
 - (b) considers that all conditions of a kind referred to in paragraph 16(1)(a) that are imposed by the approval have been complied with; and
 - (c) if the transfer is a partial transfer—has been given a statement of detail in relation to the partial transfer (see section 19); and
 - (d) is not aware of any reason why the transfer should not go ahead;

APRA must, in writing, issue a certificate (a *certificate of transfer*) stating that the transfer is to take effect.

- (2) The certificate must:
 - (a) include the names of the transferring body and the receiving body; and
 - (b) state whether the transfer is a total transfer or a partial transfer; and
 - (c) if it is a partial transfer—include, or have attached to it:
 - (i) the statement of detail (see section 19); and
 - (ii) any approved section 20 statement; and
 - (d) subject to subsection (3), state when the certificate is to come into force (either by specifying a date as the date it comes into force, or by specifying that the date it comes into force is a date worked out in accordance with provisions of the certificate); and
 - (e) be signed by an authorised APRA officer.

- (3) APRA must, in deciding when the certificate is to come into force, take into account the wishes of the transferring body and the receiving body.
- (4) The certificate comes into force in accordance with the statement included in the certificate as required by paragraph (2)(d).

19 Partial transfer—statement of detail to be provided

If the transfer is a partial transfer, before APRA issues a certificate of transfer in relation to the transfer, APRA must be provided with a written statement:

- (a) that lists, in detail, the assets and liabilities of the transferring body that are to be transferred to the receiving body; and
- (b) that APRA is satisfied has been agreed to by the transferring body and the receiving body.

20 Agreements about matters connected with the transfer

- (1) The transferring body or the receiving body, or both of those bodies, may provide APRA with a written statement specifying, or specifying a mechanism for determining, things that are to happen, or that are taken to be the case, in relation to assets and liabilities that are to be transferred, or in relation to the transfer of business that is to be effected.

Note: If the transfer is a partial transfer, the statement may be included with the statement of detail under section 19.

- (2) APRA may, in writing, approve the statement before issuing the certificate of transfer if APRA is satisfied that:
 - (a) the statement has been agreed to by the transferring body and the receiving body; and
 - (b) the matters specified in the statement are appropriate.

21 Notice of decision

- (1) If APRA issues the certificate of transfer, APRA must give a copy of the certificate to the transferring body and the receiving body.

Part 3 Voluntary transfers

Division 3 Process by which voluntary transfers take effect

Section 22

- (2) If APRA refuses to issue the certificate of transfer, APRA must give written notice of the refusal to the transferring body and the receiving body. The notice must include a statement of the reasons why the certificate was not issued.

22 Time and effect of voluntary transfer

- (1) When the certificate of transfer comes into force, the receiving body becomes the successor in law of the transferring body, to the extent of the transfer. In particular:
- (a) if the transfer is a total transfer—all the assets and liabilities of the transferring body, wherever those assets and liabilities are located, become (respectively) assets and liabilities of the receiving body without any transfer, conveyance or assignment; and
 - (b) if the transfer is a partial transfer—all the assets and liabilities of the transferring body that are included in the list of assets and liabilities specified in the statement of detail, wherever those assets and liabilities are located, become (respectively) assets and liabilities of the receiving body without any transfer conveyance or assignment; and
 - (c) to the extent of the transfer, the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body.
- (2) If there is an approved section 20 statement in relation to the transfer, then:
- (a) if the statement specifies that particular things are to happen or are taken to be the case—those things are, by force of this section, taken to happen, or to be the case, in accordance with the statement; and
 - (b) if the statement specifies a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with that mechanism are, by force of this section, taken to happen, or to be the case, as determined in accordance with that mechanism.
- (3) Subject to subsection (2), if:
-

- (a) the transfer is a total transfer; and
- (b) immediately before the certificate comes into force, proceedings (including arbitration proceedings) to which the transferring body was a party were pending or existing in any court or tribunal;

the receiving body is, on and after the day when the certificate comes into force, substituted for the transferring body as a party to the proceedings and has the same rights in the proceedings as the transferring body had.

Note: An alternative way of dealing with substitution of parties (which is available for total or partial transfers) is to deal with the matter in an approved section 20 statement (see subsection (2)).

- (4) Subject to subsection (2), if:
 - (a) the transfer is a total transfer; and
 - (b) on the day when the certificate comes into force, documentary or other evidence would (disregarding the transfer) have been admissible for or against the interests of the transferring body;

that evidence is admissible, on or at any time after that day, for or against the interests of the receiving body.

Note: An alternative way of dealing with admissibility of evidence (which is available for total or partial transfers) is to deal with the matter in an approved section 20 statement (see subsection (2)).

- (5) Subject to subsection (2), if the transfer is a total transfer, on and after the day when the certificate comes into force, each translated instrument continues to have effect, according to its tenor, as if a reference in the instrument to the transferring body were a reference to the receiving body. For this purpose:

translated instrument means an instrument (including an Act or other legislative instrument) subsisting immediately before the day when the certificate comes into force:

- (a) to which the transferring body is a party; or
- (b) that was given to, by or in favour of, the transferring body; or
- (c) that refers to the transferring body; or

Part 3 Voluntary transfers

Division 3 Process by which voluntary transfers take effect

Section 23

- (d) under which money is, or may become, payable, or other property is, or may become, liable to be transferred, to or by the transferring body.

Note: An alternative way of dealing with references in instruments (which is available for total or partial transfers) is to deal with the matter in an approved section 20 statement (see subsection (2)).

- (6) Subject to subsection (2), on and after the day when the certificate comes into force, a place that, immediately before that day, was a place of business for the transferring body in relation to business that was transferred to the receiving body is taken to be a place of business for the receiving body.

Note: An alternative way of dealing with places of business is to deal with the matter in an approved section 20 statement (see subsection (2)).

23 Employment unaffected

- (1) This section applies to every person who, immediately before the day when the certificate of transfer comes into force, was performing duty in the transferring body.
- (2) The terms and conditions of employment (including any accrued entitlement to employment benefits) of each person to whom this section applies are not affected by the operation or effect of this Part or of any State or Territory legislation referred to in paragraph 11(1)(d).

Part 4—Compulsory transfers

Division 1—Outline of Part

24 Outline of Part

- (1) For a compulsory transfer of business to take effect, APRA must:
 - (a) make a determination (the *compulsory transfer of business determination*) that there is to be a transfer of business between the bodies concerned (the *transferring body* and the *receiving body*) (see section 25); and
 - (b) issue a certificate (the *certificate of transfer*) stating that the transfer is to take effect (see section 33).
- (1A) For a compulsory transfer of shares to take effect, APRA must:
 - (a) make a determination (the *compulsory transfer of shares determination*) that there is to be a transfer of shares in a body (the *transferring body*) to another body (the *receiving body*) (see section 25AA); and
 - (b) issue a certificate (the *certificate of transfer*) stating that the transfer is to take effect (see section 33).
- (1B) A compulsory transfer of business determination and a compulsory transfer of shares determination are both *compulsory transfer determinations*.
- (2) APRA may only make a compulsory transfer determination if specified criteria are met (including that APRA is satisfied that the board of directors of the receiving body has consented to the transfer) (see section 25).
- (3) A compulsory transfer determination may impose conditions to be complied with by the transferring body or the receiving body either before or after a certificate of transfer is issued (see section 31).

Part 4 Compulsory transfers

Division 1 Outline of Part

Section 24

- (4) APRA may only issue a certificate of transfer for a transfer of shares or for a transfer of business if specified criteria are met. The certificate must specify when it comes into force (see section 33).
- (5) A transfer of business takes effect when the certificate of transfer comes into force (see section 35).
- (6) A transfer of shares takes effect when the certificate of transfer comes into force (see section 35A).

Division 2—Compulsory transfer determinations

25 Compulsory transfer of business determinations

Transfer from one ADI to another

- (1) APRA may make a written determination that there is to be a total transfer or partial transfer of business from one ADI to another ADI. APRA may make the determination only if:
- (a) either the Minister has declared under section 25A that a transfer of business should occur from the transferring body to the receiving body or APRA is satisfied that:
 - (i) the transferring body has contravened a provision of the *Banking Act 1959*, any regulations or other instruments made under that Act or conditions imposed under that Act; or
 - (ii) the transferring body has informed APRA under subsection 13(3) of the *Banking Act 1959* that it considers that it is likely to become unable to meet its obligations, or that it is about to suspend payment; or
 - (iii) APRA is investigating the affairs of the transferring body, or has appointed a person to investigate the affairs of the transferring body, under subsection 13A(1) of the *Banking Act 1959*; or
 - (iv) there is a Banking Act statutory manager of the transferring body under the *Banking Act 1959*; or
 - (v) APRA has appointed a person to investigate and report on prudential matters in relation to the transferring body under subsection 61(1) of the *Banking Act 1959*; and
 - (b) APRA has considered the interests of depositors of the transferring body (when viewed as a group) and considers that, having regard to their interests, it would be appropriate for the transfer to be made; and
 - (c) APRA is satisfied that the transfer is appropriate, having regard to the interests of depositors of the receiving body when viewed as a group; and
-

Section 25

(d) the conditions in subsection (2) exist.

Transfer from an ADI to a body corporate that is not an ADI

(1A) APRA may make a written determination that there is to be a partial transfer of business from an ADI to a body corporate that is not an ADI. APRA may make the determination only if:

- (a) at least one of the following applies:
 - (i) the condition in paragraph (1)(a) is met (for the ADI as the transferring body and the body corporate that is not an ADI as the receiving body);
 - (ii) APRA has made a determination relating to the transferring body under subsection (1) for the partial transfer of some or all of its regulated business to another ADI (whether or not the transfer provided for in that determination has occurred); and
- (b) APRA has considered the interests of depositors of the transferring body (when viewed as a group) and considers that, having regard to their interests, it would be appropriate for the transfer to be made; and
- (c) the conditions in subsection (2) exist.

Transfer from a body corporate related to an ADI to another body

(1B) APRA may make a written determination that there is to be a total transfer or partial transfer of business from a body corporate that is related to an ADI and is not an ADI, general insurer or life insurance company to another body corporate (the **transferee**). APRA may make the determination only if:

- (a) APRA is making, or has made within a reasonable period:
 - (i) a determination under subsection (1) or (1A) relating to the ADI for the total transfer or partial transfer of its business to a body corporate (the **original receiving body**) (whether or not the transfer provided for in that determination has occurred); or
 - (ii) a determination under section 25AA relating to the ADI for the transfer of the shares in the ADI to a body

- corporate (also the ***original receiving body***) (whether or not the transfer provided for in that determination has occurred); and
- (b) the transferee is the original receiving body or is related to the original receiving body.

Transfer from one life insurance company to another

- (1C) APRA may make a written determination that there is to be a transfer of business from one life insurance company to another life insurance company, other than a transfer only of business of the transferring body that is not regulated business. APRA may make the determination only if:
- (a) APRA is satisfied that:
- (i) the transferring body has contravened the *Life Insurance Act 1995*, any regulations or other instruments made under that Act or conditions imposed under that Act; or
 - (ii) APRA has given the transferring body a written notice under subsection 139(1) of the *Life Insurance Act 1995* stating that APRA proposes to investigate life insurance business of the body; or
 - (iii) a judicial manager of the transferring body has recommended, under subsection 175(2) of the *Life Insurance Act 1995*, that the business or part of the business of the body be transferred to another company; or
 - (iv) there is a Life Insurance Act statutory manager of the transferring body under the *Life Insurance Act 1995*; and
- (b) APRA has considered the interests of policy owners of the transferring body (when viewed as a group) and considers that, having regard to their interests, it would be appropriate for the transfer to be made; and
- (c) APRA is satisfied that the transfer is appropriate, having regard to the interests of policy owners of the receiving body when viewed as a group; and
- (d) the conditions in subsection (2) exist.

Section 25

Transfer of unregulated business from life insurance company

- (1D) APRA may make a written determination that there is to be a transfer of only business that is not regulated business from a life insurance company to a body corporate that is not an insurance company or life insurance company if, and only if:
- (a) APRA is satisfied that:
 - (i) the transferring body has contravened the *Life Insurance Act 1995*, any regulations or other instruments made under that Act or conditions imposed under that Act; or
 - (ii) APRA has given the transferring body a written notice under subsection 139(1) of the *Life Insurance Act 1995* stating that APRA proposes to investigate life insurance business of the body; or
 - (iii) a judicial manager of the transferring body has recommended, under subsection 175(2) of the *Life Insurance Act 1995*, that the business or part of the business of the body be transferred to another company; or
 - (iiia) there is a Life Insurance Act statutory manager of the transferring body under the *Life Insurance Act 1995*; or
 - (iv) APRA has made a determination under subsection (1C) for the transfer of some or all of the transferring body's regulated business to another life insurance company (whether or not the transfer has yet happened); and
 - (b) APRA has considered the interests of policy owners of the transferring body (when viewed as a group) and considers that, having regard to those interests, it would be appropriate for the transfer to be made; and
 - (c) the conditions in subsection (2) exist.

Transfer from a body corporate related to a life insurance company to another body

- (1DA) APRA may make a written determination that there is to be a total transfer or partial transfer of business from a body corporate that is related to a life insurance company and is not an ADI, general

insurer or life insurance company to another body corporate (the **transferee**). APRA may make the determination only if:

- (a) APRA is making, or has made within a reasonable period:
 - (i) a determination under subsection (1C) or (1D) relating to the life insurance company for the total transfer or partial transfer of its business to a body corporate (the **original receiving body**) (whether or not the transfer provided for in that determination has occurred); or
 - (ii) a determination under section 25AA relating to the life insurance company for the transfer of the shares in the life insurance company to a body corporate (also the **original receiving body**) (whether or not the transfer provided for in that determination has occurred); and
- (b) the transferee is the original receiving body or is related to the original receiving body.

Transfer of business from general insurer

- (1E) APRA may make a written determination that there is to be a transfer of business from one general insurer to another general insurer, other than a transfer only of business of the transferring body that is not regulated business, if, and only if:
 - (a) APRA is satisfied that:
 - (i) the transferring body has contravened the *Insurance Act 1973*, any regulations or other instruments made under that Act or conditions imposed under that Act; or
 - (ii) APRA has served on the transferring body a written notice under subsection 52(4) of the *Insurance Act 1973* specifying matters into which an investigation under section 52 of that Act is to be made; or
 - (iii) a judicial manager of the transferring body has recommended, under section 62ZI of the *Insurance Act 1973*, that the body's business be transferred to another general insurer; or
 - (iv) there is an Insurance Act statutory manager of the transferring body under the *Insurance Act 1973*; and

Part 4 Compulsory transfers

Division 2 Compulsory transfer determinations

Section 25

- (b) APRA has considered the interests of policy owners of the transferring body (when viewed as a group) and considers that, having regard to those interests, it would be appropriate for the transfer to be made; and
- (c) APRA is satisfied that the transfer is appropriate, having regard to the interests of policy owners of the receiving body when viewed as a group; and
- (d) the conditions in subsection (2) exist.

Transfer of unregulated business from general insurer

- (1F) APRA may make a written determination that there is to be a transfer of only business that is not regulated business from a general insurer to a body corporate that is not an insurance company or life insurance company if, and only if:
 - (a) APRA is satisfied that:
 - (i) the transferring body has contravened the *Insurance Act 1973*, any regulations or other instruments made under that Act or conditions imposed under that Act; or
 - (ii) APRA has served on the transferring body a written notice under subsection 52(4) of the *Insurance Act 1973* specifying matters into which an investigation under section 52 of that Act is to be made; or
 - (iii) a judicial manager of the transferring body has recommended, under section 62Z1 of the *Insurance Act 1973*, that the body's business be transferred to another general insurer; or
 - (iiia) there is an Insurance Act statutory manager of the transferring body under the *Insurance Act 1973*; or
 - (iv) APRA has made a determination under subsection (1E) for the transfer of some or all of the transferring body's regulated business to another general insurer (whether or not the transfer has yet happened); and
 - (b) APRA has considered the interests of policy owners of the transferring body (when viewed as a group) and considers that, having regard to those interests, it would be appropriate for the transfer to be made; and

(c) the conditions in subsection (2) exist.

Transfer from a body corporate related to a general insurer to another body

(1G) APRA may make a written determination that there is to be a total transfer or partial transfer of business from a body corporate that is related to a general insurer and is not an ADI, general insurer or life insurance company to another body corporate (the **transferee**). APRA may make the determination only if:

- (a) APRA is making, or has made within a reasonable period:
 - (i) a determination under subsection (1E) or (1F) relating to the general insurer for the total transfer or partial transfer of its business to a body corporate (the **original receiving body**) (whether or not the transfer provided for in that determination has occurred); or
 - (ii) a determination under section 25AA relating to the general insurer for the transfer of the shares in the general insurer to a body corporate (also the **original receiving body**) (whether or not the transfer provided for in that determination has occurred); and
- (b) the transferee is the original receiving body or is related to the original receiving body.

Common conditions for making a determination under this section

- (2) APRA may make a determination under this section only if:
- (d) APRA is satisfied that the board of directors of the receiving body has consented to the transfer; and
 - (e) APRA is satisfied that the transfer is appropriate, having regard to:
 - (ii) the interests of the financial sector as a whole; and
 - (iii) any other matters that APRA considers relevant; and
 - (f) where:
 - (i) the transferring body is established in a State or Territory; and
 - (ii) the receiving body is established in a State or Territory;

Part 4 Compulsory transfers

Division 2 Compulsory transfer determinations

Section 25

APRA has considered whether legislation to facilitate the transfer that satisfies the requirements of section 14 has been enacted in the State or Territory in which the transferring body is established and the State or Territory in which the receiving body is established; and

- (g) either:
- (i) the Minister has consented to the transfer; or
 - (ii) the Minister's consent to the transfer is not required (see section 29).
- (2A) To avoid doubt, APRA may make a determination under this section even if the legislation mentioned in paragraph (2)(f) has not been enacted as mentioned in that paragraph.

Formal requirements for determinations under this section

- (3) A determination under this section must include particulars of the transfer, including:
- (a) the names of the transferring body and the receiving body; and
 - (b) whether it will be a total transfer or a partial transfer; and
 - (c) if it will be a partial transfer—an identification of the part of the transferring body's business that is to be transferred.
- (4) A determination under this section must include a statement of the reasons why the determination has been made.
- (5) A determination under this section must be signed by an authorised APRA officer.

Determinations under this section are not legislative instruments

- (6) A determination made under this section is not a legislative instrument.

25AA Compulsory transfer of shares determinations

Transferring body is regulated body

- (1) APRA may make a written determination that there is to be a transfer of shares in a regulated body to another body corporate. APRA may make the determination only if:
- (a) any of the following requirements are met:
 - (i) if the regulated body is an ADI—the Minister has declared under section 25A that a transfer of shares in the transferring body to the receiving body should occur;
 - (ii) if the regulated body is an ADI and subparagraph (i) does not apply—APRA is satisfied that any of the conditions in subparagraph 25(1)(a)(i), (ii), (iii), (iv) or (v) have been satisfied;
 - (iii) if the regulated body is a life insurance company—APRA is satisfied that any of the conditions in subparagraph 25(1C)(a)(i), (ii), (iii) or (iv) have been satisfied;
 - (iv) if the regulated body is a general insurer—APRA is satisfied that any of the conditions in subparagraph 25(1E)(a)(i), (ii), (iii) or (iv) have been satisfied; and
 - (b) if the transferring body is an ADI—APRA has considered the interests of depositors of the transferring body (when viewed as a group) and considers that, having regard to their interests, it would be appropriate for the transfer to be made; and
 - (c) if the transferring body is a life insurance company or general insurer—APRA has considered the interests of policy owners of the transferring body (when viewed as a group) and considers that, having regard to their interests, it would be appropriate for the transfer to be made; and
 - (d) if the receiving body is an ADI—APRA is satisfied that the transfer is appropriate, having regard to the interests of

Section 25AA

depositors of the receiving body when viewed as a group;
and

- (e) if the receiving body is a life insurance company or general insurer—APRA is satisfied that the transfer is appropriate, having regard to the interests of policy owners of the receiving body when viewed as a group; and
- (f) the conditions in subsection (3) exist.

Transferring body cannot be foreign body

- (2) APRA cannot make a determination under this section if the transferring body is any of the following:
 - (a) a foreign ADI;
 - (b) a foreign general insurer;
 - (c) an eligible foreign life insurance company.

Common conditions for making a determination under this section

- (3) APRA may make a determination under this section only if:
 - (a) APRA is satisfied that the board of directors of the receiving body has consented to the transfer; and
 - (b) APRA is satisfied that the transfer is appropriate, having regard to:
 - (i) the interests of the financial sector as a whole; and
 - (ii) any other matters that APRA considers relevant; and
 - (c) either:
 - (i) the Minister has consented to the transfer; or
 - (ii) the Minister's consent to the transfer is not required (see section 29).

Formal requirements for determinations under this section

- (4) A determination under this section must include particulars of the transfer, including the names of the transferring body and the receiving body.

- (5) A determination under this section must include a statement of the reasons why the determination has been made.
- (6) A determination under this section must be signed by an authorised APRA officer.

Determinations under this section are not legislative instruments

- (7) A determination made under this section is not a legislative instrument.

25A Ministerial declaration that compulsory transfer should occur in relation to ADI

- (1) The Minister may declare, in writing given to APRA, that:
 - (a) a transfer of business should occur from a specified ADI to another specified body corporate; or
 - (b) a transfer of shares in a specified ADI to another specified body corporate should occur; or
 - (c) either:
 - (i) a transfer of business should occur from a specified ADI to another specified body corporate; or
 - (ii) a transfer of shares in a specified ADI to another specified body corporate should occur.
- (2) A declaration made under subsection (1) is not a legislative instrument.

26 Consultation about making the determination

- (1) In deciding whether to make a compulsory transfer determination, APRA may consult with any or all of the following:
 - (a) officers or employees of the States and Territories;
 - (b) the Reserve Bank of Australia;
 - (c) any other person or body that APRA considers should be consulted.

Part 4 Compulsory transfers

Division 2 Compulsory transfer determinations

Section 27

- (2) Subject to subsections (3) and (4), in deciding whether to make a compulsory transfer determination, APRA must consult with:
 - (a) the Australian Competition and Consumer Commission; and
 - (b) the Australian Securities and Investments Commission.
- (3) APRA does not have to consult with the Australian Competition and Consumer Commission in relation to the making of a compulsory transfer determination if the Commission has notified APRA, in writing, that it does not wish to be consulted about:
 - (a) the transfer concerned; or
 - (b) a class of transfers that includes that transfer.
- (4) APRA does not have to consult with the Australian Securities and Investments Commission in relation to the making of a compulsory transfer determination if the Commission has notified APRA, in writing, that it does not wish to be consulted about:
 - (a) the transfer concerned; or
 - (b) a class of transfers that includes that transfer.

27 When consent of receiving body is in force

- (1) The consent referred to in paragraph 25(2)(d) or 25AA(3)(a) remains in force until it is withdrawn by the receiving body's board of directors with the agreement of APRA.
- (2) APRA may agree to the consent being withdrawn if APRA considers it appropriate to allow the consent to be withdrawn having regard to:
 - (a) circumstances that have arisen since the consent was given; or
 - (b) circumstances that were in existence at or before the time when the consent was given but which were not known to the receiving body's board when it gave its consent; or
 - (c) any other relevant matter.

28 Complementary State or Territory legislation

- (1) State or Territory legislation referred to in paragraph 25(2)(f), as that paragraph applies in relation to a compulsory transfer of business, must include provision to ensure that, when a certificate of transfer comes into force under Division 3, the receiving body is taken to be the successor in law to the transferring body, to the extent of the transfer. In particular, the legislation must provide that:
- (a) assets of the transferring body vest in the receiving body, to the extent of the transfer; and
 - (b) liabilities of the transferring body become liabilities of the receiving body, to the extent of the transfer; and
 - (c) the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body, to the extent of the transfer; and
 - (d) if the certificate of transfer includes provisions of a kind referred to in subsection 33(3) specifying:
 - (i) that particular things are to happen or are taken to be the case—those things are taken to happen, or to be the case, in accordance with those provisions; or
 - (ii) a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with that mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism; and
 - (e) if there is an approved section 30 statement in relation to the transfer that specifies:
 - (i) that particular things are to happen or are taken to be the case—those things are taken to happen, or to be the case, in accordance with the statement; or
 - (ii) a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with that mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism.

Section 29

- (2) To avoid doubt, this section is enacted only for the purposes of paragraph 25(2)(f).

Note: Under that paragraph, in order to make a determination under section 25 where both the transferring body and the receiving body are established in a State or Territory, APRA needs to consider whether legislation satisfying the requirements of this section has been enacted. However, APRA is not prevented from making such a determination if such legislation has not been enacted (see subsection 25(2A)).

29 Minister's power to decide that his or her consent is not required

- (1) The Minister's consent to a transfer of business (see paragraph 25(2)(g)) or a transfer of shares (see paragraph 25AA(3)(c)) is not required if the Minister has, in writing, determined that his or her consent is not required in relation to:
- (a) the transfer; or
 - (b) a class of transfers that includes the transfer.
- (2) A determination made under paragraph (1)(a) is not a legislative instrument.
- (3) A determination made under paragraph (1)(b) is a legislative instrument.

30 Agreements about matters connected with the transfer

- (1) The transferring body or the receiving body, or both of those bodies, may provide APRA with a written statement specifying, or specifying a mechanism for determining, things that are to happen, or that are taken to be the case, in relation to:
- (a) in the case of a transfer of business—assets and liabilities that are to be transferred, or in relation to the transfer of business that is to be effected; or
 - (b) in the case of a transfer of shares—shares that are to be transferred, or in relation to the transfer of shares that is to be effected.

- (2) APRA may, in writing, approve the statement before issuing the certificate of transfer if APRA is satisfied that:
- (a) the statement has been agreed to by the transferring body and the receiving body; and
 - (b) the matters specified in the statement are appropriate.

31 Determination may impose conditions

- (1) A compulsory transfer determination may impose conditions of either or both of the following kinds:
- (a) conditions to be complied with by the transferring body or the receiving body before a certificate of transfer is issued in relation to the transfer of business or transfer of shares;
 - (b) conditions to be complied with by the transferring body or the receiving body after a certificate of transfer has been issued or has come into force in relation to the transfer of business or transfer of shares.

Note: Failure to comply with a condition referred to in paragraph (a) or (b) will not prevent the issue of a certificate of transfer, but will be an offence under subsection (4).

- (2) The transferring body or the receiving body may apply in writing to APRA to have a condition of a kind referred to in paragraph (1)(b) that applies to it varied or revoked.
- (3) APRA may, by notice in writing given to the body that made the application, approve the variation or revocation if it is satisfied that the variation or revocation is appropriate. A variation or revocation that is approved by APRA has effect accordingly.
- (4) The transferring body or the receiving body commits an offence if:
- (a) a condition of a kind referred to in paragraph (1)(a) or (b) applies to that body; and
 - (b) that body fails to comply with the condition.

Penalty for contravention of this subsection: 200 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part 4 Compulsory transfers

Division 2 Compulsory transfer determinations

Section 32

Note 2: If a body corporate is convicted of an offence against this subsection, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine of up to 5 times the penalty stated above.

32 Notice of determination

APRA must give a copy of a compulsory transfer determination to the transferring body and the receiving body.

Division 3—Process by which compulsory transfers take effect

33 Certificate of transfer

- (1) If:
- (a) APRA has made a compulsory transfer determination; and
 - (b) APRA considers that the transfer should go ahead; and
 - (c) the consent referred to in paragraph 25(2)(d) or 25AA(3)(a) is still in force (see section 27);
- APRA must, in writing, issue a certificate (a *certificate of transfer*) stating that the transfer is to take effect.
- (2) The certificate must:
- (a) include the names of the transferring body and the receiving body; and
 - (b) in the case of a transfer of business—state whether the transfer is a total transfer or a partial transfer; and
 - (c) in the case of a transfer of business that is a partial transfer—include, or have attached to it:
 - (i) a list of the assets and liabilities of the transferring body that are being transferred to the receiving body; and
 - (ii) any approved section 30 statement; and
 - (d) state when the certificate is to come into force (either by specifying a date as the date it comes into force, or by specifying that the date it comes into force is a date worked out in accordance with provisions of the certificate); and
 - (e) be signed by an authorised APRA officer.
- (3) The certificate may include provisions specifying, or specifying a mechanism for determining, other things that are to happen, or that are taken to be the case:
- (a) in the case of a transfer of business—in relation to assets and liabilities that are to be transferred, or in relation to the

Part 4 Compulsory transfers

Division 3 Process by which compulsory transfers take effect

Section 34

transfer of business that is to be effected, whether the transfer is total or partial; or

- (b) in the case of a transfer of shares—in relation to shares that are to be transferred, or in relation to the transfer of shares that is to be effected.
- (4) The certificate comes into force in accordance with the statement included in the certificate as required by paragraph (2)(d).

34 Notice of certificate

APRA must give a copy of the certificate of transfer to the transferring body and the receiving body.

35 Time and effect of compulsory transfer—transfer of business

- (1A) This section applies if a compulsory transfer of business determination has been made.
- (1) When the certificate of transfer comes into force, the receiving body becomes the successor in law of the transferring body, to the extent of the transfer. In particular:
- (a) if the transfer is a total transfer—all the assets and liabilities of the transferring body, wherever those assets and liabilities are located, become (respectively) assets and liabilities of the receiving body without any transfer, conveyance or assignment; and
 - (b) if the transfer is a partial transfer—all the assets and liabilities of the transferring body that are included in the list referred to in paragraph 33(2)(c), wherever those assets and liabilities are located, become (respectively) assets and liabilities of the receiving body without any transfer conveyance or assignment; and
 - (c) to the extent of the transfer, the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body.

- (2) If the certificate includes provisions of a kind referred to in subsection 33(3):
- (a) if the provisions specify that particular things are to happen or are taken to be the case—those things are, by force of this section, taken to happen, or to be the case, in accordance with those provisions; and
 - (b) if the provisions specify a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with that mechanism are, by force of this section, taken to happen, or to be the case, as determined in accordance with that mechanism.
- (3) If there is an approved section 30 statement in relation to the transfer, then:
- (a) if the statement specifies that particular things are to happen or are taken to be the case—those things are, by force of this section, taken to happen, or to be the case, in accordance with the statement; and
 - (b) if the statement specifies a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with that mechanism are, by force of this section, taken to happen, or to be the case, as determined in accordance with that mechanism.
- (4) Subject to subsections (2) and (3), if:
- (a) the transfer is a total transfer; and
 - (b) immediately before the certificate comes into force, proceedings (including arbitration proceedings) to which the transferring body was a party were pending or existing in any court or tribunal;

the receiving body is, on and after the day when the certificate comes into force, substituted for the transferring body as a party to the proceedings and has the same rights in the proceedings as the transferring body had.

Note: Alternative ways of dealing with substitution of parties (which are available for total or partial transfers) are:

- (a) to deal with the matter in the certificate of transfer (see subsection (2)); or

Part 4 Compulsory transfers

Division 3 Process by which compulsory transfers take effect

Section 35

(b) to deal with the matter in an approved section 30 statement (see subsection (3)).

(5) Subject to subsections (2) and (3), if:

(a) the transfer is a total transfer; and

(b) on the day when the certificate comes into force, documentary or other evidence would (disregarding the transfer) have been admissible for or against the interests of the transferring body;

that evidence is admissible, on or at any time after that day, for or against the interests of the receiving body.

Note: Alternative ways of dealing with admissibility of evidence (which are available for total or partial transfers) are:

(a) to deal with the matter in the certificate of transfer (see subsection (2)); or

(b) to deal with the matter in an approved section 30 statement (see subsection (3)).

(6) Subject to subsections (2) and (3), if the transfer is a total transfer, on and after the day when the certificate comes into force, each translated instrument continues to have effect, according to its tenor, as if a reference in the instrument to the transferring body were a reference to the receiving body. For this purpose:

translated instrument means an instrument (including a legislative instrument other than this Act) subsisting immediately before the day when the certificate comes into force:

(a) to which the transferring body is a party; or

(b) that was given to, by or in favour of, the transferring body; or

(c) that refers to the transferring body; or

(d) under which money is, or may become, payable, or other property is, or may become, liable to be transferred, to or by the transferring body.

Note: Alternative ways of dealing with references in instruments (which are available for total or partial transfers) are:

(a) to deal with the matter in the certificate of transfer (see subsection (2)); or

(b) to deal with the matter in an approved section 30 statement (see subsection (3)).

- (7) Subject to subsections (2) and (3), on and after the day when the certificate comes into force, a place that, immediately before that day, was a place of business for the transferring body in relation to business that was transferred to the receiving body is taken to be a place of business for the receiving body.

Note: Alternative ways of dealing with places of business are:

- (a) to deal with the matter in the certificate of transfer (see subsection (2)); or
- (b) to deal with the matter in an approved section 30 statement (see subsection (3)).

35A Time and effect of compulsory transfer—transfer of shares

- (1) This section applies if a compulsory transfer of shares determination has been made.
- (2) When the certificate of transfer comes into force, all the shares in the transferring body, wherever those shares are located, become shares held by the receiving body without any transfer, conveyance or assignment.
- (3) Furthermore, those shares become shares held by the receiving body free from any trust, liability or other encumbrance.
- (4) If the certificate includes provisions of a kind referred to in subsection 33(3):
 - (a) if the provisions specify that particular things are to happen or are taken to be the case—those things are, by force of this section, taken to happen, or to be the case, in accordance with those provisions; and
 - (b) if the provisions specify a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with that mechanism are, by force of this section, taken to happen, or to be the case, as determined in accordance with that mechanism.
- (5) If there is an approved section 30 statement in relation to the transfer, then:

Part 4 Compulsory transfers

Division 3 Process by which compulsory transfers take effect

Section 36

- (a) if the statement specifies that particular things are to happen or are taken to be the case—those things are, by force of this section, taken to happen, or to be the case, in accordance with the statement; and
- (b) if the statement specifies a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with that mechanism are, by force of this section, taken to happen, or to be the case, as determined in accordance with that mechanism.

36 Employment unaffected

- (1A) This section applies if a compulsory transfer of business determination has been made.
 - (1) This section applies to every person who, immediately before the day when the certificate of transfer comes into force, was performing duty in the transferring body.
 - (2) The terms and conditions of employment (including any accrued entitlement to employment benefits) of each person to whom this section applies are not affected by the operation or effect of this Part or of any State or Territory legislation referred to in paragraph 25(2)(f).

Division 4—Effect of compulsory transfer on contracts

36AA Compulsory transfer not ground for denial of obligations

- (1) This section applies if a body corporate covered by subsection (2) is or was party to a contract, whether the proper law of the contract is:
 - (a) Australian law (including the law of a State or Territory); or
 - (b) law of a foreign country (including the law of part of a foreign country).
- (2) This subsection covers the following:
 - (a) a body corporate that is, or is proposed to become, a transferring body;
 - (b) a body corporate that is a member of a relevant group of bodies corporate, if another member of that group is, or is proposed to become, a transferring body.
- (3) None of the matters mentioned in subsection (4) allows the contract, or a party to the contract (other than the body corporate), to do any of the following:
 - (a) deny any obligations under the contract;
 - (b) accelerate any debt under the contract;
 - (c) close out any transaction relating to the contract;
 - (d) enforce any security under the contract.
- (4) The matters are as follows:
 - (a) an act being done for the purposes of Division 2 or 3, or a certificate of transfer coming into force under Division 3, in connection with the body corporate;
 - (b) if the body corporate is a member of a relevant group of bodies corporate—an act being done for the purposes of Division 2 or 3, or a certificate of transfer coming into force under Division 3, in connection with another member of the group.

36AB Partial transfer of netting contracts void

- (1) This section applies if:
- (a) a certificate of transfer comes into force in respect of a partial transfer; and
 - (b) just before the partial transfer, the transferring body is a party to:
 - (i) a close-out netting contract; or
 - (ii) a security given over financial property, in respect of an obligation of the transferring body under a close-out netting contract; or
 - (iii) a market netting contract; or
 - (iv) a security given over property, in respect of an obligation of the transferring body under a market netting contract; or
 - (v) an approved netting arrangement; and
 - (c) the partial transfer covers some (but not all) of the following assets and liabilities:
 - (i) the assets and liabilities the body has, under the close-out netting contract, market netting contract or approved netting arrangement, with respect to another party to the contract or arrangement (the *counterparty*);
 - (ii) those assets that are property over which security is given in respect of an obligation of the transferring body under the close-out netting contract or the market netting contract.

Note: The *Payment Systems and Netting Act 1998* affects what the assets and liabilities of a party to a close-out netting contract, market netting contract or approved netting arrangement are taken to include.

- (2) The partial transfer is void:
- (a) to the extent of the assets or liabilities the transferring body has, just before the partial transfer, under the close-out netting contract, market netting contract or approved netting arrangement, with respect to the counterparty; and
 - (b) if security is given over financial property in respect of an obligation of the transferring body under a close-out netting

contract—to the extent that the assets are financial property in the possession or control of one of the following persons just before the partial transfer:

- (i) the counterparty;
- (ii) another person (who is not the transferring body) on behalf of the counterparty, under the terms of an arrangement evidenced in writing; and
- (c) if security is given over property in respect of an obligation of the transferring body under a market netting contract—to the extent that the assets are that property.

Division 5—Special provisions relating to compulsory transfers of shares

36AC Application of Division

This Division applies in relation to a compulsory transfer of shares under this Part, or a proposed compulsory transfer of shares under this Part.

36AD Extended meaning of *share*

Treat all of the following things as being a share:

- (a) a legal or equitable right or interest in a share;
- (b) an interest in a share that is an interest of a kind specified in the regulations.

36AE Regulations may make special provision in relation to compulsory transfer of shares

- (1) The regulations may provide in relation to any of the following matters:
 - (a) the payment to a holder of shares in the transferring body of a purchase price for those shares;
 - (b) the resolution of disputes involving a holder of shares in the transferring body (including the resolution of such disputes by the Federal Court);
 - (c) the publication of information relating to the compulsory transfer of shares, or proposed compulsory transfer of shares, by APRA, the transferring body and the receiving body;
 - (d) the freeing of shares in the transferring body from any trust, liability or other encumbrance when they become shares held by the receiving body;
 - (e) any matter incidental to:
 - (i) the compulsory transfer of shares, or proposed compulsory transfer of shares; or

- (ii) any of the other matters mentioned in this subsection.
- (2) The regulations may prescribe penalties, not exceeding 50 penalty units, for offences against the regulations.
- (3) This section does not limit the regulations that may be made for the purposes of this Act.

Part 4A—Restructures

Division 1—Outline of Part

36A Outline of Part

- (1) This Part deals with proposals by an ADI, general insurer or life insurer (the **operating body**) for a restructure arrangement (under Part 5.1 of the *Corporations Act 2001*) that would:
 - (a) make the operating body a subsidiary of a non-operating holding company (**NOHC**); or
 - (b) would facilitate compliance by the operating body (or a related body corporate of the operating body) with a requirement under certain directions or prudential standards.
- (2) The operating body may apply (under section 36B) to the Minister for a restructure approval, including a restructure instrument (see section 36G).
- (3) A restructure instrument gives relief to the operating body and related bodies corporate (and some other persons) from certain requirements of the *Corporations Act 2001*, as specified in the instrument (see section 36G).
- (4) The Minister must issue the restructure approval if specified criteria are met (see section 36C). The approval may be issued subject to conditions (see section 36E).
- (5) After the Minister issues the restructure approval, APRA may issue internal transfer certificates for the purpose of giving effect to the restructure arrangement.
- (6) An internal transfer certificate enables the transfer of assets or liabilities (or both) between 2 bodies corporate (the **transferring body** and the **receiving body**) that are part of the company group (see section 36L).

- (7) The restructure instrument comes into force when the court order providing for the restructure comes into force, if any applicable conditions of the restructure approval have been satisfied (see sections 36E and 36H).
- (8) Any transfer provided for by an internal transfer certificate comes into force as specified in the certificate (see section 36Q).

Division 2—Restructure approvals

36B Restructure approvals—application

- (1) This section applies if:
- (a) any of the following bodies (the *operating body*) proposes to enter into an arrangement (a *restructure arrangement*) to be approved by an order of the Court under subsection 411(4) of the *Corporations Act 2001*:
 - (i) an ADI;
 - (ii) a life insurance company;
 - (iii) a general insurer; and
 - (b) the arrangement would:
 - (i) result in the operating body becoming a subsidiary of a NOHC; or
 - (ii) facilitate compliance by the operating body (or a related body corporate of the operating body) with a requirement covered by subsection (1A).
- (1A) This subsection covers a requirement under any of the following:
- (a) a direction under any of the following:
 - (i) section 11CA of the *Banking Act 1959*;
 - (ii) section 104 of the *Insurance Act 1973*;
 - (iii) section 230B of the *Life Insurance Act 1995*;
 - (iv) section 64 of the *Financial Accountability Regime Act 2023*;
 - (b) a prudential standard mentioned in the definition of *prudential requirements* in subsection 36C(4).
- (2) The operating body may apply in writing to the Minister for an approval (the *restructure approval*):
- (a) that includes a restructure instrument (see section 36G); and
 - (b) that authorises APRA to issue one or more internal transfer certificates under section 36M.

- (3) The application must be in the form prescribed by the transfer rules, and must contain or be accompanied by the information required by the transfer rules.
- (4) The operating body must give a copy of the application to APRA.

36C Restructure approvals—issued by Minister

- (1) The Minister must, in writing, issue a restructure approval if the Minister is satisfied that:
 - (a) application for the approval has been made by an operating body in accordance with section 36B; and
 - (b) the restructure arrangement would improve the operating body's ability to meet its prudential requirements; and
 - (c) the approval should be issued, having regard to:
 - (i) the interests of the depositors or policy owners of the operating body; and
 - (ii) the interests of the financial sector as a whole; and
 - (iii) any other matters considered relevant.
- (2) The approval must include the following:
 - (a) a statement describing the restructure arrangement;
 - (b) the restructure instrument;
 - (c) any conditions imposed under section 36E.
- (3) The approval authorises APRA to issue one or more internal transfer certificates under section 36M.
- (4) In this section:

prudential requirements, in relation to an operating body, means requirements applying to the body under the following prudential standards determined by APRA:

- (a) if the body is an ADI—standards in force under section 11AF of the *Banking Act 1959*;
- (b) if the body is a life insurance company—standards in force under section 230A of the *Life Insurance Act 1995*;

- (c) if the body is a general insurer—standards in force under section 32 of the *Insurance Act 1973*.

36D Restructure approvals—consultation

In deciding whether to issue a restructure approval, the Minister may consult with any or all of the following:

- (a) APRA;
- (b) the Australian Securities and Investments Commission;
- (c) any other person or body the Minister considers should be consulted.

36E Restructure approvals—conditions

Imposition of conditions

- (1) A restructure approval may impose conditions of any of the following kinds, to be satisfied by the operating body or any related body corporate, or any body corporate that is to be a related body corporate pursuant to the arrangement:
 - (a) conditions to be satisfied before the restructure instrument comes into force (see section 36H);
 - (b) conditions to be satisfied before any transfer pursuant to an internal transfer certificate comes into force in respect of any particular asset or liability (see section 36Q).

Amendment or revocation of conditions

- (2) The operating body may apply in writing to the Minister to have a condition that applies to it (or any other body corporate) amended or revoked.
- (3) The Minister may, by notice in writing given to the operating body, approve the amendment or revocation if it is satisfied that the amendment or revocation is appropriate, having regard to the matters mentioned in paragraphs 36C(1)(b) and (c).

- (4) An amendment or revocation that is approved by the Minister has effect in accordance with the notice under subsection (3).

36F Restructure approvals—notice of decision

- (1) If the Minister issues a restructure approval, the Minister must give a copy of the approval to the operating body and to APRA.
- (2) If the Minister refuses to issue a restructure approval, the Minister must give written notice of the refusal to the operating body and to APRA. The notice must include a statement of the reasons why the approval was refused.

Division 3—Restructure instruments

36G What is a *restructure instrument*?

- (1) A *restructure instrument* included in a restructure approval is an instrument in relation to an operating body that gives relief (as mentioned in subsection (2)) to:
 - (a) if the restructure approval relates to a restructure arrangement covered by subparagraph 36B(1)(b)(i)—any or all of the following, as specified in the instrument:
 - (i) the NOHC that is the subject of the restructure approval;
 - (ii) any body corporate related to that NOHC;
 - (iii) if the instrument specifies a requirement in Division 1 of Part 2J.1 of the *Corporations Act 2001*—any other person involved in complying with the requirement; or
 - (b) if the restructure approval relates to a restructure arrangement covered by subparagraph 36B(1)(b)(ii)—any or all of the following, as specified in the instrument:
 - (i) the operating body;
 - (ii) any body corporate related to the operating body;
 - (iii) if the instrument specifies a requirement in Division 1 of Part 2J.1 of the *Corporations Act 2001*—any other person involved in complying with the requirement.
- (2) The Minister may specify in the instrument:
 - (a) that the bodies and persons specified in the instrument are given relief from specified requirements of Division 1 of Part 2J.1, or Part 2J.2, of the *Corporations Act 2001*, in accordance with the instrument; and
 - (b) the extent (if any) to which the bodies specified in the instrument are given relief from the requirement in section 254T of that Act.

Note 1: Division 1 of Part 2J.1 of the *Corporations Act 2001* deals with restrictions in share capital. Part 2J.2 of that Act deals with self-acquisition and control of shares.

Note 2: Section 254T of that Act provides that dividends may only be paid if:

- (a) the company's assets are sufficiently in excess of its liabilities immediately before the dividend is declared; and
- (b) the payment of the dividend is fair and reasonable to the company's shareholders as a whole and does not materially prejudice the company's ability to pay its creditors.

Note 3: For the legal effect of the instrument, see section 36J.

- (3) A restructure instrument is not a legislative instrument.

36H Restructure instruments—coming into force

- (1) A restructure instrument comes into force only if:
 - (a) a court makes an order under subsection 411(4) of the *Corporations Act 2001* approving the restructure arrangement; and
 - (b) the arrangement (as ordered) is in accordance with the restructure approval; and
 - (c) any conditions mentioned in paragraph 36E(1)(a) to which the restructure approval is subject have been satisfied by the time the court order comes into force.
- (2) A restructure instrument comes into force at the time the court order mentioned in subsection (1) comes into force.

36J Restructure instruments—legal effect

A restructure instrument gives relief, in accordance with the instrument, from the requirements of the *Corporations Act 2001* specified in the instrument.

Note: Section 36G specifies the requirements of the *Corporations Act 2001* that may be covered by the instrument.

36K Restructure instruments—amendment

- (1) This section applies if a restructure instrument in relation to an operating body has come into force.

Part 4A Restructures

Division 3 Restructure instruments

Section 36K

- (2) The Minister may, by notice in writing to the operating body, amend the restructure instrument, if the Minister is satisfied that the amendment is necessary or desirable to take into account changes in the requirements of the *Corporations Act 2001* mentioned in the instrument.
- (3) The notice must include:
 - (a) a copy of the amended instrument; and
 - (b) a statement of the reasons why it is made; and
 - (c) a statement of when the amendment is to come into force.
- (4) The Minister must give a copy of the notice to APRA.
- (5) The amendment comes into force at the time stated in the notice.
- (6) Subsection 33(3) of the *Acts Interpretation Act 1901* does not apply in relation to any amendment or variation of the restructure instrument.

Division 4—Internal transfer certificates

36L What is an internal transfer certificate?

An *internal transfer certificate* is a certificate, issued by APRA under section 36M for the purpose of giving effect to a restructure arrangement described in a restructure approval, giving effect to:

- (a) if the restructure arrangement is covered by subparagraph 36B(1)(b)(i)—the transfer of specified assets and liabilities between any 2 of the following bodies (including a transfer between any 2 subsidiaries of the NOHC that is the subject of the restructure arrangement):
 - (i) the NOHC;
 - (ii) the operating body;
 - (iii) any other subsidiary of the NOHC; or
- (b) if the restructure approval relates to a restructure arrangement covered by subparagraph 36B(1)(b)(ii)—the transfer of specified assets and liabilities between any 2 of the following bodies (including a transfer between any 2 related bodies corporate of the operating body):
 - (i) the operating body;
 - (ii) a related body corporate of the operating body.

Note: The assets or liabilities may be specified by reference to a class or classes of assets or liabilities—see subsection 33(3A) of the *Acts Interpretation Act 1901*.

36M Internal transfer certificates—issue

- (1) This section applies if the Minister issues a restructure approval.
- (2) APRA may, in writing, issue an internal transfer certificate if it is satisfied that the transfer is, and the terms of the transfer are, appropriate for the purpose of giving effect to the restructure arrangement (as described in the approval), having regard to:
 - (a) the application for the restructure approval; and
 - (b) any additional information given by the operating body; and

Section 36N

- (c) the matters mentioned in paragraphs 36C(1)(b) and (c) (restructure approvals—issue).
- (3) The certificate must:
 - (a) include the names of the transferring body and the receiving body; and
 - (b) include a statement of all the assets and liabilities of the transferring body that are to be transferred to the receiving body; and
 - (c) if the certificate is to come into force (in any respect) after the restructure instrument comes into force (see section 36H)—state a time or a method for working out when it comes into force in respect of each asset and liability to be transferred; and
 - (d) be signed by an authorised APRA officer.
- (4) APRA must, in deciding when the certificate is to come into force in respect of each asset and liability to be transferred, take into account the wishes of the transferring body and the receiving body.

Note 1: For when the certificate comes into force, see section 36Q.

Note 2: APRA may impose a charge in respect of the issue of the certificate—see section 51 of the *Australian Prudential Regulation Authority Act 1998*.

36N Internal transfer certificates—notice of decision

- (1) If APRA issues an internal transfer certificate, it must give a copy of the certificate to each of the following:
 - (a) the transferring body;
 - (b) the receiving body;
 - (c) the operating body (unless the operating body is the transferring body or the receiving body);
 - (d) the Minister.
- (2) If APRA refuses to issue an internal transfer certificate applied for in the application for restructure approval, or decides to issue an internal transfer certificate in terms that are different from those

applied for, it must give written notice to each person mentioned in subsection (1). The notice must include a statement of the reasons for the refusal, or for the decision.

36P Internal transfer certificates—amendment

- (1) This section applies if:
 - (a) the Minister has issued a restructure approval to an operating body; and
 - (b) APRA has issued an internal transfer certificate for the purpose of giving effect to the restructure arrangement; and
 - (b) the restructure instrument issued with the approval has not yet come into force (see section 36H).

Application for amendment of certificate

- (2) The operating body may apply in writing to APRA for an amendment of the certificate.
- (3) An application may be made only for the following amendments:
 - (a) to change the nature (or amount) of the assets and liabilities to be transferred;
 - (b) to change the identity of the receiving body;
 - (c) to change the identity of the transferring body.
- (4) The application must be in the form prescribed by the transfer rules, and must contain or be accompanied by the information required by the transfer rules.

Note: APRA may impose a charge in respect of the application—see section 51 of the *Australian Prudential Regulation Authority Act 1998*.

Decision to amend certificate

- (5) APRA may, in writing, amend the certificate if it is satisfied that:
 - (a) the application has been made in accordance with subsections (2), (3) and (4); and

Part 4A Restructures

Division 4 Internal transfer certificates

Section 36Q

- (b) the amendment is appropriate for the purpose of giving effect to the restructure arrangement, having regard to the matters mentioned in paragraphs 36C(1)(b) and (c) (restructure approvals—issue).

Notice of decision

- (6) If APRA amends a certificate under this section, it must give a copy of the amended certificate to each of the following:
 - (a) the transferring body;
 - (b) the receiving body;
 - (c) if the amendment changes the identity of the receiving body—the former receiving body;
 - (d) if the amendment changes the identity of the transferring body—the former transferring body;
 - (e) the operating body (unless the operating body is a body mentioned above);
 - (f) the Minister.
- (7) If APRA refuses to amend a certificate, it must give written notice of the refusal to each person mentioned in subsection (6). The notice must include a statement of the reasons why the amendment was refused.

If certificate previously amended

- (8) For the purposes of this section, a reference to a certificate includes a reference to the certificate as amended under a previous application of this section.

36Q Internal transfer certificates—coming into force

Time for coming into force

- (1) An internal transfer certificate issued in accordance with a restructure approval comes into force, in respect of each asset and liability to be transferred:

- (a) at the time (the *restructure time*) the restructure instrument included in the approval comes into force (see section 36H);
or
- (b) if the certificate states that it is to come into force (in any respect) after the restructure time—at the earlier of the following times:
 - (i) the time stated in (or worked out under) the certificate for the asset or liability; or
 - (ii) the time that is 12 months after the restructure time; or
- (c) at a time approved under this section.

Satisfaction of restructure approval conditions

- (2) However, an internal transfer certificate comes into force, in respect of any particular asset or liability to be transferred, only if any conditions mentioned in paragraph 36E(1)(b) to which the restructure approval is subject have been satisfied in relation to the transfer of that asset or liability before the time mentioned in subsection (1) in relation to that asset or liability.

Approval of a later time

- (3) On a written application by the transferring body and the receiving body, APRA may, in writing, approve a time later than the time worked out under subsection (1) for the internal transfer certificate to come into force in respect of any specified asset or liability, if APRA considers the variation appropriate.
- (4) APRA cannot approve a time under subsection (3) for the internal transfer certificate to come into force (in any respect) that is later than the time that is 12 months after the restructure time.
- (5) APRA must give a copy of the approval under subsection (3) to each of the following:
 - (a) the transferring body;
 - (b) the receiving body;
 - (c) the operating body (unless the operating body is the transferring body or the receiving body);

- (d) the Minister.
- (6) If APRA refuses an application under subsection (3), it must give written notice to each person mentioned in subsection (5). The notice must include a statement of the reasons why the application was refused.

36R Internal transfer certificates—legal effect

- (1) When an internal transfer certificate comes into force in respect of a particular asset or liability, the receiving body becomes the successor in law of the transferring body, to the extent of the transfer.
- (2) In particular:
 - (a) the asset or liability, wherever it is located, becomes an asset or liability (as applicable) of the receiving body without any transfer, conveyance or assignment; and
 - (b) to the extent of the transfer, the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body.

Division 5—Engagements of employees and contractors

36S Employment and contracts for services unaffected

- (1) This section applies to an individual who, immediately before the time when a restructure instrument comes into force in relation to an operating body, was:
 - (a) employed by a body corporate (the *original body*) that is the operating body or any related body corporate; or
 - (b) engaged under a contract for services by a body corporate (the *original body*) that is the operating body or any related body corporate.
- (2) If the individual was employed, the terms and conditions of employment (including any accrued entitlement to employment benefits) are not affected by the operation or effect of this Part.
- (3) If the individual was engaged under a contract for services, the terms and conditions of the contract (including any accrued entitlement to benefits under the contract) are not affected by the operation or effect of this Part.

Transfer of employment or contracts for services permitted

- (4) Despite subsections (2) and (3), this section is not taken to prevent an arrangement under which the individual would become employed, or engaged under a contract for services, by a body corporate that is related to the original body.

Part 5—Evidentiary certificates

37 Certificates evidencing operation of Act etc.

- (1) An authorised APRA officer may, by signed writing, make a certificate certifying any matter in relation to the operation or effect of this Act and, in particular, may certify that:
 - (a) a specified matter or thing relevant to a receiving body is an aspect of the operation or effect of this Act; or
 - (b) a specified thing was done for a purpose connected with, or arising out of, the operation or effect of this Act in relation to that receiving body; or
 - (c) in the case of a transfer of business—a specified asset of the transferring body has become a transferred asset of that receiving body; or
 - (d) in the case of a transfer of business—a specified liability of the transferring body has become a transferred liability of the receiving body; or
 - (e) in the case of a transfer of shares—a specified share in the transferring body has become a share held by that receiving body.
- (2) For all purposes and in all proceedings, a certificate under subsection (1) is conclusive evidence of the matters certified, except to the extent that the contrary is established.

38 Certificates in relation to land and interests in land

If:

- (a) a receiving body becomes, under this Act, the owner of land, or of an interest in land, that is situated in a State or Territory; and
- (b) there is lodged with the Registrar of Titles or other appropriate officer of the State or Territory in which the land is situated a certificate that:

- (i) is signed by an authorised APRA officer; and
 - (ii) identifies the land or interest; and
 - (iii) states that the receiving body has, under this Act, become the owner of that land or interest;
- the officer with whom the certificate is lodged may:
- (c) register the matter in the same manner as dealings in land or interests in land of that kind are registered; and
 - (d) deal with, and give effect to, the certificate.

39 Certificates in relation to other assets

- (1) If:
- (a) an asset (other than land or an interest in land) becomes, under this Act, an asset of a receiving body; and
 - (b) there is lodged with the person or authority who has, under a law of the Commonwealth, a State or a Territory, responsibility for keeping a register in respect of assets of that kind a certificate that:
 - (i) is signed by an authorised APRA officer; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has, under this Act, become an asset of the receiving body;
- that person or authority may:
- (c) register the matter in the same manner as transactions in relation to assets of that kind are registered; and
 - (d) deal with, and give effect to, the certificate.
- (2) This section does not affect the operations of the *Corporations Act 2001*.

40 Documents purporting to be certificates

A document purporting to be a certificate given under this Part is, unless the contrary is established, taken to be such a certificate and to have been properly given.

Part 6—Miscellaneous

41 Information gathering powers

- (1) For the purposes of deciding whether or how to perform or exercise functions or powers under this Act in relation to things mentioned in subsection (1A), each of the following provisions:
- (a) section 62 of the *Banking Act 1959*;
 - (b) any other provision of that Act, or of another Act, prescribed by the regulations;
- has effect as if this Act were part of the Act that contains the provision.

- (1A) For the purposes of subsection (1), the things mentioned in this subsection are as follows:
- (a) a transfer of business, or a proposed or possible transfer of business, from or to an ADI;
 - (b) a transfer of shares, or a proposed or possible transfer of transfer of shares in an ADI;
 - (c) the restructure, or the possible restructure, of an ADI and one or more related bodies corporate.

- (2) For the purposes of deciding whether or how to perform or exercise functions or powers under this Act in relation to things mentioned in subsection (3), each of the following provisions:
- (a) section 131, 132 or 133 of the *Life Insurance Act 1995*;
 - (b) any other provision of that Act, or of another Act, prescribed by the regulations;
- has effect as if this Act were part of the Act that contains the provision.

- (3) For the purposes of subsection (2), the things mentioned in this subsection are as follows:
- (a) a transfer of business, or a proposed or possible transfer of business, from or to a life insurance company;

- (b) a transfer of shares, or a proposed or possible transfer of transfer of shares in a life insurance company;
 - (c) the restructure, or the possible restructure, of a life insurance company and one or more related bodies corporate.
- (4) For the purposes of deciding whether or how to perform or exercise functions or powers under this Act in relation to things mentioned in subsection (5), each of the following provisions:
- (a) section 115 of the *Insurance Act 1973*;
 - (b) any other provision of that Act, or of another Act, prescribed by the regulations;
- has effect as if this Act were part of the Act that contains the provision.
- (5) For the purposes of subsection (4), the things mentioned in this subsection are as follows:
- (a) a transfer of business, or a proposed or possible transfer of business, from or to a general insurer;
 - (b) a transfer of shares, or a proposed or possible transfer of transfer of shares in a general insurer;
 - (c) the restructure, or the possible restructure, of a general insurer and one or more related bodies corporate.

42 Compulsory transfer—APRA may provide information to receiving body

APRA may, in connection with a compulsory transfer, or a proposed or possible compulsory transfer, provide information (including personal information or confidential commercial information) to the receiving body, or to the possible or proposed receiving body, about:

- (a) in the case of a transfer of business—the business that is to be, or that may be, transferred; or
- (b) in the case of a transfer of shares:
 - (i) the shares that are to be, or that may be, transferred; and
 - (ii) the business of the transferring body.

Section 43

Note: Subsection 56(9) of the *Australian Prudential Regulation Authority Act 1998* allows an officer of APRA who (on APRA's behalf) provides information to a body under this section to impose conditions to be complied with by the body in relation to that information.

43 Relationship of Act with other laws etc.

- (1) Subject to subsections (4), (5), (6), (7), (8), (9), (9A) and (10), this Act has effect in spite of anything in any law of the Commonwealth or of a State or Territory, or in any contract, deed, undertaking, agreement or other instrument.

Note: For the effect of a certificate of transfer, see sections 22 and 35.

- (2) Subject to subsections (4), (5), (6), (7), (8), (9), (9A) and (10), nothing done by or under this Act:
- (a) places a receiving body, a transferring body or another person in breach of contract or confidence or otherwise makes any of them guilty of a civil wrong; or
 - (b) places a receiving body, a transferring body or another person in breach of:
 - (i) any law of the Commonwealth or of a State or Territory; or
 - (ii) any contractual provision prohibiting, restricting or regulating the assignment or transfer of any asset or liability or the disclosure of any information; or
 - (c) releases any surety, wholly or partly, from all or any of the surety's obligations.
- (3) Without limiting subsection (1), but subject to subsections (4), (5), (6), (7), (8), (9), (9A) and (10), if, apart from this Act, the advice or consent of a person would be necessary in a particular respect, the advice is taken to have been obtained or the consent is taken to have been given, as the case requires.
- (4) The regulations may provide that some or all of the provisions of another Act (not being provisions referred to in subsection (5), (6), (7) or (8)) apply in relation to the transfer of business or transfer of shares that takes effect or may take effect under this Act, or in relation to a restructure that takes effect or may take effect under

this Act, with the modifications (if any) specified in the regulations. The regulations have effect accordingly. Nothing in this section limits the operation of those provisions (as they have effect subject to any modifications specified in the regulations).

- (5) Nothing in this Act limits the operation of any of the provisions of the *Privacy Act 1988*.
- (6) Subject to subsection (9A), nothing in this Act limits the operation of any of the provisions of the *Competition and Consumer Act 2010*.
- (7) Nothing in this Act limits the operation of any of the provisions of the *Fair Work Act 2009*, the *Fair Work (Registered Organisations) Act 2009*, or the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.
- (8) Nothing in this Act limits the operation of section 63 of the *Banking Act 1959*.
- (9) For the purposes of section 50 and related provisions of the *Competition and Consumer Act 2010* a transfer of business (whether voluntary or compulsory), a transfer of shares, or a transfer pursuant to an internal transfer certificate, that takes effect under this Act is taken to be:
 - (a) to the extent that the transfer is of shares in the capital of a body corporate—an acquisition of the shares by the receiving body; and
 - (b) to the extent that the transfer is of other assets—an acquisition of those assets by the receiving body.
- (9A) For the purposes of subsection 51(1) of the *Competition and Consumer Act 2010*, the following things are specified and specifically authorised:
 - (a) a transfer of business or transfer of shares under Part 4;
 - (b) anything done to enable or facilitate a transfer of business or transfer of shares under Part 4 (including an agreement referred to in section 30).

Section 43A

- (10) The provisions of this Act and the provisions:
- (a) prescribed for the purposes of subsection (4); or
 - (b) referred to in subsection (5), (6), (7) or (8);
- operate independently of each other. In particular, a decision under one of those provisions has effect only for the purpose of that provision, unless express provision is made to the contrary.

43A Transfers of Australian regulated business of foreign body

- (1) This section applies to a transfer of business under Part 3 or 4 from a transferring body to another body if the transferring body is:
- (a) a foreign ADI; or
 - (b) a foreign general insurer; or
 - (c) an eligible foreign life insurance company.
- (2) For the purposes of the transfer of business, treat the Australian business assets and liabilities of the transferring body as the entire business of the transferring body.

44 Compensation for acquisition of property

- (1) If the operation of this Act, except Parts 3 and 4A, would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (1A) If the Commonwealth and the person do not agree on the amount of the compensation under subsection (1), the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (1B) If the operation of Part 3 or 4A would result in an acquisition of property from a person otherwise than on just terms, the receiving body is liable to pay a reasonable amount of compensation to the person.

- (1C) If the receiving body and the person do not agree on the amount of the compensation under subsection (1B), the person may institute proceedings in the Federal Court of Australia for the recovery from the receiving body of such reasonable amount of compensation as the court determines.
- (2) Any damages or compensation recovered or other remedy given in a proceeding that is commenced otherwise than under this section is to be taken into account in assessing compensation payable in a proceeding that is commenced under this section and that arises out of the same event or transaction.
- (3) In this section:
- acquisition of property* and *just terms* have the same respective meanings as in paragraph 51(xxxi) of the Constitution.

45 Review of decisions

An application may be made to the Administrative Review Tribunal for the review of any of the following decisions:

- (a) a decision under section 11 to refuse to approve an application;
- (b) a decision under subsection 16(1) to impose conditions;
- (c) a decision under subsection 16(3) to refuse to vary or revoke conditions;
- (d) a decision under section 18 to refuse to issue a certificate of transfer;
- (e) a decision under subsection 20(2) to refuse to approve a statement provided under subsection 20(1);
- (f) a decision under subsection 27(2) to refuse to agree to a consent being withdrawn;
- (g) a decision under subsection 31(3) to refuse to vary or revoke conditions;
- (h) a decision under section 33 to refuse to issue a certificate of transfer;
- (i) a decision under section 36M:

Section 46

- (i) to refuse to issue an internal transfer certificate applied for in an application for a restructure approval; or
- (ii) to issue an internal transfer certificate in terms that are different from those applied for in an application for a restructure approval;
- (j) a decision under section 36P to refuse to amend an internal transfer certificate;
- (k) a decision under subsection 36Q(3) to refuse to approve a later time for an internal transfer certificate to come into force.

46 Transfer rules

APRA may, by legislative instrument, make rules prescribing all matters required or permitted by this Act to be prescribed by transfer rules.

47 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

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

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

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

Legislation history and amendment history—Endnotes 3 and 4

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

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

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

Editorial changes

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

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

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnotes

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

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

Endnote 2—Abbreviation key

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

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Financial Sector (Transfers of Business) Act 1999	45, 1999	17 June 1999	1 July 1999 (s 2)	
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	s 4–14 and Sch 3 (items 192–194): 15 July 2001 (s 2(1), (3))	s 4–14
Financial Sector Legislation Amendment Act (No. 1) 2002	37, 2002	26 June 2002	Sch 3: 27 June 2002 (s 2(1) item 2)	—
Australian Prudential Regulation Authority Amendment Act 2003	42, 2003	24 June 2003	Sch 2 (items 8–10): 1 July 2003 (s 2(1) item 2)	—
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Sch 2 (item 80) and Sch 6 (items 1, 6–11): 14 Sept 2006 (s 2(1) items 2, 4)	Sch 6 (items 1, 6–11)
Financial Sector Legislation Amendment (Trans-Tasman Banking Supervision) Act 2006	147, 2006	6 Dec 2006	Sch 1 (item 24): 6 Dec 2006 (s 2)	—
Financial Sector Legislation Amendment (Restructures) Act 2007	117, 2007	28 June 2007	Sch 1 and Sch 3 (items 2–9): 28 June 2007 (s 2)	—
Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007	154, 2007	24 Sept 2007	Sch 4 (items 35, 36): 24 Sept 2007 (s 2(1) item 7)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Act 2008	105, 2008	17 Oct 2008	Sch 5: 18 Oct 2008 (s 2(1) item 3)	Sch 5 (item 19)
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Sch 18 (item 4): 1 July 2009 (s 2(1) item 41)	—
Financial Sector Legislation Amendment (Enhancing Supervision and Enforcement) Act 2009	75, 2009	27 Aug 2009	Sch 1 (item 202): 27 Feb 2010 (s 2(1) item 2)	—
Corporations Amendment (Corporate Reporting Reform) Act 2010	66, 2010	28 June 2010	Sch 1 (item 55): 28 June 2010 (s 2(1) item 5)	—
Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Act 2010	82, 2010	29 June 2010	Sch 4 (item 4): 30 June 2010 (s 2(1) item 12) Sch 4 (items 5, 6): 27 July 2010 (s 2(1) item 13)	—
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Sch 6 (items 1, 61): 1 Jan 2011 (s 2(1) items 3, 5)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 168): 10 Mar 2016 (s 2(1) item 6)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Financial System Legislation Amendment (Resilience and Collateral Protection) Act 2016	43, 2016	4 May 2016	Sch 1 (items 40–42, 48): 1 June 2016 (s 2(1) item 2)	Sch 1 (item 48)
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 2 (item 44): 21 Oct 2016 (s 2(1) item 1)	—
Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018	10, 2018	5 Mar 2018	Sch 4: 5 Mar 2018 (s 2(1) item 2)	—
Treasury Laws Amendment (2019 Measures No. 1) Act 2019	49, 2019	5 Apr 2019	Sch 4 (items 61, 62): 6 Apr 2019 (s 2(1) item 11)	—
Financial Accountability Regime (Consequential Amendments) Act 2023	68, 2023	14 Sept 2023	Sch 1 (item 34): 15 Sept 2023 (s 2(1) item 2)	—
Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024	38, 2024	31 May 2024	Sch 1 (item 62): 14 Oct 2024 (s 2(1) item 2)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Title.....	am No 117, 2007; No 10, 2018
Part 1	
s 1.....	rs No 117, 2007 am No 10, 2018
s 4.....	am No 55, 2001; No 42, 2003; No 101, 2006; No 117, 2007; No 105, 2008; No 75, 2009; No 43, 2016; No 10, 2018
s 4A.....	ad No 10, 2018
s 4B.....	ad No 10, 2018
s 7A.....	ad No 147, 2006
Part 2	
s 8.....	am No 117, 2007; No 105, 2008; No 10, 2018
Part 3	
Division 1	
s 9.....	am No 10, 2018
Division 2	
s 11.....	am No 10, 2018; No 49, 2019
s 12.....	am No 37, 2002
s 14.....	am No 10, 2018; No 49, 2019
s 16.....	am No 4, 2016; No 61, 2016
Part 4	
Division 1	
s 24.....	am No 105, 2008; No 10, 2018
Division 2	
s 25.....	am No 105, 2008; No 82, 2010; No 10, 2018
s 25AA.....	ad No 10, 2018
s 25A.....	ad No 105, 2008 rs No 10, 2018
s 26.....	am No 10, 2018

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 27.....	am No 10, 2018
s 28.....	am No 10, 2018 ed C18
s 29.....	am No 10, 2018
s 30.....	am No 10, 2018
s 31.....	am No 4, 2016; No 61, 2016; No 10, 2018
s 32.....	am No 10, 2018
Division 3	
s 33.....	am No 10, 2018
s 35.....	am No 10, 2018
s 35A.....	ad No 10, 2018
s 36.....	am No 10, 2018 ed C18
Division 4	
Division 4	ad No 105, 2008
s 36AA	ad No 105, 2008 am No 43, 2016 rs No 10, 2018
s 36AB	ad No 43, 2016
Division 5	
Division 5	ad No 10, 2018
s 36AC	ad No 10, 2018
s 36AD.....	ad No 10, 2018
s 36AE	ad No 10, 2018
Part 4A	
Part 4A.....	ad No 117, 2007
Division 1	
s 36A.....	ad No 117, 2007 am No 10, 2018 ed C18

Endnote 4—Amendment history

Provision affected	How affected
Division 2	
s 36B	ad No 117, 2007 am No 10, 2018; No 68, 2023
s 36C	ad No 117, 2007 am No 82, 2010
s 36D	ad No 117, 2007
s 36E	ad No 117, 2007 am No 10, 2018
s 36F	ad No 117, 2007
Division 3	
s 36G	ad No 117, 2007 am No 66, 2010; No 10, 2018
s 36H	ad No 117, 2007
s 36J	ad No 117, 2007
s 36K	ad No 117, 2007
Division 4	
s 36L	ad No 117, 2007 rs No 10, 2018
s 36M	ad No 117, 2007
s 36N	ad No 117, 2007
s 36P	ad No 117, 2007
s 36Q	ad No 117, 2007
s 36R	ad No 117, 2007
Division 5	
s 36S	ad No 117, 2007
Part 5	
s 37	am No 10, 2018
s 39	am No 55, 2001
Part 6	
s 41	am No 117, 2007; No 10, 2018
s 42	am No 10, 2018

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 43.....	am No 117, 2007; No 105, 2008; No 54, 2009; No 103, 2010; No 10, 2018
s 43A.....	ad No 10, 2018
s 44.....	am No 105, 2008
s 45.....	am No 117, 2007; No 38, 2024
s 46.....	am No 154, 2007