

South Australia



FINANCIAL SECTOR REFORM (SOUTH AUSTRALIA) ACT 1999

No. 33 of 1999

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ELIZABETHAE II REGINAE

A.D. 1999

No. 33 of 1999

An Act to facilitate the transfer to the Commonwealth of responsibility for regulating building societies, credit unions and friendly societies as companies under the Corporations Law; to repeal the Financial Institutions (Application of Laws) Act 1992 and the Friendly Societies (South Australia) Act 1997; to amend the South Australian Office of Financial Supervision Act 1992 and provide for the winding up of SAOFS and the expiry of the Act; to amend the Acts Interpretation Act 1915 and certain other Acts; to provide for transitional matters; and for other purposes.

[Assented to 17 June 1999]

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Financial Sector Reform (South Australia) Act 1999*.

Commencement

2. (1) Subject to subsection (2), this Act comes into operation on assent.

(2) The following provisions will come into operation on the transfer date:

- section 3
- sections 5 and 6 (Part 2)
- sections 7 and 8 (Part 3 Division 1)
- sections 15 and 16 (Part 3 Division 5)
- section 21
- sections 23 and 24 (Part 4 Division 4)
- sections 26 to 30 (Part 5)
- sections 32 to 36 (inclusive)
- Schedule (except items 53(b), (k), (l) and (m))

Repeals

3. The following Acts are repealed:

- (a) the *Financial Institutions (Application of Laws) Act 1992*;
- (b) the *Friendly Societies (South Australia) Act 1997*.

Interpretation

4. (1) In this Act—

"AFIC" means the Australian Financial Institutions Commission established by the AFIC Act;

"AFIC Act" means the *Australian Financial Institutions Commission Act 1992* of Queensland;

"AFIC Code" means—

- (a) the AFIC (South Australia) Code; and
- (b) the AFIC (South Australia) Regulations,

as in force immediately before the transfer date;

"APRA" means the Australian Prudential Regulation Authority;

"APRA Act" means the *Australian Prudential Regulation Authority Act 1998* of the Commonwealth;

"APRA employee" means a person appointed under section 45 of the APRA Act;

"ASIC" means the Australian Securities and Investments Commission;

"Commonwealth Reform Act" means the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth;

"Credit Unions Contingency Fund" means the fund of that name established under the Financial Institutions Code;

"employee", in relation to AFIC, includes a person engaged by AFIC on a contract for services;

"enforcement power" means a function or power relating to—

- (a) the investigation of an offence; or
- (b) the institution and carrying on of a prosecution of an offence; or
- (c) matters relating to an investigation or prosecution of an offence;

"Financial Institutions Code" or "Financial Institutions (South Australia) Code" means—

- (a) the Financial Institutions (South Australia) Code; and

(b) the Financial Institutions (South Australia) Regulations,

as in force immediately before the transfer date;

"**financial institutions legislation**" has the same meaning as in section 8 of the AFIC Code;

"**fiscal bodies legislation**" has the same meaning as in section 3 of the AFIC Code;

"**Friendly Societies Code**" or "**Friendly Societies (South Australia) Code**" means—

(a) the Friendly Societies (South Australia) Code; and

(b) the Friendly Societies (South Australia) Regulations,

as in force immediately before the transfer date;

"**relevant Commonwealth body**" means APRA or ASIC;

"**SAOFS**" means the South Australian Office of Financial Supervision;

"**SSA**" means State Supervisory Authority;

"**Supervision Fund**" means the fund of that name established under the Financial Institutions Code;

"**transfer date**" means the date that, under section 3(16) of the Commonwealth Reform Act, is specified as the transfer date for the purposes of that Act.

(2) In this Act, a reference to a Commonwealth Act includes a reference to—

(a) that Commonwealth Act as amended and in force for the time being; and

(b) an Act enacted in substitution for that Act.

PART 2
CONFERRAL OF FUNCTIONS AND POWERS ON APRA AND ASIC

Conferral of functions and powers on APRA

5. (1) APRA has the functions and powers conferred or expressed to be conferred on it by or under this Act.

(2) APRA has power to do acts in South Australia in the performance or exercise of any function or power conferred or expressed to be conferred on APRA by or under a law of another jurisdiction corresponding to this Act.

Conferral of functions and powers on ASIC

6. (1) ASIC has the functions and powers conferred or expressed to be conferred on it by or under this Act.

(2) ASIC has power to do acts in South Australia in the performance or exercise of any function or power conferred or expressed to be conferred on ASIC by or under a law of another jurisdiction corresponding to this Act.

PART 3
PROVISIONS RELATING TO AFIC
DIVISION 1—AFIC TO CONTINUE

Continuation of AFIC for certain purposes

7. (1) This section applies despite—

- (a) the repeal of the AFIC Act by the *Financial Sector Reform (Queensland) Act 1999* of Queensland; and
- (b) the repeal of the *Financial Institutions (Applications of Laws) Act 1992* by this Act.

(2) AFIC and its board continue in existence, but only for the following purposes:

- (a) to give effect to matters relating to the transfer, under a law of the Commonwealth or of another State or a Territory or this Act, of any of its functions under the fiscal bodies legislation to APRA or ASIC;
- (b) to prepare reports and financial statements.

Delegation of AFIC's powers

8. (1) AFIC's board may delegate AFIC's powers to an appropriately qualified employee of AFIC.

(2) In subsection (1)—

"appropriately qualified" includes having the qualifications, experience or standing appropriate to exercise the power.

DIVISION 2—PROVISIONS ABOUT AFIC'S STAFF

Interpretation

9. In this Division—

"employee" of AFIC includes the executive director of AFIC.

Transfer of staff to APRA under transfer agreement

10. (1) The Queensland Minister administering the *Financial Sector Reform (Queensland) Act 1999* of Queensland may enter into a transfer agreement under Division 2 of Part 1 of Schedule 8 of the Commonwealth Reform Act, that determines, or provides for determining, that particular employees of AFIC become APRA employees on a particular date, not being a date before the transfer date.

(2) The transfer agreement has effect according to its terms.

Effect of transfer under section 10 or of employees of AFIC becoming appointed to the Australian Public Service

11. (1) This section applies if a person becomes an APRA employee under section 10.

(2) This section also applies if—

- (a) a person is appointed to the Australian Public Service under section 81B(1) of the *Public Service Act 1922* of the Commonwealth on or after the transfer date; and
- (b) immediately before the appointment, the person was an employee of AFIC.

(3) If the person is the executive director of AFIC, the executive director's appointment under the AFIC Code immediately ends.

(4) If the person is another employee of AFIC, the employee's employment with AFIC immediately ends.

(5) A person is not entitled to receive any payment or other benefit, whether under a contract or otherwise, because the person's appointment or employment ends under this section.

Statement of accrued benefits etc.

12. Before an employee of AFIC becomes an APRA employee under section 10 or is appointed to the Australian Public Service as mentioned in section 11(2), AFIC must give the person, and APRA or the Commonwealth Public Service Commissioner, a written statement stating particulars of the benefits to which the person has an accrued entitlement, the person's remuneration and the person's length of service with AFIC.

DIVISION 3—INFORMATION MAY BE GIVEN TO APRA OR ASIC

Giving of information

13. (1) This section applies to—

- (a) a director of AFIC's board; and
- (b) an employee of AFIC; and
- (c) a person appointed by AFIC to carry out duties under the fiscal bodies legislation; and
- (d) a person who has been a person mentioned in paragraph (a), (b) or (c).

(2) A person to whom this section applies may disclose to APRA or ASIC information the person acquired while engaged in the administration of the fiscal bodies legislation.

(3) This section applies despite section 155 of the AFIC Code and section 477 of the Friendly Societies Code.

DIVISION 4—TRANSFER OF AFIC'S ASSETS AND LIABILITIES

Transfer of assets and liabilities

14. (1) The Queensland Minister administering the *Financial Sector Reform (Queensland) Act 1999* of Queensland may enter into a transfer agreement under Division 3 of Part 1 of Schedule 8 of the Commonwealth Reform Act connected with the transfer of AFIC's assets or liabilities to APRA or ASIC.

(2) The transfer agreement has effect according to its terms.

DIVISION 5—PROCEEDINGS INVOLVING AFIC**Continuation and preservation of certain civil proceedings involving AFIC**

15. (1) This section applies to a proceeding—

- (a) whether or not it arose or arises under the fiscal bodies legislation; and
- (b) regardless of where it arose or arises.

(2) For the purposes of a proceeding commenced before the transfer date to which AFIC was a party immediately before that date, the State of Queensland is substituted for AFIC as a party to the proceeding.

(3) For the purposes of a proceeding not commenced before the transfer date and which—

- (a) could, if commenced after that date, be brought against AFIC; or
- (b) could have, but for the repeal of the *Financial Institutions (Application of Laws) Act 1992* by this Act and the dissolution of AFIC, been brought against AFIC,

the proceeding may instead be brought against the State of Queensland.

(4) For the purposes of this section, evidence that would have been admissible for or against AFIC is admissible for or against the State of Queensland.

(5) This section does not apply to a proceeding for an offence.

Continuation of certain offence proceedings¹

16. (1) This section applies to a proceeding for an offence brought under section 63 of the AFIC Code by AFIC, or a person authorised in writing by AFIC, that commenced before the transfer date but was not completed before that date.

(2) On and after the transfer date, the proceeding may continue to be prosecuted by either APRA or ASIC in place of AFIC, or the person authorised by AFIC, and APRA or ASIC may be substituted in the proceeding for AFIC or the person.

(3) The functions and powers necessary for this section are conferred on APRA and ASIC.

¹ See Part 5 for proceedings commencing after the transfer date.

PART 4
PROVISIONS RELATING TO SAOFS

DIVISION 1—TRANSFER OF SAOFS' ASSETS AND LIABILITIES

Transfer of assets and liabilities

17. (1) The Minister may enter into a transfer agreement under Division 3 of Part 1 of Schedule 8 of the Commonwealth Reform Act connected with the transfer of SAOFS's assets or liabilities to APRA or ASIC.

(2) The transfer agreement has effect according to its terms.

DIVISION 2—PROVISIONS ABOUT SAOFS' STAFF

Transfer of staff to APRA under transfer agreement

18. (1) The Minister may enter into a transfer agreement under Division 2 of Part 1 of Schedule 8 of the Commonwealth Reform Act that determines, or provides for determining, that particular employees of SAOFS become APRA employees on a particular date, not being a date before the transfer date.

(2) The transfer agreement has effect according to its terms.

Effect of transfer to APRA or APS

19. (1) This section applies—

(a) if a person becomes an APRA employee under section 18; or

(b) if—

(i) a person is appointed to the Australian Public Service under section 81B(1) of the *Public Service Act 1922* of the Commonwealth on or after the transfer date; and

(ii) immediately before the appointment, the person was an employee of SAOFS.

(2) The person's employment with SAOFS immediately ends.

(3) A person is not entitled to receive any payment or other benefit because the person's employment ends under this section.

Statement of accrued benefits etc

20. Before an employee of SAOFS becomes an APRA employee under section 18 or is appointed to the Australian Public Service as mentioned in section 19(1)(b)(i), SAOFS must give the person, and APRA or the Commonwealth Public Service Commissioner, a written statement stating particulars of—

(a) the person's remuneration; and

(b) the person's accrued benefits and entitlements in respect of service with SAOFS and prior service recognised by SAOFS; and

(c) the person's length of service with SAOFS and the length of prior service recognised by SAOFS.

DIVISION 3—WINDING UP OF FUNDS

Supervision Fund

21. (1) Despite the repeal of the *Financial Institutions (Application of Laws) Act 1992*, the Supervision Fund continues in existence until SAOFS has fulfilled its obligations under this section.

(2) SAOFS must pay out of the Supervision Fund at such time or times as SAOFS determines—

(a) to APRA—

- (i) such amount in respect of liabilities relating to leave or other entitlements of employees of SAOFS who become employees of APRA, being liabilities existing immediately before the date on which the relevant employees become employees of APRA, as is determined by SAOFS; and
- (ii) such amount in respect of any other liabilities of SAOFS that, by reason of this Act, become liabilities of APRA, as is determined by SAOFS; and

(b) to ASIC—

- (i) such amount in respect of liabilities relating to leave or other entitlements of employees of SAOFS who become employees of ASIC, being liabilities existing immediately before the date on which the relevant employees become employees of ASIC, as is determined by SAOFS; and
- (ii) such amount in respect of any other liabilities of SAOFS that, by reason of this Act, become liabilities of ASIC, as is determined by SAOFS.

(3) SAOFS must also pay out of the Supervision Fund—

- (a) any expenses incurred by SAOFS before the transfer date (see section 94(3) of the repealed *Financial Institutions Code*); and
- (b) any other expenses incurred by SAOFS before it is wound up under Part 5 of the *South Australian Office of Financial Supervision Act 1992*.

(4) SAOFS must pay into the Supervision Fund all amounts that would be payable into the Fund were it not for the repeal of the *Financial Institutions (Application of Laws) Act 1992*.¹

(5) The amount remaining (if any) in the Supervision Fund after compliance with subsections (2) and (3) must be distributed by SAOFS to each building society, credit union and friendly society that is a transferring financial institution under the *Corporations Law*, in such proportions as the Minister considers fair.

¹ Proceeds from the realisation of surplus SAOFS assets are also to be paid into the Supervision Fund: see Part 5 of the *South Australian Office of Financial Supervision Act 1992*.

Credit Unions Contingency Fund

22. (1) On the day before the transfer date, SAOFS must, under section 99A of the *Financial Institutions Code*, distribute the whole of retained earnings to the contribution accounts of credit unions.

(2) For the purposes of subsection (1), section 99A(3) of the Financial Institutions Code does not apply.

(3) Immediately after SAOFS complies with subsection (1) it must pay from the Credit Unions Contingency Fund to each credit union the amount standing to the credit union's credit in the fund.

(4) Subsection (3) applies despite section 103 of the Financial Institutions Code.

(5) In this section—

"**contribution accounts**", of credit unions, means the parts of the Credit Unions Contingency Fund that, under section 98(10) of the Financial Institutions Code, are treated as a deferred asset in the accounts of the credit unions;

"**retained earnings**" has the same meaning as in section 99A of the Financial Institutions Code.

DIVISION 4—PROCEEDINGS INVOLVING SAOFS

Continuation and preservation of civil proceedings involving SAOFS

23. (1) For the purposes of a proceeding commenced before the transfer date to which SAOFS was a party immediately before that date, the State is substituted for SAOFS as a party to the proceeding.

(2) For the purposes of a proceeding not commenced before the transfer date and which—

(a) could, if commenced after that date, be brought against SAOFS; or

(b) could have, but for the dissolution of SAOFS, been brought against SAOFS,

the proceeding may instead be brought against the State.

(3) For the purposes of this section, evidence that would have been admissible for or against SAOFS is admissible for or against the State.

(4) This section does not apply to a proceeding for an offence.

Continuation of certain offence proceedings¹

24. (1) This section applies to a proceeding for an offence brought under section 404 of the Financial Institutions Code or section 471 of the Friendly Societies Code by SAOFS, or a person authorised in writing by SAOFS, that commenced before the transfer date but was not completed by that date.

(2) On and after the transfer date, the proceeding may continue to be prosecuted by either APRA or ASIC in place of SAOFS, or the person authorised by SAOFS, and APRA or ASIC may be substituted for SAOFS or the person.

(3) The functions and powers necessary for this section are conferred on APRA and ASIC.

¹ See Part 5 for proceedings commencing after the transfer date.

DIVISION 5—INFORMATION MAY BE GIVEN BY SAFOFS**Giving of information**

25. (1) This section applies to—

- (a) a member of SAOFS; and
- (b) an employee of SAOFS; and
- (c) a person appointed by SAOFS for the purpose of carrying out duties under the fiscal bodies legislation; and
- (d) a person who has been a person mentioned in paragraph (a), (b) or (c).

(2) A person to whom this section applies may disclose to APRA or ASIC or the Minister information the person acquired while engaged in the administration of the fiscal bodies legislation.

(3) This section applies despite section 410 of the Financial Institutions Code and section 477 of the Friendly Societies Code.

PART 5
ENFORCEMENT BY APRA AND ASIC OF REPEALED CODES

Conferral of enforcement powers on APRA and ASIC

26. (1) APRA and ASIC have the same enforcement powers relating to anything done or omitted to be done under a Code before the transfer date as AFIC or SAOFS had immediately before that date.

(2) For the purposes of subsection (1), a Code applies with all necessary changes.

(3) In this section—

"Code" means—

- (a) the AFIC Code; or
- (b) the Financial Institutions Code; or
- (c) the Friendly Societies Code.

AFIC Code provisions

27. (1) The following provisions continue to apply on and after the transfer date in relation to anything done or omitted to be done before that date:

- (a) Part 8 of the AFIC Code (except for sections 50, 51, 55 and 58); and
- (b) the other provisions of the Code relevant to that Part.

(2) Despite subsection (1), a provision, or part of a provision, applying under that subsection that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the purposes of subsection (1)—

- (a) a reference in the Code to AFIC is taken to be a reference to the relevant Commonwealth body; and
- (b) a reference in the Code to a financial institution is taken to be a reference to an entity that on the transfer date is a company under the *Corporations Law* and that, immediately before that date, was a financial institution under the Code; and
- (c) in section 52(1) of the Code, the words "the financial institutions scheme" are taken to be omitted and the words "investigating whether an offence against the fiscal bodies legislation has been committed" are taken to be substituted; and
- (d) a reference in section 52(1)(a) or (b) of the Code to an employee of AFIC or of a State supervisory authority is taken to be a reference to an employee of the relevant Commonwealth body; and
- (e) section 52(5) of the Code is taken to be omitted; and
- (f) a reference in section 53(1) or (2) of the Code to the executive director is taken to be a reference to the relevant Commonwealth body; and

- (g) a reference in section 53(5) of the Code to officers and employees of the State supervisory authorities is taken to be a reference to officers and employees of the relevant Commonwealth body; and
 - (h) section 63(1A) and (1B) of the Code are taken to be omitted; and
 - (i) a reference in section 63(2) of the Code to the Ministerial Council is taken to be a reference to the Minister administering this Act; and
 - (j) the Code applies with all other necessary changes.
- (4) This section does not limit section 26.

Financial Institutions Code provisions

28. (1) The following provisions continue to apply on and after the transfer date in relation to anything done or omitted to be done before that date:

- (a) Subdivision 1A of Division 2 of Part 2 (except for sections 75, 79 and 82), Part 10 and sections 392, 397, 398 and 404 of the Financial Institutions Code; and
- (b) the other provisions of the Code relevant to the provisions mentioned in paragraph (a).

(2) Despite subsection (1), a provision, or part of a provision, applying under that subsection that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the purposes of subsection (1)—

- (a) a reference in the Code to the SSA is taken to be a reference to the relevant Commonwealth body; and
- (b) a reference in the Code to a financial body is taken to be a reference to an entity that on the transfer date is a company under the *Corporations Law* and that, immediately before that date, was a financial body under the Code; and
- (c) a reference in the Code to a society is taken to be reference to an entity that on the transfer date is a company under the *Corporations Law* and that, immediately before that date, was a society under the Code; and
- (d) in section 76(1) of the Code, the words "the financial institutions legislation" are taken to be omitted and the words "investigating whether an offence against the financial institutions legislation has been committed" are taken to be substituted; and
- (e) a reference in section 76(1)(a) or (b) of the Code to an employee of the SSA is taken to be a reference to an employee of the relevant Commonwealth body; and
- (f) section 76(5) of the Code is taken to be omitted; and
- (g) in the definition of "financial body to which this section applies" in section 397(1) of the Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
- (h) section 397(2) of the Code is taken to be omitted; and

- (i) in the definition of "financial body to which this section applies" in section 398(1) of the Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
- (j) in the definition of "prescribed person" in section 398(1) of the Code, paragraphs (a) and (b) are taken to be omitted; and
- (k) section 398(2) of the Code is taken to be omitted; and
- (l) a reference in section 404(2) of the Code to the Minister is taken to be a reference to the Minister administering this Act; and
- (m) the Code applies with all other necessary changes.

(4) This section does not limit section 26.

Friendly Societies Code provisions

29. (1) The following provisions continue to apply on and after the transfer date in relation to anything done or omitted to be done before that date:

- (a) Subdivision 2 of Division 2 of Part 2 (except for sections 31, 35 and 38), Divisions 3 and 4 of Part 4A, Part 10 and sections 460, 465, 466 and 471 of the Friendly Societies Code; and
- (b) the other provisions of the Code relevant to the provisions mentioned in paragraph (a).

(2) Despite subsection (1), a provision, or part of a provision, applying under that subsection that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the purposes of subsection (1)—

- (a) a reference in the Code to the SSA is taken to be a reference to the relevant Commonwealth body; and
- (b) a reference in the Code to a society is taken to be a reference to an entity that on the transfer date is a company under the *Corporations Law* and that, immediately before that date, was a society under the Code; and
- (c) in section 32(1) of the Code, the words "the friendly societies legislation" are taken to be omitted and the words "investigating whether an offence against the friendly societies legislation has been committed" are taken to be substituted; and
- (d) a reference in section 32(1)(a) or (b) of the Code to an employee of the SSA is taken to be a reference to an employee of the relevant Commonwealth body; and
- (e) section 32(4) of the Code is taken to be omitted; and
- (f) in the definition of "society to which this section applies" in section 465(1) of the Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
- (g) section 465(2) of the Code is taken to be omitted; and

- (h) in the definition of "society to which this section applies" in section 466(1) of the Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
- (i) in the definition of "prescribed person" in section 466(1) of the Code, paragraphs (a) and (b) are taken to be omitted; and
- (j) section 466(2) of the Code is taken to be omitted; and
- (k) a reference in section 471(2) of the Code to the Minister is taken to be a reference to the Minister administering this Act; and
- (l) the Code applies with all other necessary changes.

(4) This section does not limit section 26.

Conferral of functions and powers

30. The functions and powers necessary for the purposes of this Part are conferred on APRA and ASIC.

PART 6
OTHER TRANSITIONAL PROVISIONS

Dormant accounts

31. (1) This section applies if—

- (a) before the transfer date a society transferred an amount from a person's deposit account with the society to another account under section 138A(4)(c) of the Financial Institutions Code; and
- (b) immediately before the transfer date the amount has not been lawfully totally paid out as mentioned in section 138A(6)(b) of that Code.

(2) Immediately before the transfer date the amount remaining in that other account for the person is taken to have been transferred back to the person's deposit account as if the deposit account had never been classified as a dormant account or closed under section 138A of the Financial Institutions Code.

(3) In this section—

"society" means an entity that, immediately before the transfer date, was a society under the Financial Institutions (South Australia) Code.

Withdrawable shares in building societies

32. (1) A person who, immediately before the transfer date, was entitled to a withdrawable share of a building society, is taken to have become on that date the holder of a deposit with the building society of an amount equal to the amount paid up on the share.

(2) Any withdrawable shares of a building society on issue immediately before the transfer date and converted to deposits under subsection (1) are taken to have been cancelled.

(3) Despite the cancellation of a person's withdrawable shares under subsection (2), the person continues as a member of the building society but is otherwise subject to the rules of the society.

(4) In this section—

"building society" means a transferring financial institution of this jurisdiction (within the meaning of Part 1 of Schedule 4 to the *Corporations Law*) authorised under the Financial Institutions Code to operate as a building society immediately before the transfer date;

"withdrawable share" means a withdrawable share within the meaning of the Financial Institutions Code.

Matters in relation to deregistered financial bodies and societies

33. (1) This section applies to an entity that was, at some time before the transfer date—

- (a) a society under the Financial Institutions Code or the Friendly Societies Code; or
- (b) a building society under the *Building Societies Act 1990* or a corresponding previous enactment; or

- (c) a credit union under the *Credit Unions Act 1989* or a corresponding previous enactment; or
- (d) a friendly society under the *Friendly Societies Act 1919*,

and the registration of which had been cancelled under an applicable law before that date.

(2) If property formerly vested in an entity to which this section applies vests in ASIC under section 17 and was held by that entity on trust, ASIC may—

- (a) continue to act as trustee; or
- (b) apply to a court for the appointment of a new trustee.

(3) If any property formerly so vested was not held by the entity on trust, ASIC—

- (a) may dispose of or deal with the property as it sees fit; and
- (b) may apply any money it receives to—
 - (i) defray expenses incurred by ASIC in exercising its powers in relation to the entity; and
 - (ii) make payments authorised by subsection (4); and
- (c) must deal with the balance (if any) of that money under Part 9.7 of the *Corporations Law* as if the entity were a company.

(4) The property remains subject to all liabilities imposed on the property under a law and does not have the benefit of any exemption that the property might otherwise have because it is vested in ASIC.

(5) ASIC's obligation under subsection (4) is limited to satisfying the liabilities out of the entity's property to the extent that the property is properly available to satisfy those liabilities.

(6) ASIC must keep—

- (a) a record of the property to which this section applies; and
- (b) a record of its dealings with that property; and
- (c) accounts of all money received from those dealings; and
- (d) all accounts, vouchers, receipts and papers relating to the property and that money.

(7) ASIC may do an act on behalf of the entity or the entity's liquidator if ASIC is satisfied that the entity or liquidator would be bound to do the act if the entity still existed.

(8) A person may recover from an insurer of the entity an amount that was payable to the entity under the insurance contract if—

- (a) the entity had a liability to the person; and

- (b) the insurance contract covered the liability immediately before the cancellation of the registration.

(9) The functions and powers that are necessary for the purposes of this section are conferred on ASIC.

Mergers and transfers of engagements commenced under Financial Institutions (South Australia) Code

34. (1) This section applies if a transfer of engagements or merger commenced before the transfer date under Part 7 of the Financial Institutions (South Australia) Code and immediately before that date has not been completed, or been given effect.

(2) The transfer of engagements or merger may be completed, or be given effect, under Part 7 of the Financial Institutions (South Australia) Code on or after the transfer date and, for that purpose, that Part and other provisions of the Code relevant to that Part continue to apply.

(3) For the purposes of subsection (2)—

- (a) a reference in the Financial Institutions (South Australia) Code to the SSA is taken to be a reference to the relevant Commonwealth body; and
- (b) a reference in the Financial Institutions (South Australia) Code to the SSA of a participating State is taken to be a reference to the relevant Commonwealth body; and
- (c) the Financial Institutions (South Australia) Code applies with all other necessary changes.

(4) For the purposes of this section, a transfer of engagements was commenced before the transfer date under Part 7 of the Financial Institutions (South Australia) Code if, before that date—

- (a) one of the following conditions was satisfied in relation to each society or foreign society involved:
 - (i) the transfer was approved by a special resolution of the society or foreign society, in accordance with the relevant Financial Institutions Code; or
 - (ii) the relevant SSA made a determination, under the relevant Financial Institutions Code, that the transfer may be approved by the board of the society or foreign society; or
- (b) in a case where each entity involved in the transfer is a society, SAOFS gave a direction, under the Financial Institutions (South Australia) Code, requiring the transfer.

(5) For the purposes of this section, a merger was commenced before the transfer date if, before that date, one of the following conditions was satisfied in relation to each society or foreign society involved:

- (a) the merger was approved by a special resolution of the society or foreign society, in accordance with the relevant Financial Institutions Code; or
- (b) the relevant SSA made a determination, under the relevant Financial Institutions Code, that the merger may be approved by the board of the society or foreign society.

(6) The functions and powers of SAOFS that are necessary for the purposes of this section are conferred on the relevant Commonwealth body.

(7) In this section—

"financial institutions agreement" has the same meaning as in section 3 of the AFIC Code;

"foreign society" means a body corporate that, before the transfer date, was a society under the financial institutions legislation of another participating State, whether or not it was registered as a foreign society under Part 11 of the Financial Institutions (South Australia) Code;

"participating State" means a State or Territory that, immediately before the transfer date, was a party to the financial institutions agreement and in which, immediately before that date, the foreign society was incorporated;

"relevant Financial Institutions Code" means—

- (a) in relation to a society, the Financial Institutions (South Australia) Code; or
- (b) in relation to a foreign society, the law of another participating State corresponding to the Financial Institutions (South Australia) Code;

"relevant SSA" means—

- (a) in relation to a society, SAOFS; or
- (b) in relation to a foreign society, the State Supervisory Authority under the financial institutions legislation of the other participating State;

"society" means an entity that, immediately before the transfer date, was a society under the Financial Institutions (South Australia) Code.

Mergers and transfers of engagements commenced under Friendly Societies (South Australia) Code

35. (1) This section applies if a transfer of engagements or merger commenced before the transfer date under Part 7 of the Friendly Societies (South Australia) Code and immediately before that date has not been completed, or been given effect.

(2) The transfer of engagements or merger may be completed, or be given effect, under Part 7 of the Friendly Societies (South Australia) Code on or after the transfer date and, for that purpose, that Part and other provisions of the Code relevant to that Part continue to apply.

(3) For the purposes of subsection (2)—

- (a) a reference in the Friendly Societies (South Australia) Code to the SSA is taken to be a reference to the relevant Commonwealth body; and
- (b) a reference in the Friendly Societies (South Australia) Code to the SSA of a participating State is taken to be a reference to the relevant Commonwealth body; and
- (c) the Friendly Societies (South Australia) Code applies with all other necessary changes.

(4) For the purposes of this section, a transfer of engagements was commenced before the transfer date under Part 7 of the Friendly Societies (South Australia) Code if, before that date—

- (a) one of the following conditions was satisfied in relation to each society or foreign society involved:
 - (i) the transfer was approved by a special resolution of the society or foreign society, in accordance with the relevant Friendly Societies Code; or
 - (ii) the relevant SSA made a determination, under the relevant Friendly Societies Code, that the transfer may be approved by the board of the society or foreign society; or
- (b) in a case where each entity involved in the transfer is a society, SAOFS gave a direction, under the Friendly Societies (South Australia) Code, requiring the transfer.

(5) For the purposes of this section, a merger was commenced before the transfer date if, before that date, one of the following conditions was satisfied in relation to each society or foreign society involved:

- (a) the merger was approved by a special resolution of the society or foreign society in accordance with the relevant Friendly Societies Code; or
- (b) the relevant SSA made a determination, under the relevant Friendly Societies Code, that the merger may be approved by the board of the society or foreign society.

(6) The functions and powers of SAOFS that are necessary for the purposes of this section are conferred on the relevant Commonwealth body.

(7) In this section—

"financial institutions agreement" has the same meaning as in section 3 of the AFIC Code;

"foreign society" means a body corporate that, before the transfer date, was a society under the friendly societies legislation of another participating State, whether or not it was registered as a foreign society under Part 11 of the Friendly Societies (South Australia) Code;

"friendly societies legislation" has the same meaning as in section 8A of the AFIC Code;

"participating State" means a State or Territory which, immediately before the transfer date, was a party to the financial institutions agreement and in which, immediately before that date, the foreign society was incorporated;

"relevant Friendly Societies Code" means—

- (a) in relation to a society, the Friendly Societies (South Australia) Code; or
- (b) in relation to a foreign society, the law of another participating State corresponding to the Friendly Societies (South Australia) Code;

"relevant SSA" means—

- (a) in relation to a society, SAOFS; or

- (b) in relation to a foreign society, the State Supervisory Authority under the friendly societies legislation of the other participating State;

"society" means an entity that, immediately before the transfer date, was a society under the Friendly Societies (South Australia) Code.

Australian Financial Institutions Appeals Tribunal

36. (1) All applications made to the Australian Financial Institutions Appeal Tribunal under a Code for review of a decision that have not been decided are taken to have been withdrawn on the transfer date.

(2) In this section—

"Code" means—

- (a) the AFIC Code; or
- (b) the Financial Institutions Code; or
- (c) the Friendly Societies Code.

PART 7
MISCELLANEOUS

Registration or record of transfer

37. (1) The Registrar-General or any other authority required or authorised under a law of the State to register or record transactions affecting assets or liabilities, or documents relating to such transactions, must, on application under this section accompanied by such documents evidencing a transaction under a transfer agreement given effect to by this Act as the Registrar-General or other authority may require, register or record in an appropriate manner the transfer or transfers to which the application relates.

(2) No fee is payable in respect of an application under subsection (1).

Exemption from State taxes

38. (1) No stamp duty or other duty or tax is chargeable under any Act in respect of anything effected by or done under a transfer agreement given effect to by this Act.

(2) No obligation arises under an Act for the assessment or imposition of any such duty or tax—

- (a) to lodge a statement or return relating to the vesting of an asset under such a transfer agreement; or
- (b) to include information about such vesting in a statement or return.

Relationship of Act with other laws

39. (1) This Act has effect despite anything in a contract, deed, undertaking, agreement or other instrument.

(2) Nothing effected by or done 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) a law of the State; or
 - (ii) a contractual provision prohibiting, restricting or regulating the assignment or transfer of an asset or liability or the disclosure of information; or
- (c) releases a surety, wholly or partly, from all or any of the surety's obligations.

(3) Without limiting subsection (1), if, apart from this section, 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.

Regulations

40. The Governor may make such regulations as are necessary or expedient for the purposes of this Act.

SCHEDULE
Related Amendments

Provision Amended	How Amended
1	Aboriginal Lands Trust Act 1966
(a) section 19(1)	Strike out "a bank" and substitute "an ADI". Strike out "that bank" and substitute "that ADI".
(b) section 19(3)	Strike out "bank".
2	Acts Interpretation Act 1915
(a) section 4(1) after the definition of "Act"	Insert the following definition: "ADI" means an authorised deposit-taking institution within the meaning of the <i>Banking Act (Cwth)</i> ;
(b) section 4(1) definition of "bank"	Strike out this definition and substitute: "bank" means an ADI that is permitted under the <i>Banking Act (Cwth)</i> to assume or use— (a) the word "bank", "banker" or "banking"; or (b) any other word (whether or not in English) that is of like import to a word referred to in paragraph (a); "bank cheque" or "banker's cheque" means a cheque that an ADI draws on itself;
(c) section 4(1) after the definition of "bank holiday"	Insert the following definitions: "Banking Act (Cwth)" means the <i>Banking Act 1959</i> of the Commonwealth, as amended from time to time and includes an Act enacted in substitution for that Act; "building society" means an ADI that is permitted under the <i>Banking Act (Cwth)</i> to assume or use— (a) the expression "building society"; or (b) any other expression (whether or not in English) that is of like import to the expression referred to in paragraph (a);

- (d) section 4(1) after the definition of "the Commonwealth" Insert the following definition:
"credit union" means an ADI that is permitted under the *Banking Act (Cwth)* to assume or use—
(a) the expression "credit union"; or
(b) any expression (whether or not in English) that is of like import to the expression referred to in paragraph (a);
- (e) section 4(1) after the definition of "financial year" Insert the following definition:
"friendly society" means a body that is a friendly society for the purposes of the *Life Insurance Act 1995* of the Commonwealth as amended from time to time;
- (f) section 4(2) Strike out this subsection.
- 3 Adelaide Festival Theatre Act 1964**
section 17(3)(b) Strike out this paragraph and substitute:
(b) deposit those donations in an ADI;
- 4 Administration and Probate Act 1919**
(a) section 72(1)-(3) Strike out "bank" wherever it occurs and substitute in each case "ADI".
(b) section 72(4) Strike out this subsection.
- 5 Associations Incorporation Act 1985**
section 25(c) Strike out "bank" and substitute "ADI"
- 6 Bank Mergers (South Australia) Act 1997**
section 2 definition of "bank" Strike out paragraph (a) and substitute:
(a) a bank as defined in the *Acts Interpretation Act 1915*; or
- 7 Benefit Associations Act 1958**
section 3(1)(a) Strike out "registered under the *Friendly Societies Act, 1919*, as amended".

- 8 Botanic Gardens and State Herbarium Act 1978**
- section 19(1) Strike out "bank" and substitute "ADI".
- 9 Business Names Act 1996**
- section 4(1)(b) Strike out "a bank" and substitute "an ADI".
- 10 Carrick Hill Trust Act 1985**
- (a) section 16(1) Strike out "a banking" and substitute "an ADI".
- (b) section 16(2) Strike out "A banking" and substitute "An ADI".
- 11 Community Titles Act 1996**
- (a) section 116(6) Strike out "a bank, building society or credit union" twice occurring and substitute in each case "an ADI".
- (b) section 120 Strike out "a bank, building society, credit union" and substitute "an ADI".
- (c) section 122(4) Strike out "bank, building society, credit union" and substitute "ADI".
- (d) section 124 Strike out "a bank, building society or credit union" and substitute "an ADI".
- (e) section 128(2) Strike out "a bank, building society, credit union" and substitute "an ADI".
- (f) section 129 Strike out "A bank, building society, credit union" and substitute "An ADI".
- (g) section 131 Strike out "a bank, building society, credit union" twice occurring and substitute in each case "an ADI".
- 12 Conveyancers Act 1994**
- (a) section 3
definition of "money" Strike out "a bank" and substitute "an ADI".
- (b) section 15(1) Strike out "a bank, building society or credit union" and substitute "an ADI".
- (c) section 15(4) Strike out "a bank, building society or credit union" and substitute "an ADI".

- (d) section 17 Strike out "a bank, building society or credit union" and substitute "an ADI".
- Strike out "the bank, building society or credit union" and substitute "the ADI".
- (e) section 18(3)(c) Strike out "bank, building society or credit union" and substitute "ADI".
- (f) section 18(5) Strike out "A bank, building society or credit union" and substitute "An ADI".
- (g) section 20(b) Strike out "bankers, financial institutions" and substitute "ADIs".
- (h) section 26(2) Strike out "a bank" and substitute "an ADI".
- (i) section 27 Strike out "A bank, building society or credit union" and substitute "An ADI".
- (j) section 29 Strike out "a bank, building society or credit union" twice occurring and substitute in each case "an ADI".
- (k) section 31(1)(a) Strike out "banks, building societies and credit unions" and substitute "ADIs".
- (l) section 52(3)(b) Strike out "banks, building societies or credit unions" and substitute "ADIs".

13 Co-operatives Act 1997

- (a) section 4(1)
definition of "foreign
co-operative" Strike out paragraph (b).
- (b) section 247(5)(b) Strike out this paragraph and substitute:
- (b) a building society or credit union.
- (c) section 354(1) Strike out "bank" and substitute "ADI".
- (d) section 363(1)(c) Strike out "bank" and substitute "ADI".
- (e) Schedule 4
clause 11(1)(a) Strike out "bank" and substitute "ADI".

14 Corporations (South Australia) Act 1990

- section 60(1)
definition of "books" Strike out from paragraph (d) "banker's" and substitute "ADI".

- 15 Criminal Assets Confiscation Act 1996**
- section 3 Strike out paragraphs (a) to (c) and substitute the following definition of "financial institution" paragraph:
institution" (a) an ADI; or
- 16 Criminal Law Consolidation Act 1935**
- (a) section 130 Strike out "bank" and substitute "ADI".
definition of "valuable security"
- (b) section 212(1) Strike out this definition and substitute:
definition of "bank" "bank" means a bank as defined in the *Acts Interpretation Act 1915* and includes a foreign bank;
- (c) section 222(a) Strike out "a bank" and substitute "an ADI".
- 17 Da Costa Samaritan Fund (Incorporation of Trustees) Act 1953**
- section 20 Strike out "a bank" and substitute "an ADI".
- 18 Economic Development Act 1993**
- section 20(1) Strike out "bank" and substitute "ADI".
- 19 Enfield General Cemetery Act 1944**
- (a) section 24(1) Strike out "bank" and substitute "ADI".
- (b) section 30 Strike out "bank" twice occurring and substitute in each case "ADI".
- 20 Enforcement of Judgments Act 1991**
- section 6(1)(b) Strike out "a bank" and substitute "an ADI".
- 21 Evidence Act 1929**
- section 46 Strike out paragraphs (b) and (c).
definition of "bank"

22 Fair Trading Act 1987

section 46(1)
definition of
"services"

Strike out paragraph (c) and substitute:

- (c) a contract between an ADI and a customer of the ADI entered into in the course of the carrying on by the ADI of banking business within the meaning of the *Banking Act (Cwth)*; or

23 Family and Community Services Act 1972

- (a) section 84(2) Strike out "banking" and substitute "ADI".
- (b) section 155(1)(d) Strike out "banker" and substitute "ADI".
- (c) section 155(2) Strike out "a banker" and substitute "an ADI".
- (d) section 156(1) Strike out "a banker" and substitute "an ADI".
- (e) section 230(2) Strike out "a bank" and substitute "an ADI".

24 Firearms Act 1977

section 12(5)(a) Strike out "a bank, within the meaning of the *Banking Act 1959* of the Commonwealth" and substitute "an ADI".

25 Flinders University of South Australia Act 1966

section 26(1)(a) Strike out "bank".

26 Government Financing Authority Act 1982

- (a) section 11(2)(f) Strike out "banks" and substitute "an ADI or any other financial institution within or outside Australia".
- (b) section 11(2)(g) Strike out "a bank, financial institution" and substitute "an ADI".

27 History Trust of South Australia Act 1981

- (a) section 17(1) Strike out "a banking" and substitute "an ADI".
- (b) section 17(2) Strike out "A banking" and substitute "An ADI".

28 Holidays Act 1910

section 2A Strike out this section.

section 6(1) Strike out "banks" and substitute "ADIs".

- section 6(2) Strike out "a bank" first occurring and substitute "an ADI".
Strike out "the bank" and substitute "the ADI".
- section 6(3) Strike out "banks" and substitute "ADIs".
- 29 Housing and Urban Development (Administrative Arrangements) Act 1995**
- (a) section 4(1)(e) Strike out "bank" and substitute "ADI".
- (b) section 21(1)(e) Strike out "bank" and substitute "ADI".
- 30 Industrial and Employee Relations Act 1994**
- section 68(2)(b)(i) Strike out "bank" and substitute "ADI".
- 31 Land Agents Act 1994**
- (a) section 3
definition of "money" Strike out "a bank" and substitute "an ADI".
- (b) section 13(1) Strike out "a bank, building society or credit union" and
substitute "an ADI".
- (c) section 13(4) Strike out "a bank, building society or credit union" and
substitute "an ADI".
- (d) section 15 Strike out "a bank, building society or credit union" and
substitute "an ADI".

Strike out "the bank, building society or credit union" and
substitute "the ADI".
- (e) section 16(3)(c) Strike out "bank, building society or credit union" and
substitute "ADI".
- (f) section 16(5) Strike out "A bank, building society or credit union" and
substitute "An ADI".
- (g) section 18(b) Strike out "bankers, financial institutions" and substitute
"ADIs".
- (h) section 24(2) Strike out "a bank" and substitute "an ADI".
- (i) section 25 Strike out "A bank, building society or credit union" and
substitute "An ADI".
- (j) section 27 Strike out "a bank, building society or credit union" twice
occurring and substitute in each case "an ADI".

- (k) section 29(3)(b) Strike out "banks, building societies and credit unions" and substitute "ADIs".
- (l) section 50(3)(b) Strike out "banks, building societies or credit unions" and substitute "ADIs".

32 Landlord and Tenant Act 1936

- section 55(2)(e)(ii) Strike out this subparagraph.

33 Legal Practitioners Act 1981

- (a) section 5(1)
definition of "bank" Strike out this definition.
- (b) definition of "money" Strike out "a bank" and substitute "an ADI".
- (c) definition of "trust
account" Strike out "a bank" and substitute "an ADI".
- (d) section 14(1)(i) Strike out "banking" and substitute "ADI".
- (e) section 31(6) Strike out "a bank" wherever it occurs and substitute in each case "an ADI".
- (f) section 32 Strike out "a bank" wherever it occurs and substitute in each case "an ADI".
- (g) section 35(1) Strike out "bankers" and substitute "ADIs".
- (h) section 35(4)
definition of "financial
institution" Strike out "a bank" and substitute "an ADI".
- (i) section 36 Strike out "A bank" and substitute "An ADI".
- (j) section 44(3)(d) Strike out "bank" and substitute "ADI".
- (k) section 44(4) Strike out "bank" wherever it occurs and substitute in each case "ADI".
- (l) section 45(2)(d) Strike out "bank" and substitute "ADI".
- (m) section 53(1a) Strike out "bank" and substitute "ADI".
- (n) section 53(2) Strike out "bank" and substitute "ADI".
- (o) section 53(13)(a) Strike out "a bank" and substitute "an ADI".

Strike out "the bank" and substitute "the ADI".

- (p) section 53(14) Strike out "a bank" twice occurring and substitute in each case "an ADI".
- Strike out "that bank" and substitute "that ADI".
- Strike out "approved bank" and substitute "approved ADI".
- (q) section 57A(1) Strike out "bank" and substitute "ADI".
- (r) section 76(5) Strike out "a bank" and substitute "an ADI".
definition of "financial institution"
- 34 Local Government Finance Authority Act 1983**
- (a) section 21(2)(f) Strike out "banks" and substitute "an ADI or any other financial institution within or outside Australia".
- (b) section 21(2)(g) Strike out "a bank, financial institution" and substitute "an ADI".
- 35 Motor Accident Commission Act 1992**
- section 25(8)(b) Strike out "bank" and substitute "ADI".
- 36 Oaths Act 1936**
- section 32 Strike out "bank, building society, credit union or other
definition of body of a class proclaimed under section 4(2) of the *Acts Interpretation Act 1915*" and substitute "ADI".
"manager"
- 37 Outback Areas Community Development Trust Act 1978**
- section 18(3) Strike out "banking" and substitute "ADI".
- 38 Pay-roll Tax Act 1971**
- (a) section 8(3)(b) Strike out "a bank" and substitute "an ADI".
- (b) section 8(4) Strike out this subsection.
- 39 Pharmacists Act 1991**
- section 4(1) Strike out this definition.
definition of "friendly society"
- 40 Primary Industry Funding Schemes Act 1998**
- section 14(2) Strike out "a bank" and substitute "an ADI".

41 Public Charities Funds Act 1935

- (a) section 12(1) Strike out "a banking account in their corporate name in some bank to be" and substitute "an account in their corporate name in an ADI".
- (b) section 12(2) Strike out "bank" and substitute "ADI".
- (c) section 13(1) Strike out "bank" and substitute "ADI".
- (d) section 14(1) Strike out "bank" and substitute "ADI".

42 Public Finance and Audit Act 1987

- (a) section 9(1) Strike out "a bank" and substitute "an ADI".
- (b) section 11(b) and (d) Strike out these paragraphs and substitute:
 - (d) with a bank or any other prescribed ADI; or

43 Public Trustee Act 1997

- section 46(1) Strike out "a bank, building society or credit union" and substitute "an ADI".

44 Renmark Irrigation Trust Act 1936

- (a) section 97(1) Strike out "paid into a bank" and substitute "deposited in an ADI".
- (b) section 97(2) Strike out "banked" twice occurring and substitute in each case "deposited".

Strike out "bank" wherever it occurs and substitute in each case "ADI".
- (c) section 97(3) Strike out "bank" and substitute "ADI".
- (d) section 123D(1) Strike out "bank" and substitute "ADI".

45 Residential Tenancies Act 1995

- (a) section 3(1) Strike out this definition.
definition of "financial institution"
- (b) section 58(2) Strike out "a financial institution" and substitute "an ADI".

- 46 Retail and Commercial Leases Act 1995**
- section 4(2)(c)(ii) Strike out this subparagraph and substitute:
- (ii) an ADI; or
- 47 Retirement Villages Act 1997**
- section 8(1) Strike out "a bank" and substitute "an ADI".
- 48 Security and Investigation Agents Act 1995**
- (a) section 4(f)(v) Strike out this subparagraph and substitute:
- (v) an ADI; or
- (b) section 4(f)(vii) Strike out this subparagraph and substitute:
- (vii) a friendly society; or
- 49 South Australian Co-operative and Community Housing Act 1991**
- section 52(1) Strike out "a bank, building society, credit union or other body of a class proclaimed under section 4(2) of the *Acts Interpretation Act 1915*" and substitute "an ADI".
- 50 South Australian Housing Trust Act 1995**
- section 21(1)(e) Strike out "bank" and substitute "ADI".
- 51 South Australian Motor Sport Act 1994**
- (a) section 15(1) Strike out "a banking" and substitute "an ADI".
- (b) section 15(2) Strike out "A banking" and substitute "An ADI".
- 52 South Australian Multicultural and Ethnic Affairs Commission Act 1980**
- (a) section 19(1) Strike out "a banking" and substitute "an ADI".
- (b) section 19(2) Strike out "banking" and substitute "ADI".
- (c) section 19(3) Strike out "A banking" and substitute "An ADI".

53 South Australian Office of Financial Supervision Act 1992

- (a) long title After "Supervision" insert "; and for other purposes".
- (b) section 3 after definition of "SAOFS" Insert the following definition:
"transfer date" means the date that is the transfer date for the purposes of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth.
- (c) section 30(2) Strike out "is to" and substitute "may".
- (d) section 34(4)(b) Strike out "SAOFS," and substitute "SAOFS or an ADI that was formerly".
- (e) section 34(5)(b) Strike out "SAOFS," and substitute "SAOFS or an ADI that was formerly".
- (f) section 35(2) Strike out "SAOFS" and substitute "the Crown".
- (g) section 35(2a) After subsection (2) insert:
(2a) To the extent that a liability of SAOFS under this section remains unsatisfied as at the transfer date, the liability attaches to the Crown.
- (h) section 36(2) Strike out "SAOFS" second occurring and substitute "the Crown".
- (i) section 36(2a) After subsection (2) insert:
(2a) To the extent that a liability of SAOFS under this section remains unsatisfied as at the transfer date, the liability attaches to the Crown.

- (j) sections 39 and 40 Strike out these sections and substitute:
- Delegation**
39. (1) SAOFS may delegate its powers under this Act—
- (a) to a member or employee; or
 - (b) with the Minister's approval, to any other person.
- (2) A delegation under this section—
- (a) must be in writing; and
 - (b) may be conditional or unconditional; and
 - (c) is revocable at will; and
 - (d) does not prevent the delegator from acting in any matter.
- (k) section 41(2a) After subsection (2) insert:
- (2a) For the purposes of subsection (2), the 1998/1999 financial year ends on the transfer date.
- (l) section 42(1) Strike out from subsection (1) "on or before 31 October in each year" and substitute "within 3 months after the transfer date".
- Strike out from subsection (1) "financial year ending on the preceding 30 June" and substitute "period commencing on 1 July 1998 and ending on the transfer date".
- (m) section 42(2) Strike out "financial year" and substitute "period".

(n) New Part 5

After Part 4 insert:

PART 5
WINDING UP OF SAOFS

Winding up functions

44. (1) On and after the transfer date, SAOFS' only functions are to do all such things as are necessary for—

- (a) facilitating the transfer to the Commonwealth of responsibility for regulating financial institutions and friendly societies as companies under the *Corporations Law*; and
- (b) implementing a transfer agreement; and
- (c) complying with its obligations under the *Financial Sector Reform (South Australia) Act 1999*; and
- (d) winding up its affairs,

in accordance with the directions (if any) of the Minister.

(2) Any assets of SAOFS that are not, or are not to be, the subject of a transfer agreement are to be disposed of and any proceeds arising from the disposal are to be paid into the Supervision Fund.

(3) In this section—

"transfer agreement" means an agreement under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth entered into by or on behalf of the Minister providing for matters connected with the transfer of staff, assets or liabilities from SAOFS to APRA or ASIC.

Winding up accounts and report

45. (1) SAOFS must, in accordance with the directions of the Minister (if any), submit to the Minister a winding up report on the operations of SAOFS since the transfer date.

(2) The report must include accounts presenting fairly the results of SAOFS' operations (including operations affecting the Supervision Fund), audited by the Auditor-General, for the period to which the report relates.

(3) The Minister must, within 6 sitting days after receiving the report, cause copies to be laid before each House of Parliament.

Register of financial interests of members and employees**46. (1) Despite section 33—**

- (a) subsection (7) of that section does not apply to a person who became a SAOFS officer within the period of 14 days before the transfer date; and
- (b) subsections (8) and (9) do not apply in relation to a financial interest acquired or disposed of after the transfer date; and
- (c) for the purposes of subsection (9), the time within which the final statement is to be given under that subsection is no later than 14 days after the transfer date.

(2) When SAOFS is satisfied that all information required to be included in the Register under section 33 has been so included, SAOFS must, in accordance with the directions of the Minister (if any), deliver the Register to the Minister.

(3) On delivery of the Register to the Minister, SAOFS' obligations under section 33(12) cease.

Expiry of Act

47. (1) The Governor may, by proclamation, fix a day on which this Act will expire.

(2) If a proclamation is made under subsection (1)—

- (a) this Act expires on the day fixed by the proclamation; and
- (b) immediately before the expiry, any remaining liabilities of SAOFS vest in the Crown.

54 South Australian Tourism Commission Act 1993

section 21(1) Strike out "bank" and substitute "ADI".

55 State Lotteries Act 1966

section 16(1) Strike out this subsection and substitute:

(1) The Commission must establish an account to be known as the "Lotteries Fund" at an ADI in this State, being an account and ADI approved by the Treasurer.

56 Strata Titles Act 1998

- (a) section 26(1)(c) Strike out "banks, building societies and credit unions" and substitute "ADIs"
- (b) section 36A Strike out "a bank, building society, credit union" and substitute "an ADI".
- (c) section 36B definition of "agent" Strike out "a bank, building society, credit union" and substitute "an ADI".
- (d) section 36C(4) Strike out "bank, building society, credit union" and substitute "ADI".
- (e) section 36E Strike out "a bank, building society or credit union" and substitute "an ADI".
- (f) section 36I(2) Strike out "a bank, building society, credit union" and substitute "an ADI".
- (g) section 36J Strike out "A bank, building society, credit union" and substitute "An ADI".
- (h) section 36L Strike out "a bank, building society, credit union" twice occurring and substitute in each case "an ADI".

57 Supreme Court Act 1935

- section 122(1) Strike out "a bank carrying on general banking business" and substitute "an ADI".

58 Taxation Administration Act 1996

- section 101(3)(a) Strike out "bank" and substitute "ADI".

59 Trustee Act 1936

- (a) section 19(1) Strike out "bank" and substitute "ADI".
Strike out "banking".
- (b) section 19(3) Strike out "banker" and substitute "ADI".
- (c) section 19A Strike out "a banker" twice occurring and substituting in each case "an ADI".

Strike out "the banker" wherever it occurs and substitute "the ADI".

- (d) section 24(3) Strike out "incorporated bank" and substitute "ADI".
Strike out "bank" and substitute "ADI".
- (e) section 24(4) Strike out "bank" twice occurring and substitute in each case "ADI".
- (f) section 47(4) Strike out "banker" and substitute "ADI".
- 60 Unclaimed Moneys Act 1891**
- section 2 Strike out from paragraph (c) "bank" and substitute "ADI".
definition of
"company"
- 61 West Beach Recreation Reserve Act 1987**
- (a) section 16(1) Strike out "a bank" and substitute "an ADI".
- (b) section 16(2) Strike out "A bank" and substitute "An ADI".
- 62 Wheat Marketing Act 1989**
- section 10(5) Strike out "bank" and substitute "ADI".
- 63 WorkCover Corporation Act 1994**
- section 14(2)(d) Strike out "bank" and substitute "ADI".
- 64 Wrongs Act 1936**
- section 7(1)(d) Strike out "bank (within the meaning of the *Banking Act 1959* of the Commonwealth) or".
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In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor