

# Acts Amendment and Repeal (Financial Sector Reform) Act 1999

(No. 26 of 1999)

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Western Australia

## Acts Amendment and Repeal (Financial Sector Reform) Act 1999

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No. 26 of 1999

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An Act —

- to repeal the —
  - *Financial Institutions (Western Australia) Act 1992*;
  - *Financial Institutions (Taxing) Act 1992*;
  - *Western Australian Financial Institutions Authority Act 1992*;
  - *Friendly Societies (Western Australia) Act 1999*; and
  - *Friendly Societies (Taxing) Act 1999*;
- to enact transitional provisions; and
- to amend various Acts and repeal the *Private Savings Bank Act 1924*,

in order to provide for the reform of the financial sector.

[Assented to 29 June 1999]

**Reasons for enacting this Act**

1. In order to reform the financial sector, the Parliament of the Commonwealth of Australia is enacting legislation to amend various Acts of the Commonwealth to allow for the regulatory responsibility for building societies, credit unions and friendly societies to be transferred from the States and Territories to the Commonwealth.
2. This Act is enacted to facilitate the transfer of the regulatory responsibility for building societies, credit unions and friendly societies from Western Australia to the Commonwealth.

The Parliament of Western Australia enacts as follows:

## Part 1 — Preliminary

### 1. Short title

This Act may be cited as the *Acts Amendment and Repeal (Financial Sector Reform) Act 1999*.

### 2. Commencement

- (1) The provisions of this Act come into operation on the day on which this Act receives the Royal Assent or on a day fixed by proclamation, according to the Table to this subsection.

Table

Provision	Commencement
Part 1	Royal Assent
Part 2 Divisions 1 to 5	Proclamation
Part 2 Division 6 Subdivisions 1 to 3	Royal Assent
Part 2 Division 6 Subdivision 4	Proclamation
Part 2 Division 7 Subdivisions 1 to 4	Royal Assent
Part 2 Division 7 Subdivision 5	Proclamation
Part 2 Division 8	Royal Assent
Part 2 Division 9	Proclamation
Sections 54, 55 and 58	Royal Assent
Sections 56 and 57	Proclamation
Part 3	Proclamation

- (2) Different days may be fixed in a proclamation for different provisions and for different parts of the provisions referred to in the Table to subsection (1) that commence on a day fixed by proclamation.

### 3. Interpretation

In this Act, unless the contrary intention appears —

“**AFIC**” means the Australian Financial Institutions Commission established by the AFIC Act;

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

“**AFIC Code**” means the AFIC (Western Australia) Code;

“**AFIC (Western Australia) Code**” means the provisions applying before the transfer date because of section 5 of the *Financial Institutions (Western Australia) Act 1992* and includes the AFIC (Western Australia) Regulations;

“**AFIC (Western Australia) Regulations**” means the provisions applying before the transfer date because of section 6 of the *Financial Institutions (Western Australia) Act 1992*;

“**APRA**” means the Australian Prudential Regulation Authority established under the APRA Act;

“**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 established under the *Australian Securities and Investments Commission Act 1989* of the Commonwealth;

“**authorized APRA officer**”, in a provision of Part 2 Division 3, means a person authorized under section 8 to perform or exercise the functions of an authorized APRA officer under that provision;

“**employee**”, in relation to AFIC or WAFIA, includes a person engaged by AFIC or WAFIA on a contract for services;

“**enforcement power**” means a function 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”** means the Financial Institutions (Western Australia) Code;

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

**“Financial Institutions (Western Australia) Code”** means the provisions applying before the transfer date because of section 8 of the *Financial Institutions (Western Australia) Act 1992* and includes the Financial Institutions (Western Australia) Regulations;

**“Financial Institutions (Western Australia) Regulations”** means the provisions applying before the transfer date because of section 9 of the *Financial Institutions (Western Australia) Act 1992*;

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

**“Friendly Societies Code”** means the Friendly Societies (Western Australia) Code;

**“Friendly Societies (Western Australia) Code”** means the provisions applying before the transfer date because of section 5 of the *Friendly Societies (Western Australia) Act 1999* and includes the Friendly Societies (Western Australia) Regulations;

**“Friendly Societies (Western Australia) Regulations”** means the provisions in force before the transfer date under Part 4 of the *Friendly Societies (Western Australia) Act 1999*;

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

**“FS(TB) Act (Cwlth)”** means the *Financial Sector (Transfers of Business) Act 1999* of the Commonwealth;

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**“relevant Commonwealth body”** means APRA or ASIC;

**“SSA”** means State Supervisory Authority;

**“transfer date”** means the date that, under section 3(16) of the FSR Act (Cwlth), is specified as the transfer date for the purposes of that Act;

**“WAFIA”** means the Western Australian Financial Institutions Authority established under the *Western Australian Financial Institutions Authority Act 1992*.

**4. Crown bound**

- (1) This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.
- (2) Nothing in this section makes the Crown in any of its capacities liable to be prosecuted for an offence.

## **Part 2 — Repeals and transitional provisions**

### **Division 1 — Repeals**

#### **5. Various Acts repealed**

The following Acts are repealed —

- (a) *Financial Institutions (Western Australia) Act 1992*;
- (b) *Financial Institutions (Taxing) Act 1992*;
- (c) *Western Australian Financial Institutions Authority Act 1992*;
- (d) *Friendly Societies (Western Australia) Act 1999*;
- (e) *Friendly Societies (Taxing) Act 1999*.

### **Division 2 — Certain financial institutions to become companies**

#### **6. Transferring financial institutions to become companies**

(1) In this section —

“**previous governing Code**” has the same meaning as it has in Schedule 4 of the Corporations Law;

“**transferring financial institution of this jurisdiction**” has the same meaning as it has in Schedule 4 of the Corporations Law.

(2) On the transfer date, each transferring financial institution of this jurisdiction is taken, in accordance with Schedule 4 of the Corporations Law of Western Australia, to become registered as a company under that Law under the name under which the institution was registered under the previous governing Code immediately before the transfer date.

- (3) Subsection (2) applies even if the institution is an externally-administered body corporate immediately before the transfer date.
- (4) Registration under the Corporations Law of Western Australia of a transferring financial institution of this jurisdiction as a company does not create a new legal entity.

### **Division 3 — Transfers of business of ADIs and life insurance companies**

#### **7. Interpretation: FS(TB) Act (Cwlth) definitions apply**

Unless the contrary intention appears, words defined in the FS(TB) Act (Cwlth) have the same respective meanings in this Division.

#### **8. Authorized APRA officer**

- (1) APRA may, in writing, authorize a person who is an APRA board member, or an APRA staff member, to perform the functions of an authorized APRA officer under a particular provision of this Division.
- (2) The functions necessary for the purposes of this section are conferred on APRA.

#### **9. Voluntary transfers**

- (1) The purpose of this section is to facilitate voluntary transfers of business under Part 3 of the FS(TB) Act (Cwlth) for regulated bodies.
- (2) This section applies when a certificate of transfer issued under section 18 of the FS(TB) Act (Cwlth) comes into force under Division 3 of Part 3 of that Act.

- (3) The receiving body is taken to be the successor in law of the transferring body, to the extent of the transfer.
- (4) In particular —
  - (a) if the transfer is a total transfer, all the assets and liabilities of the transferring body become respectively the assets and liabilities of the receiving body without any transfer, conveyance or assignment;
  - (b) if the transfer is a partial transfer, all the assets and liabilities of the transferring body included in the list of assets and liabilities specified in the statement of detail 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.
- (5) If there is an approved section 20 statement in relation to the transfer that specifies —
  - (a) 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
  - (b) 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.

**10. Compulsory transfers**

- (1) The purpose of this section is to facilitate compulsory transfers of business under Part 4 of the FS(TB) Act (Cwlth) for regulated bodies.

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Part 2 Repeals and transitional provisions

Division 3 Transfers of business of ADIs and life insurance companies

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- (2) This section applies when a certificate of transfer issued under section 33 of the FS(TB) Act (Cwlth) comes into force under Division 3 of Part 4 of that Act.
- (3) The receiving body is taken to be the successor in law of the transferring body, to the extent of the transfer.
- (4) In particular —
  - (a) if the transfer is a total transfer, all the assets and liabilities of the transferring body become respectively the assets and liabilities of the receiving body without any transfer, conveyance or assignment;
  - (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 section 33(2)(c) of the FS(TB) Act (Cwlth), included in, or attached to, the certificate of transfer 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.
- (5) If the certificate of transfer includes provisions of a kind referred to in section 33(3) of the FS(TB) Act (Cwlth) specifying —
  - (a) 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
  - (b) 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.

- (6) If there is an approved section 30 statement in relation to the transfer that specifies —
- (a) 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
  - (b) 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.

**11. Certificates evidencing operation of this Division**

- (1) An authorized APRA officer may, by a certificate in writing signed by the officer, certify anything in relation to the effect of this Division, and, in particular may certify that —
- (a) a particular asset of a transferring body has become a transferred asset of a receiving body; or
  - (b) a particular liability of a transferring body has become a transferred liability of a receiving body.
- (2) For all purposes and in all proceedings, a certificate under subsection (1) is evidence of the matters certified.

**12. Interests in land**

- (1) Without prejudice to the generality of this Division and despite anything to the contrary in any other Act or law, if, immediately before the date on which an asset of a transferring body becomes a transferred asset of a receiving body, the transferring body is the registered proprietor of an interest in land under the *Transfer of Land Act 1893*, then on and after that date —
- (a) the receiving body is to be taken to be the registered proprietor of that interest in land; and

(b) the receiving body has the same rights and remedies in respect of that interest as the transferring body had.

(2) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of an authorized APRA officer, must make any amendments in the Register that are necessary because of the operation of this Division.

**13. Certificates in relation to other assets**

(1) This section applies if —

(a) an asset, other than land or an interest in land, becomes, under this Division, an asset of a receiving body; and

(b) there is lodged with the entity who has, under the law, responsibility for keeping a register or record relating to assets of that kind a certificate of an authorized APRA officer that —

(i) identifies the asset; and

(ii) states the asset has, under this Division, become an asset of the receiving body.

(2) The entity may —

(a) register or record the matter in the same manner as transactions in relation to assets of that kind are registered or recorded; and

(b) deal with, and give effect to, the certificate.

(3) This section does not affect the operation of the Corporations Law.

**14. Documents purporting to be certificates**

A document purporting to be a certificate issued under this Division by an authorized APRA officer is to be taken to be such a certificate and to have been properly issued unless the contrary is established.

**15. Relationship of Division with instruments and other laws**

- (1) This Division has effect despite anything in a contract, deed, undertaking, agreement or other instrument.
- (2) Nothing done under this Division —
  - (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;
  - (b) places a receiving body, a transferring body or another person in breach of —
    - (i) a law of the State;
    - (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.

**Division 4 — Provisions relating to uncompleted mergers and transfers of engagements**

**16. Mergers and transfers of engagements started under Financial Institutions (Western Australia) Code**

- (1) 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 (Western Australia) Code;

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

**“relevant SSA”** means —

- (a) in relation to a society, WAFIA; 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 (Western Australia) Code.

- (2) This section applies if a transfer of engagements or merger commenced before the transfer date under Part 7 of the Financial Institutions (Western Australia) Code and immediately before that date has not been completed, or been given effect.
- (3) The transfer of engagements or merger may be completed, or be given effect, under Part 7 of the Financial Institutions (Western 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 as if section 5 had not commenced.

- (4) For the purpose of the application mentioned in subsection (3) —
- (a) a reference in the Financial Institutions (Western Australia) Code to the SSA is taken to be a reference to either relevant Commonwealth body;
  - (b) a reference in the Financial Institutions (Western Australia) Code to the SSA of a participating State is taken to be a reference to either relevant Commonwealth body; and
  - (c) the Financial Institutions (Western Australia) Code applies with all other necessary changes.
- (5) For the purposes of this section a transfer of engagements was commenced before the transfer date under Part 7 of the Financial Institutions (Western 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;
    - (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, WAFIA gave a direction, under the Financial Institutions (Western Australia) Code, requiring the transfer.
- (6) 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;
  - (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.
- (7) The functions of the SSA that are necessary for the purposes of this section are conferred on each relevant Commonwealth body.

**17. Mergers and transfers of engagements started under Friendly Societies (Western Australia) Code**

(1) 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 (Western Australia) Code;

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

**“participating State”** means a State 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 Friendly Societies Code”** means —

- (a) in relation to a society, the Friendly Societies (Western Australia) Code; or

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

**“relevant SSA”** means —

- (a) in relation to a society, WAFIA; 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 (Western Australia) Code.

- (2) This section applies if a transfer of engagements or merger commenced before the transfer date under Part 7 of the Friendly Societies (Western Australia) Code and immediately before that date has not been completed, or been given effect.
- (3) The transfer of engagements or merger may be completed, or be given effect, under Part 7 of the Friendly Societies (Western 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 as if section 5 had not commenced.
- (4) For the purposes of the application mentioned in subsection (3) —
  - (a) a reference in the Friendly Societies (Western Australia) Code to the SSA is taken to be a reference to either relevant Commonwealth body;
  - (b) a reference in the Friendly Societies (Western Australia) Code to the SSA of a participating State is taken to be a reference to either relevant Commonwealth body; and
  - (c) the Friendly Societies (Western Australia) Code applies with all other necessary changes.

- (5) For the purposes of this section a transfer of engagements was commenced before the transfer date under Part 7 of the Friendly Societies (Western 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;
    - (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, WAFIA gave a direction, under the Friendly Societies (Western Australia) Code, requiring the transfer.
- (6) 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;
  - (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.
- (7) The functions of the SSA that are necessary for the purposes of this section are conferred on each relevant Commonwealth body.

**Division 5 — Provisions relating to societies whose  
registration has been cancelled**

**18. Interpretation**

In this Division —

“society” means —

- (a) a society under the Financial Institutions Code or the Friendly Societies Code;
- (b) a building society, other than a terminating building society, under the *Building Societies Act 1976* or a corresponding previous enactment;
- (c) a credit union under the *Credit Unions Act 1979* or a corresponding previous enactment, other than a body that, after the commencement of the *Credit Unions Act 1979*, was or continued to be registered under the *Co-operative and Provident Societies Act 1903*;
- (d) a friendly society under the *Friendly Societies Act 1894* or a corresponding previous enactment; or
- (e) an entity of a prescribed class or description.

**19. Application of this Division**

This Division applies if, before the transfer date, a society’s registration has been cancelled under —

- (a) the Financial Institutions Code;
- (b) the Friendly Societies Code;
- (c) the *Building Societies Act 1976* or a corresponding previous enactment;
- (d) the *Credit Unions Act 1979* or a corresponding previous enactment;

- (e) the *Friendly Societies Act 1894* or a corresponding previous enactment; or
- (f) any other written law prescribed by the regulations.

**20. Society's property vested in ASIC**

- (1) If a society whose registration has been cancelled as mentioned in section 19 held property on trust and the property, having become vested in WAFIA, subsequently vests in ASIC by virtue of section 41, ASIC may —
  - (a) continue to act as trustee; or
  - (b) apply to a court for the appointment of a new trustee.
- (2) If a society referred to in subsection (1) had property that it did not hold on trust, ASIC may —
  - (a) dispose of or deal with the property as it sees fit; and
  - (b) apply any money it receives to —
    - (i) defray expenses incurred by ASIC in exercising its powers in relation to the society; and
    - (ii) make payments authorized by subsection (3),and must deal with the rest (if any) under Part 9.7 of the Corporations Law which is deemed to apply as if the society had been a company.
- (3) 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.
- (4) ASIC's obligation under subsection (3) is limited to satisfying the liabilities out of the society's property to the extent that the property is properly available to satisfy those liabilities.

- (5) ASIC must keep —
- (a) a record of property that it knows is vested in it under section 41;
  - (b) a record of its dealings with that property;
  - (c) account of all money received from those dealings; and
  - (d) all accounts, vouchers, receipts and papers relating to the property and that money.

**21. ASIC may act on behalf of society**

ASIC may do an act on behalf of the society or the society's liquidator if ASIC is satisfied the society or liquidator would be bound to do the act if the society still existed.

**22. Recovery from society's insurer**

A person may recover from an insurer of the society an amount that was payable to the society under the insurance contract if —

- (a) the society had a liability to the person; and
- (b) the insurance contract covered the liability immediately before the cancellation of the registration.

**23. Society may be established as a company**

- (1) ASIC may establish a society as a company if ASIC is satisfied that the society's registration should not have been cancelled.
- (2) A court may make an order that ASIC establish a society as a company if —
  - (a) an application for so establishing a society is made to the court —
    - (i) by a person aggrieved by the cancellation of the society's registration; or

- (ii) by a former liquidator of the society;
  - and
  - (b) the court is satisfied that it is just that the society be so established.
- (3) If the court makes an order under subsection (2), it may —
  - (a) validate anything done between the cancellation of the society's registration and its establishment as a company; and
  - (b) make any other order it considers appropriate.
- (4) ASIC must give notice of the establishment of a company in the Commonwealth of Australia Gazette and, if it exercises its power under subsection (1) in response to an application by a person, it must also give notice to the applicant.
- (5) If a society is established as a company, the society is taken to have continued in existence until the transfer date and to be a transferring financial institution of this jurisdiction as referred to in Division 2.
- (6) A person who was a director of a society immediately before its registration was cancelled becomes a director of the company as which it is established under this section as from the time when ASIC or a court so establishes it.
- (7) Any property of the society that is still vested in ASIC reverts in the company so established and, if the society held particular property subject to a security or other interest or claim, the society takes the property subject to that interest or claim.

**24. Functions conferred on ASIC**

The functions necessary for the purposes of this Division are conferred on ASIC.

## **Division 6 — Provisions relating to AFIC**

Subdivision 1 — AFIC to continue to have certain powers

### **25. AFIC continues to have certain powers**

- (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 by section 5 of the *Financial Institutions (Western Australia) Act 1992* and of the *Friendly Societies (Western Australia) Act 1999*.
- (2) While AFIC continues in existence under the *Financial Sector Reform (Queensland) Act 1999* of Queensland, AFIC has power —
  - (a) to do any act in Western Australia that AFIC considers necessary or expedient to do for any of the purposes for which it continues in existence;
  - (b) to do any act in respect of a society that is or was registered under the Financial Institutions Code or the Friendly Societies Code that AFIC considers necessary or expedient to do for any of the purposes for which it continues in existence; and
  - (c) to do any act that it is authorized to do under this Act.

### **26. AFIC's powers may be delegated**

- (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.

Subdivision 2 — Information may be given to APRA or ASIC

**27. Information may be given**

- (1) This section applies to —
  - (a) a director of AFIC's board;
  - (b) an employee of AFIC;
  - (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.

Subdivision 3 — Transfer of AFIC's assets and liabilities

**28. Transfer of assets and liabilities**

- (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 FSR Act (Cwlth) connected with the transfer of AFIC's assets or liabilities to APRA or ASIC.
- (2) The transfer agreement has effect according to its terms.

Subdivision 4 — Proceedings involving AFIC

**29. Civil proceedings continued and rights of action preserved**

- (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 could if commenced after the date be brought against AFIC, or but for the commencement of section 5 and the dissolution of AFIC, could have 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.

**30. Certain criminal proceedings continued**

- (1) This section applies to a proceeding for an offence brought under section 63 of the AFIC Code by AFIC, or a person authorized in writing by AFIC, that commenced before the transfer date but was not completed before the 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 authorized by AFIC, and APRA or ASIC may be substituted in the proceeding for AFIC or the person.
- (3) The functions necessary for this section are conferred on APRA and ASIC.

### **Division 7 — Provisions relating to WAFIA**

Subdivision 1 — WAFIA to continue to exist for certain purposes

#### **31. WAFIA continues to exist for certain purposes**

- (1) This section applies despite the repeal by section 5 of the *Western Australian Financial Institutions Authority Act 1992*.
- (2) WAFIA 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, including the reports required under the *Financial Administration and Audit Act 1985* and section 33;
  - (c) to do other things under this Division and Division 8;
  - (d) winding up itself (including realizing its assets and discharging its liabilities) as soon as practicable but, in any case, within 12 months after the transfer date.
- (3) Without limiting subsection (2)(a), WAFIA must comply with clause 4 of Schedule 4 to the Corporations Law.
- (4) WAFIA may do all things necessary or convenient to be done for acting under subsection (2) or (3) including —
  - (a) engaging employees; and
  - (b) executing a contract, deed or other document necessary for its winding up.
- (5) Also, to the extent it is necessary or desirable to allow WAFIA to act under subsection (2), the provisions of the fiscal bodies legislation and the *Western Australian Financial Institutions*

*Authority Act 1992*, including the provisions of the Act about WAFIA's board and the board's directors, continue to apply despite the repeal of all or any of the legislation or the Act.

**32. Contracts and agreements with WAFIA continue**

The repeal of the *Western Australian Financial Institutions Authority Act 1992* does not of itself terminate a contract or other agreement between WAFIA and another person.

**33. WAFIA's final report**

WAFIA's board is to report, as required by section 66 of the *Financial Administration and Audit Act 1985*, for the period from the 30 June preceding the day when WAFIA is dissolved to the day on which it is dissolved, and Division 14 of Part II of that Act applies as if that period were a full financial year.

**34. WAFIA's functions may be delegated**

- (1) WAFIA's board may delegate WAFIA's functions to an appropriately qualified employee of WAFIA or to a person appointed under subsection (2).
- (2) The Minister may appoint a person to whom WAFIA's functions may be delegated.
- (3) The person appointed holds office at the pleasure of the Minister on such terms and conditions as the Minister determines.
- (4) The Minister is to provide the clerical and other assistance that the person reasonably requires for the purposes of performing the functions that are delegated to him or her.
- (5) In subsection (1) —  
**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to exercise the power.

**35. Dissolution of WAFIA**

WAFIA is dissolved, and the members of WAFIA's board go out of office, on the earlier of —

- (a) 12 months after the transfer date; or
- (b) a date determined by the Minister notice of which is published in the *Gazette*.

Subdivision 2 — Provisions about WAFIA's staff

**36. Interpretation**

In this Subdivision —

“**employees**”, of WAFIA, includes the chief executive officer of WAFIA.

**37. Staff to transfer to APRA under transfer agreement**

- (1) The Minister may enter into a transfer agreement under Division 2 of Part 1 of Schedule 8 of the FSR Act (Cwlth), that determines, or provides for determining, that particular employees of WAFIA 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.

**38. Effect of WAFIA employee becoming employed by APRA or Australian Public Service**

- (1) This section applies if a person becomes an APRA employee under section 37.
- (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 WAFIA.
- (3) If the person is the chief executive officer of WAFIA, the chief executive officer's appointment under the *Western Australian Financial Institutions Authority Act 1992* immediately ends.
- (4) If the person is another employee of WAFIA, the employee's employment with WAFIA 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.

**39. Statement of accrued benefits**

Before an employee of WAFIA becomes an APRA employee under section 37 or is appointed to the Australian Public Service as mentioned in section 38(2), WAFIA 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 WAFIA.

Subdivision 3 — Information may be given to APRA or ASIC

**40. Information may be given**

- (1) This section applies to —
  - (a) a director of WAFIA's board;
  - (b) an employee of WAFIA;
  - (c) a person appointed by WAFIA 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 410 of the Financial Institutions Code and section 477 of the Friendly Societies Code.

Subdivision 4 — Transfer of WAFIA's assets and liabilities

**41. Transfer of assets and liabilities**

- (1) The Minister may enter into a transfer agreement under Division 3 of Part 1 of Schedule 8 of the FSR Act (Cwlth) connected with the transfer of WAFIA's assets or liabilities to APRA or ASIC.
- (2) The transfer agreement has effect according to its terms.
- (3) For the purposes of this section WAFIA's assets do not include the Supervision Fund referred to in section 44.

Subdivision 5 — Proceedings involving WAFIA

**42. Civil proceedings continued and rights of action preserved**

- (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 WAFIA was a party immediately before that date, the State of Western Australia is substituted for WAFIA as a party to the proceeding.
- (3) For the purposes of a proceeding not commenced before the transfer date and which could if commenced after the date be

brought against WAFIA, or but for the commencement of section 5 and the dissolution of WAFIA, could have been brought against WAFIA, the proceeding may instead be brought against the State of Western Australia.

- (4) For the purposes of this section, evidence that would have been admissible for or against WAFIA is admissible for or against the State of Western Australia.
- (5) This section does not apply to a proceeding for an offence.

**43. Certain criminal proceedings continued**

- (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 WAFIA, or a person authorized in writing by WAFIA, that commenced before the transfer date but was not completed before the date.
- (2) On and after the transfer date, the proceeding may continue to be prosecuted by either APRA or ASIC in place of WAFIA or the person authorized by WAFIA, and APRA or ASIC may be substituted in the proceeding for WAFIA or the person.
- (3) The functions necessary for this section are conferred on APRA and ASIC.

**Division 8 — Provisions relating to statutory funds**

**44. Interpretation**

In this Division —

**“Contingency Fund”** means the Credit Unions Contingency Fund established under section 97 of the Financial Institutions Code;

**“Supervision Fund”** means the Supervision Fund established under section 94 of the Financial Institutions Code.

**45. Statutory funds continued until abolished**

- (1) This section applies despite —
  - (a) the repeal of the *Financial Institutions (Queensland) Act 1992* by the *Financial Sector Reform (Queensland) Act 1999*; and
  - (b) the repeal by section 5 of the *Financial Institutions (Western Australia) Act 1992*.
- (2) The Supervision Fund and the Contingency Fund continue in existence after the repeals mentioned in subsection (1) until —
  - (a) in the case of the Supervision Fund, the payments required to be made under section 46 have been made, at which time the fund is abolished; and
  - (b) in the case of the Contingency Fund, the payments required to be made under section 47 have been made, at which time the fund is abolished.

**46. Supervision Fund**

WAFIA must pay out of the Supervision Fund at such time or times as WAFIA determines —

- (a) to APRA —
  - (i) such amount in respect of liabilities relating to leave or other entitlements of employees of WAFIA 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 WAFIA; and
  - (ii) such amount in respect of any other liabilities of WAFIA that, by reason of this Act, become liabilities of APRA, as is determined by WAFIA;

- (b) to ASIC —
  - (i) such amount in respect of liabilities relating to leave or other entitlements of employees of WAFIA 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 WAFIA; and
  - (ii) such amount in respect of any other liabilities of WAFIA that, by reason of this Act, become liabilities of ASIC, as is determined by WAFIA;

and

- (c) to each building society, credit union and friendly society, an amount determined by WAFIA as representing the amount of supervision levy paid by the building society, credit union or friendly society into the supervision fund and unexpended.

**47. Credit Unions Contingency Fund**

- (1) In this section —
  - “contribution accounts”**, of credit unions, means the parts of the 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;
  - “credit union”** means a credit union under the Financial Institutions Code;
  - “retained earnings”** has the same meaning as in section 99A of the Financial Institutions Code.
- (2) On the day before the transfer date, WAFIA must, under section 99A of the Financial Institutions Code, distribute the whole of retained earnings to the contribution accounts of credit unions.

- (3) For the purposes of subsection (2), section 99A(3) of the Financial Institutions Code does not apply.
- (4) Immediately after WAFIA complies with subsection (2) it must pay from the Contingency Fund to each credit union the amount standing to the credit union's credit in the fund.
- (5) Subsection (4) applies despite section 103 of the Financial Institutions Code.

### **Division 9 — Conferral of functions on APRA and ASIC**

#### Subdivision 1 — General

#### **48. Conferral of functions on APRA**

- (1) APRA has the functions conferred or expressed to be conferred on it by or under this Part.
- (2) APRA has power to do acts in Western Australia in the performance of any function conferred or expressed to be conferred on APRA by or under a law of another jurisdiction corresponding to this Part.
- (3) The functions necessary for the purposes of Subdivision 2 are conferred on APRA.

#### **49. Conferral of functions on ASIC**

- (1) ASIC has the functions conferred or expressed to be conferred on it by or under this Part.
- (2) ASIC has power to do acts in Western Australia in the performance of any function conferred or expressed to be conferred on ASIC by or under a law of another jurisdiction corresponding to this Part.
- (3) The functions necessary for the purposes of Subdivision 2 are conferred on ASIC.

Subdivision 2 — APRA's and ASIC's functions under Codes

**50. Enforcement powers**

- (1) In this section —  
“**Code**” means the AFIC Code, Financial Institutions Code or Friendly Societies Code.
- (2) Either relevant Commonwealth body has the same enforcement powers relating to anything done or omitted to be done under a Code before the transfer date as AFIC or WAFIA had immediately before that date.
- (3) For the purposes of subsection (2), a Code applies with all necessary changes.

**51. AFIC Code provisions**

- (1) The following provisions of the AFIC Code continue to apply on and after the transfer date in relation to anything done or omitted to be done before that date as if section 5 had not commenced —
  - (a) Part 8, other than 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 the application mentioned in subsection (1) —
  - (a) a reference in the Code to AFIC is taken to be a reference to either relevant Commonwealth body;
  - (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;

- (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;
  - (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 either relevant Commonwealth body;
  - (e) section 52(5) of the Code is taken to be omitted;
  - (f) a reference in section 53(1) or (2) of the Code to the executive director is taken to be a reference to either relevant Commonwealth body;
  - (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 either relevant Commonwealth body;
  - (h) section 63(1A) and (1B) of the Code are taken to be omitted;
  - (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 50.

**52. Financial Institutions Code provisions**

- (1) The following provisions of the Financial Institutions Code continue to apply on and after the transfer date in relation to

anything done or omitted to be done before that date as if section 5 had not commenced —

- (a) Subdivision 1A of Division 2 of Part 2 (other than sections 75, 79 and 82), Part 10 and sections 392, 397, 398 and 404; and
  - (b) the other provisions of the Code relevant to the provisions referred to 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 the application mentioned in subsection (1) —
- (a) a reference in the Code to the SSA is taken to be a reference to either relevant Commonwealth body;
  - (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;
  - (c) 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;
  - (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;

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- (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 either relevant Commonwealth body;
  - (f) section 76(5) of the Code is taken to be omitted;
  - (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;
  - (h) section 397(2) of the Code is taken to be omitted;
  - (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;
  - (j) in the definition of “prescribed person” in section 398(1) of the Code, paragraphs (a) and (b) are taken to be omitted;
  - (k) section 398(2) of the Code is taken to be omitted;
  - (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;
  - (m) the Code applies with all other necessary changes.
- (4) This section does not limit section 50.

**53. Friendly Societies Code provisions**

- (1) The following provisions of the Friendly Societies Code continue to apply on and after the transfer date in relation to anything done or omitted to be done before that date as if section 5 had not commenced —
- (a) Subdivision 2 of Division 2 of Part 2 (other than sections 31, 35 and 38), Divisions 3 and 4 of Part 4A, Part 10 and sections 460, 465, 466 and 471; and
  - (b) the other provisions of the Code relevant to the provisions referred to 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 the application mentioned in subsection (1) —
- (a) a reference in the Code to the SSA is taken to be a reference to either relevant Commonwealth body;
  - (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;
  - (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;
  - (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 either relevant Commonwealth body;
  - (e) section 32(4) of the Code is taken to be omitted;
  - (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;
  - (g) section 465(2) of the Code is taken to be omitted;
  - (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;
  - (i) in the definition of “prescribed person” in section 466(1) of the Code, paragraphs (a) and (b) are taken to be omitted;

- (j) section 466(2) of the Code is taken to be omitted;
  - (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 50.

### **Division 10 — Miscellaneous**

#### **54. Dormant accounts**

- (1) This section applies if —
- (a) before the transfer date a society transferred an amount from a person’s deposit account with a 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 the other account for the person is taken to have been transferred back to the person’s deposit account as if it had never been classified as a dormant account or closed under section 138A of the Financial Institutions Code.

#### **55. Withdrawable shares in building societies**

- (1) 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) authorized 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.

- (2) A person who, immediately before the transfer date, was entitled to a withdrawable share of a building society, is deemed 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.
- (3) The holder of the deposit continues to have the same voting or other rights (if any) as the holder of the withdrawable share had.
- (4) Any withdrawable shares of a building society on issue immediately before the transfer date and converted to deposits under subsection (2) are deemed to have been cancelled.
- (5) This section applies subject to such standards or rules about the conversion of withdrawable shares to deposits as are determined by WAFIA.

**56. Australian Financial Institutions Appeals Tribunal**

- (1) In this section —  
**“Code”** means the AFIC Code, Financial Institutions Code or Friendly Societies Code.
- (2) This section applies on the transfer date.
- (3) The Australian Financial Institutions Appeals Tribunal established under section 8 of the AFIC Act ceases to exist by reason of the *Financial Sector Reform (Queensland) Act 1999* of Queensland.
- (4) 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.

**57. State taxes not chargeable**

No stamp duty or other tax or duty is chargeable under any Act in respect of anything effected by or done under this Part, other than Division 3.

**58. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

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### **Part 3 — Consequential amendments**

**59. *Administration Act 1903* amended**

Section 139 of the *Administration Act 1903*\* is amended as follows:

- (a) in subsection (1) by deleting “bank” in the 6 places where it occurs and in each place inserting instead —  
“ ADI ”;
- (b) after subsection (1) by inserting the following subsection —

“

- (2) In subsection (1) —  
“**ADI**” means authorised deposit-taking institution as defined in section 5 of the *Banking Act 1959* of the Commonwealth.

”;

- (c) by repealing subsection (3).

[\* *Reprinted as at 17 June 1986.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 4.]*

**60. *Albany Port Authority Act 1926* amended**

Section 54F(1) of the *Albany Port Authority Act 1926*\* is repealed and the following subsection is inserted instead —

“

- (1) Debentures and inscribed stock issued and created by the Port Authority under section 54B shall have the status of Government securities of the State of Western Australia.

”.

[\* *Reprinted as at 24 March 1971.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 9.]*

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**61. *Bank Mergers Act 1997* amended**

- (1) This section amends the *Bank Mergers Act 1997*\*.

[\* *Act No. 8 of 1997.*]

- (2) Section 3 is amended in the definition of “bank” by deleting paragraph (a) and “or” after it and inserting instead —

“

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or

”

- (3) Section 3 is amended in the definition of “bank” by deleting “bank mentioned in paragraph (a) or (b)” and inserting instead —

“

an ADI mentioned in paragraph (a) or a bank mentioned in paragraph (b)

”

**62. *Building Societies Act 1976* amended**

The *Building Societies Act 1976*\* is amended by inserting after section 5 the following section —

“

**5A. Act does not apply to permanent building societies**

- (1) Despite any other section, this Act does not have effect in relation to permanent building societies.
- (2) Subsection (1) is to be taken to have operated on and from 1 July 1992, despite the repeal of section 23 of the *Financial Institutions (Western Australia) Act 1992* by section 5 of the *Acts Amendment and Repeal (Financial Sector Reform) Act 1999*.

- (3) The operation of subsection (1) in the period beginning on 1 July 1992 and ending immediately before the commencement of section 5 of the *Acts Amendment and Repeal (Financial Sector Reform) Act 1999* is subject to any express provision made in any legislation within the definition of “scheme legislation of Western Australia” in section 3 of the *Financial Institutions (Western Australia) Act 1992*.

”

[\* Reprinted as at 14 April 1986.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 26.]*

**63. Bunbury Port Authority Act 1909 amended**

Section 54F(1) of the *Bunbury Port Authority Act 1909*\* is repealed and the following subsection is inserted instead —

“

- (1) Debentures and inscribed stock issued and created by the Port Authority under section 54B shall have the status of Government securities of the State of Western Australia.

”

[\* Reprinted as at 2 January 1991.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 27-8.]*

**64. Business Names Act 1962 amended**

Section 4A of the *Business Names Act 1962*\* is amended by deleting “Australian Securities Commission” in the 4 places where it occurs and in each place inserting instead —

“ Australian Securities and Investments Commission ”.

[\* Reprinted as authorized 17 March 1971.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 29.]*

**65. Commercial Tenancy (Retail Shops) Agreements Act 1985 amended**

- (1) This section amends the *Commercial Tenancy (Retail Shops) Agreements Act 1985*\*.

[\* Reprinted as at 27 September 1991.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 41, and Act No. 66 of 1998.]*

- (2) Section 12A(3)(a) is amended by deleting “or society”.

- (3) Section 12A(7) is amended as follows:

- (a) by deleting the definition of “bank” and inserting the following definition instead —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or  
(b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”;

- (b) by deleting the semicolon after the definition of “former tenant” and inserting a full stop instead;

- (c) by deleting the definition of “society”.

- (4) Section 12B(3)(a) is amended by deleting “or society”.

**66. Companies (Co-operative) Act 1943 amended**

- (1) This section amends the *Companies (Co-operative) Act 1943*\*.

[\* Reprinted as at 16 December 1954.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 46.]*

- (2) Section 5 is amended by deleting “friendly society, benefit society, or building society,” and inserting instead —

“

ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth or a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth,

”.

- (3) Section 28(1)(c) is amended by deleting “in existence and registered under the *Friendly Societies Act 1894-1938*” and inserting instead —

“

that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth

”.

- (4) Section 172(1) is amended as follows:

- (a) by deleting paragraph (a) and “or” after it and inserting instead —

“

- (a) a society registered under the *Building Societies Act 1976*; or

”.

- (b) by deleting paragraph (aa) and “or” after it and inserting instead —

“

- (aa) a body corporate that has a consent under section 66 of the *Banking Act 1959* of the Commonwealth to assume or use the restricted expression “credit union” or “credit society” or

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any other word or expression (whether or not in English) that is of like import to “credit union” or “credit society”; or

”

- (5) Section 176A(1) is amended as follows:
- (a) after paragraph (c) by inserting “or”;
  - (b) by deleting paragraph (d) and “or” after it.
- (6) Section 303(3) is amended by deleting “friendly society which is subject to the *Friendly Societies Act 1894-1939*,” and inserting instead —

“

corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth

”

- (7) Section 366 is amended in the definition of “Company” by deleting “or a building society registered under the *Building Societies Act 1920*” and inserting instead —

“

or a society registered under the *Building Societies Act 1976*

”

**67. Constitution Acts Amendment Act 1899 amended**

Schedule V Part 3 of the *Constitution Acts Amendment Act 1899*\* is amended by deleting “The Western Australian Financial Institutions Authority established by the *Western Australian Financial Institutions Authority Act 1992*.”.

[\* Reprinted as at 22 January 1997.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 53.]*

**68. Corporations (Western Australia) Act 1990 amended**

- (1) This section amends the *Corporations (Western Australia) Act 1990*\*.

[\* *Act No. 105 of 1990.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 56.]*

- (2) Section 1(2)(a) and section 3(1), in the definition of “ASC Act”, are amended by deleting “*Australian Securities Commission Act 1989*” and inserting instead —

“

*Australian Securities and Investments Commission Act 1989*

”.

- (3) The definition of “Commission” in sections 3(1) and 60 is amended by inserting after “Securities” —

“ and Investments ”;

- (4) The provisions in the Table to this subsection are each amended by deleting “ASC” wherever it appears and in each place inserting instead —

“ ASIC ”.

Table

s. 3(1) in these definitions:	s. 54(2)
“applicable provision”	Part 11 heading
“ASC Act”	Part 11 Division 1 heading
“ASC Law”	s. 58
“ASC Law of Western Australia”	s. 59
“ASC Regulations”	s. 60(1)
“ASC Regulations of Western Australia”	s. 61
“Commission”	s. 62
“Commonwealth law”	s. 63
“corresponding law”	s. 64
“national scheme law of this jurisdiction”	s. 65
s. 20	s. 72
s. 26(b)	s. 73
s. 27(1)	s. 74
s. 41(2)	s. 75
	s. 90

- (5) Part 6 is repealed.
- (6) Section 60(1) is amended as follows:
- (a) in the definition of “affairs” by deleting “section 260” and inserting instead —  
“ section 246AA ”;
  - (b) in the definition of “books” by deleting “accounts or accounting records,” and inserting instead —  
“ financial reports or financial records, ”.
- (7) Division 3 of Part 13 is repealed.
- (8) Section 96 is amended as follows:
- (a) by inserting before “Where” the subsection designation “(1)”;

“ (b) by inserting the following subsection —

- (2) Subsection (1) does not apply to a transfer made on or after the commencement of section 68(8) of the *Acts Amendment and Repeal (Financial Sector Reform) Act 1999*.

”

**69. Country Housing Act 1998 amended**

- (1) This section amends the *Country Housing Act 1998*\*.

[\* *Act No. 4 of 1998*.]

- (2) Section 11(3)(c) is amended by deleting “bank, building society” and inserting instead —

“

an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth

”

- (3) Section 43(1) is amended by deleting “A society within the meaning of the *Building Societies Act 1976* or the *Financial Institutions (Western Australia) Code*” and inserting instead —

“ A society registered under the *Building Societies Act 1976* ”.

- (4) Section 43(2) is repealed and the following subsection is inserted instead —

“

- (2) Subsection (1) operates despite any provision in the Act referred to or in the rules, articles or constitution of the society by which such an advance would, for any reason or reasons, be unlawful or *ultra vires* the powers of the society.

”

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**70. Credit Act 1984 amended**

- (1) This section amends the *Credit Act 1984*\*.

[\* *Act No. 99 of 1984.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 59, and Act No.10 of 1998.]*

- (2) Section 5(1) is amended by deleting the definition of “bank” and inserting the following definition instead —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or
- (b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”

- (3) Section 18(1), (1a) and (1b) are repealed and the following subsection is inserted instead —

“

- (1) The provisions of Parts III, IV, V, VI, VII and VIII do not apply to or with respect to a regulated contract where the credit provider is a bank, or a society registered under the *Building Societies Act 1976*, and the credit provided is secured by a mortgage of real property.

”

**71. Credit (Administration) Act 1984 amended**

- (1) This section amends the *Credit (Administration) Act 1984*\*.

[\* *Act No. 100 of 1984.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 59.]*

- (2) Section 4 is amended by deleting the definition of “bank” and inserting the following definition instead —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or
- (b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”.

- (3) Section 7(1) is amended as follows:

- (a) in paragraph (h) by deleting “or association”;
- (b) by deleting paragraphs (i) and (ia).

**72. *Crimes (Confiscation of Profits) Act 1988* amended**

Section 3(1) of the *Crimes (Confiscation of Profits) Act 1988*\* is amended as follows:

- (a) in the definition of “bank”, by deleting paragraph (b) and inserting the following paragraph instead —

“

- (b) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

”.

- (b) by deleting the definition of “building society”;
- (c) by deleting the definition of “credit union”;

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- (d) in the definition of “financial institution”, by deleting paragraphs (b) and (c) and the “or” after paragraph (c) and inserting instead —

“

- (b) a society registered under the *Building Societies Act 1976*; or

”.

[\* *Act No. 47 of 1988.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 60.]*

**73. Debt Collectors Licensing Act 1964 amended**

- (1) This section amends the *Debt Collectors Licensing Act 1964*\*.

[\* *Reprinted as at 2 February 1972.*

*For subsequent amendments see Act No. 98 of 1995.]*

- (2) Section 3 is amended as follows:

- (a) by inserting before the definition of “Court” the following definition —

“

“**bank**” means an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

”;

- (b) in the definition of “to pay into a trust account”, by deleting “as defined in section five of the *Banking Act 1959* of the Parliament of the Commonwealth as amended from time to time”.

- (3) Section 4(f) is deleted and the following paragraphs are inserted instead —

“

- (f) a bank;

- (fa) a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth;
- (fb) a trustee company carrying on business pursuant to any Act of this State or the Commonwealth;

”

**74. *Declarations and Attestations Act 1913* amended**

The Schedule to the *Declarations and Attestations Act 1913*\* is amended as follows:

- (a) in item 8 by deleting “a bank” and inserting instead —  
“ an authorised deposit-taking institution ”;
- (b) in item 8 by deleting “or under a written law of the State”;
- (c) by deleting item 9.

[\* *Reprinted as at 10 September 1992.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 69.]*

**75. *Education Act 1928* amended**

Section 9B(8) of the *Education Act 1928*\* is amended by deleting the definition of “bank” and inserting the following definition instead —

“

“**bank**” means an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

”

[\* *Reprinted as at 11 August 1991.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 77.]*

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**76. Electricity Corporation Act 1994 amended**

- (1) This section amends the *Electricity Corporation Act 1994*\*.

[\* *Act No. 86 of 1994.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 81.]*

- (2) Section 75(2) is amended in the definition of “bank” by deleting subparagraph (a)(i) and inserting instead —

“

- (i) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; and

”.

- (3) Clause 1(1) of Schedule 3 is amended as follows:

- (a) in the definition of “Board” by deleting “*Australian Securities Commission Act 1989*,” and inserting instead —

“

*Australian Securities and Investments Commission Act 1989* of the Commonwealth;

”.

- (b) by deleting the definition of “Commission” and inserting the following definition instead —

“

**“Commission”** means the Australian Securities and Investments Commission established under Part 2 of the *Australian Securities and Investments Commission Act 1989* of the Commonwealth.

”.

**77. *Esperance Port Authority Act 1968* amended**

Section 58(1) of the *Esperance Port Authority Act 1968*\* is repealed and the following subsection is inserted instead —

“

- (1) Debentures and inscribed stock issued and created by the Port Authority under section 54 shall have the status of Government securities of the State of Western Australia.

”.

[\* *Act No. 11 of 1968.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 84-5.]*

**78. *Evidence Act 1906* amended**

- (1) This section amends the *Evidence Act 1906*\*.

[\* *Reprinted as at 10 September 1996.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 86.]*

- (2) Section 3 is amended by deleting the definition of “bank” or “banker” and inserting the following definition instead —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or
- (b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”.

- (3) Section 93 is amended by deleting “A banker or” and inserting instead —

“ An ”.

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**79. Finance Brokers Control Act 1975 amended**

- (1) This section amends the *Finance Brokers Control Act 1975*\*.

[\* Reprinted as at 2 April 1986.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 89.]*

- (2) Section 4 is amended by inserting after the definition of “auditor” the following definition —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or
- (b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”.

- (3) Section 5(1) is amended as follows:

- (a) by deleting paragraph (a) and inserting the following paragraphs instead —

“

- (a) a bank;
- (aa) a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth;
- (ab) an insurance company authorized under any law of the Commonwealth or State to carry on insurance business;

”.

”.

- (b) by deleting paragraph (c) and inserting the following paragraph instead —

“

- (c) a society registered under the *Building Societies Act 1976*;

”.

**80. *Financial Administration and Audit Act 1985* amended**

- (1) This section amends the *Financial Administration and Audit Act 1985*\*.

[\* Reprinted as at 10 January 1997.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 91, and Act No 65 of 1998.]*

- (2) Section 3(1) is amended in the definition of “bank” by deleting subparagraph (a)(i) and inserting instead —

“

- (i) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; and

”.

- (3) Section 37 is amended in the definition of “bank” by deleting paragraph (a) and inserting the following paragraph instead —

“

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

”.

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**81. Financial Institutions Duty Act 1983 amended**

- (1) This section amends the *Financial Institutions Duty Act 1983*\*.

[\* Reprinted as at 19 November 1992.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 92.]*

- (2) Section 3(1) is amended as follows:

- (a) by deleting the definition of “bank” and inserting the following definition instead —

“

**“bank”** means —

- (a) an authorised deposit-taking institution as defined in section 5 of the *Banking Act 1959* of the Commonwealth;
- (b) a bank constituted under a law of a State or a Territory; or
- (c) for the purposes of section 14, the Treasury in its capacity as a banker;

”;

- (b) by deleting the definition of “building society”;
- (c) in the definition of “co-operative society” by deleting “, but does not include a building society”;
- (d) by deleting the definition of “credit union”;
- (e) in paragraph (b)(ii) of the definition of “financial institution” by deleting “*Life Insurance Act 1945*” and inserting instead —  
“ *Life Insurance Act 1995* ”;
- (f) in the definition of “trust fund account” by deleting “, building society or credit union”.

- (3) Section 10(4) is amended as follows:
- (a) by deleting paragraph (e) and inserting the following paragraph instead —  
“
    - (e) a receipt by a bank that is a registered financial institution during the course of a customary general clearance pursuant to an agreement between 2 or more banks for the settlement of balances arising between them, being an agreement contemplated by the terms and conditions of any agreement between banks relating to a customary general clearance;”;
  - (b) in paragraph (n) by deleting subparagraphs (i) and (iii);
  - (c) by deleting paragraph (p).
- (4) Section 13(3) is amended by deleting paragraphs (a) and (c).
- (5) Section 13(11) is repealed.
- (6) Section 13(12) is amended as follows:
- (a) by inserting after paragraph (a) —  
“ or ”;
  - (b) by deleting “; or” after paragraph (b) and inserting a comma instead;
  - (c) by deleting paragraph (c).
- (7) Section 15(1) is amended by deleting “, building society or credit union”.
- (8) Section 15(3) is amended by deleting “, building society or credit union” in the 2 places where it occurs.
- (9) Section 15(4) is amended by deleting “, building society or credit union”.

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- (10) Section 15(5)(c) is amended by deleting “, building society or credit union”.
- (11) Section 26(4)(a) is amended by deleting “a building society or credit union or”.
- (12) Section 40(3) is amended by deleting “building society or credit union,”.

**82. Fremantle Port Authority Act 1902 amended**

Section 58G(1) of the *Fremantle Port Authority Act 1902*\* is repealed and the following subsection is inserted instead —

“

- (1) Debentures and inscribed stock issued and created by the Port Authority under section 58C shall have the status of Government securities of the State of Western Australia.

”.

[\* Reprinted as at 23 January 1989.

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 99.]

**83. Gas Corporation Act 1994 amended**

- (1) This section amends the *Gas Corporation Act 1994*\*.

[\* Act No. 87 of 1994.

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 102-3.]

- (2) Section 76(2) is amended in the definition of “bank” by deleting subparagraph (a)(i) and inserting instead —

“

- (i) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

”.

- (3) Clause 1(1) of Schedule 3 is amended as follows:
- (a) in the definition of “Board” by deleting “*Australian Securities Commission Act 1989*,” and inserting instead —

“

*Australian Securities and Investments Commission Act 1989* of the Commonwealth;

”.

- (b) by deleting the definition of “Commission” and inserting the following definition instead —

“

“**Commission**” means the Australian Securities and Investments Commission established under Part 2 of the *Australian Securities and Investments Commission Act 1989* of the Commonwealth.

”.

**84. Geraldton Port Authority Act 1968 amended**

Section 58(1) of the *Geraldton Port Authority Act 1968*\* is repealed and the following subsection is inserted instead —

“

- (1) Debentures and inscribed stock issued and created by the Port Authority under section 54 shall have the status of Government securities of the State of Western Australia.

”.

[\* *Act No. 10 of 1968.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 104.]*

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**85. Government Railways Act 1904 amended**

Section 54G(1) of the *Government Railways Act 1904*\* is repealed and the following subsection is inserted instead —

“

- (1) Debentures and inscribed stock issued and created or issued by the Commission under this Act shall have the status of Government securities of the State of Western Australia.

”

[\* Reprinted as at 27 October 1982.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 108-9.]*

**86. Hospitals and Health Services Act 1927 amended**

Section 33(5) of the *Hospitals and Health Services Act 1927*\* is amended by deleting “registered friendly society, registered branch of a friendly society,” and inserting instead —

“

any corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth,

”

[\* Reprinted as at 22 April 1993.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 117-8.]*

**87. Housing Act 1980 amended**

Section 52(1) of the *Housing Act 1980*\* is amended in the definition of “lending institution” in paragraph (a) by deleting “building”.

[\* Act No. 58 of 1980.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 118.]*

**88. *Housing Loan Guarantee Act 1957* amended**

- (1) This section amends the *Housing Loan Guarantee Act 1957*\*.

[\* *Reprinted as at 20 May 1974.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 118-9, and Act No 2 of 1999.]*

- (2) Section 4 is amended as follows:

- (a) in paragraph (a) by deleting “building societies registered under the Building Societies Act, 1920, and other”;
- (b) in paragraph (b) by deleting “building societies registered under the Building Societies Act, 1920, and other”.

- (3) Section 5(1) is amended as follows:

- (a) by deleting paragraph (a) and “or” after it and inserting instead —

“

- (a) being a society registered under the *Building Societies Act 1976* or *Co-operative and Provident Societies Act 1903*; or

”;

- (b) by deleting paragraph (b) and “or” after it and inserting instead —

“

- (b) being an ADI (authorised deposit-taking institution) as defined in the section 5 of the *Banking Act 1959* of the Commonwealth; or
- (ba) being a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth; or

”.

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- (4) Section 10 is amended by deleting the passage beginning with “any approved institution” and ending with “that approved institution.” and inserting instead —

“

any society registered under the *Building Societies Act 1976* or *Co-operative and Provident Societies Act 1903*, notwithstanding that the power is not conferred by the society’s instrument of constitution, and notwithstanding any provision of that instrument to the contrary.

”

**89. Interpretation Act 1984 amended**

Section 5 of the *Interpretation Act 1984*\* is amended as follows:

- (a) by deleting these definitions:  
“AFIC (Western Australia) Code”  
“AFIC (Western Australia) Regulations”  
“Financial Institutions (Western Australia) Code”  
“Financial Institutions (Western Australia) Regulations”;
- (b) in the definition of ““ASC Law” and “ASC Regulations”” by deleting “ASC” in both places where it occurs and in each place and inserting instead —  
“ ASIC ”.

[\* *Reprinted as at 15 March 1996.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 124.]*

**90. *Land Administration Act 1997* amended**

Section 274(2) of the *Land Administration Act 1997*\* is amended in paragraph (d)(ii) of the definition of “address” by inserting after “Securities” —

“ and Investments ”.

[\* *Act No. 30 of 1997.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 136.]*

**91. *Legal Practitioners Act 1893* amended**

Section 10(3)(d) of the *Legal Practitioners Act 1893*\* is amended by inserting after “Securities” —

“ and Investments ”.

[\* *Reprinted as at 27 November 1996.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 142.]*

**92. *Local Government Act 1995* amended**

- (1) This section amends the *Local Government Act 1995*\*.

[\* *Act No. 74 of 1995.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 148.]*

- (2) Section 5.74(1) is amended in the definition of “corporation” by deleting paragraph (c).

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- (3) Section 5.85(2)(c) is amended by deleting “a bank, building society, credit union” and inserting instead —

“

an ADI (authorised deposit-taking institution)  
as defined in section 5 of the *Banking Act 1959*  
of the Commonwealth

”

**93. *Members of Parliament (Financial Interests) Act 1992*  
amended**

- (1) This section amends the *Members of Parliament (Financial Interests) Act 1992*\*.

[\* *Act No. 44 of 1992.*]

- (2) Section 3(1) is amended in the definition of “corporation” by deleting paragraph (c).

- (3) Section 13(3)(c) is amended by deleting “a bank, building society, credit union” and inserting instead —

“

an ADI (authorised deposit-taking institution)  
as defined in section 5 of the *Banking Act 1959*  
of the Commonwealth

”

**94. *Metropolitan (Perth) Passenger Transport Trust Act 1957*  
amended**

Section 50(1) of the *Metropolitan (Perth) Passenger Transport Trust Act 1957*\* is repealed and the following subsection is inserted instead —

“

- (1) Debentures and inscribed stock issued and created by the Trust under this Act shall have the status of Government securities of the State of Western Australia.

”.

[\* Reprinted as at 3 March 1975.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 159-60.]*

**95. Pharmacy Act 1964 amended**

- (1) This section amends the *Pharmacy Act 1964*\*.

[\* Reprinted as at 29 January 1999.

*For subsequent amendments see Act No 2 of 1999.]*

- (2) Section 5(1) is amended by inserting, in the appropriate alphabetical position, the following definition —

“

**“friendly society”** means a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth;

”.

- (3) Section 5(2) is repealed.
- (4) Section 23(1) is amended by deleting “friendly society registered under the *Friendly Societies (Western Australia) Code 1999*” and inserting instead —

“ friendly society ”.

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- (5) Section 36(1)(b) is amended by deleting “friendly society registered under the *Friendly Societies (Western Australia) Code 1999*” and inserting instead —

“ friendly society ”.

- (6) Section 36B(3)(b) is amended by deleting “friendly society registered under the *Friendly Societies (Western Australia) Code 1999*” and inserting instead —

“ friendly society ”.

**96. *Poisons Act 1964* amended**

After section 30(2) of the *Poisons Act 1964*\* the following subsection is inserted —

“

- (3) In this section —

“**friendly society**” means corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth.

”.

[\* *Reprinted as at 22 January 1999.*]

**97. *Port Hedland Port Authority Act 1970* amended**

Section 57(1) of the *Port Hedland Port Authority Act 1970*\* is repealed and the following subsection is inserted instead —

“

- (1) Debentures and inscribed stock issued and created by the Port Authority under section 53 shall have the status of Government securities of the State of Western Australia.

”.

[\* *Act No. 30 of 1970.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 197.*]

**98. *Private Savings Bank Act 1924* repealed**

The *Private Savings Bank Act 1924* is repealed.

**99. *Real Estate and Business Agents Act 1978* amended**

- (1) This section amends the *Real Estate and Business Agents Act 1978*\*.

[\* Reprinted as at 6 September 1996.

For subsequent amendments see Act No 34 of 1998.]

- (2) Section 4(1) is amended as follows:

- (a) by deleting the definition of “bank” and inserting the following definition instead —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or  
(b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”;

- (b) by deleting the definition of “society”.

- (3) Section 67 is amended as follows:

- (a) by deleting the definition of “authorized financial institution” and inserting the following definition instead —

“

“**authorized financial institution**” means a bank or other body that is prescribed or belongs to a class of bodies that is prescribed;

”;

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- (b) in the definition of “bank account” by deleting “, society”;
- (c) in the definition of “banker” by deleting “, society”.
- (4) Section 92(1) is amended by deleting “, society” in the 2 places where it occurs.
- (5) Section 98(1)(b) is amended by deleting “, society”.
- (6) Section 99(1)(a) is amended by deleting “, society”.
- (7) Section 99(2)(a) is amended by deleting “, society”.
- (8) Section 99(3)(a) is amended by deleting “, society”.
- (9) Section 100 is amended as follows:
  - (a) by deleting “, building society,” in the 3 places where it occurs;
  - (b) by deleting “, building society”.
- (10) Section 131A is amended in the definition of “lending institution” by deleting paragraph (b).

**100. Residential Tenancies Act 1987 amended**

- (1) This section amends the *Residential Tenancies Act 1987*\*.

[\* *Reprinted as at 15 March 1996.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, pp. 214-5.]*

- (2) Section 33(2) is amended by deleting “a bank, building society or other similar body” and inserting instead —

“

an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth

”.

(3) Clause 1 of Part A of Schedule 1 is amended as follows:

- (a) by deleting the definition of “authorized financial institution” and inserting the following definition instead —

“

“**authorized financial institution**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth;
- (b) a bank constituted by a law of a State, a Territory or the Commonwealth; or
- (c) any other body,  
that is prescribed or that belongs to a class of bodies that is prescribed;

”.

- (b) by deleting the definition of “bank”;
- (c) by deleting the semicolon after the definition of “bond administrator” and inserting a full stop instead;
- (d) by deleting the definition of “society”.

**101. School Education Act 1999 amended**

Section 108(5) of the *School Education Act 1999* is amended by deleting the definition of “bank” and inserting the following definition instead —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or

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- (b) a bank constituted by a law of a State, a Territory or the Commonwealth.

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**102. Settlement Agents Act 1981 amended**

- (1) This section amends the *Settlement Agents Act 1981*\*.

[\* Reprinted as at 23 September 1996.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 229.]*

- (2) Section 3(1) is amended as follows:

- (a) by deleting the definition of “bank” and inserting the following definition instead —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or
- (b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”.

- (b) by deleting the definition of “society”.

- (3) Section 4(2) is amended by deleting the passage beginning with “apply to —” and ending with “trustee company.” and inserting instead —

“

apply to a bank in its capacity as a settlement agent, or to a trustee company.

”.

- (4) Section 36(3) is amended as follows:

- (a) by inserting after paragraph (b) the following —

- “ or ”;
- (b) by deleting paragraph (c) and “or” after it.
- (5) Section 48 is amended as follows:
- (a) by deleting the definition of “authorized financial institution” and inserting the following definition instead —
- “
- “**authorized financial institution**” means a bank or other body that is prescribed or belongs to a class of bodies that is prescribed;
- ”;
- (b) in the definition of “bank account” by deleting “, society”;
- (c) in the definition of “banker” by deleting “, society”.
- (6) Section 73(1) is amended by deleting “, society” in the 2 places where it occurs.
- (7) Section 76(2)(a)(ii) is amended by deleting “, society”.
- (8) Section 79(1)(b) is amended by deleting “, society”.
- (9) Section 80(1)(a) is amended by deleting “, society”.
- (10) Section 80(2)(a) is amended by deleting “, society”.
- (11) Section 80(3)(a) is amended by deleting “, society”.
- (12) Section 81 is amended as follows:
- (a) by deleting “, building society,” in the 3 places where it occurs;
- (b) by deleting “, building society or”.

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**103. Stamp Act 1921 amended**

- (1) This section amends the *Stamp Act 1921*\*.

[\* Reprinted as at 23 January 1996.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1 p. 237, and Act No 2 of 1999.]*

- (2) Sections 112HA(5)(b) and 112HB(3)(b) are each amended by inserting after “Securities” —

“ and Investments ”.

- (3) The Third Schedule is amended as follows:

- (a) in item 1(4) by deleting paragraph (a) and inserting the following paragraph instead —

“

- (a) a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth;

”;

- (b) in item 1(4) by deleting paragraph (b);

- (c) in item 3(2) by deleting “building”;

- (d) in item 7(7) after paragraph (a) by inserting —

“ or ”;

- (e) in item 7(7) by deleting “; or” after paragraph (b) and inserting a full stop instead;

- (f) in item 7(7) by deleting paragraph (c);

- (g) in item 7(11) by deleting “building”.

**104. *Strata Titles Act 1985* amended**

Clause 3(2) of Schedule 1 to the *Strata Titles Act 1985*\* is amended by deleting “a savings bank or building society” and inserting instead —

“

an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth

”.

[\* *Reprinted as at 20 January 1997.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 242.]*

**105. *The Public Institutions and Friendly Societies Lands Improvement Act 1892* amended**

Section 2 of *The Public Institutions and Friendly Societies Lands Improvement Act 1892*\* is amended by deleting “any Society or Branch thereof established or registered under ‘The Friendly Societies Ordinance, 1863,’ or any law to be hereafter passed to regulate Friendly Societies,” and inserting instead —

“

a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth,

”.

[\* *56 Vict., No. 7.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 202.]*

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**106. *Transfer of Land Act 1893* amended**

- (1) This section amends the *Transfer of Land Act 1893*\*.

[\* *Act No. 13 May 1997.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 255 and Act No. 3 of 1999.]*

- (2) Section 62 is amended by deleting “Friendly Society” and inserting instead —

“

a corporation that is a friendly society within the meaning of section 16C of the *Life Insurance Act 1995* of the Commonwealth

”.

- (3) Section 89 is repealed.
- (4) Section 129 is repealed.
- (5) Section 240(2)(d)(ii) is amended by inserting after “Securities” —
- “ and Investments ”.
- (6) The Eighth Schedule is repealed.

**107. *Travel Agents Act 1985* amended**

Section 3(1) of the *Travel Agents Act 1985*\* is amended by deleting the definition of “bank” and inserting the following definition instead —

“

“**bank**” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or

- (b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”.

[\* Reprinted as at 22 April 1997.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 257.]*

**108. Trustees Act 1962 amended**

Section 6(1) of the *Trustees Act 1962*\* is amended by deleting the definition of “bank” and inserting the following definition instead —

“

“bank” means —

- (a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or
- (b) a bank constituted by a law of a State, a Territory or the Commonwealth;

”.

[\* Reprinted as at 14 September 1981.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 258.]*

**109. Unclaimed Money Act 1990 amended**

Section 9(1)(m) of the *Unclaimed Money Act 1990*\* is deleted.

[\* Act No. 31 of 1990.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 259.]*

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**110. *Water Corporation Act 1995* amended**

Clause 1(1) of Schedule 3 to the *Water Corporation Act 1995*\* is amended as follows:

- (a) in the definition of “Board” by deleting “*Australian Securities Commission Act 1989*,” and inserting instead —

“

*Australian Securities and Investments Commission Act 1989* of the Commonwealth;

”.

- (b) by deleting the definition of “Commission” and inserting the following definition instead —

“

“**Commission**” means the Australian Securities and Investments Commission established under Part 2 of the *Australian Securities and Investments Commission Act 1989* of the Commonwealth.

”.

[\* *Act No. 70 of 1995.*

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 266.]*

**111. *Western Australian Treasury Corporation Act 1986* amended**

Schedule 1 to the *Western Australian Treasury Corporation Act 1986*\* is amended as follows:

- (a) by deleting item 3;

- (b) in item 4 by deleting “Societies as defined by section 5 of the *Building Societies Act 1976*.” and inserting instead —

“  
A society registered under the *Building Societies Act 1976*.

”.

[\* *Act No. 16 of 1986*.

*For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 273.]*

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