

# FINANCIAL INSTITUTIONS DUTY (No. 3).

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No. 110 of 1984.

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AN ACT to amend the Financial Institutions  
Duty Act 1983.

[Assented to 19 December 1984.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Financial Institutions Duty Amendment Act (No. 3) 1984*.

Short title  
and principal  
Act.

(2) In this Act, the Financial Institutions Duty Act 1983 is referred to as the principal Act.

Act No. 65  
of 1983,  
amended by  
Acts Nos. 86  
of 1983 and  
19 of 1984

Commence-  
ment.

2. This Act shall come into operation on  
1 January 1985.

Section 3  
amended.

3. Section 3 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the definition of  
“amount financed”;

(ii) in the definition of “approved  
superannuation scheme” by deleting  
“Treasurer” in both places where  
it occurs and substituting in each  
place the following—

“ Minister ”;

(iii) in the definition of “bank” by  
inserting after “State” the  
following—

“ or, for the purposes of section  
14, the Treasury in its capacity  
as a banker ”;

(iv) by inserting after the definition  
of “co-operative society” the  
following definition—

“ “corresponding law” means a  
law of another State that  
imposes a duty on receipts  
of financial institutions; ”;

(v) by deleting the definitions of “credit  
provider” and “credit provider’s  
account”;

(vi) in the definition of “exempt  
account” by deleting paragraph (d);

(vii) in the definition of "financial institution" by deleting subparagraph (iv) of paragraph (a) and substituting the following subparagraph—

" (iv) a pastoral finance company; ”;

(viii) by inserting after the definition of "financial institutions duty" the following definition—

" "foreign exchange dealer" means a person to whom a general authority to engage in foreign currency transactions has been granted under regulation 38A of the Banking (Foreign Exchange) Regulations of the Commonwealth and is in force; ”;

(ix) in the definition of "Government Department account" by deleting "bank, building society or credit union" and substituting the following—

" registered financial institution ”;

(x) in the definition of "loan contract" by deleting "credit provider" and substituting the following—

" person ”;

(xi) in the definition of "Local Government account" by deleting "bank, building society or credit union" and substituting the following—

" registered financial institution ”;

(xii) by deleting the definition of “prescribed short term dealer” and substituting the following definitions—

“ “prescribed short term dealer” means a person who is certified under section 26 as a certified short term dealer who is a prescribed short term dealer;

“prescribed short term dealer not being a registered financial institution” means a person who is certified under section 26 as a certified short term dealer who is a prescribed short term dealer not being a registered financial institution; ”;

(xiii) in the definition of “short term dealing”—

(A) by inserting after “bank” in both places where it occurs in paragraph (a) the following—

“ or pastoral finance company ”; and

(B) by deleting subparagraphs (v) and (vi) of paragraph (b);

(xiv) in the definition of “short term investment”—

(A) by inserting after “bank” in both places where it occurs in paragraph (a) the following—

“ or pastoral finance company ”;

- (B) by deleting subparagraphs (v) and (vi) of paragraph (b); and
- (C) by deleting “amount;” at the end of paragraph (e) and substituting the following—
  - “ amount,  
but excludes any amount that is a short term dealing held to the credit of a Local Government account or a charitable institution’s account; ”;
- (xv) in the definition of “short term liability” —
  - (A) by deleting “a foreign exchange hedging contract and a futures contract”;
  - (B) by inserting after “bank” wherever it occurs the following—
    - “ or pastoral finance company ”; and
  - (C) by inserting after “definition” at the end of the definition the following—
    - “ or a liability arising from the crediting of an amount to a Local Government account or a charitable institution’s account ”; and
- (xvi) by deleting the definition of “Treasurer”;
- (b) in subsection (4) by deleting “by a credit provider” in paragraph (e);

- (c) in subsection (14) by inserting after “dutiabale receipts” the following —

“ , a suspense account, an account of the kind referred to in subsection (19e) ”;

- (d) by repealing subsection (17) and substituting the following subsection—

“ (17) Notwithstanding subsections (12) and (13) but subject to subsection (20), where money is invested on term deposit with a financial institution and the principal is not repaid immediately and in full upon the expiration of the term, the non-repayment of the principal does not constitute a receipt of the financial institution if the money is re-invested on a term deposit. ”;

- (e) in subsection (19) by deleting “14” and substituting the following—

“ 30 ”;

- (f) by inserting after subsection (19) the following subsections—

“ (19a) Notwithstanding subsections (12) and (13), the crediting of an account by a financial institution for a person does not constitute a receipt for the purposes of this Act where there is an offsetting debit to another account kept by the financial institution for that person at the same branch and within the same division of the financial institution and the crediting of the account is the result of the loss of a passbook issued by the financial institution to that person.

(19b) Notwithstanding subsections (12) and (13), where an amount is credited to an account kept by a financial institution and the credit is subsequently offset by a debit of the same amount by reason of the dishonour of a cheque or because the initial credit was made in error, the credit does not constitute a receipt for the purposes of this Act.

(19c) Notwithstanding subsections (12) and (13), where an amount is debited to an account kept by a financial institution and the debit is subsequently offset by a credit of the same amount by reason of the dishonour of a cheque or because the initial debit was made in error, the credit does not constitute a receipt for the purposes of this Act.

(19d) Notwithstanding subsections (12) and (13), where a bad debt arises in an account kept by a financial institution for a person and for the purpose of closing the account and cancelling the bad debt, a credit of the same amount as the bad debt is made to the account, the crediting of the account for the purpose does not constitute a receipt for the purposes of this Act.

(19e) Notwithstanding subsections (12) and (13), where an amount is credited to an account kept by a bank and used only to facilitate the transfer of money to a State in which a corresponding law is in force, the credit does not constitute a receipt for the purposes of this Act. ”; and

(g) in subsection (20) by deleting “Where” and substituting the following—

“ Notwithstanding subsection (17), where ”.

Section 10  
amended.

4. Section 10 of the principal Act is amended—

(a) in subsection (3), by deleting “0.05” and substituting the following—

“ 0.03 ”; and

(b) in subsection (4)—

(i) in paragraph (b)—

(A) by deleting subparagraph (i) and “and” at the end of that subparagraph;

(B) in item (II), by inserting after “bank” wherever it occurs the following—

“ or pastoral finance company ”;

(ii) by deleting paragraph (c);

(iii) by deleting paragraph (f) and substituting the following paragraph—

“ (f) a receipt of money by a foreign exchange dealer in the course of a transaction entered into by the foreign exchange dealer pursuant to the general authority granted to him under regulation 38A of the Banking (Foreign Exchange) Regulations of the Commonwealth, but not including,

where the foreign exchange dealer is a bank, a receipt for the credit of an account kept by the bank for a person comprising the whole or part of the proceeds of such a transaction; and

- (iv) by deleting paragraphs (k) and (l) and substituting the following paragraph—

“ (k) a receipt by a person who is a financial institution by reason only that the person is a pastoral finance company, other than a receipt that is an amount received by the pastoral finance company in the course of banking business, including receipts in respect of interest bearing deposits, carried on by it; ”.

5. Section 11 of the principal Act is amended— Section 11  
amended.

- (a) in subsection (4), by deleting “, the proceeds of which or repayments or receipts relating to which are paid, or are to be paid, to the credit of his short term dealing account at the close of each day during the month to which the relevant return relates” and substituting the following—

“ at the close of each day during the month to which the relevant return made by him relates ”;

and

- (b) by inserting after subsection (4) the following subsection—

“ (5) Subject to this Act, a certified short term dealer who is a prescribed short term dealer not being a registered financial institution is liable to pay

financial institutions duty at the rate of 0.004 per centum in respect of the amount comprising whichever is the greater of—

- (a) the sum of the short term liabilities at the close of each day during the month to which the relevant return made by him relates divided by the number of days in that month; or
- (b) the sum of the short term investments at the close of each day during the month to which the relevant return made by him relates divided by the number of days in that month,

or, if neither sum is greater than the other, the sum referred to in paragraph (b). ”.

Section 12  
amended.

6. Section 12 of the principal Act is amended in subsection (3) by deleting “0.05” and substituting the following—

“ 0.03 ”.

Section 13  
amended.

7. Section 13 of the principal Act is amended—

(a) in subsection (8)—

- (i) by inserting after “by it” in paragraph (a) the following—

“ and for the purposes of this paragraph banking business includes receipts and payments in respect of interest bearing deposits with a pastoral finance company ”;

- (ii) in paragraph (b), by deleting “dealings;” and substituting the following—

“ dealings, provided that the pastoral finance company is a certified short term dealer who is not a prescribed short term dealer; or ”; and

(iii) by deleting paragraph (c);

(b) by repealing subsection (9); and

(c) in subsection (14)—

(i) by deleting “and not being a person who is a registered financial institution by reason only that he is a credit provider” in paragraph (a);  
and

(ii) by deleting paragraph (b).

8. Section 14 of the principal Act is amended— Section 14 amended.

(a) in subsection (1), by deleting “may” and substituting the following—

“ and a certified short term dealer who is a prescribed short term dealer not being a registered financial institution shall ”;

(b) by repealing subsection (4) and substituting the following subsections—

“ (4) Where—

(a) a certified short term dealer who is a prescribed short term dealer; or

(b) a certified short term dealer who is a prescribed short term dealer not being a registered financial institution,

receives amounts in respect of his short term dealings (being amounts of the kind referred to in section 10 (4) (b)), he may pay those amounts into his short term dealing account and shall not pay any other amounts received by him into that account, other than such amounts or classes of amounts as may be prescribed for the purposes of this subsection.

(4a) Notwithstanding subsection (4), a certified short term dealer who is a prescribed short term dealer shall pay into his short term dealing account the proceeds, repayments or receipts derived from realization of his short term investments. ”; and

(c) in subsection (6) by inserting after “prescribed short term dealer” the following—

“ or a certified short term dealer who is a prescribed short term dealer not being a registered financial institution ”.

Section 16  
repealed.

9. Section 16 of the principal Act is repealed.

Sections 18  
and 19  
repealed and  
substituted

10. Sections 18 and 19 of the principal Act are repealed and the following sections are substituted—

Local  
Government  
account.

“ 18. (1) The Council of a municipality may give notice in writing to a registered financial institution that an account kept in the name of that municipality by the registered financial institution is a Local Government account for the purposes of this Act.



Section 20  
amended.

11. Section 20 of the principal Act is amended—
- (a) by deleting “16 (5),”; and
  - (b) by deleting “a credit provider’s account,”.

Section 21  
amended.

12. Section 21 of the principal Act is amended—
- (a) in subsection (2) by deleting “0.05” and substituting the following—  
“ 0.03 ”; and
  - (b) in subsection (3) by deleting paragraph (f).

Section 26  
amended.

13. Section 26 of the principal Act is amended—
- (a) in subsection (3)—
    - (i) by deleting “and for a period of 5 years”; and
    - (ii) by inserting after “prescribed short term dealer” the following—  
“ or a certified short term dealer who is a prescribed short term dealer not being a registered financial institution ”;
  - (b) by repealing subsection (4) and substituting the following subsection—  
“ (4) A person who applies under this section for certification shall be certified as a certified short term dealer who is not a prescribed short term dealer unless the person is—
    - (a) a savings bank, building society or credit union or a registered financial institution and less than half of the institution’s short term dealings give rise to short term liabilities of that institution; or
    - (b) not a registered financial institution,

and a person of the kind referred to in paragraph (a) shall be certified as a certified short term dealer who is a prescribed short term dealer and a person of the kind referred to in paragraph (b) shall be certified as a certified short term dealer who is a prescribed short term dealer not being a registered financial institution. ”;

- (c) in subsection (5), by deleting “and for such period not exceeding 5 years”;
- (d) by inserting after subsection (5) the following subsection—

“ (5a) A person who is a certified short term dealer may by notice in writing given to the Commissioner apply for the cancellation of his certification and upon receipt of such an application the Commissioner shall cancel the certification and notify the person in writing of the effective date of the cancellation. ”; and

- (e) in subsection (7)—

- (i) by deleting “, or to take effect upon,”;

- and

- (ii) by inserting at the end of the subsection the following—

- “ , except that an application may not be made by a person whose certification was cancelled upon his application under subsection (5a) for a period of 2 years after cancellation under that subsection ”.

Section 27  
amended.

14. Section 27 of the principal Act is amended in paragraph (b) of subsection (2)—

(a) by deleting “and” at the end of subparagraph (ii);

(b) by deleting subparagraph (iii) and substituting the following subparagraphs—

“ (iii) in the case of a certified short term dealer who is a prescribed short term dealer—the amount comprising the sum of the short term investments at the close of each day during the month to which the return made by him relates divided by the number of days in that month; and

(iv) in the case of a certified short term dealer who is a prescribed short term dealer not being a registered financial institution—the amount comprising whichever is the greater of—

(A) the sum of the short term liabilities at the close of each day during the month to which the return relates divided by the number of days in that month; or

(B) the sum of the short term investments at the close of each day during the month to which the return made by him relates divided by the number of days in that month,

or, if neither sum is greater than the other, the sum referred to in item (B). ”.



Section 40  
amended

17. Section 40 of the principal Act is amended in subsection (2) by deleting "0.05" in both places where it occurs and substituting in each case the following—

“ 0.03 ”.

Section 69  
amended.

18. Section 69 of the principal Act is amended in subsection (1)—

(a) by deleting “and” at the end of paragraph (c); and

(b) by inserting after paragraph (c) the following paragraph—

“ (ca) in the case of a certified short term dealer who is a prescribed short term dealer not being a registered financial institution, of the sum of the short term liabilities of that dealer at the close of each day and of the sum of the short term investments of that dealer at the close of each day; and ”.

Savings.

19. Without prejudice to the Interpretation Act 1984, the principal Act in the form in which it was immediately before the commencement of this Act shall continue to have effect, according to its tenor, with respect to the period before the commencement of this Act as if it had not been amended.

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