

FINANCIAL INSTITUTIONS DUTY.

No. 19 of 1984.

**AN ACT to amend the Financial Institutions Duty
Act 1983.**

[Assented to 23 May 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 1984*.

Short title
and citation.

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

Act No. 65
of 1983 as
amended
by Act No. 86
of 1983.

(3) The principal Act as amended by this Act may be cited as the Financial Institutions Duty Act 1983-1984.

Commence-
ment.

2. This Act shall come into operation on 1 June 1984.

Section 3
amended.

3. Section 3 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the definition of “business undertaking”;

(ii) by inserting after the definition of “certified short term dealer” the following definitions—

“ “charitable institution” means—

(a) a public benevolent or a religious institution;

(b) a public hospital or a hospital that is carried on by an association or other body of persons otherwise than for purposes of profit or gain to the individual members of that association or other body;

(c) a primary or secondary school or secondary college that is carried on by an association or other body of persons otherwise than for the purposes of profit or gain to the individual members of that association or other body;

(d) a trust the moneys of which may not be applied otherwise than for charitable purposes; or

(e) an institution, not being a tertiary educational institution and not being a charitable institution within the meaning of paragraph (a), (b), or (c), established for charitable purposes;

“charitable institution’s account” means an account kept by a registered financial institution for a charitable institution the name of which account is included in a certificate issued and in force under section 19A; ”;

(iii) in the definition of “exempt account”, by—

(A) deleting “or” at the end of paragraph (f);

(B) inserting at the end of paragraph (g) the following—

“ or ”; and

(C) by inserting after paragraph (g) the following paragraph—

“ (h) a charitable institution’s account; ”;
and

- (iv) by deleting the definition of “Local Government account” and substituting the following definition—

“ “Local Government account” means an account kept and designated as a Local Government account by a bank, building society or credit union in respect of which a notice given under section 18 is in force; ”; and

- (b) in subsection (7), by deleting “bank, building society or credit union” in each place where it occurs and substituting in each place the following—

“ registered financial institution ”.

Section 10
amended.

4. Section 10 of the principal Act is amended in subsection (4)—

- (a) in paragraph (a), by deleting “bank, building society or credit union that is a”; and
- (b) in paragraph (c), by deleting “otherwise than in the course of a business undertaking”.

Section 18
repealed and
substituted.

5. Section 18 of the principal Act is repealed and the following section is substituted—

Local
Government
account.

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

(2) Where a notice under this section is given to a bank, building society or credit union that is a registered financial institution, that bank, building society or credit union shall designate the account to which the notice relates as a Local Government account for the purposes of this Act and the account shall be deemed to have become a Local Government account on 1 June 1984 or on the date on which the account was opened, whichever is the later. ”.

6. After section 19 of the principal Act, the following section is inserted—

Section 19A
inserted.

“ 19A. (1) A charitable institution may apply in the approved form and manner to the Commissioner for approval of an account kept for the charitable institution under an account name listed in the form of application by a registered financial institution as a charitable institution’s account for the purposes of this Act.

Charitable
institution’s
account.

(2) Where an application is made under subsection (1), the Commissioner may issue to the applicant a certificate of approval of the account to which the application relates as a charitable institution’s account for the purposes of this Act and approval of an account under an account name listed in the form of application shall constitute approval of all accounts kept for the charitable institution by one or more registered financial institutions under that account name.

(3) Where a certificate under this section is produced to a registered financial institution, that institution shall designate any account to which the certificate relates as a charitable institution’s account for the purposes of this Act.

(4) An amount shall not be paid to the credit of a charitable institution’s account kept by a registered financial institution

unless the amount is received by the charitable institution solely for the purposes of the charitable institution.

(5) Where the Commissioner is satisfied that—

- (a) an amount has been paid to the credit of a charitable institution's account in contravention of subsection (4); or
- (b) the charitable institution for which the account is kept is no longer a charitable institution for the purposes of this Act,

the Commissioner—

- (c) may cancel the certificate by notice given to each registered financial institution that to his knowledge keeps a charitable institution's account for that charitable institution;
- (d) may determine a period, not exceeding 12 months, during which the charitable institution is ineligible to make application under this section; and
- (e) shall send a copy of the notice given under paragraph (c) and any determination made under paragraph (d) to the charitable institution. ”.

Section 20
repealed and
substituted.

7. Section 20 of the principal Act is repealed and the following section is substituted—

Cancellation
of designa-
tion of
exempt
account.

“ 20. Where a registered financial institution receives a notice given by the Commissioner under section 13 (13), 14 (7), 15 (5),

16 (5), 17 (7) or 19A (5) cancelling an account as a special account, a short term dealing account, a trust fund account, a credit provider's account, a sweeping account or a charitable institution's account for the purposes of this Act, as the case may be, the registered financial institution shall forthwith cancel the designation of the account as such an account. ”.

8. Section 21 of the principal Act is amended in subsection (3) by deleting paragraphs (f), (g) and (h) and substituting the following paragraphs—

Section 21 amended.

- “ (f) a credit provider's account; and
(g) a sweeping account. ”.

9. Section 76 of the principal Act is repealed and the following section is substituted—

Section 76 repealed and substituted.

“ 76. (1) Subject to this section, a charitable institution may apply in the approved form and manner to the Commissioner for a refund to the institution equivalent to the amount paid by the charitable institution to a financial institution by way of payment of or towards any amount of duty paid or payable by the financial institution in respect of dutiable receipts received by that financial institution for the credit of the charitable institution.

Refunds to charities.

(2) The Commissioner shall grant a refund in respect of an application made by a charitable institution in accordance with this section.

(3) This section shall expire on 31 December 1984. ”.