

WESTERN AUSTRALIA

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FINANCIAL INSTITUTIONS DUTY ACT 1983

**FINANCIAL  
INSTITUTIONS DUTY  
REGULATIONS 1984**

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at 25 June 1997

WESTERN AUSTRALIA

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**FINANCIAL INSTITUTIONS DUTY  
REGULATIONS 1984**

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WESTERN AUSTRALIA

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FINANCIAL INSTITUTIONS DUTY ACT 1983

## FINANCIAL INSTITUTIONS DUTY REGULATIONS 1984

### Citation

1. These regulations may be cited as the *Financial Institutions Duty Regulations 1984*<sup>1</sup>.

[2. *Repealed in Gazette 8 June 1990 p.2688.*]

### When return or application deemed to be furnished

3. A return or an application for registration or certification shall not be deemed to have been furnished to the Commissioner unless and until the appropriate form, duly signed and containing a full, true and complete statement of all matters and things required to be stated in that form, has been lodged at the office of the Commissioner.

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**Prescription under definition of financial institution**

**3A.** Credit Union Financial Services (Australia) Ltd. is prescribed as a person that is not a financial institution for the purposes of the definition of “**financial institution**” in section 3 (1) of the Act.

*[Regulation 3A inserted in Gazette 30 August 1985 p.3066;  
amended in Gazette 8 January 1993 p.70.]*

**Prescription for purposes of section 10 (4) (o)**

4. The Government of this State is prescribed for the purposes of section 10 (4) (o) of the Act.

**Prescription under section 10 (4) (r)**

5. (1) A receipt that is a credit to an income account of a registered financial institution where an offsetting debit is made to a mortgage loan account with that financial institution is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

(2) There is prescribed under and for the purposes of section 10 (4) (r) of the Act, as a class of receipts to which the Act does not apply, every receipt of money by a bank, building society or credit union that is a registered financial institution being a direct deposit to the credit of an account kept by the bank, building society or credit union in payment of —

- (a) any pension, benefit or allowance under the *Social Security Act 1991* of the Commonwealth;
- (b) any pension or allowance under the *Veterans' Entitlements Act 1986* of the Commonwealth;
- (c) farm household support under the *Farm Household Support Act 1992* of the Commonwealth;
- (d) a domiciliary nursing care benefit under the *National Health Act 1953* of the Commonwealth; or

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- (e) a pension paid by the Department of Social Security of the United Kingdom.

(3) A receipt by a bank to the credit of a clearing account kept on behalf of a financial institution under an agreement between the bank and that financial institution where the clearing account is held solely for the purpose of clearing cheques drawn by the customers of the financial institution is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

(4) Where an account with a registered financial institution has been closed as a result of —

- (a) the closure or amalgamation of a branch or branches of that registered financial institution;
- (b) any conversion, updating or relocating of data processing systems within that registered financial institution; or
- (c) the loss of a customer's electronic banking card,

the crediting of a new account kept by that registered financial institution in the same customer's name by the transferring of the proceeds, other than closing interest, of the account which was closed is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

(4a) Where —

- (a) as a result of —
  - (i) the closure or amalgamation of a branch or branches of a registered financial institution;
  - (ii) any conversion, updating or relocating of data processing systems within a registered financial institution; or
  - (iii) the loss of a customer's electronic banking card,

an amount is credited to a loan account with a registered financial institution solely for the purpose of the closure of that loan account; and

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- (b) a new loan account for that amount is established by that registered financial institution in the same customer's name,

the credit referred to in paragraph (a) is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

- (5) A receipt to an internal pay-roll clearing account of —

- (a) an amount which represents salaries or wages which are to be credited to accounts in Western Australia kept by registered financial institutions in the names of employees of the person from whom, or which, that amount was received; or
- (b) an amount paid in settlement of credit granted to an employer by the crediting of amounts representing salaries or wages to accounts in Western Australia kept by registered financial institutions in the names of employees of that employer,

is prescribed, under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

(6) In subregulation (5) **“internal pay-roll clearing account”** means an account kept by a registered financial institution, other than in the name of another person, solely for the purpose of facilitating the payment of salaries and wages to accounts kept by that or any other registered financial institution in the names of employees of the persons from whom, or which, the salaries and wages are received.

(7) A receipt by a bank that is a registered financial institution to the credit of a clearing or settlement account kept by an SCH participant (other than a registered financial institution), being an account —

- (a) that is used solely for the purpose of depositing receipts from SCH-regulated transfers or depositing funds or transferring funds from another account for the purpose of meeting the SCH settlement obligations of that participant; and

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- (b) from which all funds are transferred at the close of each day to another account,

is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

(8) In subregulation (7) “SCH”, “SCH participant” and “SCH-regulated transfer” have the same meaning as in section 9 of the Corporations Law.

*[Regulation 5 amended in Gazette 29 March 1985 p.1105; 7 June 1985 p.1933; 10 May 1991 p.2402; 18 May 1993 p.2472; 28 April 1995 p.1514; 3 November 1995 pp.5205-6; 29 October 1996 p.5744.]*

*[5A. Repealed in Gazette 8 January 1993 p.70.]*

**Prescription under section 10 (4) (r) — Defence Service Homes Corporation loans**

**5B.** A receipt by a bank which is the consequence of a loan repayment made in respect of a Defence Service Homes Corporation loan is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

*[Regulation 5B inserted in Gazette 10 May 1991 p.2402.]*

**Prescription under section 13 (14) (h)**

**6.** Thomas Cook Pty. Ltd. is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 6 inserted in Gazette 15 February 1985 p.581.]*

**Prescription under section 13 (10)**

**7.** Every amount received by Thomas Cook Pty. Ltd., other than amounts received in the course of banking business carried on by it



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under the order of exemption granted by the Treasurer of the Commonwealth as gazetted in the *Commonwealth of Australia Gazette* dated 23 May 1968, is prescribed as constituting a class of amounts for the purposes of section 13 (10) of the Act.

*[Regulation 7 inserted in Gazette 15 February 1985 p.581.]*

**Prescription under section 13 (14) (h)**

**7A.** Credit Union Financial Services (Australia) Ltd is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7A inserted in Gazette 30 August 1985 p.3066;  
amended in Gazette 8 January 1993 p.70.]*

**Prescription under section 13 (10)**

**7B.** Every amount received by Credit Union Financial Services (Australia) Ltd other than —

- (a) amounts upon which duty, as specified in section 10 (3) of the Act, has been or will be paid by a credit union that is a registered financial institution;
- (b) amounts which are the proceeds of short term dealings which have been credited to a short term dealing account operated by Credit Union Financial Services (Australia) Ltd under section 14 of the Act;
- (c) amounts representing interest transferred to another account kept by a bank under section 14 (6) of the Act; or
- (d) amounts transferred to its special account, from an account in a State or Territory that has a corresponding law, by Credit Union Financial Services (Australia) Ltd that balance the special account,

is prescribed as constituting a class of amounts for the purposes of section 13 (10) of the Act.

*[Regulation 7B inserted in Gazette 30 August 1985 p.3066;  
amended in Gazette 8 January 1993 p.70.]*

**[7C.** *Repealed in Gazette 28 April 1995 p.1515.]*

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r. 7D

**Prescription under section 13 (14) (h) — ASX Operations Pty Ltd**

**7D.** ASX Operations Pty Ltd is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7D inserted in Gazette 8 June 1990 p.2688.]*

**Prescription under section 13 (10) — special account of ASX Operations Pty Ltd**

**7E.** Every amount received by ASX Operations Pty Ltd other than amounts to effect settlements between dealers, being stockbrokers, in respect of the purchase and sale of securities is prescribed as being a class of amounts for the purposes of section 13 (10) of the Act.

*[Regulation 7E inserted in Gazette 8 June 1990 p.2688.]*

**Prescription under section 13 (14) (h)**

**7F.** The Legal Contribution Trust is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7F inserted in Gazette 21 June 1991 p.3071;  
amended in Gazette 3 November 1995 p.5206.]*

**Prescription under section 13 (14) (h) — Australian Stock Exchange Ltd**

**7G.** Australian Stock Exchange Ltd is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7G inserted in Gazette 22 May 1992 p.2149.]*

**Prescription under section 13 (10) — special account of Australian Stock Exchange Ltd**

**7H.** Every amount received by Australian Stock Exchange Ltd other than amounts —

- (a) which represent deposits lodged in accordance with section 889 of the *Corporations Law*; or

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- (b) which result from the redemption, recovery or conversion to cash of any deposit invested by Australian Stock Exchange Ltd in accordance with section 891 of the *Corporations Law*,

is prescribed as constituting a class of amounts for the purposes of section 13 (10) of the Act.

[*Regulation 7H inserted in Gazette 22 May 1992 p.2150.*]

**Prescription under section 14 (5)**

7I. An amount paid out of a short term dealing account kept in the name of a certified short term dealer other than an amount paid —

- (a) by that certified short term dealer in the course of short term dealing; or
- (b) to the credit of another account, other than an exempt account, kept in Western Australia by a registered financial institution in the name of that certified short term dealer,

is a prescribed amount for the purpose of section 14 (5) of the Act.

[*Regulation 7I inserted in Gazette 28 April 1995 p.1515.*]

**Allowance of expenses**

8. Where a person is required under section 70 of the Act to attend and give evidence before the Commissioner there may be allowed to that person the sum, not exceeding in any case the minimum wage payable in the metropolitan area from time to time *per diem*, actually and necessarily lost by him by reason of his attendance, and, in addition, if he resides more than 7 kilometres from the place at which he is required to attend, such sum for travelling expenses, not exceeding the sum actually paid as the Commissioner thinks reasonable.

**How duty to be paid etc.**

9. (1) A person may pay duty by delivery of cash, banknotes, bank draft, postal order or cheque at the office of the Commissioner.

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(2) Where a remittance in payment of duty is posted by or on behalf of a person to the Commissioner, the payment shall not be deemed to have been made until the remittance has been received by the Commissioner.

(3) Where a cheque has been delivered or remitted to the Commissioner in payment of the duty, the duty shall, notwithstanding any receipt given therefor, not be deemed to have been paid until the amount for which the cheque is drawn has been collected.

(4) The Commissioner shall issue a receipt for every amount of duty paid in person at the office of the Commissioner and upon request for any amount of duty paid by any other means, and, the receipt may be issued by such persons as the Commissioner authorizes.

**Order under section 51 (8) of Act**

10. An order issued under section 51 (8) of the Act shall be in the form set out in Schedule 1 to these regulations.

**Signatures**

11. (1) Every application, statement, return, certificate, notice or other communication required by or under the Act to be made or furnished to the Commissioner, shall be signed —

- (a) in the case of an individual so required — in the name of that individual;
- (b) in the case of trustees so required — in the name of any one or more of the trustees resident in Australia, or where there is no trustee resident in Australia — of the agent in Australia for the trustee;
- (c) in the case of a company — in the name of an authorized officer or the public officer of the company;
- (d) in the case of any municipality or any Department, authority, agency or instrumentality of the Crown in right of a State — by the officer or officers appointed.

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(2) Subject to subregulation (3) of this regulation, the documents specified in subregulation (1) of this regulation shall be signed personally by the person in whose name they are required to be signed.

(3) Where it is not possible or practicable for the person specified in subregulation (2) of this regulation personally to sign documents required to be signed in his name, or where, on account of special circumstances, the Commissioner so permits, the person who is required to make or furnish those documents, or the directors of a company which is so required, may authorize, in writing another person to sign the documents in the name of the person so specified, before his own signature as a person so authorized.

(4) An authority under subregulation (3) of this regulation is not effective in relation to a return, notice or other documents required to be made, given or furnished at the office of the Commissioner unless and until notice of the authority, accompanied by a specimen signature of the authorized person and a statement of the capacity in which the authorized person acts in the business of the person giving the authority, has been given to the Commissioner at that office by the person giving the authority.

(5) The Commissioner may, at any time, if he thinks fit, disapprove of the authorization of a person to sign documents in pursuance of subregulation (3) of this regulation and direct that document signed by that person under the authorization shall not be accepted.

(6) Every document signed in accordance with these regulations in the name of the person in whose name it is required by this regulation to be signed shall be deemed to have been signed by that person.

(7) Notice of the cancellation of the authorization of any person under this regulation shall be given to the Commissioner.

(8) A person shall not, except in accordance with these regulations —

- (a) authorize, permit, suffer or procure to be signed otherwise than in his own name and by himself personally, or to be used unsigned; or

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- (b) be party or privy to, or be directly or indirectly concerned in, the signing otherwise than in his own name and by himself personally, or the use unsigned, of,

a document required by these regulations to be signed either in his own name and by himself personally, or in his own name before the signature of some other person.

Penalty: \$1 000.

- (9) A person shall not, except in accordance with these regulations, sign, or purport to sign either in his own name, or in any other name, or use unsigned, a document required by these regulations to be signed personally by, or in the name of, some other person.

Penalty: \$1 000.

**Prescription of Commissioner as State taxation officer**

12. The Commissioner is prescribed as a State taxation officer for the purposes of Part IIIA of the *Taxation Administration Act 1953* of the Commonwealth.

*[Regulation 12 inserted in Gazette 27 March 1986 p.1303.]*

**Prescription under section 58 (2)**

13. For the purposes of section 58 (2) of the Act, the prescribed rate of interest is 8%.

*[Regulation 13 inserted in Gazette 30 June 1989 p.1896;  
amended in Gazette 5 July 1991 p.3378; 31 July 1992  
p.3800; 25 September 1992 p.4776.]*

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**SCHEDULE 1**

[reg. 10]

**FORM 1**

State of Western Australia

*FINANCIAL INSTITUTIONS DUTY ACT 1983*

**ORDER UNDER SECTION 51 (8)**

To ..... at .....  
whereas at the time of the death of .....  
..... deceased, financial institutions  
duty has not been paid by the said .....  
up to the date of his death:

And whereas probate has not been; or letters of administration have not  
been granted in respect of the estate of the said .....  
deceased:

And whereas the amount of duty remaining due by the said .....  
.....  
at the time of his death is .....

These are therefore to require and authorize you forthwith to levy the  
said sum of .....  
together with the costs of these presents by distress and sale of any  
property of the estate of the said .....  
found by you and to require that you certify to me on .....  
day of ..... what you shall do by virtue of this warrant.

Dated this ..... day of ..... 19

.....  
Commissioner of State Taxation.

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**NOTES**

<sup>1</sup>. This reprint is a compilation as at 25 June 1997 of the *Financial Institutions Duty Regulations 1984* and includes the amendments effected by the regulations referred to in the following Table.

**Table of Regulations**

Regulation	Gazettal	Commencement	Miscellaneous
<i>Financial Institutions Duty Regulations 1984</i>	20 January 1984 pp.126-8	20 January 1984	
<i>Financial Institutions Duty Amendment Regulations 1984</i>	22 June 1984 p.1667	22 June 1984	
<i>Financial Institutions Duty Amendment Regulations 1985</i>	15 February 1985 p.581	15 February 1985	
<i>Financial Institutions Duty Amendment Regulations (No. 2) 1985</i>	29 March 1985 p.1105	18 April 1985 (see regulation 2)	
<i>Financial Institutions Duty Amendment Regulations (No. 3) 1985</i>	7 June 1985 p.1933	17 June 1985 (see regulation 2)	
<i>Financial Institutions Duty Amendment Regulations (No. 4) 1985</i>	7 June 1985 p.1933	10 June 1985 (see regulation 2)	
<i>Financial Institutions Duty Amendment Regulations (No. 5) 1985</i>	30 August 1985 p.3066	30 August 1985	
<i>Financial Institutions Duty Amendment Regulations 1986</i>	27 March 1986 p.1303	27 March 1986	
<i>Financial Institutions Duty Amendment Regulations 1987</i>	16 April 1987 pp.1365-6	16 April 1987	
<i>Financial Institutions Duty Amendment Regulations 1988</i>	8 July 1988 p.2372	8 July 1988	
<i>Financial Institutions Duty Amendment Regulations 1989</i>	30 June 1989 p.1896	30 June 1989	
<i>Financial Institutions Duty Amendment Regulations 1990</i>	8 June 1990 p.2688	8 June 1990	



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Regulation	Gazettal	Commencement	Miscellaneous
<i>Financial Institutions Duty Amendment Regulations 1991</i>	10 May 1991 p.2402	10 May 1991	
<i>Financial Institutions Duty Amendment Regulations (No. 2) 1991</i>	21 June 1991 p.3071	23 November 1991 (see regulation 2)	
<i>Financial Institutions Duty Amendment Regulations (No. 3) 1991</i>	5 July 1991 p.3378	5 July 1991	
<i>Financial Institutions Duty Amendment Regulations (No. 2) 1991</i>	21 June 1991 p.3071	23 November 1991 (see regulation 2)	
<i>Financial Institutions Duty Amendment Regulations 1992</i>	22 May 1992 pp.2149-50	22 May 1992	
<i>Financial Institutions Duty Amendment Regulations 1992</i>	31 July 1992 p.3800	31 July 1992	
<i>Financial Institutions Duty Amendment Regulations (No. 2) 1992</i>	25 September 1992 p.4776	25 September 1992	
<i>Financial Institutions Duty Amendment Regulations (No. 3) 1992</i>	8 January 1993 p.70	8 January 1993	
<i>Financial Institutions Duty Amendment Regulations 1993</i>	18 May 1993 p.2472	18 May 1993	
<i>Financial Institutions Duty Amendment Regulations 1995</i>	28 April 1995 pp.1514-15	28 April 1995	
<i>Financial Institutions Duty Amendment Regulations (No. 2) 1995</i>	3 November 1995 pp.5205-6	3 November 1995	
<i>Financial Institutions Duty Amendment Regulations 1996</i>	29 October 1996 p.5744	29 October 1996	