

**WESTERN AUSTRALIA**

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**FINANCIAL INSTITUTIONS  
(WESTERN AUSTRALIA) ACT 1992**

**(No. 30 of 1992)**

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WESTERN AUSTRALIA

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**FINANCIAL INSTITUTIONS  
(WESTERN AUSTRALIA) ACT 1992**

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**No. 30 of 1992**

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**AN ACT to make provision for a uniform legislative scheme for certain financial institutions and for other purposes.**

*[Assented to 19 June 1992.]*

The Parliament of Western Australia enacts as follows:

## PART 1 — PRELIMINARY

### Short title

1. This Act may be cited as the *Financial Institutions (Western Australia) Act 1992*.

### Commencement

2. The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

### Definitions

3. In this Act —

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

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

“AFIC (Western Australia) Code” means the provisions applying because of section 5;

“AFIC (Western Australia) Regulations” means the provisions applying because of section 6;

“Appeals Tribunal” means the Australian Financial Institutions Appeals Tribunal established under the AFIC Act;

“Financial Institutions Act” means the *Financial Institutions (Queensland) Act 1992* of Queensland;

“financial institutions agreement” has the same meaning as in the AFIC (Western Australia) Code;

**“Financial Institutions (Western Australia) Code”**  
means the provisions applying because of section 8;

**“Financial Institutions (Western Australia) Regulations”** means the provisions applying because of section 9;

**“Ministerial Council”** means the Ministerial Council established under the financial institutions agreement;

**“scheme legislation of Western Australia”** means —

- (a) this Act and regulations under this Act; and
- (b) the *Financial Institutions (Taxing) Act 1992*; and
- (c) the AFIC (Western Australia) Code; and
- (d) the AFIC (Western Australia) Regulations; and
- (e) the Financial Institutions (Western Australia) Code; and
- (f) the Financial Institutions (Western Australia) Regulations.

## **References to Queensland Acts**

4. In this Act, a reference to a Queensland Act includes a reference to —

- (a) that Queensland Act as amended and in force for the time being; and
- (b) an Act passed in substitution for that Act.

**PART 2 — AFIC (WESTERN AUSTRALIA) CODE AND  
AFIC (WESTERN AUSTRALIA) REGULATIONS**

**Application in Western Australia of the AFIC Code**

5. The AFIC Code set out in section 21 of the AFIC Act as in force for the time being —

- (a) applies as a law of Western Australia; and
- (b) as so applying, may be referred to as the AFIC (Western Australia) Code.

**Application of regulations**

6. (1) The regulations in force for the time being under Part 5 of the AFIC Act —

- (a) apply as regulations in force for the purposes of the AFIC (Western Australia) Code; and
- (b) as so applying, may be referred to as the AFIC (Western Australia) Regulations.

(2) Subject to subsection (3) of this section, where regulations under Part 5 of the AFIC Act take effect from a specified day that is earlier than the day when they are notified in the Queensland Government Gazette under section 28A of the *Acts Interpretation Act 1954* of Queensland, subsection (1) of this section has effect, and is taken always to have had effect, as if those regulations had taken effect under the AFIC Act from the specified day.

(3) To the extent that a provision of the AFIC (Western Australia) Regulations is taken because of a particular application of subsection (2) to have effect, or to have had effect, before the day of notification of the regulations referred to in that subsection, the provision —



- (a) operates to the advantage of a person, other than the State of Western Australia or an authority of the State of Western Australia, by —
    - (i) increasing the person's rights; or
    - (ii) relieving the person of liabilities;and
  - (b) does not operate to the disadvantage of another person, other than the State of Western Australia or an authority of the State of Western Australia, by —
    - (i) decreasing the person's rights; or
    - (ii) imposing liabilities on the person.
- (4) Subsection (3) does not affect any other operation that the provision has because of subsection (2) or otherwise.

**Interpretation of some expressions  
in Code and regulations**

**7. (1)** In the AFIC (Western Australia) Code and the AFIC (Western Australia) Regulations —

**“Corporations Law”** and **“Corporations Regulations”**  
have the meanings given by Part 3 of the *Corporations*  
*(Western Australia) Act 1990*;

**“Financial Institutions Code”** means the Financial  
Institutions (Western Australia) Code;

**“Legislature of this State”** means the Parliament of  
Western Australia;

**“Magistrate”** means a stipendiary magistrate appointed  
under the *Stipendiary Magistrates Act 1957*;

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

**“this State”** means the State of Western Australia.

(2) The *Corporations (Western Australia) Act 1990*, and the applicable provisions of Western Australia within the meaning of that Act, are prescribed for the purposes of section 39 (2) of the AFIC (Western Australia) Code.

**PART 3 — FINANCIAL INSTITUTIONS (WESTERN  
AUSTRALIA) CODE AND FINANCIAL INSTITUTIONS  
(WESTERN AUSTRALIA) REGULATIONS**

**Application in Western Australia of the Financial  
Institutions Code**

8. (1) Subject to this section, the Financial Institutions Code set out in section 30 of the Financial Institutions Act as in force for the time being —

- (a) applies as a law of Western Australia; and
- (b) as so applying, may be referred to as the Financial Institutions (Western Australia) Code.

(2) Section 59 (1) and (2) of the Financial Institutions Code mentioned in subsection (1) apply as law of Western Australia as if they read —

“ (1) An offence against a relevant Code that is not punishable by imprisonment is a simple offence.

(2) An offence against a relevant Code that is punishable by imprisonment is an indictable offence. ”.

(3) Section 61 of the Financial Institutions Code mentioned in subsection (1) applies as a law of Western Australia as if it read —

**Attempts**

“ 61. A person who attempts to commit a simple offence against a relevant Code commits an offence and is punishable as if the attempted offence had been committed. ”.

(4) Part 15 of the Financial Institutions Code mentioned in subsection (1) applies as a law of Western Australia as if its

provisions, so far as they relate to a “continuing association” or a “continuing association of credit unions”, were omitted.

### **Application of regulations**

9. (1) The regulations in force for the time being under Part 3 of the Financial Institutions Act —

- (a) apply as regulations in force for the purposes of the Financial Institutions (Western Australia) Code; and
- (b) as so applying, may be referred to as the Financial Institutions (Western Australia) Regulations.

(2) Subject to subsection (3) of this section, where regulations under Part 3 of the Financial Institutions Act take effect from a specified day that is earlier than the day when they are notified in the Queensland Government Gazette under section 28A of the *Acts Interpretation Act 1954* of Queensland, subsection (1) of this section has effect, and is taken always to have had effect, as if those regulations had taken effect under the Financial Institutions Act from the specified day.

(3) To the extent that a provision of the Financial Institutions (Western Australia) Regulations is taken because of a particular application of subsection (2) to have effect, or to have had effect, before the day of notification of the regulations referred to in that subsection, the provision —

- (a) operates to the advantage of a person, other than the State of Western Australia or an authority of the State of Western Australia, by —
  - (i) increasing the person’s rights; or
  - (ii) relieving the person of liabilities;

and

(b) does not operate to the disadvantage of another person, other than the State of Western Australia or an authority of the State of Western Australia, by —

(i) decreasing the person's rights; or

(ii) imposing liabilities on the person.

(4) Subsection (3) does not affect any other operation that the provision has because of subsection (2) or otherwise.

### **Interpretation of some expressions in the Code and regulations**

**10.** (1) In the Financial Institutions (Western Australia) Code and the Financial Institutions (Western Australia) Regulations —

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

**“continuing building society”** means a permanent building society registered under the *Building Societies Act 1976* immediately before the commencement of section 8 of this Act;

**“continuing credit union”** means a body registered under the *Credit Unions Act 1979* as a credit union immediately before the commencement of section 8 of this Act;

**“continuing foreign society”** means a foreign credit union registered under the *Credit Unions Act 1979* immediately before the commencement of section 8 of this Act;

**“continuing society”** means a continuing building society or continuing credit union;

**“Corporations Law”** and **“Corporations Regulations”**  
have the meanings given by Part 3 of the *Corporations*  
*(Western Australia) Act 1990*;

**“Legislature of this State”** means the Parliament of  
Western Australia;

**“Magistrate”** means a stipendiary magistrate appointed  
under the *Stipendiary Magistrates Act 1957*;

**“previous law”** means the *Building Societies Act 1976* and  
the *Credit Unions Act 1979*;

**“Registrar”** means the person appointed under and subject  
to the *Public Service Act 1978* to the office of Registrar  
of Co-operative and Financial Institutions and  
includes, in relation to a function that a deputy or  
assistant Registrar or a delegate of the Registrar was  
authorized under a previous law to perform, a deputy  
or assistant Registrar or delegate so authorized;

**“the Code”** means the Financial Institutions (Western  
Australia) Code;

**“this State”** means the State of Western Australia.

(2) The *Corporations (Western Australia) Act 1990*, and the  
applicable provisions of Western Australia within the meaning of  
that Act, are prescribed for the purposes of section 65 (4) of the  
Financial Institutions (Western Australia) Code.

## **PART 4 — CONFERRAL OF FUNCTIONS AND POWERS**

### **Conferral of functions and powers on AFIC**

11. AFIC has the functions and powers conferred or expressed to be conferred on it by or under the scheme legislation of Western Australia.

### **Conferral of functions and powers on Tribunal**

12. The Australian Financial Institutions Appeals Tribunal established under the AFIC Act has the functions and powers conferred or expressed to be conferred on it by or under the scheme legislation of Western Australia.

### **Conferral of jurisdiction on Queensland Supreme Court**

13. (1) Jurisdiction is conferred on the Supreme Court of Queensland in the matter of —

- (a) an appeal under the scheme legislation of Western Australia by a party to a proceeding before the Appeals Tribunal on a question of law from a decision of the Tribunal in the proceeding; or
- (b) a reference under the scheme legislation of Western Australia at the request of a party or by the Appeals Tribunal of its own initiative of a question of law arising in a proceeding of the Tribunal for decision.

(2) The conferral of jurisdiction in a matter on the Supreme Court of Queensland does not prevent the Supreme Court of Western Australia from exercising jurisdiction in that matter under the *Jurisdiction of Courts (Cross-vesting) Act 1987* nor in any other way limit the operation of that Act.

**PART 5 — STATE SUPERVISORY AUTHORITY**

**Western Australian Financial  
Institutions Authority**

14. The Western Australian Financial Institutions Authority established by the *Western Australian Financial Institutions Authority Act 1992* is the State supervisory authority for Western Australia.



**PART 6 — APPLICATION TO THE CROWN**

**Crown is bound**

15. (1) The scheme legislation of Western Australia binds the Crown in right of this State and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) Nothing in this section permits the Crown in any of its capacities to be prosecuted for an offence.

## **PART 7 — IMPOSITION OF FEES AND OTHER AMOUNTS**

### **Fees for chargeable matters**

**16.** This section imposes the fees that the Financial Institutions (Western Australia) Regulations or the AFIC (Western Australia) Regulations prescribe, except to the extent that they are taxes.

### **Levies, contributions and loans**

**17.** (1) Except to the extent that they are taxes, this section imposes —

- (a) the levy payable under sections 119 and 120 of the AFIC (Western Australia) Code by a financial institution; and
  - (b) the levy payable under section 95 of the Financial Institutions (Western Australia) Code by a financial body; and
  - (c) the contributions payable under section 98 of the Financial Institutions (Western Australia) Code by a credit union; and
  - (d) the support levy payable under section 99 of the Financial Institutions (Western Australia) Code by a credit union;
- and
- (e) the compulsory loans payable under section 100 of the Financial Institutions (Western Australia) Code by a credit union.

(2) An expression has in subsection (1) the meaning it would have if this section were in the AFIC (Western Australia) Code or the Financial Institutions (Western Australia) Code, as the case requires.

**PART 8 — GENERAL**

**Action to be taken by Premier under certain report**

18. (1) If the Premier of the State is provided with a report under section 49 (6) of the AFIC (Western Australia) Code, the Premier is to provide AFIC with a response to the report within 14 days of its receipt by the Premier.

(2) If —

(a) the Premier does not provide AFIC with a response to the report within 14 days of receipt of the report; or

(b) AFIC is of the opinion that it is necessary to do so,

AFIC may, by written notice given to the Premier, request the Premier to cause a copy of the report provided with the request to be laid before each House of the Parliament within 14 days of receipt of the request.

(3) The Premier is to comply with the request.

(4) If, because either House of Parliament is not sitting, a report cannot be laid before that House within the time prescribed by subsection (2), the Premier may comply with the request as to the laying of the report before that House by —

(a) giving a copy of the report to the Clerk of that House within that time; and

(b) immediately causing the report to be printed and made available to the public.

(5) A copy of a report given to the Clerk of a House under subsection (4) is to be laid before that House on its next sitting day.

**Amendment of certain provisions**

**19.** (1) If, under the financial institutions agreement, the Ministerial Council —

(a) approves —

- (i) a proposed amendment of the AFIC Act or the Financial Institutions Act; or
- (ii) regulations proposed to be made under the AFIC Act or the Financial Institutions Act (whether or not amending other regulations);

and

- (b) approves proposed regulations to be made under this Act in connection with the operation of the proposed amendment or regulations referred to in paragraph (a),

the Governor may make regulations in accordance with that approval varying the effect in Western Australia of that Act or those regulations.

(2) If regulations are made under subsection (1), the AFIC Act or the Financial Institutions Act or regulations in force under either of those Acts have effect in Western Australia, as the case requires, as if varied in accordance with the regulations made under subsection (1).

**Fees, fines and penalties**

**20.** All fees, fines, penalties and other money which, under or by virtue of the scheme legislation of Western Australia are authorized or directed to be imposed on any person are, unless otherwise provided, to be paid to the Treasurer of the State and credited to the Consolidated Revenue Fund.

**PART 9 — CONSEQUENTIAL**

**Amendment of *Interpretation Act 1984***

21. Section 5 of the *Interpretation Act 1984*\* is amended by inserting in the appropriate alphabetical positions the following definitions —

- “ “AFIC (Western Australia) Code” means the provisions applying because of section 5 of the *Financial Institutions (Western Australia) Act 1992*; ”;
- “ “AFIC (Western Australia) Regulations” means the provisions applying because of section 6 of the *Financial Institutions (Western Australia) Act 1992*; ”;
- “ “Financial Institutions (Western Australia) Code” means the provisions applying because of section 8 of the *Financial Institutions (Western Australia) Act 1992*; ”;
- “ “Financial Institutions (Western Australia) Regulations” means the provisions applying because of section 9 of the *Financial Institutions (Western Australia) Act 1992*; ”.

[\*Act No. 12 of 1984.

*For subsequent amendments see 1991 Index to Legislation of Western Australia, p. 101.]*

***Credit Unions Act 1979* repealed**

22. (1) The *Credit Unions Act 1979* is repealed.

(2) The *Credit Unions Act 1979* as in force before its repeal continues to apply in relation to the affairs of The WA Teachers Financial Society Limited.

***Building Societies Act 1976 not  
to apply to permanent societies***

**23.** (1) In so far as it relates to permanent building societies, the *Building Societies Act 1976* ceases to have effect.

(2) Subsection (1) is subject to express provision made by the scheme legislation of Western Australia.

**Name of terminating building society**

**24.** Section 144 (2) of the Financial Institutions (Western Australia) Code does not prevent a body that, immediately after the commencement of section 8, is a society registered under the *Building Societies Act 1976* from using a name or title referred to in that provision.

## PART 10 — SAVINGS AND TRANSITIONAL

### Interpretation

25. (1) In this Part, “**changeover day**”, in relation to a continuing society, means the day on which section 22 or 23, as the case requires, commences.

(2) Expressions used in the Financial Institutions (Western Australia) Code have the same respective meanings in this Part.

### Application of s. 37 of *Interpretation Act 1984* extended

26. For the purposes of the *Interpretation Act 1984* and section 46 of this Act, section 23 of this Act is taken to be a repeal of the *Building Societies Act 1976* in so far as that Act relates to permanent building societies.

### Credit Unions Contingency Fund

27. (1) In this section —

“**Protection Board**” means the Credit Unions Savings Protection Board Limited referred to section 5A (2) of the *Credit Unions Act 1979*;

“**Protection Fund**” means the Credit Unions Savings Protection Fund established under section 104B (1) of the *Credit Unions Act 1979*.

(2) The amount standing to the credit of the Protection Fund immediately before the repeal of the *Credit Unions Act 1979* is, on that repeal, to be credited to the Credit Unions Contingency Fund.

(3) An amount that would have been payable out of the Protection Fund under the *Credit Unions Act 1979* had that Act

not been repealed (including any liability of the Protection Board under that Act) is payable out of the Credit Unions Contingency Fund.

**Dividends from Credit  
Unions Contingency Fund**

28. (1) The SSA may pay a dividend out of the Credit Unions Contingency Fund to all credit unions if the SSA thinks that the capital amount in that Fund justifies it in so doing.

(2) Any such dividend is to be paid at a specified rate on the total amount that a credit union has contributed to the Credit Unions Contingency Fund.

(3) Instead of paying a dividend to a credit union, the SSA may —

(a) pay the dividend into the Supervision Fund established under section 94 of the Financial Institutions (Western Australia) Code in lieu of any supervision levy that is payable into that Fund by the credit union; and

(b) notify the credit union that it has paid the dividend in that way.

(4) A payment of dividend in lieu of supervision levy is to be regarded as a payment by the credit union into the Supervision Fund as supervision levy.

(5) This section ceases to operate 2 years after it commences.

**Transfer of records**

29. (1) The Registrar is to —

(a) make available to the SSA; and



- (b) when they are no longer required for the performance of the Registrar's functions, transfer to the SSA,

such records and other documents kept by the Registrar under a previous law as the Minister directs that relate to a continuing society.

(2) Except in so far as it is necessary to enable the Registrar to comply with subsection (1), this section does not affect the continuation of the duty of secrecy imposed by a previous law on the Registrar or any other person.

### **Final returns**

30. (1) Section 41 (1) and (2) of the *Building Societies Act 1976* continue to apply to returns of a continuing building society that relate to the calendar month ending immediately before the changeover day.

(2) For the purposes of section 41 (1) and (2) of the *Building Societies Act 1976* as continued by subsection (1), if the changeover day is before the end of a calendar month the part of the month that was before that day is taken to be a calendar month.

### **Accounts, returns, audit, etc**

31. (1) Section 65 of the *Building Societies Act 1976* continues to apply to accounts, balance sheets, and reports of or concerning a continuing building society that relate to the financial year ending immediately before the changeover day.

(2) Sections 84, 85, 86, 89, 90, 92, 94, 95, and 104U of the *Credit Unions Act 1979* continue to apply to accounts, balance sheets, statements and reports of or concerning a continuing credit union that relate to the financial year ending immediately before the changeover day.

(3) If an appointment of auditors of a continuing society under a previous law is in effect immediately before the changeover day, the appointment continues, subject to the Financial Institutions (Western Australia) Code, until the next annual general meeting of the society after that day, and the provisions of that previous law relating to audit continue to apply in relation to the affairs of the society before the changeover day.

### **Annual report of Registrar**

32. (1) Section 94 of the *Building Societies Act 1976* and section 150 of the *Credit Unions Act 1979* continue to apply in relation to continuing societies for a year ending before the changeover day.

(2) If the changeover day is after 1 September in a financial year, for the purposes of those sections as continued by subsection (1) —

- (a) the period commencing on the last 1 July before the changeover day and ending immediately before the changeover day is taken to be a year; and
- (b) references to 30 June in the period referred to in paragraph (a) are taken to refer to the last day before the changeover day.

### **Certain exemptions continued**

33. An exemption granted by the Registrar under section 30 (4) of the *Credit Unions Act 1979* is taken to be an exemption granted by the SSA under section 144 (4) of the Financial Institutions (Western Australia) Code.

### **Directors' remuneration**

34. Remuneration that, immediately before the changeover day, a director of a continuing society is entitled to be paid is taken to

be approved under section 244 of the Financial Institutions (Western Australia) Code.

## **Mergers**

**35.** (1) An application by 2 or more continuing societies to be registered as an amalgamated permanent building society or credit union made under —

- (a) section 28 of the *Building Societies Act 1976*; or
- (b) section 37A of the *Credit Unions Act 1979*,

that has not been determined under the Act before the changeover day is taken to be an application for the registration of a proposed merger made under section 293 or 302 of the Financial Institutions (Western Australia) Code, as the case requires.

(2) A special resolution of a continuing society under —

- (a) section 29 of the *Building Societies Act 1976*; or
- (b) section 37B of the *Credit Unions Act 1979*,

approving the terms of a proposed amalgamation is taken, for the purpose of section 293 (2) or section 302 (2), as the case may require, of the Financial Institutions (Western Australia) Code, to be a special resolution approving a proposed merger.

(3) Compliance by a continuing society with —

- (a) section 29 (1) (a) and (b), (2), and (3) of the *Building Societies Act 1976*; or
- (b) section 37B (1) (a) and (b), (2), and (3) of the *Credit Unions Act 1979*,

in relation to a proposed amalgamation is taken to be compliance by the society with section 293 (3) and (4), or section 302 (3) and

(4), as the case may require, of the Financial Institutions (Western Australia) Code in relation to a proposed merger.

(4) An application mentioned in subsection (1) is to be rejected if it would have been required by section 29 (1) (d) of the *Building Societies Act 1976* or section 37B (1) (d) of the *Credit Unions Act 1979*, as the case requires, to be rejected had it proceeded under that Act.

### **Transfer of engagements**

36. (1) An application by 2 continuing societies for approval of the transfer of all the engagements of one of them to the other made under —

(a) section 29C (2) of the *Building Societies Act 1976*; or

(b) section 37E (2) of the *Credit Unions Act 1979*,

that has not been determined under the Act before the changeover day is taken to be an application for the registration of a proposed transfer of engagements made under section 293 or 302 of the Financial Institutions (Western Australia) Code, as the case requires.

(2) A special resolution of a continuing society under —

(a) section 29 of the *Building Societies Act 1976* as read with section 29C (3) of that Act; or

(b) section 37B of the *Credit Unions Act 1979* as read with section 37E (3) of that Act,

approving the terms of a proposed transfer of engagements is taken, for the purpose of section 293 (2) or section 302 (2), as the case may require, of the Financial Institutions (Western Australia) Code, to be a special resolution approving a proposed transfer of engagements.

(3) Compliance by a continuing society with —

- (a) section 29 (1) (a) and (b), (2), and (3) of the *Building Societies Act 1976* as read with section 29C (3) of that Act; or
- (b) section 37B (1) (a) and (b), (2), and (3) of the *Credit Unions Act 1979* as read with section 37E (3) of that Act,

in relation to a proposed transfer of engagements is taken to be compliance by the society with section 293 (3) and (4), or section 302 (3) and (4), as the case may require, of the Financial Institutions (Western Australia) Code in relation to a proposed transfer of engagements.

(4) An application mentioned in subsection (1) is to be rejected if it would have been required by section 29 (1) (d) of the *Building Societies Act 1976* as read with section 29C (3) of that Act or section 37B (1) (d) of the *Credit Unions Act 1979* as read with section 37E (3) of that Act, as the case requires, to be rejected had it proceeded under that Act.

### **Directed transfer of engagements**

**37.** A direction to a continuing society under —

- (a) section 29D of the *Building Societies Act 1976*; or
- (b) section 37G of the *Credit Unions Act 1979*,

that it transfer its engagements to another continuing society and that is in force immediately before the changeover day is taken to be a direction to the society given by the SSA under section 296 or section 305, as the case requires, of the Financial Institutions (Western Australia) Code.

### **Credit union under direction**

**38.** (1) In this section, “**Protection Board**” has the same meaning as it has in Part VIIIA of the *Credit Unions Act 1979*.

(2) If a continuing credit union, was immediately before the changeover day, subject to the direction of the Protection Board under section 104N of the *Credit Unions Act 1979* —

- (a) it is taken to have been placed under direction by the SSA under section 88 of the Financial Institutions (Western Australia) Code;
- (b) a direction given or requirement made by the Protection Board is taken to have been given or made by the SSA under section 88 of the Financial Institutions (Western Australia) Code; and
- (c) an audit that an auditor was appointed by the Protection Board under section 104T of the *Credit Unions Act 1979* to carry out is taken to have been ordered by the SSA under section 88 of the Financial Institutions (Western Australia) Code to be carried out by that auditor.

### **Suspension of operations**

39. A direction given to a continuing society under —

- (a) section 45 of the *Building Societies Act 1976*; or
- (b) section 167 of the *Credit Unions Act 1979*,

that is in force immediately before the changeover day is taken to be a direction given to the society by the SSA under section 89 of the Financial Institutions (Western Australia) Code.

### **Administrator etc.**

40. (1) If —

- (a) under —

- (i) section 70A (2) of the *Building Societies Act 1976*; or

(ii) section 97 (2) of the *Credit Unions Act 1979*,

a certificate has been issued by the Registrar for the appointment of an administrator; and

(b) immediately before the changeover day, a person has not been appointed administrator because of the certificate,

the certificate is taken to have been issued by the SSA under section 90 (2) (c) of this Code and an administrator may be appointed accordingly.

(2) An administrator of a continuing society appointed under —

(a) section 70A of the *Building Societies Act 1976*; or

(b) section 97 of the *Credit Unions Act 1979*,

is taken to be appointed by the SSA under section 90 of the Financial Institutions (Western Australia) Code.

(3) Directors of a continuing society appointed under —

(a) section 70A (5) (b) of the *Building Societies Act 1976*;  
or

(b) section 97 (8) (c) of the *Credit Unions Act 1979*,

are taken to have been appointed under section 90 (9) (d) of the Financial Institutions (Western Australia) Code.

(4) The remuneration of an administrator fixed by the Registrar under —

(a) section 70A (8) of the *Building Societies Act 1976*; or

(b) section 97 (11) of the *Credit Unions Act 1979*,

is taken to have been approved under section 90 (12) of the Financial Institutions (Western Australia) Code.

(5) Action taken in relation to a continuing society under section 98 of the *Credit Unions Act 1979* is taken to have been taken by the SSA under section 91 of the Financial Institutions (Western Australia) Code.

### **Winding-up on certificate**

41. (1) A liquidator of a continuing society appointed under —

(a) section 71 (5) of the *Building Societies Act 1976*; or

(b) section 101 (5) of the *Credit Unions Act 1979*,

is taken to be appointed by the SSA under section 341 (3) of the Financial Institutions (Western Australia) Code.

(2) If —

(a) a continuing building society has commenced to be wound-up upon a certificate of the Registrar under section 71 of the *Building Societies Act 1976*; and

(b) before the changeover day, a liquidator has been appointed because of the certificate,

the winding-up is to be carried out in the manner that was prescribed for the purposes of section 71 (7) (b) of the *Building Societies Act 1976* immediately before the changeover day.

### **Voluntary winding-up**

42. (1) A liquidator of a continuing society appointed under —

(a) section 72 of the *Building Societies Act 1976*; or



(b) section 103 of the *Credit Unions Act 1979*,

is taken to be appointed by the SSA under section 344 of the Financial Institutions (Western Australia) Code.

### **Investigations**

43. (1) If, immediately before the changeover day, an investigation is being conducted into the affairs of a continuing society under a previous law, the investigation may continue under Part 10 of the Financial Institutions (Western Australia) Code.

(2) For the purpose of continuing the investigation, the SSA may appoint an investigator under section 348 of the Financial Institutions (Western Australia) Code.

(3) Any document or other information properly obtained by the person conducting the investigation before the changeover day may be had regard to by the person continuing the investigation.

### **Special meeting, inquiry, or investigation**

44. (1) A special meeting called in relation to a continuing society —

(a) under section 92 of the *Building Societies Act 1976*; or

(b) under section 168 of the *Credit Unions Act 1979*,

may continue under the Financial Institutions (Western Australia) Code and is taken to have been called under section 87 of that Code.

(2) An —

(a) inquiry started in relation to a continuing building society under section 92 of the *Building Societies Act 1976*; or

- (b) investigation started in relation to a continuing credit union under section 168 of the *Credit Unions Act 1979*,

may continue as an inquiry under section 87 of the Financial Institutions (Western Australia) Code.

### **Proceedings under previous law**

45. (1) The SSA may institute proceedings under a previous law in relation to a continuing society.

(2) For the purpose of subsection (1), a reference in a previous law to the Registrar is taken to be a reference to the SSA.

### **Depositors**

46. Despite anything to the contrary in section 138 of the Financial Institutions (Western Australia) Code, a continuing building society may accept a deposit of money from a person who is not a member of the continuing building society, subject to and in accordance with its rules and any applicable standard in force under section 28 of the AFIC (Western Australia) Code.

### **Membership**

47. Nothing in section 431 of the Financial Institutions (Western Australia) Code requires a continuing building society to offer membership to a person only because the person has money on deposit with it immediately before the commencement of that section.

## **General savings**

48. (1) Except as otherwise provided, if —

- (a) anything done in relation to a continuing society under a provision of a previous law was in effect immediately before the repeal of that provision; and
- (b) substantially the same thing could have been done under a corresponding provision of the Financial Institutions (Western Australia) Code had the corresponding provision been in force at the relevant time,

it is, upon that repeal, taken to have been done and to be in effect under the corresponding provision.

(2) If the person by whom the thing was done under the repealed provision differs from the person on whom the power is conferred by the corresponding provision of the Financial Institutions (Western Australia) Code, it is taken to have been done by the person on whom the power is conferred by the corresponding provision.

(3) If what was done under the repealed provision differs in form, though not substance, from what is provided for by the corresponding provision of the Financial Institutions (Western Australia) Code, it is taken to have been done in accordance with the corresponding provision.

## **Savings and transitional regulations**

49. (1) The Governor, on the recommendation of the Minister made with the approval of the Ministerial Council, may make regulations of a saving or transitional nature consequent on the enactment or commencement of this Act.

(2) If the regulations so provide, they have effect despite any provision of the Financial Institutions (Western Australia) Code or the AFIC (Western Australia) Code.