

Queensland



**FINANCIAL INSTITUTIONS
LEGISLATION
AMENDMENT ACT 1993**

Act No. 25 of 1993

Queensland



FINANCIAL INSTITUTIONS LEGISLATION AMENDMENT ACT 1993

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Queensland



Financial Institutions Legislation Amendment Act 1993

Act No. 25 of 1993

An Act to amend the Financial Institutions Code and the AFIC Code

[Assented to 2 June 1993]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Financial Institutions Legislation Amendment Act 1993*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF FINANCIAL INSTITUTIONS CODE

Amended Code

3. The Financial Institutions Code set out in section 30 of the *Financial Institutions (Queensland) Act 1992* is amended as set out in this Part.

Amendment of Subdivision heading

4. Part 1, Division 3, Subdivision 8 (heading)—
omit ‘Acts’, insert ‘Codes’.

Amendment of s.97 (Credit Unions Contingency Fund)

5.(1) After section 97(2)(d)—
insert—

‘(e) to facilitate the payment to, and collection by, the SSA of levies

payable by credit unions.’.

(2) Section 97(3)(c)—

omit ‘comprising’, *insert* ‘standing to the credit of’.

Amendment of s.103 (Payment out of Credit Unions Contingency Fund)

6. After section 103(1)(f)—

insert—

‘(g) amounts payable under section 103A.’.

Insertion of new s.103A

7. After section 103—

insert—

‘Payment of administration levy and supervision levy out of Credit Unions Contingency Fund

‘103A.(1) The SSA may direct that the whole or a part of the interest and other income gained from the investment of money standing to the credit of the Credit Unions Contingency Fund be paid to the SSA to offset the liability of credit unions to pay to the SSA—

- (a) the supervision levy payable under section 95; and
- (b) the administration levy that the SSA is required to collect, and remit to AFIC, under section 120 of the AFIC Code.

‘(2) If the whole liability is not offset by the amount of interest and other income directed to be paid to the SSA, the amount is to be divided up and applied by the SSA under subsections (3) and (4).

‘(3) The amount is to be divided on a proportionate basis into 2 separate amounts having regard to the amount of the liability mentioned in subsection (1)(a) and the amount of the liability mentioned in subsection (1)(b).

‘(4) Each separate amount is to be applied on a proportionate basis having regard to the amount of the liability of each credit union in relation to

each levy.

‘(5) If an amount is paid to the SSA under this section, the SSA must give written notice to each credit union of the amount by which the liability of the credit union in relation to each levy has been offset.

‘(6) The SSA may give a direction under subsection (1) only if it is of the opinion that the capital amount of the Fund is, and will continue to be, sufficient for the purposes mentioned in section 97(2)(a) to (d) (Credit Unions Contingency Fund).’.

Amendment of s.112 (Level of assets of building society associated with primary objects)

8. Section 112(3) and (5)—

omit ‘by Gazette notice’,

insert ‘by written notice given to the building society’.

Amendment of s.113 (Level of financial accommodation provided by credit union restricted)

9. Section 113(4) and (6)—

omit ‘by Gazette notice’,

insert ‘by written notice given to the credit union’.

Amendment of s.118 (Powers of societies)

10. Section 118(2)—

omit ‘of which the society is a member.’.

Amendment of s.138 (Financial accommodation to, and deposits from, members and others)

11. After section 138(3)—

insert—

‘(3A) Despite subsection (3), a credit union may accept a deposit of

money from an unincorporated body of persons up to an amount determined by the SSA.’.

Amendment of s.199 (Power of SSA to exempt etc. from Division 5)

12.(1) Section 199(5)—

omit ‘copy’, *insert* ‘notification of the making’.

(2) Section 199 (at the end)—

insert—

‘**(6)** A notification mentioned in subsection (5) must name—

- (a) the persons to whom the exemption or declaration relates; and
- (b) the provisions to which the exemption or declaration relates; and
- (c) if the exemption or declaration relates to a particular society or class of society—the society or class.’.

Amendment of s.258 (Register of directors etc.)

13.(1) After section 258(2)—

insert—

‘**(2A)** A society must keep a register of its directors, principal executive officer and secretaries in accordance with subsections (3) to (4).

Maximum penalty—\$25 000.’.

(2) Section 258(3)—

omit ‘A society must keep a register showing’,

insert ‘The register must show’.

(3) Section 258(3)—

omit ‘Maximum penalty—\$25 000.’.

(4) After section 258(3)—

insert—

‘**(3A)** The register must show in relation to the principal executive officer and each secretary the present given name and surname, any former given

name or surname, the date and place of birth, the usual residential address and the business occupation (if any), of the principal executive officer or secretary.’.

(5) After section 258(7)—

insert—

‘(7A) Within 1 month beginning on the day on which a person becomes or ceases to be a director, the principal executive officer or a secretary of a society, the society must lodge with the SSA a return in the prescribed form advising that fact and containing in relation to a new director, principal executive officer or secretary the matters required by subsection (3)(a) or (3A) to be shown in the register.

Maximum penalty—\$500.’.

Amendment of s.342

14. Section 342(1) (after ‘apply’)—

insert ‘, with all necessary modifications and any modifications prescribed by regulation.’.

Amendment of s.430 (Security over prime liquid assets)

15. Section 430(2)—

omit ‘, of which the continuing society is a member.’.

Insertion of new ss.433 and 434

16. After section 432—

insert—

‘Providing financial accommodation to a person who is not a member

‘433.(1) This section applies to a continuing building society that, immediately before 1 July 1992, was authorised to provide financial accommodation to a person who was not a member of the society.

‘(2) Despite section 138(4)(a)—

(a) financial accommodation provided between 30 June 1992 and the

commencement of this section by a continuing building society to a person who was not a member of the society is taken to be, and always to have been, authorised if the financial accommodation was otherwise provided in accordance with this Code; and

- (b) financial accommodation may be provided during the remainder of 1993 by a continuing building society to a person who is not a member of the society if the financial accommodation is otherwise provided in accordance with this Code.

‘Matters relating to register of directors, principal executive officer and secretaries

‘434. Within 1 month beginning on the commencement of this section, a society must—

- (a) make the entries in the register of its directors, principal executive officer and secretaries that it would have been required to make; and
- (b) lodge with the SSA the returns that it would have been required to lodge;

had section 258(2A), (3A) and (7A) been in force from the commencement of this Code.

Maximum penalty—\$500.’.

Insertion of new Part 16

17. After Part 15—

insert—

‘PART 16—VALIDATION

‘Validation of Amendment Regulation

‘435.(1) In this section—

“**Amendment Regulation**” means the *Financial Institutions Amendment Regulation (No. 1) 1992* of Queensland;

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

‘(2) For the purpose of applying the Amendment Regulation as a regulation in force for the purposes of this Code, it is declared that the Amendment Regulation is taken to be, and always to have been, as valid as it would be, and have been, if it had been made on the recommendation of the Ministerial Council as required by section 8(2) of the Queensland Act.

‘(3) Without limiting subsection (2)—

- (a) the Amendment Regulation is taken to be, and always to have been, a regulation in force under Part 3 of the Queensland Act; and
- (b) all acts, matters and things done before the commencement of this section in reliance on the Amendment Regulation are taken to be as lawfully done as they would be if they had been done after that commencement.’.

PART 3—AMENDMENT OF THE AFIC CODE

Amended Code

18. The AFIC Code set out in section 21 of the *Australian Financial Institutions Commission Act 1992* is amended as set out in this Part.

Amendment of s.87 (Hearings to be in private unless all parties agree etc.)

19. Section 87 (4th subsection)—
renumber as subsection (4).

Amendment of s.153 (Terms and conditions of employment)

20. Section 153(3)—
omit ‘includes’, *insert* ‘include’.

Amendment of s.156 (Register of financial interests of directors and employees)

- 21.** Section 156(6) (after ‘a change’)—
insert ‘, other than a change prescribed by regulation,’.

Amendment of s.161 (Judicial notice of certain signatures)

- 22.** Section 161(b) (after ‘that’)—
insert ‘the’.