

Queensland



**FINANCIAL SECTOR
REFORM (QUEENSLAND)
ACT 1999**

Act No. 27 of 1999

Queensland



FINANCIAL SECTOR REFORM (QUEENSLAND) ACT 1999

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Queensland



Financial Sector Reform (Queensland) Act 1999

Act No. 27 of 1999

An Act to make provision for the reform of the financial sector, to repeal certain Acts and to amend the *Family Security Friendly Society (Distribution of Moneys) Act 1991*, *Financial Intermediaries Act 1996* and certain other Acts, and for other purposes

[Assented to 16 June 1999]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Financial Sector Reform (Queensland) Act 1999*.

Commencement

2.(1) The following provisions commence on the transfer date¹—

- parts 3 and 4
- part 5, division 1, division 2, subdivisions 1 and 5, division 3, subdivisions 1, 2 (other than section 38) and 6, divisions 4 to 7 (other than sections 70 and 73)
- schedule 1, parts 2 and 3, except to the extent part 3 amends the *Trusts Act 1973*.

(2) Schedule 1, part 3, to the extent it amends the *Trusts Act 1973*, commences on a day to be fixed by proclamation.

(3) The provisions that do not commence under subsection (1) or (2) commence on assent.

(4) For commencement purposes, part 7 is to be considered separately from schedule 1.

Definitions

3. The dictionary in schedule 2 defines particular words used in this Act.

¹ For the definition “transfer date”—see schedule 2 (Dictionary).

Act binds all persons

4.(1) This Act binds all persons, including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

(2) Nothing in this section makes the State, the Commonwealth or another State liable to be prosecuted for an offence.

**PART 2—REGISTRATION OF CERTAIN ENTITIES
AS COMPANIES****Transferring financial institutions**

5.(1) On the transfer date, each transferring financial institution of this jurisdiction is taken, in accordance with schedule 4 of the Corporations Law of Queensland, to become registered as a company under that law under the name under which the institution was registered under the previous governing code immediately before the transfer date.

(2) Subsection (1) applies even if the institution is an externally-administered body corporate immediately before the transfer date.

(3) Registration under the Corporations Law of Queensland of a transferring financial institution of this jurisdiction as a company does not create a new legal entity.

(4) In this section—

“previous governing code” see schedule 4, part 1, of the Corporations Law.

“transferring financial institution of this jurisdiction” see schedule 4, part 1, of the Corporations Law.²

² The attachment contains extracts of the relevant provisions of the Corporations Law and the *Corporations (Queensland) Act 1990*.

PART 3—CONFERRAL OF FUNCTIONS AND POWERS ON APRA AND ASIC

Conferral of functions and powers on APRA

6.(1) APRA has the functions and powers conferred or expressed to be conferred on it under this Act.

(2) APRA has power to do acts in Queensland in the performance or exercise of a function or power conferred or expressed to be conferred on APRA by or under a law of another jurisdiction corresponding to this Act.

Conferral of functions and powers on ASIC

7.(1) ASIC has the functions and powers conferred or expressed to be conferred on it under this Act.

(2) ASIC has power to do acts in Queensland in the performance or exercise of a function or power conferred or expressed to be conferred on ASIC by or under a law of another jurisdiction corresponding to this Act.

PART 4—AUTHORISED DEPOSIT-TAKING INSTITUTIONS AND LIFE INSURANCE COMPANIES—TRANSFER OF BUSINESS

Words defined in FS(TB) Act

8. Unless the contrary intention appears, words defined in the FS(TB) Act have the same respective meanings in this part.³

³ The attachment contains extracts of the relevant provisions of the *Financial Sector (Transfers of Business) Act 1999* (Cwlth).

Authorised APRA officer

9.(1) APRA may, in writing, authorise a person who is an APRA board member, or an APRA staff member, to perform or exercise the functions or powers of an authorised APRA officer under a particular provision of this part.

(2) The functions and powers necessary for the purposes of this section are conferred on APRA.

Voluntary transfers

10.(1) The purpose of this section is to facilitate voluntary transfers of business under part 3 of the FS(TB) Act for regulated bodies.

(2) This section applies when a certificate of transfer issued under section 18 of the FS(TB) Act comes into force under part 3, division 3⁴ of that Act.

(3) The receiving body is taken to be the successor in law of the transferring body, to the extent of the transfer.

(4) In particular—

- (a) if the transfer is a total transfer, all the assets and liabilities of the transferring body become the assets and liabilities of the receiving body without any transfer, conveyance or assignment; and
- (b) if the transfer is a partial transfer, all the assets and liabilities of the transferring body included in the list of assets and liabilities specified in the statement of detail become assets and liabilities of the receiving body without any transfer, conveyance or assignment; and
- (c) to the extent of the transfer, the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body.

(5) If there is an approved section 20 statement in relation to the transfer that specifies—

⁴ FS(TB) Act, part 3 (Voluntary transfers), division 3 (Process by which voluntary transfers take effect)

- (a) that particular things are to happen or are taken to be the case, those things are taken to happen, or to be the case, in accordance with the statement; or
- (b) a mechanism for deciding things that are to happen or are taken to be the case, things decided in accordance with that mechanism are taken to happen, or to be the case, as decided in accordance with that mechanism.

Compulsory transfers

11.(1) The purpose of this section is to facilitate compulsory transfers of business under part 4 of the FS(TB) Act for regulated bodies.

(2) This section applies when a certificate of transfer issued under section 33 of the FS(TB) Act comes into force under part 4, division 3⁵ of that Act.

(3) The receiving body is taken to be the successor in law of the transferring body, to the extent of the transfer.

(4) In particular—

- (a) if the transfer is a total transfer, all the assets and liabilities of the transferring body become the assets and liabilities of the receiving body without any transfer, conveyance or assignment; and
- (b) if the transfer is a partial transfer, all the assets and liabilities of the transferring body that are included in the list, referred to in section 33(2)(c) of the FS(TB) Act, included in, or attached to, the certificate of transfer become assets and liabilities of the receiving body without any transfer, conveyance or assignment; and
- (c) to the extent of the transfer, the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body.

(5) If the certificate of transfer includes provisions of a kind referred to in section 33(3) of the FS(TB) Act specifying—

- (a) that particular things are to happen or are taken to be the case,

⁵ FS(TB) Act, part 4 (Compulsory transfers), division 3 (Process by which compulsory transfers take effect)

those things are taken to happen, or to be the case, in accordance with those provisions; or

- (b) a mechanism for deciding things that are to happen or are taken to be the case, things decided in accordance with that mechanism are taken to happen, or to be the case, as decided in accordance with that mechanism.

(6) If there is an approved section 30 statement in relation to the transfer that specifies—

- (a) that particular things are to happen or are taken to be the case, those things are taken to happen, or to be the case, in accordance with the statement; or
- (b) a mechanism for deciding things that are to happen or are taken to be the case, things decided in accordance with that mechanism are taken to happen, or to be the case, as decided in accordance with that mechanism.

Certificates evidencing operation of pt 4

12.(1) An authorised APRA officer may, by a certificate in writing signed by the officer, certify anything relating to the effect of this part, and, in particular may certify that—

- (a) a particular asset of a transferring body has become a transferred asset of a receiving body; or
- (b) a particular liability of a transferring body has become a transferred liability of a receiving body.

(2) For all purposes and in all proceedings, a certificate under subsection (1) is evidence of the matters certified.

Certificates about land and interests in land

13.(1) This section applies if—

- (a) a receiving body becomes, under this part, the owner of land, or of an interest in land, situated in the State; and
- (b) there is lodged with the registrar of titles a certificate that—

- (i) is signed by an authorised APRA officer; and
 - (ii) identifies the land or interest; and
 - (iii) states the receiving body has, under this part, become the owner of that land or interest.
- (2) The registrar of titles may—
- (a) register or record the matter in the same way as dealings in land or interests in land of that kind are registered or recorded; and
 - (b) deal with, and give effect to, the certificate.

Certificates about other assets

14.(1) This section applies if—

- (a) an asset, other than land or an interest in land, becomes, under this part, an asset of a receiving body; and
- (b) there is lodged with the entity who has, under the law, responsibility for keeping a register or record relating to assets of that kind a certificate that—
 - (i) is signed by an authorised APRA officer; and
 - (ii) identifies the asset; and
 - (iii) states the asset has, under this part, become an asset of the receiving body.

(2) The entity may—

- (a) register or record the matter in the same way as transactions relating to assets of that kind are registered or recorded; and
- (b) deal with, and give effect to, the certificate.

(3) This section does not affect the operation of the Corporations Law.

Documents purporting to be certificates

15. A document purporting to be a certificate mentioned in section 13 or 14 is taken to be a certificate of that type unless the contrary is established.

Relationship of pt 4 with other laws

16.(1) This part has effect despite anything in a contract, deed, undertaking, agreement or other instrument.

(2) Nothing done under this part—

- (a) places a receiving body, a transferring body or another person in breach of contract or confidence or otherwise makes any of them guilty of a civil wrong; or
- (b) places a receiving body, a transferring body or another person in breach of—
 - (i) a law of the State; or
 - (ii) a contractual provision prohibiting, restricting or regulating the assignment or transfer of an asset or liability or the disclosure of information; or
- (c) releases a surety, wholly or partly, from all or any of the surety's obligations.

(3) Without limiting subsection (1), if, apart from this section, the advice or consent of a person would be necessary for a particular purpose, the advice is taken to have been obtained or the consent is taken to have been given.

PART 5—REPEALS AND TRANSITIONAL*Division 1—Repeals***Repeals**

17. The following Acts are repealed—

- Australian Financial Institutions Commission Act 1992 No. 8
- Building Societies Fund Act 1993 No. 26
- Financial Institutions (Queensland) Act 1992 No. 7

- Friendly Societies (Queensland) Act 1997 No. 35
- Queensland Office of Financial Supervision Act 1992 No. 12.

Division 2—Provisions relating to AFIC

Subdivision 1—AFIC to continue

Continuation of AFIC for certain purposes

18.(1) This section applies despite the repeal of the AFIC Act.

(2) AFIC and its board continue in existence, but only for the following purposes—

- (a) to give effect to anything relating to the transfer, under a law of the Commonwealth or of another State or this Act, of any of its functions under the fiscal bodies legislation to APRA or ASIC;
- (b) to prepare its final report and financial statements under section 116⁶ of the AFIC Code;
- (c) winding-up itself as soon as practicable but, in any case, within 12 months after the transfer date.

(3) AFIC has the powers necessary or desirable for it to act under subsection (2) including the powers—

- (a) to engage employees; and
- (b) to execute a contract, deed or other document necessary for its winding-up.

(4) Also, to the extent it is necessary or desirable to allow AFIC to act under subsection (2), the provisions of the fiscal bodies legislation, including the provisions about AFIC's board, the board's directors and AFIC's employees, continue to apply despite the repeal of all or any of the legislation.

(5) For the purpose of AFIC exercising a power under this section,

⁶ AFIC Code, section 116 (Annual reports and financial statements)

section 158⁷ of the AFIC Code applies to an honest act or omission of a director of AFIC as if a reference in that section to the code were a reference to this section.

(6) In this section—

“**winding-up**”, in relation to AFIC, includes AFIC realising its assets and discharging its liabilities.

Contracts and agreements with AFIC continue

19. The repeal of the AFIC Act does not of itself terminate a contract or other agreement between AFIC and another person.

AFIC’s final report and financial statements

20.(1) Despite the repeal of the AFIC Act, sections 116 and 165⁸ of the AFIC Code and the other provisions of the code relevant to the sections continue to apply in relation to AFIC’s final report and financial statements.

(2) For the application mentioned in subsection (1)—

- (a) a reference in section 116, other than subsection (3), of the code to the Ministerial Council is taken to be a reference to the Minister in each participating State responsible, immediately before the transfer date, for administering the fiscal bodies legislation of that State; and
- (b) section 116(2) of the code is taken to require AFIC’s board to prepare and give the report mentioned in the subsection before AFIC is dissolved; and
- (c) section 116(3) of the code is taken to require the financial statements to be in the form last approved by the Ministerial Council before the transfer date; and
- (d) AFIC’s financial year is taken to be the period from the end of the period for which AFIC’s board last prepared a report under

⁷ AFIC Code, section 158 (Liability of directors)

⁸ AFIC Act, sections 116 (Annual reports and financial statements) and 165 (Application of Financial Administration and Audit Act)

section 116 of the code until the day specified by the Minister after consulting with the auditor-general; and

- (e) section 116 of the code is taken to require AFIC's board to also include in the report the information the Minister administering this Act directs.

Delegation of AFIC's powers

21. AFIC's board may delegate AFIC's powers to an appropriately qualified employee of AFIC.

Dissolution of AFIC

22. AFIC is dissolved, and the members of AFIC's board go out of office, on the earlier of the following—

- (a) 12 months after the transfer date;
- (b) the day stated in a gazette notice published by the Minister.

Subdivision 2—Provisions about AFIC's staff

Definition for sdiv 2

23. In this subdivision—

“employees”, of AFIC, includes the executive director of AFIC.

Transfer of staff to APRA under transfer agreement

24.(1) The Minister may enter into a transfer agreement under schedule 8, part 1, division 2⁹ of the FSR Act, that determines, or provides for determining, that particular employees of AFIC become APRA employees on a particular date, not being a date before the transfer date.

(2) The transfer agreement has effect according to its terms.

⁹ FSR Act, schedule 8 (Transitional, saving and application provisions), part 1 (Transitional provisions relating to transfer from State and Territory regulatory regimes), division 2 (Transitional provisions relating to staff)

Effect of transfer under s 24 or of employees of AFIC becoming appointed to the Australian Public Service

25.(1) This section applies if a person becomes an APRA employee under section 24.

(2) This section also applies if—

- (a) a person is appointed to the Australian Public Service under the *Public Service Act 1922* (Cwlth), section 81B(1),¹⁰ on or after the transfer date; and
- (b) immediately before the appointment, the person was an employee of AFIC.

(3) If the person is the executive director of AFIC, the executive director's appointment under the AFIC Code immediately ends.

(4) If the person is another employee of AFIC, the employee's employment with AFIC immediately ends.

(5) A person is not entitled to receive any payment or other benefit, whether under a contract or otherwise, because the person's appointment or employment ends under this section.

Statement of accrued benefits etc.

26.(1) Before an employee of AFIC becomes an APRA employee under section 24 or is appointed to the Australian Public Service as mentioned in section 25(2), AFIC must give the person, and APRA or the Commonwealth Public Service Commissioner, a written statement.

(2) The statement must state particulars of the benefits to which the person has an accrued entitlement, the person's remuneration and the person's length of service with AFIC.

¹⁰ *Public Service Act 1922* (Cwlth), section 81B (Appointment or employment of persons where functions to be performed by Commonwealth etc.)

Subdivision 3—Information may be given to APRA or ASIC**Giving of information**

27.(1) This section applies to—

- (a) a director of AFIC’s board; and
- (b) an employee of AFIC; and
- (c) a person appointed by AFIC to carry out duties under the fiscal bodies legislation; and
- (d) a person who has been a person mentioned in paragraph (a), (b) or (c).

(2) A person to whom this section applies may disclose to APRA or ASIC information the person acquired while engaged in the administration of the fiscal bodies legislation.

(3) This section applies despite section 155¹¹ of the AFIC Code and section 477¹² of the Friendly Societies Code.

Subdivision 4—Transfer of AFIC’s assets and liabilities**Transfer of assets and liabilities**

28.(1) The Minister may enter into a transfer agreement under schedule 8, part 1, division 3¹³ of the FSR Act connected with the transfer of AFIC’s assets or liabilities to APRA or ASIC.

(2) The transfer agreement has effect according to its terms.

¹¹ AFIC Code, section 155 (Secrecy)

¹² Friendly Societies Code, section 477 (Secrecy)

¹³ FSR Act, schedule 8 (Transitional, saving and application provisions), part 1 (Transitional provisions relating to transfer from State and Territory regulatory regimes), division 3 (Transfer of assets and liabilities)

Subdivision 5—Proceedings involving AFIC**Continuation and preservation of civil proceedings involving AFIC**

29.(1) This section applies to a proceeding—

- (a) whether or not it arose or arises under the fiscal bodies legislation; and
- (b) regardless of where it arose or arises.

(2) For a proceeding started before the transfer date to which AFIC was a party immediately before the date—

- (a) if the proceeding is in Queensland—the State is substituted for AFIC as a party to the proceeding; or
- (b) if the proceeding is in another State—the State of Queensland may be substituted for AFIC under a law of the other State.

(3) For a proceeding not started before the transfer date and that could if started after the date be brought against AFIC, or apart from the repeal of the fiscal bodies legislation and the dissolution of AFIC could have been brought against AFIC—

- (a) if the proceeding is brought in Queensland—the proceeding may instead be brought against the State; or
- (b) if the proceeding is brought in another State—the proceeding may instead be brought against the State of Queensland under a law of the other State.

(4) For this section, evidence that would have been admissible for or against AFIC is admissible for or against the State.

(5) This section does not apply to a proceeding for an offence.

Continuation of offence proceedings

30.(1) This section applies to a proceeding for an offence brought under section 63¹⁴ of the AFIC Code by AFIC, or a person authorised in writing by AFIC, that started before the transfer date but was not completed before

¹⁴ AFIC Code, section 63 (Proceedings for offences)

the date.

(2) On and after the transfer date, the proceeding may continue to be prosecuted by either APRA or ASIC in place of AFIC or the person authorised by AFIC, and APRA or ASIC may be substituted in the proceeding for AFIC or the person.

(3) The functions and powers necessary for this section are conferred on APRA and ASIC.

Division 3—Provisions relating to QOFS

Subdivision 1—QOFS to continue

Continuation of QOFS for certain purposes

31.(1) This section applies despite the repeal of the QOFS Act.

(2) QOFS and its board continue in existence, but only for the following purposes—

- (a) to give effect to anything relating to the transfer, under a law of the Commonwealth or this Act, of any of its functions as an SSA under the fiscal bodies legislation to APRA or ASIC;
- (b) to prepare its final report and financial statements under section 33;
- (c) to do other things under this division;
- (d) winding-up itself as soon as practicable but, in any case, within 12 months after the transfer date.

(3) Without limiting subsection (2)(a), QOFS must comply with schedule 4, clause 4 of the Corporations Law.¹⁵

(4) QOFS has the powers necessary or desirable for it to act under subsection (2) or (3) including the powers—

- (a) to engage employees; and

¹⁵ The provision of the Corporations Law requires QOFS to lodge certain documents about transferring institutions with ASIC.

- (b) to execute a contract, deed or other document necessary for its winding-up.

(5) Also, to the extent it is necessary or desirable to allow QOFS to act under subsection (2), the provisions of the fiscal bodies legislation and the QOFS Act, including the provisions of the Act about QOFS's board, the board's directors and QOFS's chief executive officer and employees, continue to apply despite the repeal of all or any of the legislation or of the Act.

(6) For the purpose of QOFS exercising a power under this section, section 54¹⁶ of the QOFS Act applies to an honest act or omission of a director of QOFS as if a reference in that section to the QOFS Act were a reference to this section.

(7) In this section—

“**winding-up**”, in relation to QOFS, includes QOFS realising its assets and discharging its liabilities.

Contracts and agreements with QOFS continue

32. The repeal of the QOFS Act does not of itself terminate a contract or other agreement between QOFS and another person.

QOFS's final report and financial statements

33.(1) QOFS's board must, before QOFS is dissolved, prepare and give to the Minister a written report on QOFS's operations for its financial year together with financial statements for the year.

(2) Before giving the financial statements to the Minister, the board must have them audited by the auditor-general.

(3) The *Financial Administration and Audit Act 1977* applies to QOFS.

(4) For the Act's application—

- (a) the report and financial statements are taken to be QOFS's annual report and annual financial statements; and

¹⁶ QOFS Act, section 54 (Liability of directors)

(b) the Act applies with all other changes necessary because of subsection (1).

(5) For the definition “financial year” in subsection (6), the Minister may, after consulting with the auditor-general, specify a day as the last day of the financial year

(6) In this section—

“**financial year**”, for QOFS, means the period from the end of the period for which QOFS last prepared an annual report under the *Financial Administration and Audit Act 1977* until the day specified by the Minister under subsection (5).

Delegation of QOFS’s powers

34. QOFS’s board may delegate QOFS’s powers to an appropriately qualified employee of QOFS.

Dissolution of QOFS

35. QOFS is dissolved, and the members of QOFS’s board go out of office, on the earlier of the following—

- (a) 12 months after the transfer date;
- (b) the day stated in a gazette notice published by the Minister.

Subdivision 2—Provisions about particular funds

Continuation and abolition of particular funds

36.(1) The following funds continue in existence on and after the transfer date despite the commencement of section 17¹⁷—

- Building Societies Fund
- Credit Unions Contingency Fund
- Supervision Fund.

¹⁷ Section 17 (Repeals)

(2) However—

- (a) when the payment mentioned in section 37 has been made, the Building Societies Fund is abolished; and
- (b) when the payments mentioned in section 38(3) have been received by each credit union, the Credit Unions Contingency Fund is abolished; and
- (c) when the payment mentioned in section 40 has been made, the Supervision Fund is abolished.

Payment of amount in Building Societies Fund to consolidated fund

37. On the transfer date, QOFS must pay the amount standing to the credit of the Building Societies Fund into the consolidated fund.

Payments out of Credit Unions Contingency Fund

38.(1) On the day before the transfer date QOFS must, under section 99A¹⁸ of the Financial Institutions Code, distribute the whole of retained earnings to the contribution accounts of credit unions.

(2) For subsection (1), section 99A(3) of the Financial Institutions Code does not apply.

(3) Immediately after QOFS complies with subsection (1) it must pay from the Credit Unions Contingency Fund to each credit union the amount standing to the credit union's credit in the fund.

(4) Subsection (3) applies despite section 103¹⁹ of the Financial Institutions Code.

(5) In this section—

“contribution accounts”, of credit unions, means the parts of the Credit Unions Contingency Fund that, under section 98(10)²⁰ of the Financial

¹⁸ Financial Institutions Code, section 99A (Distribution of retained earnings of Credit Unions Contingency Fund)

¹⁹ Financial Institutions Code, section 103 (Payment out of Credit Unions Contingency Fund)

²⁰ Financial Institutions Code, section 98 (Contributions by credit unions)

Institutions Code, are treated as a deferred asset in the accounts of the credit unions.

“credit union” means a credit union under the Financial Institutions Code.

“retained earnings” means all amounts standing to the credit of the Credit Unions Contingency Fund, other than amounts in the contribution accounts of credit unions.

Payments out of and into Supervision Fund

39.(1) QOFS may pay out of the Supervision Fund—

(a) to APRA—

- (i) amounts for liabilities relating to leave and other entitlements of employees of QOFS who become APRA employees under section 45,²¹ being liabilities existing immediately before the employees become APRA employees; and
- (ii) amounts for other liabilities of QOFS that become liabilities of APRA under section 49;²² and

(b) to ASIC—

- (i) amounts for liabilities relating to leave and other entitlements of employees of QOFS mentioned in section 46(2),²³ being liabilities existing immediately before the employees are appointed to the Australian Public Service; and
- (ii) amounts for other liabilities of QOFS that become liabilities of ASIC under section 49.

(2) Also QOFS may pay into or out of the Supervision Fund amounts relating to QOFS performing its functions and exercising its powers under this division.

²¹ Section 45 (Transfer of staff to APRA under transfer agreement)

²² Section 49 (Transfer of assets and liabilities)

²³ Section 46 (Effect of transfer under s 45 or of employees of QOFS becoming appointed to the Australian Public Service)

(3) This section applies despite section 94(2) and (3)²⁴ of the Financial Institutions Code.

(4) In this section—

“employees”, of QOFS, includes the chief executive officer of QOFS.

Payment of amount in Supervision Fund to consolidated fund

40. When QOFS is satisfied it has made all necessary payments under section 39 and in any case before it is dissolved, QOFS must pay the amount standing to the credit of the Supervision Fund into the consolidated fund.

Financial statements for Credit Unions Contingency Fund and Building Societies Fund

41.(1) As soon as practicable after the transfer date, QOFS must prepare financial statements for the Building Societies Fund and the Credit Unions Contingency Fund.

(2) The financial statements must cover the period from the end of the period for which financial statements audited by the auditor-general were last prepared by QOFS for the fund until the day the fund is abolished.

(3) The financial statements must be audited by the auditor-general.

(4) For the audit, the *Financial Administration and Audit Act 1977* applies as though the financial statements formed part of the financial statements of QOFS.

Auditor-general to report on funds

42.(1) This section applies when the audit of the final financial statements of QOFS, including the financial statements for the Credit Unions Contingency Fund, under the *Financial Administration and Audit Act 1977* is completed.

(2) The auditor-general must give the Minister a written report about whether the Credit Unions Contingency Fund and the Supervision Fund

²⁴ Financial Institutions Code, section 94 (Supervision Fund)

were applied for the purposes for which they were established and under sections 38 and 39.

QOFS must report to Minister on Building Societies Fund

43.(1) QOFS must, as soon as practicable, but within 4 months after the transfer date, give to the Minister a report on the operations of the Building Societies Fund for the period from the end of the period covered by the last report given under the *Building Societies Fund Act 1993*, section 10,²⁵ until the transfer date.

(2) The Minister must table the report in the Legislative Assembly within 14 sitting days after the Minister receives the report.

Subdivision 3—Provisions about QOFS's staff

Definition for sdiv 3

44. In this subdivision—

“**employees**”, of QOFS, includes the chief executive officer of QOFS.

Transfer of staff to APRA under transfer agreement

45.(1) The Minister may enter into a transfer agreement under schedule 8, part 1, division 2²⁶ of the FSR Act, that determines, or provides for determining, that particular employees of QOFS become APRA employees on a particular date, not being a date before the transfer date.

(2) The transfer agreement has effect according to its terms.

²⁵ *Building Societies Act 1993*, section 10 (Report by QOFS)

²⁶ FSR Act, schedule 8 (Transitional, saving and application provisions), part 1 (Transitional provisions relating to transfer from State and Territory regulatory regimes), division 2 (Transitional provisions relating to staff)

Effect of transfer under s 45 or of employees of QOFS becoming appointed to the Australian Public Service

46.(1) This section applies if a person becomes an APRA employee under section 45.

(2) This section also applies if—

- (a)** a person is appointed to the Australian Public Service under the *Public Service Act 1922* (Cwlth), section 81B(1),²⁷ on or after the transfer date; and
- (b)** immediately before the appointment, the person was an employee of QOFS.

(3) If the person is the chief executive officer of QOFS, the officer's appointment under the QOFS Act immediately ends.

(4) If the person is another employee of QOFS, the employee's employment with QOFS immediately ends.

(5) A person is not entitled to receive any payment or other benefit, whether under a contract or otherwise, because the person's appointment or employment ends under this section.

Statement of accrued benefits etc.

47.(1) Before an employee of QOFS becomes an APRA employee under section 45 or is appointed to the Australian Public Service as mentioned in section 46(2), QOFS must give the person, and APRA or the Commonwealth Public Service Commissioner, a written statement.

(2) The statement must state particulars of the benefits to which the person has an accrued entitlement, the person's remuneration and the person's length of service with QOFS.

²⁷ *Public Service Act 1922* (Cwlth), section 81B (Appointment or employment of persons where functions to be performed by Commonwealth etc.)

Subdivision 4—Information may be given to APRA or ASIC**Giving of information**

48.(1) This section applies to—

- (a) a director of QOFS's board; and
- (b) an employee of QOFS, including QOFS chief executive officer; and
- (c) a person appointed by QOFS to carry out duties under the fiscal bodies legislation; and
- (d) a person who has been a person mentioned in paragraph (a), (b) or (c).

(2) A person to whom this section applies may disclose to APRA or ASIC information the person acquired while engaged in the administration of the fiscal bodies legislation.

(3) This section applies despite section 410²⁸ of the Financial Institutions Code or section 477²⁹ of the Friendly Societies Code.

Subdivision 5—Transfer of QOFS's assets and liabilities**Transfer of assets and liabilities**

49.(1) The Minister may enter into a transfer agreement under schedule 8, part 1, division 3³⁰ of the FSR Act connected with the transfer of QOFS's assets or liabilities to APRA or ASIC.

(2) The transfer agreement has effect according to its terms.

²⁸ Financial Institutions Code, section 410 (Secrecy)

²⁹ Friendly Societies Code, section 477 (Secrecy)

³⁰ FSR Act, schedule 8 (Transitional, saving and application provisions), part 1 (Transitional provisions relating to transfer from State and Territory regulatory regimes), division 3 (Transfer of assets and liabilities)

Subdivision 6—Proceedings involving QOFS**Continuation and preservation of civil proceedings involving QOFS**

50.(1) For a proceeding started before the transfer date to which QOFS was a party immediately before the date, the State is substituted for QOFS as a party to the proceeding.

(2) For a proceeding not started before the transfer date and that could if started after the date be brought against QOFS, or apart from the commencement of section 17³¹ and the dissolution of QOFS could have been brought against QOFS, the proceeding may instead be brought against the State.

(3) For this section evidence that would have been admissible for or against QOFS is admissible for or against the State.

(4) This section does not apply to a proceeding for an offence or a proceeding under the *Financial Intermediaries Act 1996*.

Continuation of offence proceedings

51.(1) This section applies to a proceeding for an offence brought under section 404³² of the Financial Institutions Code or section 471³³ of the Friendly Societies Code by QOFS, or a person authorised in writing by QOFS, that started before the transfer date but was not completed before the date.

(2) On and after the transfer date, the proceeding may continue to be prosecuted by either APRA or ASIC in place of QOFS or the person authorised by QOFS, and APRA or ASIC may be substituted for QOFS or the person.

(3) The functions and powers necessary for this section are conferred on APRA and ASIC

³¹ Section 17 (Repeals)

³² Financial Institutions Code, section 404 (Proceedings for offences)

³³ Friendly Societies Code, section 471 (Proceedings for offences)

*Division 4—APRA’s and ASIC’s functions and powers under codes***Conferral of functions and powers relating to financial institutions and friendly societies**

52.(1) Either relevant Commonwealth body has the same enforcement powers relating to anything done or omitted to be done under a code before the transfer date as AFIC or QOFS had immediately before that date.

(2) For subsection (1), a code applies with all necessary changes.

(3) In this section—

“**code**” means the AFIC Code, Financial Institutions Code or Friendly Societies Code.

AFIC Code provisions

53.(1) The following provisions of the AFIC Code continue to apply on and after the transfer date in relation to anything done or omitted to be done before the date as if section 17³⁴ had not commenced—

(a) part 8,³⁵ other than sections 50, 51 55 and 58;³⁶

(b) the other provisions of the code relevant to the part.

(2) Despite subsection (1), a provision, or part of a provision, applying under the subsection that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the application mentioned in subsection (1)—

(a) a reference in the code to AFIC is taken to be a reference to either relevant Commonwealth body; and

(b) a reference in the code to a financial institution is taken to be a reference to an entity that on the transfer date is a company under

³⁴ Section 17 (Repeals)

³⁵ AFIC Code, part 8 (Enforcement powers)

³⁶ AFIC Code, sections 50 (Injunctions), 51 (Obtaining information etc. from financial institutions), 55 (Entry and search—monitoring compliance) and 58 (Monitoring warrants)

the Corporations Law and that, immediately before that date, was a financial institution under the code; and

- (c) in section 52(1) of the code, the words ‘the financial institutions scheme’ are taken to be omitted and the words ‘investigating whether an offence against the fiscal bodies legislation has been committed’ are taken to be substituted; and
- (d) a reference in section 52(1)(a) or (b) of the code to an employee of AFIC or of a State supervisory authority is taken to be a reference to an employee of either relevant Commonwealth body; and
- (e) section 52(5) of the code is taken to be omitted; and
- (f) a reference in section 53(1) or (2) of the code to the executive director is taken to be a reference to either relevant Commonwealth body; and
- (g) a reference in section 53(5) of the code to officers and employees of the State supervisory authorities is taken to be a reference to officers and employees of either relevant Commonwealth body; and
- (h) section 63(1A) and (1B) of the code are taken to be omitted; and
- (i) a reference in section 63(2) of the code to the Ministerial Council is taken to be a reference to the Minister administering this Act; and
- (j) the code applies with all other necessary changes.

(4) This section does not limit section 52.

Financial Institutions Code provisions

54.(1) The following provisions of the Financial Institutions Code continue to apply on and after the transfer date in relation to anything done or omitted to be done before the date as if section 17³⁷ had not commenced—

- (a) part 2, division 2, subdivision 1A (other than sections 75, 79 and

³⁷ Section 17 (Repeals)

82), part 10 and sections 392, 397, 398 and 404;³⁸

- (b) the other provisions of the code relevant to the provisions mentioned in paragraph (a).

(2) Despite subsection (1), a provision, or part of a provision, applying under the subsection that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the application mentioned in subsection (1)—

- (a) a reference in the code to the SSA is taken to be a reference to either relevant Commonwealth body; and
- (b) a reference in the code to a financial body is taken to be a reference to an entity that on the transfer date is a company under the Corporations Law and that, immediately before that date, was a financial body under the code; and
- (c) a reference in the code to a society is taken to be reference to an entity that on the transfer date is a company under the Corporations Law and that, immediately before that date, was a society under the code; and
- (d) in section 76(1) of the code, the words ‘the financial institutions legislation’ are taken to be omitted and the words ‘investigating whether an offence against the financial institutions legislation has been committed’ are taken to be substituted; and
- (e) a reference in section 76(1)(a) or (b) of the code to an employee of the SSA is taken to be a reference to an employee of either relevant Commonwealth body; and
- (f) section 76(5) of the code is taken to be omitted; and
- (g) in the definition “financial body to which this section applies” in section 397(1) of the code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and

³⁸ Financial Institutions Code, part 2 (Functions and powers of SSA), division 2 (Specific powers), subdivision 1A (Enforcement powers), sections 75 (Obtaining information etc.), 79 (Entry and search—monitoring compliance) and 82 (Monitoring warrants), part 10 (Special investigations) and sections 392 (Powers of Court), 397 (Power to examine defaulting officers), 398 (Power of Court to assess damages against certain persons) and 404 (Proceedings for offences)

- (h) section 397(2) of the code is taken to be omitted; and
 - (i) in the definition “financial body to which this section applies” in section 398(1) of the code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
 - (j) in the definition “prescribed person” in section 398(1) of the code, paragraphs (a) and (b), are taken to be omitted; and
 - (k) section 398(2) of the code is taken to be omitted; and
 - (l) a reference in section 404(2) of the code to the Minister is taken to be a reference to the Minister administering this Act; and
 - (m) the code applies with all other necessary changes.
- (4) This section does not limit section 52.

Provisions for Financial Institutions Code as applied under s 40 of AFIC Code

55.(1) The following provisions continue to apply on and after the transfer date in relation to anything done or omitted to be done before the date as if section 17³⁹ had not commenced—

- (a) section 40⁴⁰ of the AFIC Code to the extent it applies the relevant provisions;
- (b) the relevant provisions as applied under section 40 of the AFIC Code;
- (c) the other provisions of the AFIC Code and the Financial Institutions Code relevant to section 40 of the AFIC Code and the relevant provisions.

(2) Despite subsection (1), a provision, or part of a provision, applying under the subsection that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the application mentioned in subsection (1)—

³⁹ Section 17 (Repeals)

⁴⁰ AFIC Code, section 40 (Application of Financial Institutions Code)

- (a) a reference in section 40 of the AFIC Code or in section 5⁴¹ of the AFIC Regulations to a special services provider is taken to be a reference to an entity that on the transfer date is a company under the Corporations Law and that, immediately before that date, was a special services provider under that code; and
- (b) a reference in section 40 of the AFIC Code or in section 5 of the AFIC Regulations to AFIC is taken to be a reference to either relevant Commonwealth body; and
- (c) in section 76(1) of the Financial Institutions Code, the words ‘the financial institutions legislation’ are taken to be omitted and the words ‘investigating whether an offence against the financial institutions legislation has been committed’ are taken to be substituted; and
- (d) section 76(5) of the Financial Institutions Code is taken to be omitted; and
- (e) in the definition “financial body to which this section applies” in section 397(1) of the Financial Institutions Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
- (f) section 397(2) of the Financial Institutions Code is taken to be omitted; and
- (g) in the definition “financial body to which this section applies” in section 398(1) of the Financial Institutions Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
- (h) in the definition “prescribed person” in section 398(1) of the Financial Institutions Code, paragraphs (a) and (b), are taken to be omitted; and
- (i) section 398(2) of the Financial Institutions Code is taken to be omitted; and
- (j) a reference in section 404(2) of the Financial Institutions Code to the Minister is taken to be a reference to the Minister administering this Act; and
- (k) the AFIC Code and the Financial Institutions Code apply with all

⁴¹ AFIC Regulations, section 5 (Application of Financial Institutions Code—s 40)

other necessary changes.

(4) This section does not limit section 52.

(5) In this section—

“relevant provisions” means part 2, division 2, subdivision 1A (other than sections 75, 79 and 82), part 10 and sections 392, 397, 398 and 404 of the Financial Institutions Code.

Friendly Societies Code provisions

56.(1) The following provisions of the Friendly Societies Code continue to apply on and after the transfer date in relation to anything done or omitted to be done before the date as if section 17⁴² had not commenced—

- (a) part 2, division 2, subdivision 2 (other than sections 31, 35 and 38), part 10 and sections 460, 465, 466 and 471;⁴³
- (b) the other provisions of the code relevant to the provisions mentioned in paragraph (a).

(2) Despite subsection (1), a provision, or part of a provision, applying under the subsection that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the application mentioned in subsection (1)—

- (a) a reference in the code to the SSA is taken to be reference to either relevant Commonwealth body; and
- (b) a reference in the code to a society is taken to be reference to an entity that on the transfer date is a company under the Corporations Law and that, immediately before that date, was a society under the code; and
- (c) in section 32(1) of the code, the words ‘the friendly societies

⁴² Section 17 (Repeals)

⁴³ Friendly Societies Code, part 2 (Functions and powers of SSA), division 2 (Specific Powers), subdivision 2 (Enforcement powers), sections 31 (Obtaining information), 35 (Entry and search—monitoring compliance) and 38 (Monitoring warrants), part 10 (Special investigations) and sections 460 (Powers of Court), 465 (Power to examine defaulting officers), 466 (Power of Court to assess damages against certain persons) and 471 (Proceedings for offences)

legislation’ are taken to be omitted and the words ‘investigating whether an offence against the friendly societies legislation has been committed’ are taken to be substituted; and

- (d) a reference in section 32(1)(a) or (b) of the code to an employee of the SSA is taken to be a reference to an employee of either relevant Commonwealth body; and
- (e) section 32(4) of the code is taken to be omitted; and
- (f) in the definition “society to which this section applies” in section 465(1) of the code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
- (g) section 465(2) of the code is taken to be omitted; and
- (h) in the definition “society to which this section applies” in section 466(1) of the code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and
- (i) in the definition “prescribed person” in section 466(1) of the code, paragraphs (a) and (b) are taken to be omitted; and
- (j) section 466(2) of the code is taken to be omitted; and
- (k) a reference in section 471(2) of the code to the Minister is taken to be a reference to the Minister administering this Act; and
- (l) the code applies with all other necessary changes.

(4) This section does not limit section 52.

Only appropriately qualified person may be authorised etc.

57.(1) The power to authorise a person, or to delegate a power to a person, under an applied provision is a power only to authorise, or delegate the power to, an appropriately qualified person.

(2) In this section—

“applied provision” means any of the following provisions applied under this division—

- (a) section 53(1) of the AFIC Code;

- (b) sections 77(1) and 356(1) of the Financial Institutions Code;
- (c) sections 33(1) and 419(1) of the Friendly Societies Code.

Conferral of functions and powers

58. The functions and powers necessary for the purposes of this division are conferred on APRA and ASIC.

Division 5—Chief executive’s functions and powers for Friendly Societies Act 1991

Definition

59. In this division—

“**repealed Act**” means the *Friendly Societies Act 1991*, repealed under the *Friendly Societies (Queensland) Act 1997*, section 39.

Conferral of functions and powers relating to matters under repealed Act

60.(1) The chief executive has the same enforcement powers relating to anything done or omitted to be done under the repealed Act before its repeal as the Registrar under that Act had immediately before the repeal.

(2) For subsection (1), the repealed Act applies with all necessary changes.

Application of certain provisions of repealed Act

61.(1) The following provisions of the repealed Act continue to apply on and after the commencement of this section in relation to anything done or omitted to be done before its repeal as if the Act had not been repealed—

- (a) part 8, divisions 3 and 4 (other than sections 8.27 and 8.30) and

section 12.11;⁴⁴

- (b) the other provisions of the Act relevant to the provisions mentioned in paragraph (a).

(2) For the application mentioned in subsection (1)—

- (a) a reference in the Act to a friendly society is taken to be a reference to an entity that, before the repeal of the Act, was a friendly society under the Act; and
- (b) a reference in the Act to the Registrar is taken to be a reference to the chief executive; and
- (c) a reference in the Act to the Minister is taken to be a reference to the Minister administering this Act; and
- (d) a reference in the definition “friendly society” in sections 8.14 and 8.26 of the Act to a foreign society registered under Part 11 is taken to be reference to an entity that, before the repeal of the Act, was a foreign society under the Act and registered under part 11 of the Act; and
- (e) the chief executive may appoint only an appropriately qualified person under section 8.15(1) or 8.33(1) of the Act.

(3) This section does not limit section 60.

Continuation of certain offence proceedings

62.(1) This section applies to a proceeding for an offence against the repealed Act brought by QOFS that started before the transfer date but was not completed before the date.

(2) On and after the transfer date, the proceeding may continue to be prosecuted by the chief executive, or a person authorised by the chief executive, in place of QOFS and the chief executive or person may be substituted in the proceeding for QOFS.

⁴⁴ *Friendly Societies Act 1991*, part 8 (Administration), divisions 3 (Investigations) and 4 (Entry and search), sections 8.27 (Entry and search—monitoring compliance), section 8.30 (Monitoring warrants) and 12.11 (Proceedings how and when taken)

Delegation of powers

63. The chief executive may delegate the chief executive's powers under the repealed Act as applied under this division to an appropriately qualified officer of the department.

Division 6—Matters relating to deregistered societies**Definition for div 6**

64. In this division—

“**society**” means an entity that, before the transfer date, was—

- (a) a society under the Financial Institutions Code or the Friendly Societies Code; or
- (b) a building society under the *Building Societies Act 1985* or a corresponding previous enactment; or
- (c) a credit society under the *Credit Societies Act 1986* or a corresponding previous enactment; or
- (d) a friendly society under the *Friendly Societies Act 1991* or a corresponding previous enactment.

Application of div 6

65. This division applies to a society whose registration has been cancelled, before the transfer date, under—

- (a) the Financial Institutions Code; or
- (b) the Friendly Societies Code; or
- (c) the *Building Societies Act 1985* or a corresponding previous enactment; or
- (d) the *Credit Societies Act 1986* or a corresponding previous enactment; or
- (e) the *Friendly Societies Act 1991* or a corresponding previous enactment.

Society's property vested in ASIC under s 49

66.(1) This section applies to property vested in ASIC under section 49⁴⁵ that was held by the society.

(2) If the property was held by the society on trust, ASIC may—

- (a) continue to act as trustee; or
- (b) apply to a court for the appointment of a new trustee.

(3) If the property was not held by the society on trust, ASIC—

- (a) may—
 - (i) dispose of or deal with the property as it sees fit; and
 - (ii) apply any money it receives to defray expenses incurred by ASIC in exercising its powers in relation to the society and to make payments authorised by subsection (4); and
- (b) must deal with the balance of the property remaining after acting under paragraph (a) (if any) under part 9.7⁴⁶ of the Corporations Law which is taken to apply as if the society had been a company.

(4) The property remains subject to all liabilities imposed on the property under a law and does not have the benefit of any exemption that the property might otherwise have because it is vested in ASIC.

(5) ASIC's obligation under subsection (4) is limited to satisfying the liabilities out of the society's property to the extent that the property is properly available to satisfy those liabilities.

(6) ASIC must keep—

- (a) a record of the property that it knows this section applies to; and
- (b) a record of its dealings with that property; and
- (c) accounts of all money received from those dealings; and
- (d) all accounts, vouchers, receipts and papers relating to the property and that money.

⁴⁵ Section 49 (Transfer of assets and liabilities)

⁴⁶ Corporations Law, part 9.7 (Unclaimed property)

ASIC may act for society

67. ASIC may do an act on behalf of the society or the society's liquidator if ASIC is satisfied the society or liquidator would be bound to do the act if the society still existed.

Recovery from society's insurer

68. A person may recover from an insurer of the society an amount that was payable to the society under the insurance contract if—

- (a) the society had a liability to the person; and
- (b) the insurance contract covered the liability immediately before the cancellation of the registration.

Conferral of functions and powers

69. The functions and powers necessary for the purposes of this division are conferred on ASIC.

*Division 7—Miscellaneous***Dormant accounts**

70.(1) This section applies, if—

- (a) before the transfer date a society transferred an amount from a person's deposit account with the society to another account under section 138A(4)(c)⁴⁷ of the Financial Institutions Code; and
- (b) immediately before the transfer date the amount has not been lawfully totally paid out as mentioned in section 138A(6)(b) of that code.

(2) Immediately before the transfer date the amount remaining in the other account for the person is taken to have been transferred back to the person's deposit account as if it had never been classified as a dormant account or closed under section 138A of the Financial Institutions Code.

⁴⁷ Financial Institutions Code, section 138A (Dormant accounts)

Mergers and transfers of engagements started under Financial Institutions (Queensland) Code

71.(1) This section applies if a transfer of engagements or merger started before the transfer date under part 7 of the Financial Institutions (Queensland) Code and immediately before the date has not been completed, or been given effect.

(2) The transfer of engagements or merger may be completed, or be given effect, under part 7 of the Financial Institutions (Queensland) Code on or after the transfer date and, for that purpose, the part, and other provisions of the code relevant to the part, continue to apply as if section 17⁴⁸ had not commenced.

(3) For the application mentioned in subsection (2)—

- (a) a reference in the Financial Institutions (Queensland) Code to the SSA is taken to be a reference to either relevant Commonwealth body; and
- (b) a reference in the Financial Institutions (Queensland) Code to the SSA of a participating State is taken to be a reference to either relevant Commonwealth body; and
- (c) the Financial Institutions (Queensland) Code applies with all other necessary changes.

(4) For this section a transfer of engagements was started before the transfer date under part 7 of the Financial Institutions (Queensland) Code if, before that date—

- (a) 1 of the following conditions was satisfied in relation to each society or foreign society involved—
 - (i) the transfer was approved by a special resolution of the society or foreign society, as required by the relevant Financial Institutions Code;
 - (ii) the relevant SSA made a determination, under the relevant Financial Institutions Code, that the transfer may be approved by the board of the society or foreign society; or
- (b) in a case where each entity involved in the transfer is a society,

⁴⁸ Section 17 (Repeals)

QOFS gave a direction, under the Financial Institutions (Queensland) Code, requiring the transfer.

(5) For this section, a merger was started before the transfer date if, before that date, 1 of the following conditions was satisfied in relation to each society or foreign society involved—

- (a) the merger was approved by a special resolution of the society or foreign society, as required by the relevant Financial Institutions Code;
- (b) the relevant SSA made a determination, under the relevant Financial Institutions Code, that the merger may be approved by the board of the society or foreign society.

(6) The functions and powers of the SSA that are necessary for the purposes of this section are conferred on each relevant Commonwealth body.

(7) In this section—

“financial institutions agreement” see section 3 of the AFIC Code.⁴⁹

“foreign society” means a body corporate that, before the transfer date, was a society under the financial institutions legislation of another participating State, whether or not it was registered as a foreign society under part 11 of the Financial Institutions (Queensland) Code.

“participating State” means a State that, immediately before the transfer date, was a party to the financial institutions agreement and in which, immediately before that date, the foreign society was incorporated.

“relevant Financial Institutions Code” means—

- (a) in relation to a society, the Financial Institutions (Queensland) Code; or
- (b) in relation to a foreign society, the law of another participating State corresponding to the Financial Institutions (Queensland) Code.

“relevant SSA” means—

- (a) in relation to a society, QOFS; or

⁴⁹ The attachment contains extracts of the relevant provisions of the AFIC Code.

- (b) in relation to a foreign society, the State supervisory authority under the financial institutions legislation of the other participating State.

“**society**” means an entity that, immediately before the transfer date, was a society under the Financial Institutions (Queensland) Code.

Mergers and transfers of engagements started under Friendly Societies (Queensland) Code

72.(1) This section applies if a transfer of engagements or merger started before the transfer date under part 7 of the Friendly Societies (Queensland) Code and immediately before the date has not been completed, or been given effect.

(2) The transfer of engagements or merger may be completed, or be given effect, under part 7 of the Friendly Societies (Queensland) Code on or after the transfer date and, for that purpose, the part, and other provisions of the code relevant to the part, continue to apply as if section 17⁵⁰ had not commenced.

(3) For the application mentioned in subsection (2)—

- (a) a reference in the Friendly Societies (Queensland) Code to the SSA is taken to be a reference to either relevant Commonwealth body; and
- (b) a reference in the Friendly Societies (Queensland) Code to the SSA of a participating State is taken to be a reference to either relevant Commonwealth body; and
- (c) the Friendly Societies (Queensland) Code applies with all other necessary changes.

(4) For this section a transfer of engagements was started before the transfer date under part 7 of the Friendly Societies (Queensland) Code if, before that date—

- (a) 1 of the following conditions was satisfied in relation to each society or foreign society involved—
 - (i) the transfer was approved by a special resolution of the

⁵⁰ Section 17 (Repeals)

society or foreign society, as required by the relevant Friendly Societies Code;

(ii) the relevant SSA made a determination, under the relevant Friendly Societies Code, that the transfer may be approved by the board of the society or foreign society; or

(b) in a case where each entity involved in the transfer is a society, QOFS gave a direction, under the Friendly Societies (Queensland) Code, requiring the transfer.

(5) For this section, a merger was started before the transfer date if, before that date, 1 of the following conditions was satisfied in relation to each society or foreign society involved—

(a) the merger was approved by a special resolution of the society or foreign society, as required by the relevant Friendly Societies Code;

(b) the relevant SSA made a determination, under the relevant Friendly Societies Code, that the merger may be approved by the board of the society or foreign society.

(6) The functions and powers of the SSA that are necessary for the purposes of this section are conferred on each relevant Commonwealth body.

(7) In this section—

“financial institutions agreement” see section 3 of the AFIC Code.

“foreign society” means a body corporate that, before the transfer date, was a society under the friendly societies legislation of another participating State, whether or not it was registered as a foreign society under part 11 of the Friendly Societies (Queensland) Code.

“friendly societies legislation” see section 8A of the AFIC Code.⁵¹

“participating State” means a State that, immediately before the transfer date, was a party to the financial institutions agreement and in which, immediately before that date, the foreign society was incorporated.

“relevant Friendly Societies Code” means—

⁵¹ The attachment contains extracts of the relevant provisions of the AFIC Code.

- (a) in relation to a society, the Friendly Societies (Queensland) Code; or
- (b) in relation to a foreign society, the law of another participating State corresponding to the Friendly Societies (Queensland) Code.

“relevant SSA” means—

- (a) in relation to a society, QOFS; or
- (b) in relation to a foreign society, the State supervisory authority under the friendly societies legislation of the other participating State.

“society” means an entity that, immediately before the transfer date, was a society under the Friendly Societies (Queensland) Code.

Australian Financial Institutions Appeals Tribunal

73.(1) This section applies on the transfer date.

(2) The Australian Financial Institutions Appeals Tribunal established under section 8 of the AFIC Act ceases to exist and its members go out of office.

(3) All applications made to the tribunal under a code for review of a decision that have not been decided are taken to have been withdrawn.

(4) In this section—

“code” means the AFIC Code, Financial Institutions Code or Friendly Societies Code.

PART 6—MISCELLANEOUS

Regulation-making power

74. The Governor in Council may make regulations under this Act.

Attachment—words defined in other legislation referred to in this Act

75.(1) Attached to this Act is an attachment containing relevant provisions from other legislation referred to in this Act.⁵²

(2) The attachment is not part of this Act.

(3) The attachment must be revised so that it is an accurate copy of the provisions as amended from time to time.

(4) The revision under subsection (3) must happen in the first reprint of the Act after the amendment of the provision.

PART 7—AMENDMENT OF ACTS**Acts amended in sch 1**

76. Schedule 1 amends the Acts mentioned in it.

⁵² The attachment appears immediately after the dictionary.

SCHEDULE 1

AMENDMENTS

section 76

PART 1—AMENDMENT OF THE FAMILY SECURITY FRIENDLY SOCIETY (DISTRIBUTION OF MONEYS) ACT 1991

1. Section 2, definition “Registrar”—

omit.

2. Section 2—

insert—

‘ **“registrar”** means—

- (a) before the transfer date—QOFS; and
- (b) on and after the transfer date—the chief executive.

“reporting period” means the period starting on 15 January 1991 and ending at the end of the day section 30 starts to apply.

“transfer date” means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act.’.

3. Section 4A(3)—

omit.

SCHEDULE 1 (continued)

4. Section 28(2), from ‘including’ to ‘Society’—

omit.

5. Section 28—

insert—

‘(3) Despite subsection (2), the provisions of the *Friendly Societies Act 1991* about winding-up and dissolution do not apply.

‘(4) For the application mentioned in subsection (2), on and after the transfer date, a reference in the *Friendly Societies Act 1991* and the regulations to the registrar is taken to be a reference to the chief executive.’.

6. After section 29—

insert—

‘Administrator must give Minister a report about the administration of the society

‘**30.(1)** This section applies if the society’s administrator—

- (a) has performed the administrator’s duty under section 5;⁵³ and
- (b) has paid administration expenses and creditors under section 19;
and
- (c) has made a final distribution to investors under section 20.

‘(2) The administrator must give the Minister a report about the administration within 30 days after this section applies.

‘(3) The report must—

- (a) be in writing and signed by the administrator; and
- (b) contain a final account of—
 - (i) the property collected and converted into money by the administrator under section 5 during the reporting period;

⁵³ Section 5 (Administrator to collect property of Society)

SCHEDULE 1 (continued)

and

- (ii) the money paid under section 19, and distributed under section 20, during the reporting period; and
- (c) contain a statement by the administrator that—
 - (i) on the day the administrator signs the report, the information in it is, to the best of the administrator's knowledge and belief, true; and
 - (ii) the administrator has performed the administrator's duty under section 5; and
 - (iii) the administrator has paid administration expenses and creditors under section 19; and
 - (iv) the administrator has made a final distribution to investors under section 20; and
 - (v) the final account mentioned in paragraph (b) contains a full and true account of the property collected and converted into money, and the money paid and distributed, during the reporting period; and
- (d) contain the further information, or be accompanied by the documents, directed by the Minister.

'Dissolution of society

'31.(1) As soon as practicable after receiving the report, the Minister must, by gazette notice, dissolve the society.

'(2) The society is dissolved on the day stated in the notice.

'Ending of society's administration and cancellation of society's registration

'32. On the dissolution of the society—

- (a) the administrator's appointment under section 4A ends; and
- (b) the administration of the society ends; and

SCHEDULE 1 (continued)

- (c) the society's registration is taken to have been cancelled under the *Friendly Societies Act 1991*, section 10.5.'.

**PART 2—AMENDMENT OF THE FINANCIAL
INTERMEDIARIES ACT 1996**

1. Section 3, 'schedule 4'—

omit, insert—

'the schedule'.

2. Part 2, heading—

omit, insert—

**'PART 2—PRUDENTIAL AND ADVISORY
FUNCTIONS OF REGISTRAR'.**

3. Section 8, heading—

omit, insert—

'Registrar's prudential and advisory functions'.

4. Section 8, 'functions of QOFS's board'—

omit, insert—

'registrar's prudential and advisory functions'.

5. Section 8, paragraph (c)—

omit, insert—

'(c) act under part 3.'

SCHEDULE 1 (continued)

6. Section 9, ‘this Act’—*omit, insert—*

‘this part’.

7. Sections 9, 12(1), 13(2), 14(2), 16(1), ‘QOFS’s board’—*omit, insert—*

‘the registrar’.

8. Sections 11(4), 12(2), 16(1), 19(2), 22(1)(b), 24, 47(5)(c), (6) and (9), 48(3), 61(4), 62(1) and (6), 67(6), 154(2), 164(4) and (7), 168(6), 170(2), 173(3)(b), 198(4)(a), (b) and (6), 201(1) and (2), 204(4), ‘it’—*omit, insert—*

‘the registrar’.

9. Sections 9, 19(1), 25(1), 47(1), 61(3)(a), 116(2), 154(5)(b), 164(11), 183(2), 198(4)(c), ‘its’—*omit, insert—*

‘the registrar’s’.

10. Sections 10(1), 11(2), 16(3), ‘QOFS’s board’—*omit, insert—*

‘The registrar’.

11. Sections 10(1), 16(1), ‘, by resolution,’—*omit.*

SCHEDULE 1 (continued)

12. Sections 10(1)(b), 13(1), 19(2), 20(1), 22(2), 23, heading, 23(1), 25(2), 27, 28(2)(c), 29(3), 43(1) and (3), 47(2) to (4), (10) and (12), 48, heading, 48(3) to (5), 49(3), 50(1), 51, 54(3), 55(1), 58, heading, 58(1), (2) and (4), 59, 60, 62(2), (3), (6), (9) and (10), 63, 67(1), definition “approved financial contracts”, 73(1), (2)(b)(vi) and (4), 74(1), 80(3), 82, heading, 82(1), (3) and (6), 83, heading, 83(1) and (5), 91(3) and (4), 97(3) and (4), 111(2)(a) and (3), 122(2), 127(1)(b)(iii), 128(1), 130(3), 131(2) and (5), 132(4)(b), 135(3), 146(4), 147(3), 149(1)(e), 151(3), (13) to (15), 153(1)(b), (2) and (4), 154(1)(a) and (b), (3) to (5), 155(3), 156(c), 158(8), 159(4) to (8), 160(4) and (6), 162(1)(b) and (2)(a), 163(1), 164(1), 165(2)(b), 166, definition “certificate of confirmation”, 168(2), (3), (7) to (9), 169(1) and (3), 171(3), 173(3), 180(2)(a), 181(2), 182(1), 183, heading, 183(1) and (3), 184(2)(b) and (d), 187, 188, 198(1) to (3), (5), (6) and (8), 199(1) and (4), 200(1), 201(1), (2), (4), (5), (7), (9) and (10), 203(1), 204(1), 205(1), 207(4), 209(1)(a) and (2)(d), 210(1), (3) and (4), 215(1), 217(1), definition “appropriate officer”, paragraphs (c) and (e) and (2)(a), 220(1) and (2)(b), 225(1), 226(1) and (2), 227(1), definition “prescribed person”, paragraph (c) and (3), 237(2), (3) and (9), 240(9)(f), 241(3)(b), 243, 246, 247, ‘QOFS’—

omit, insert—

‘the registrar’.

13. Section 10(2)—

omit, insert—

‘(2) A standard takes effect from—

- (a) the day a copy of the standard is published in the gazette; or
- (b) a later day stated in the standard.’

14. Section 11(1), from ‘for’ to ‘made’—

omit.

SCHEDULE 1 (continued)

15. Section 11(2), ‘the passing of the resolution,’—*omit, insert—*

‘the making of the standard.’

16. Section 11(2), ‘, of the resolution.’—*omit, insert—*

‘, of the standard.’

17. Sections 11(3)(a) and (7), 12(3), 16(1)(a) and (c) and (4), ‘resolution’—*omit, insert—*

‘standard’.

18. Sections 11(3) to (6) and 12(2), ‘board’—*omit, insert—*

‘registrar’.

19. Section 11(4)(a) and (b), ‘QOFS’s public office’—*omit, insert—*

‘the registrar’s public office’.

20. Section 11(5), ‘to it’—*omit.***21. Section 11(6), ‘passing the resolution’—***omit, insert—*

‘making the standard’.

SCHEDULE 1 (continued)

22. Section 11(6), ‘proposed resolution’—*omit, insert—*

‘proposed standard’.

23. Section 12(1), from ‘for a’—*omit, insert—*

‘for a standard to be made without complying with section 11, the registrar may make the standard.’.

24. Sections 16(2), 19(1), 21, 22(1), 23(2) and (3), 24, heading, 25(1), 26(1), 29(1), 43(2), 44(1), 47(1), (5), (6) and (9), 48(2), 49(1), (2) and (4), 50(2), 54(1), 58(3), 61, 62(1), (4), (5), (7) and (8), 67(6), 73(3), 82(4), 83(2) and (3), 94, heading, 116(2), 128(3), 142(2) and (3), 154(2), 163(4), 164(4), (6), (7) and (11), 168(5) and (6), 169, heading, 169(2), 171, heading, 171(1) and (2), 174, 176, 183(2), 186(2), 190(2) to (5), 198(4) and (7), 199(2), 204(3) and (4), 205(2), 244, ‘QOFS’—*omit, insert—*

‘The registrar’.

25. Section 16(3), from ‘the resolution’—*omit, insert—*

‘all standards are available for inspection and purchase at the registrar’s public office.’.

26. Part 4, heading—*omit, insert—***‘PART 4—OTHER FUNCTIONS AND POWERS OF REGISTRAR’.**

SCHEDULE 1 (continued)

27. Section 18, heading—

omit, insert—

‘Other functions’.

28. Section 18, ‘The functions of QOFS’—

omit, insert—

‘The other functions of the registrar’.

29. Section 18(j)—

omit, insert—

‘(j) carry out the functions conferred on the registrar by another provision of this Act, other than part 2.’.

30. After section 19—

insert—

‘Delegations

‘19A.(1) The registrar may delegate the registrar’s powers under this Act to an appropriately qualified person.

‘(2) However, the registrar may delegate a power under part 3 only to APRA under an agreement mentioned in section 64A.⁵⁴

‘(3) A power, other than a power under part 3, may be subdelegated to an appropriately qualified person if the delegation expressly allows the subdelegation of the power.

‘(4) In this section—

“appropriately qualified” includes having the qualifications, experience or standing appropriate to the exercise of the power.

⁵⁴ Section 64A (State may enter into agreements with APRA)

SCHEDULE 1 (continued)

Example of 'standing'—

If the person is an employee of the department, the person's classification level in the department.

'Registrar's seal

'19B. The registrar must have a seal of office.

'Registrar's public office

'19C. The registrar must have a public office for this Act.'

31. Sections 20(2), 48(6)(b), 49(6), 55(2), 116(1), 154(1)(c), 190(2), 198(4)(e), 199(2) and (3), 209(3), 210(2) and (3), 'QOFS's'—

omit, insert—

'the registrar's'.

32. Section 22, heading, 'QOFS's public office'—

omit, insert—

'the registrar's public office'.

33. Section 22(1), 'its public office'—

omit, insert—

'the registrar's public office'.

34. Section 22(2)(a), from 'QOFS's public' to 'hours—'—

omit, insert—

'the registrar's public office during ordinary business hours—'.

SCHEDULE 1 (continued)

35. Section 23(1), ‘it’, first mention—*omit, insert—*

‘the registrar’.

36. Section 24, ‘QOFS may’—*omit, insert—*

‘The registrar may’.

37. Section 24, ‘QOFS considers’—*omit, insert—*

‘the registrar considers’.

38. Section 26(2), ‘QOFS’, first mention—*omit, insert—*

‘The registrar’.

39. Section 26(2)(a) and (b), ‘QOFS’—*omit, insert—*

‘the registrar’.

40. Section 48(1), ‘QOFS’, first mention—*omit, insert—*

‘The registrar’.

41. Section 48(1), ‘QOFS’, second mention—*omit, insert—*

‘the registrar’.

SCHEDULE 1 (continued)

42. Section 48(1)(a), ‘QOFS’—

omit, insert—

‘the registrar’.

43. Section 49(1), ‘it’, first mention—

omit, insert—

‘the registrar’.

44. Section 56(2) and (3)—

omit, insert—

‘(2) The expenses include the administrator’s remuneration at a rate approved by the registrar.’.

45. Section 56(4)—

renumber as section 56(3).

46. Part 4, after section 64—

insert—

***‘Division 3—Prudential regulation or advice service agreements with
APRA***

‘State may enter into agreements with APRA

‘**64A.(1)** The registrar may with the approval of the Minister, enter into an agreement with APRA on behalf of the State under which APRA is, for a fee, to provide prudential regulation or advice services.

‘(2) The agreement may—

- (a) provide for APRA to act on behalf of the registrar; and
- (b) make provision about the circumstances in which, and the extent

SCHEDULE 1 (continued)

to which, one party to the agreement is liable to the other party to the agreement for matters arising under the agreement.

‘(3) In this section—

“prudential regulation or advice services” means services of either or both of the following kinds—

- (a) services consisting of APRA performing a role in the prudential regulation or supervision of societies;
- (b) services consisting of APRA providing advice relating to the prudential regulation or supervision of societies.’.

47. Section 81(1), ‘QOFS’, first mention—

omit, insert—

‘The registrar’.

48. Section 81(1), ‘QOFS’, second mention—

omit, insert—

‘the registrar’.

49. Section 82(2), ‘QOFS’, first mention—

omit, insert—

‘The registrar’.

50. Section 82(2), ‘QOFS’, second mention—

omit, insert—

‘the registrar’.

SCHEDULE 1 (continued)

51. Section 91(2), ‘QOFS’, first mention—*omit, insert—*

‘The registrar’.

52. Section 91(2), ‘QOFS’, second mention—*omit, insert—*

‘the registrar’.

53. Section 94, ‘QOFS may’—*omit, insert—*

‘The registrar may’.

54. Section 94, ‘QOFS is’—*omit, insert—*

‘the registrar is’.

55. Section 142(4)—*omit.***56. Section 142(5)—***renumber* as section 142(4).**57. Section 163(2), ‘QOFS’, first mention—***omit, insert—*

‘The registrar’.

SCHEDULE 1 (continued)

58. Section 163(2), ‘QOFS’, second mention—*omit, insert—*

‘the registrar’.

59. Section 164(3) and (9), ‘QOFS’, first mention—*omit, insert—*

‘The registrar’.

60. Section 164(3) and (9), ‘QOFS’, second mention—*omit, insert—*

‘the registrar’.

61. Section 164(6), ‘it’, first mention—*omit, insert—*

‘the registrar’.

62. Section 170(2), ‘QOFS’, first mention—*omit, insert—*

‘The registrar’.

63. Section 170(2)(c)(i), ‘QOFS’—*omit, insert—*

‘the registrar’.

64. Section 171(4), ‘QOFS’, first mention—*omit, insert—*

‘The registrar’.

SCHEDULE 1 (continued)

65. Section 171(4)(a) to (c), ‘QOFS’—

omit, insert—

‘the registrar’.

66. Section 183(4)—

omit.

67. Section 183(5), ‘, unless employed in the office of QOFS,’—

omit.

68. Section 183(5), ‘QOFS considers’—

omit, insert—

‘the registrar considers’.

69. Section 183(6) and (7), ‘QOFS’—

omit, insert—

‘the registrar’.

70. Section 183(5) to (8)—

renumber as section 183(4) to (7).

71. Section 185—

omit.

72. Section 186(1)(b)—

omit.

SCHEDULE 1 (continued)

73. Section 186(1)(c), ‘QOFS’s’—*omit, insert—*

‘the registrar’s’.

74. Section 186(1)(c)—*renumber* as section 186(1)(b).**75. Section 190(1), ‘QOFS’, first mention—***omit, insert—*

‘The registrar’.

76. Section 190(1), ‘QOFS’, second mention—*omit, insert—*

‘the registrar’.

77. Section 196(5), ‘QOFS’, first mention—*omit, insert—*

‘The registrar’.

78. Section 196(5), ‘QOFS’, second mention—*omit, insert—*

‘the registrar’.

79. Section 198(7), ‘it’, first mention—*omit, insert—*

‘the registrar’.

SCHEDULE 1 (continued)

80. Section 239(1), definition “person to whom this section applies”—

omit, insert—

‘**“person to whom this section applies”** means a person who is, or was at any time, involved in the administration of this Act.’.

81. Section 247—

insert—

‘(3) Also, for information purposes only, a regulation may identify the functions of the registrar under this Act conferred on APRA under an agreement between the State and APRA under part 4, division 3.’.

82. Part 14, heading—

omit, insert—

‘PART 14—TRANSITIONAL PROVISIONS’.

83. Part 14, before section 248—

insert—

‘Division 1—Transitional provisions for Act No. 23 of 1996’.

84. Sections 249, 252 and 255 to 262—

omit.

SCHEDULE 1 (continued)

85. Part 14, at the end—

insert—

***Division 2—Transitional provisions for Financial Sector Reform
(Queensland) Act 1999***

‘Definition for div 2

‘255. In this division—

“transfer date” means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16) is specified as the transfer date for the purposes of that Act.

‘State is successor of QOFS

‘256.(1) The State is the successor in law of QOFS to the extent that the registrar succeeds QOFS in the performance of functions under this Act.

‘(2) The following provisions of this division do not limit subsection (1).

‘Particular assets of QOFS vest in State

‘257. The following assets become the assets of the State—

- (a) assets that immediately before the transfer date vested in QOFS under a winding-up of a society under part 10, division 3;
- (b) all documents relating to the performance by QOFS of functions under this Act.

‘Continuation and preservation of civil proceedings involving QOFS

‘258.(1) For a proceeding under this Act, other than a proceeding for an offence, started before the transfer date to which QOFS was a party immediately before the date, the registrar is substituted for QOFS as a party to the proceeding.

SCHEDULE 1 (continued)

‘(2) For this section evidence that would have been admissible for or against QOFS is admissible for or against the registrar.

‘Continuation of offence proceedings

‘**259.(1)** This section applies to a proceeding for an offence brought under this Act by QOFS that started before the transfer date but which is not completed immediately before the date.

‘(2) On and after the transfer date, the proceeding may continue to be prosecuted by the registrar in place of QOFS and the registrar may be substituted for QOFS.

‘Continuation of things done, and started, by QOFS

‘**260.(1)** Anything done by QOFS under this Act before the transfer date—

- (a) continues to have affect; and
- (b) is taken to have been done by the registrar.

‘(2) Anything started by QOFS under this Act before the transfer date and not finished before the date—

- (a) is taken to have been started by the registrar; and
- (b) may be finalised by the registrar.

‘Instruments

‘**261.(1)** An instrument, other than a statutory instrument, in existence immediately before the transfer date and given by QOFS under this Act—

- (a) continues in force; and
- (b) is taken to have been given by the registrar.

‘(2) A reference in the instrument to QOFS may, if the context permits, be taken to be a reference to the registrar.

SCHEDULE 1 (continued)

‘(3) This section does not apply to an instrument of appointment of an inspector.

‘Inspectors cease to hold office

‘262. All inspectors holding office immediately before the transfer date stop holding the office and all instruments of appointment of the inspectors stop having effect.

‘Standards

‘263.(1) A standard in force immediately before the transfer date—

- (a) continues in force; and
- (b) is taken to have been made by the registrar.

‘(2) A reference in the standard to QOFS may, if the context permits, be taken to be a reference to the registrar.

‘Application for certificate of incorporation

‘264.(1) On application by a continuing society, the registrar must issue to the society a certificate of incorporation stating that the society is incorporated under this Act.

‘(2) The registrar must not issue a certificate of incorporation to a continuing society under subsection (1) unless the society—

- (a) surrenders to the registrar its certificate of incorporation under the previous law; or
- (b) satisfies the registrar that the certificate has been lost or destroyed.’.

86. Part 15—

omit.

SCHEDULE 1 (continued)

87. Schedules 1 and 2—

omit.

88. Schedule 4, definitions “employee”, “QOFS” and “QOFS’s board”—

omit.

89. Schedule 4—

insert—

‘ “APRA” means the Australian Prudential Regulation Authority.

“employee”, for part 7, division 1, see section 98.

“registrar” means the chief executive.

“registrar’s public office” means the public office established under section 19C.’.

90. Schedule 4, heading—

omit, insert—

‘SCHEDULE

‘DICTIONARY’.

SCHEDULE 1 (continued)

PART 3—AMENDMENT OF OTHER ACTS**ACTS INTERPRETATION ACT 1954**

1. Section 36, definitions “AFIC (Queensland) Code”, “AFIC (Queensland) Regulations”, “bank”, “building society”, “credit union”, “financial institution”, “Financial Institutions (Queensland) Code”, “Financial Institutions (Queensland) Regulations”, “Friendly Societies (Queensland) Code” and “Friendly Societies (Queensland) Regulations”—

omit.

2. Section 36—

insert—

‘ **“bank”** means a financial institution that has a consent under the *Banking Act 1959* (Cwlth), section 66,⁵⁵ to assume or use—

- (a) the word ‘bank’, ‘banker’ or ‘banking’; or
- (b) any other word (whether or not in English) that is of like import to a word covered by paragraph (a).

“financial institution” means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cwlth), section 5.⁵⁶.

⁵⁵ *Banking Act 1959* (Cwlth), section 66 (Restriction on use of certain words and expressions)

⁵⁶ *Banking Act 1959* (Cwlth), section 5—

‘ **“authorised deposit-taking institution”** means a body corporate in relation to which an authority under subsection 9(3) is in force.’.

SCHEDULE 1 (continued)

ASSOCIATIONS INCORPORATION ACT 1981**1. Section 5(1)(b)(iii)—**

omit.

2. Section 5(1)(b)(iv) and (v)—

renumber as section 5(1)(b)(iii) and (iv).

3. Section 96, definition “eligible friendly society”—

omit.

4. Section 96, definition “former society”, ‘or an eligible friendly society’—

omit.

5. Section 96, definition “registrar”—

omit, insert—

‘**“registrar”** means the registrar under the Cooperatives Act.’

6. Section 96, definition “transfer day”, ‘or friendly society’—

omit.

7. Part 11, division 2—

omit.

8. Part 11, divisions 3 to 5—

renumber as part 11, divisions 2 to 4.

SCHEDULE 1 (continued)

COLLECTIONS ACT 1966**1. Section 47(3)(t), ‘banks or building societies’—**

omit, insert—

‘financial institutions’.

COOPERATIVES ACT 1997**1. Sections 245(6)(b)—**

omit.

2. Section 245(6)(c)—

renumber as section 245(6)(b).

3. Section 300(c), (d) and (e)—

omit.

4. Section 300(f) and (g)—

renumber as section 300(c) and (d).

CORPORATIONS (QUEENSLAND) ACT 1990**1. Section 93(b), (f) and (g)—**

omit.

SCHEDULE 1 (continued)

2. Section 93(c) and (e)—

renumber as section 93(b) and (c).

CRIMES (CONFISCATION) ACT 1989**1. Section 4, definition “financial institution”, paragraphs (b) and (c)—**

omit, insert—

‘(b) an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cwlth), section 5;⁵⁷ or’.

2. Section 4, definition “financial institution”, paragraphs (d) and (e)—

renumber as paragraphs (c) and (d).

FARM PRODUCE MARKETING ACT 1964**1. Section 5, definition “insurer”, paragraph (c)—**

omit.

⁵⁷ *Banking Act 1959* (Cwlth), section 5—

‘“authorised deposit-taking institution” means a body corporate in relation to which an authority under subsection 9(3) is in force.’.

SCHEDULE 1 (continued)

**FINANCIAL ADMINISTRATION AND AUDIT
ACT 1977****1. Schedule 3, definition “financial institution”—**

*omit.*⁵⁸

FUNERAL BENEFIT BUSINESS ACT 1982**1. Section 5, heading—**

omit, insert—

‘Definitions’.

2. Section 40(1)(b)—

omit, insert—

‘(b) by depositing it with, or using it to purchase shares in, a former building society; or’.

3. Section 40—

insert—

‘(7) In this section—

“**Financial Institutions (Queensland) Code**” means the provisions applying before the transfer date because of the *Financial Institutions*

⁵⁸ Schedule 3 is inserted in the *Financial Administration and Audit Act 1977* by the *Financial Administration Legislation Amendment Act 1999*, section 49.

 SCHEDULE 1 (continued)

(Queensland) Act 1992, section 4.⁵⁹

“former building society” means a financial institution that was a building society under the Financial Institutions (Queensland) Code immediately before the transfer date.

“transfer date” means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act.’.

4. Section 55(a)—

omit, insert—

‘(a) a corporation that is a friendly society within the meaning of the *Life Insurance Act 1995* (Cwlth), section 16C;⁶⁰ or’.

5. Section 65(1), definition “the account”, from “or a”—

omit, insert—

‘and an account with a former building society in which moneys are invested under section 40(1)(b).’.

6. Section 80—

insert—

‘(3) Also, for information purposes only, a regulation may identify entities that are former building societies for section 40(7), definition “former building society”.’.

⁵⁹ *Financial Institutions (Queensland) Act 1992*, section 4 (Application in Queensland of the Financial Institutions Code)

⁶⁰ *Life Insurance Act 1995* (Cwlth), section 16C (What is a friendly society?)

SCHEDULE 1 (continued)

GAMING MACHINE ACT 1991

1. Section 3, definition “financial institution”, paragraphs (b) to (d)—
omit, insert—

‘(b) an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cwlth), section 5;⁶¹ or’.

2. Section 3, definition “financial institution”, paragraphs (e) to (g)—
renumber as paragraphs (c) to (e).

**INTERACTIVE GAMBLING (PLAYER
PROTECTION) ACT 1998**

1. Schedule 3, definition “financial institution”—
omit.

PHARMACY ACT 1976

1. Section 5—
insert—

‘**“Friendly Societies (Queensland) Code”** means the provisions applying before the transfer date because of the *Friendly Societies (Queensland)*

⁶¹ *Banking Act 1959* (Cwlth), section 5—

‘**“authorised deposit-taking institution”** means a body corporate in relation to which an authority under subsection 9(3) is in force.’.

SCHEDULE 1 (continued)

*Act 1997, section 5.*⁶²

“friendly society” means—

- (a) a corporation that was a society or a foreign society under the Friendly Societies (Queensland) Code immediately before the transfer date; or
- (b) a corporation—
 - (i) registered as a company under the Corporations Law under a name that includes the words ‘friendly society’; and
 - (ii) declared under a regulation to be a friendly society for this Act.

“transfer date” means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act’.

2. Sections 30(3) and (7) and 40(1A)(n), ‘duly registered’—

omit.

3. Section 41A—

insert—

‘(2) A regulation may, for information purposes only, identify corporations that are friendly societies under section 5, definition “friendly society”, paragraph (a).’.

⁶² *Friendly Societies (Queensland) Act 1997*, section 5 (Application in Queensland of the Friendly Societies Code)

SCHEDULE 1 (continued)

STAMP ACT 1894**1. Section 35(1), definition “bank”—**

omit.

2. Section 35(1), definition “credit business”, paragraph (c)—

omit, insert—

‘(c) the business, carried on by a credit union, of making loans to its members.’.

3. Section 35(1)—

insert—

‘**“credit union”** means—

- (a) a financial institution that was, immediately before the transfer date, a credit union under—
 - (i) the Financial Institutions (Queensland) Code; or
 - (ii) the law of another State corresponding to the Financial Institutions (Queensland) Code; or
- (b) a financial institution—
 - (i) that operates on the principle that membership in the institution should be open to all within the accepted common bond of association; and
 - (ii) whose objects include—
 - (A) raising funds by subscription or deposit; and
 - (B) applying the funds in the provision of financial accommodation to its members; and
 - (C) encouraging savings among its members; and
 - (D) promoting co-operative enterprise, and providing

SCHEDULE 1 (continued)

programs and services to its members, to assist its members to meet their financial needs; and

- (iii) that is declared under a regulation to be a credit union for this section.

“Financial Institutions (Queensland) Code” means the provisions applying before the transfer date because of the *Financial Institutions (Queensland) Act 1992*, section 4.⁶³

“transfer date” means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act.’.

4. Section 83, at the end—

insert—

‘(4) Also, for information purposes only, a regulation may identify entities that are credit unions for section 35(1), definition “credit union”, paragraph (a).’.

STATUTORY BODIES FINANCIAL ARRANGEMENTS ACT 1982

1. Schedule, definition “financial institution”—

omit.

⁶³ *Financial Institutions (Queensland) Act 1992*, section 4 (Application in Queensland of the Financial Institutions Code)

SCHEDULE 1 (continued)

**SUPERANNUATION (STATE PUBLIC SECTOR)
ACT 1990**

1. Section 2(3), from ‘definition’ to ‘paragraph (n)’—*omit, insert—*

‘definition “unit of the State public sector”, paragraph (n),’.

2. After section 31—*insert—*

**‘PART 5—TRANSITIONAL PROVISION FOR
FINANCIAL SECTOR REFORM (QUEENSLAND)
ACT 1999**

‘APRA or ASIC may be declared to be a unit of the State public sector

‘**32.(1)** Subsection (2) applies if, on or after the transfer date, a person who was an employee of QOFS immediately before the transfer date becomes—

- (a) an employee of APRA under a transfer agreement; or
- (b) an employee of ASIC under the *Public Service Act 1922* (Cwlth), section 81B(1).⁶⁴

‘**(2)** A regulation may, under section 2(1), definition “unit of the State public sector”, paragraph (n), declare—

- (a) APRA to be a unit of the State public sector, if the person becomes an employee of APRA under a transfer agreement; or
- (b) ASIC to be a unit of the State public sector, if the person becomes

⁶⁴ *Public Service Act 1922* (Cwlth), section 81B (Appointment or employment of persons where functions to be performed by Commonwealth etc.)

SCHEDULE 1 (continued)

an employee of ASIC under the *Public Service Act 1922* (Cwlth), section 81B(1).

‘(3) In this section—

“**APRA**” means the Australian Prudential Regulation Authority established under the *Australian Prudential Regulation Authority Act 1998* (Cwlth).

“**ASIC**” means the Australian Securities and Investments Commission established under the *Australian Securities and Investments Commission Act 1989* (Cwlth).

“**QOFS**” means the Queensland Office of Financial Supervision established under the *Queensland Office of Financial Supervision Act 1992*.

“**transfer agreement**” means a transfer agreement under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), schedule 8, part 1, division 2.⁶⁵

“**transfer date**” means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act.’.

TRUSTS ACT 1973

1. Section 21(1)(k)—

omit, insert—

‘(k) in the purchase of shares in, or the deposit of money with, a financial institution that, immediately before the transfer date—

⁶⁵ *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), schedule 8 (Transitional, saving and application provisions), part 1 (Transitional provisions relating to transfer from State and Territory regimes), division 2 (Transitional provisions relating to staff)

SCHEDULE 1 (continued)

- (i) was a building society under the Financial Institutions (Queensland) Code; and
- (ii) was approved for the purposes of this paragraph, as in force before the transfer date, under the *Financial Institutions (Queensland) Act 1992*, section 27;⁶⁶.

2. Section 21—

insert—

(3) In this section—

“Financial Institutions (Queensland) Code” means the provisions applying before the transfer date because of the *Financial Institutions (Queensland) Act 1992*, section 4.⁶⁷

“transfer date” means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act.’.

⁶⁶ *Financial Institutions (Queensland) Act 1992*, section 27 (Investment of trust funds)

⁶⁷ *Financial Institutions (Queensland) Act 1992*, section 4 (Application in Queensland of the Financial Institutions Code)

SCHEDULE 2**DICTIONARY**

section 3

“**AFIC**” means the Australian Financial Institutions Commission.

“**AFIC Act**” means the *Australian Financial Institutions Commission Act 1992*.

“**AFIC Code**” means the AFIC (Queensland) Code.

“**AFIC (Queensland) Code**” means the provisions applying before the transfer date because of section 9⁶⁸ of the AFIC Act and includes the AFIC (Queensland) Regulations.

“**AFIC (Queensland) Regulations**” means the provisions applying before the transfer date because of section 10 of the AFIC Act.⁶⁹

“**AFIC Regulations**” means the AFIC (Queensland) Regulations.

“**appropriately qualified**” for the authorisation of, or the delegation of a power to, a person includes having the qualifications, experience or standing appropriate having regard to the reason for the authorisation or to the power to be delegated.

Example of ‘standing’—

The seniority of a person’s position in an entity.

“**APRA**” means the Australian Prudential Regulation Authority.

“**APRA Act**” means the *Australian Prudential Regulation Authority Act 1998* (Cwlth).

“**APRA employee**” means a person appointed under section 45 of the APRA Act.

“**ASIC**” means the Australian Securities and Investments Commission.

⁶⁸ AFIC Act, section 9 (Application in Queensland of the AFIC Code)

⁶⁹ AFIC Act, section 10 (Application of regulations in force under Part 5)

SCHEDULE 2 (continued)

“authorised APRA officer”, in a provision of part 4, means a person authorised under section 9 to perform or exercise the functions or powers of an authorised APRA officer under the provision.

“Building Societies Fund” means the Building Societies Fund established under the *Building Societies Fund Act 1993*, section 5.

“Credit Unions Contingency Fund” means the Credit Unions Contingency Fund established under section 97(1) of the Financial Institutions Code.

“employee”, of AFIC or QOFS, includes a person engaged by the entity on a contract for services.

“enforcement power” means a function or power relating to—

- (a) the investigation of an offence; or
- (b) the institution and carrying on of a prosecution of an offence; or
- (c) matters relating to an investigation or prosecution of an offence.

“Financial Institutions Code” means the Financial Institutions (Queensland) Code.

“financial institutions legislation” see section 3 of the AFIC Code.⁷⁰

“Financial Institutions (Queensland) Code” means the provisions applying before the transfer date because of the *Financial Institutions (Queensland) Act 1992*, section 4,⁷¹ and includes the Financial Institutions (Queensland) Regulations.

“Financial Institutions (Queensland) Regulations” means the provisions applying before the transfer date because of the *Financial Institutions (Queensland) Act 1992*, section 5.⁷²

⁷⁰ The attachment contains extracts of the relevant provisions of the AFIC Code.

⁷¹ *Financial Institutions (Queensland) Act 1992*, section 4 (Application in Queensland of the Financial Institutions Code)

⁷² *Financial Institutions (Queensland) Act 1992*, section 5 (Application of regulations in force under Pt 3)

SCHEDULE 2 (continued)

“fiscal bodies legislation” see section 3 of the AFIC Code.⁷³

“Friendly Societies Code” means the Friendly Societies (Queensland) Code.

“Friendly Societies (Queensland) Code” means the provisions applying before the transfer date because of the *Friendly Societies (Queensland) Act 1997*, section 5,⁷⁴ and includes the Friendly Societies (Queensland) Regulations.

“Friendly Societies (Queensland) Regulations” means the provisions applying before the transfer date because of the *Friendly Societies (Queensland) Act 1997*, section 6.⁷⁵

“FSR Act” means the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth).

“FS(TB) Act” means the *Financial Sector (Transfers of Business) Act 1999* (Cwlth).

“QOFS” means the Queensland Office of Financial Supervision.

“QOFS Act” means the *Queensland Office of Financial Supervision Act 1992*.

“relevant Commonwealth body” means APRA or ASIC.

“SSA” means State supervisory authority.

“Supervision Fund” means the Supervision Fund established under section 94(1) of the Financial Institutions Code.

“transfer date” means the date that, under section 3(16) of the FSR Act, is specified as the transfer date for the purposes of that Act.

⁷³ The attachment contains extracts of the relevant provisions of the AFIC Code.

⁷⁴ *Friendly Societies (Queensland) Act 1997*, section 5 (Application in Queensland of the Friendly Societies Code)

⁷⁵ *Friendly Societies (Queensland) Act 1997*, section 6 (Application of regulations)

ATTACHMENT

EXTRACTS FROM OTHER LEGISLATION REFERRED TO IN THE ACT

section 75

AFIC (QUEENSLAND) CODE

Definitions

3. In this Code—

“financial institutions agreement” means the initial financial institutions agreement or, if that agreement is amended or affected by another agreement, that agreement as so amended or affected.

“financial institutions legislation” has the meaning given by section 8.

“fiscal bodies legislation” means—

- (a) the financial institutions legislation; and
- (b) the friendly societies legislation.

“friendly societies legislation” has the meaning given by section 8A.

“initial financial institutions agreement” has the meaning given by section 7.

Initial financial institutions agreement

7.(1) The initial financial institutions agreement is the financial institutions agreement made on 22 November 1991 between the States and Territories.

(2) A copy of the provisions of the initial financial institutions agreement is set out in the schedule.

ATTACHMENT (continued)

Financial institutions legislation

8. The financial institutions legislation consists of—

- (a) the financial institutions legislation of Queensland, namely—
 - (i) the AFIC Act, and the AFIC Code set out in section 21 of the Act; and
 - (ii) the *Financial Institutions (Queensland) Act 1992* of Queensland, and the Financial Institutions Code set out in section 30 of the Act; and
 - (iii) regulations made under either of those Acts; and
- (b) the financial institutions legislation of the other participating States, namely—
 - (i) the Acts and regulations of the other participating States that apply, complement or otherwise give effect to any part of the financial institutions legislation of Queensland; and
 - (ii) the financial institutions legislation of Queensland as applying in those States.

Friendly societies legislation

8A. The friendly societies legislation consists of—

- (a) the friendly societies legislation of Victoria, namely—
 - (i) the *Friendly Societies (Victoria) Act 1996* of Victoria and the Friendly Societies Code set out in schedule 1 of the Act; and
 - (ii) regulations made under the Act; and
- (b) the friendly societies legislation of the other participating States, namely—
 - (i) the Acts and regulations of the other participating States that apply, complement or otherwise give effect to any part of the friendly societies legislation of Victoria; and
 - (ii) the friendly societies legislation of Victoria as applying in those States; and

ATTACHMENT (continued)

- (c) the financial institutions legislation in so far as it applies or is otherwise relevant to the legislation mentioned in paragraph (a) or (b).

CORPORATIONS LAW**SCHEDULE 4—TRANSFER OF FINANCIAL INSTITUTIONS AND FRIENDLY SOCIETIES****PART 1—PRELIMINARY****1 Definitions**

In this Schedule, except so far as the contrary intention appears:

AFIC Code of this jurisdiction means the Australian Financial Institutions Commission Code as set out in the *Australian Financial Institutions Commission Act 1992* of Queensland as in force immediately before the transfer date and as applied as a law of this jurisdiction.

Financial Institutions Code of this jurisdiction means the Financial Institutions Code set out in the *Financial Institutions (Queensland) Act 1992* as in force immediately before the transfer date and as applied as a law of this jurisdiction.

Friendly Societies Code means the Friendly Societies Code set out in Schedule 1 to the **Friendly Societies (Victoria) Act 1996** as in force immediately before the transfer date.

Friendly Societies Code of this jurisdiction means:

- (a) the Friendly Societies Code as applied as a law of this jurisdiction; or
- (b) if this Law is being applied as a law of Western Australia—the Friendly Societies (Western Australia) Code set out in the

ATTACHMENT (continued)

Friendly Societies (Western Australia) Act 1999.

previous governing Code for a transferring financial institution means the Code or law under which the institution is registered immediately before the transfer date.

transfer date means the date that is the transfer date for the purposes of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*.

transferring financial institution of this jurisdiction means:

- (a) a building society of this jurisdiction (that is, a society that is registered under the Financial Institutions Code of this jurisdiction, and authorised to operate as a building society, immediately before the transfer date); or
- (b) a credit union of this jurisdiction (that is, a society that is registered under the Financial Institutions Code of this jurisdiction, and authorised to operate as a credit union, immediately before the transfer date); or
- (c) a friendly society of this jurisdiction (that is, a body that is registered as a friendly society under the Friendly Societies Code of this jurisdiction immediately before the transfer date); or
- (d) a body registered as an association under Part 12 of the Financial Institutions Code of this jurisdiction immediately before the transfer date; or
- (e) a body registered as a Special Services Provider under the AFIC Code of this jurisdiction immediately before the transfer date; or
- (f) a body registered as an association under Part 12 of the Friendly Societies Code of this jurisdiction immediately before the transfer date; or
- (g) The Cairns Cooperative Weekly Penny Savings Bank Limited referred to in section 263 of the *Financial Intermediaries Act 1996* of Queensland if:
 - (i) this definition is being applied as a law of Queensland; and
 - (ii) a determination by APRA under subitem 7(2) of the

ATTACHMENT (continued)

Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999 is in force immediately before the transfer date.

CORPORATIONS (QUEENSLAND) ACT 1990**Interpretation of some expressions in the Corporations Law, and the Corporations Regulations, of Queensland**

9. In the Corporations Law, and the Corporations Regulations, of Queensland—

“**this jurisdiction**” means Queensland.

**FINANCIAL SECTOR (TRANSFERS OF BUSINESS)
ACT 1999 (CWLTH)****4 Definitions**

(1) In this Act, the following words and expressions have the meanings set out below:

ADI (authorised deposit-taking institution) means a body corporate that is an ADI for the purposes of the *Banking Act 1959*.

approved section 20 statement means a statement given to APRA under subsection 20(1) in relation to which an approval under subsection 20(2) is in force.

approved section 30 statement means a statement given to APRA under subsection 30(1) in relation to which an approval under subsection 30(2) is in force.

APRA means the Australian Prudential Regulation Authority.

ATTACHMENT (continued)

APRA board member means a member of APRA's board of management, including APRA's Chair and Chief Executive Officer.

APRA staff member has the same meaning as in the *Australian Prudential Regulation Authority Act 1998*.

asset means property, or a right, of any kind, and includes:

- (a) any legal or equitable estate or interest (whether present or future, vested or contingent, tangible or intangible, in real or personal property) of any kind; and
- (b) any chose in action; and
- (c) any right, interest or claim of any kind including rights, interests or claims in or in relation to property (whether arising under an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing); and
- (d) any asset within the meaning of Part IIIA of the *Income Tax Assessment Act 1936*.

liability includes a duty or obligation of any kind (whether arising under an instrument or otherwise, and whether actual, contingent or prospective).

life insurance company means a body corporate that is registered under the *Life Insurance Act 1995*.

partial transfer has the meaning given by subsection 8(2).

receiving body means a body to which another body is to transfer, or has transferred, business under this Act.

regulated body means a body corporate that is:

- (a) an ADI; or
- (b) a life insurance company.

regulated business, in relation to a regulated body, means:

- (a) for a body that is an ADI—the body's banking business (within the meaning of the *Banking Act 1959*); or
- (b) for a body that is a life insurance company—the body's life

ATTACHMENT (continued)

insurance business (within the meaning of the *Life Insurance Act 1995*).

statement of detail, in relation to a partial transfer, means a statement that satisfies the requirements of section 19.

total transfer has the meaning given by subsection 8(3).

transferring body means a body that is to transfer, or has transferred, business under this Act.

8 Overview of Act

(1) This Act provides for 2 kinds of transfers of business of regulated bodies:

- (a) **voluntary transfers** (these are transfers under Part 3); and
- (b) **compulsory transfers** (these are transfers under Part 4).

Either kind of transfer may be a partial transfer or a total transfer.

(2) A transfer of business of a regulated body is a **partial transfer** if it relates to some, but not all, of the transferring body's business (including any business that is not regulated business). It cannot however relate only to business that is not regulated business.

(3) A transfer of business of a regulated body is a **total transfer** if it relates to all of the transferring body's business (including any business that is not regulated business).