

SOUTH AUSTRALIA

FINANCIAL INSTITUTIONS DUTY ACT 1983

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 2 April 1998.

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 1 January 1997.

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FINANCIAL INSTITUTIONS DUTY ACT 1983

being

Financial Institutions Duty Act 1983 No. 88 of 1983
[Assented to 1 December 1983]¹

as amended by

Statutes Amendment (Taxation) Act 1987 No. 2 of 1987 [Assented to 5 March 1987]

Financial Institutions Duty Act Amendment Act 1990 No. 43 of 1990 [Assented to 25 October 1990]²

Statutes Amendment (Expiation of Offences) Act 1992 No. 71 of 1992 [Assented to 19 November 1992]³

Financial Institutions Duty (Reduction of Duty) Amendment Act 1993 No. 49 of 1993 [Assented to 20 May 1993]⁴

Financial Institutions Duty (Exempt Accounts) Amendment Act 1994 No. 69 of 1994 [Assented to 24 November 1994]⁵

Statutes Amendment (Taxation Administration) Act 1996 No. 82 of 1996 [Assented to 5 December 1996]⁶

Financial Institutions Duty (Dutiable Receipts) Amendment Act 1998 No. 4 of 1998 [Assented to 26 March 1998]⁷

¹ Came into operation 1 January 1984: s. 2.

² Came into operation 1 October 1990: s. 2.

³ Came into operation 1 March 1993: *Gaz.* 18 February 1993, p. 600.

⁴ Came into operation 1 June 1993: s. 2.

⁵ Came into operation 1 December 1994: *Gaz.* 24 November 1994, p. 1599.

⁶ Came into operation 1 January 1997: *Gaz.* 19 December 1996, p. 1924.

⁷ **Came into operation 2 April 1998: *Gaz.* 2 April 1998, p. 1661.**

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.*

An Act to make provision for a duty on financial receipts; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Financial Institutions Duty Act 1983*.

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Interpretation

3. (1) In this Act, unless the contrary intention appears—

"**approved government instrumentality**" means—

- (a) an instrumentality or agency of the Crown in right of the State; or
- (b) a department of the Government of the State,

declared by the Treasurer, by notice in the *Gazette*, to be an approved government instrumentality for the purposes of this Act;

"**bank**" means a bank within the meaning of the *Banking Act 1959* of the Commonwealth or a bank constituted under a law of the State or of the Commonwealth, but does not include the Reserve Bank of Australia;

"**bill of exchange**" means an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay, on demand or at a fixed or determinable future time, a sum certain in money, to or to the order of a specified person or to bearer;

"**books**" includes financial records of any kind (whether in documentary or other form);

"**cash**" means money in the form of cash, bills of exchange or a combination of cash and bills of exchange;

"**cash delivery company**" means a company the principal business of which is—

- (a) the collection, transportation and delivery of cash; or
- (b) the preparation and delivery of pay-rolls;

"**charitable organisation**" means a body established on a non-profit basis for charitable, religious, educational or benevolent purposes and includes a trustee who holds property on behalf of such a body;

"**Commissioner**" means the person appointed or acting as the Commissioner of State Taxation, and includes a person appointed or acting as a Deputy Commissioner of State Taxation (*see Part 9 of the Taxation Administration Act 1996*);

"**company**" means a body corporate or an unincorporated association (including a partnership);

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"**corporation**" has the same meaning as is assigned to the term by section 9 of the *Corporations Law*;

"**deal**" has the same meaning as is assigned to the term by section 9 of the *Corporations Law* in relation to securities, and "**dealing**" has a corresponding meaning;

"**dealer in securities**" has the same meaning as is assigned to the term "**dealer**" by section 9 of the *Corporations Law*;

"**exempt account**" means—

- (a) a Government Department account;
- (b) a short-term dealing account;
- (c) a special account;
- (d) a sweeping account;

"**financial institution**" means—

- (a) a bank; or
- (b) a person whose sole or principal business is the provision of finance; or
- (c) a dealer in securities; or
- (d) a trustee company; or
- (e) a management company within the meaning of section 9 of the *Corporations Law* that carries on business in South Australia; or
- (f) a pastoral finance company; or
- (g) the Public Trustee,

but does not include a person declared by or under this Act not to be a financial institution;

"**financial institutions duty**" means duty payable under section 29, 30 or 76;

"**Government Department account**" means an account kept by a financial institution in respect of which a notice given under section 35 is in force;

"**money**" includes a bill of exchange and a promissory note;

"**pastoral finance company**" means a person carrying on a business of financing pastoral pursuits or a business of stock or station agents to whom an order in force under section 11 of the *Banking Act 1959* of the Commonwealth applies;

"**person**" includes a company;

"**the prescribed percentage**", in relation to money received by a financial institution, means—

- (a) where the money is received by the financial institution before 1 October, 1990—0.04 per cent;

(b) where the money is received by the financial institution on or after 1 October 1990 and before 1 June 1993—0.1 per cent;

(c) where the money is received by the financial institution on or after 1 June 1993—0.065 per cent;

* * * * *

"promissory note" means an unconditional promise in writing made by one person to another, signed by the maker, arranging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to or to the order of a specified person or to bearer;

"receipt" includes a payment, repayment, deposit or subscription and the crediting of an account;

"registered financial institution" means—

(a) a financial institution that is registered under this Act; or

(b) a financial institution that, under section 62, is taken to be a registered financial institution;

"registered short-term money market operator" means a person registered as a short-term money market operator under this Act;

"the relevant amount" means—

(a) in relation to any month before October 1990—\$1 000 000;

(b) in relation to any month from October 1990 to May 1993—\$1 200 000;

(c) in relation to any month from June 1993—\$1 846 154;

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"return period", in relation to a financial institution or a registered short-term money market operator, means a period in respect of which the financial institution or registered short-term money market operator is required to furnish a return under this Act;

"rollover" in relation to a term deposit means the renewal with or the retention by a financial institution of the whole or part of the term deposit (either at call or for a further specified period) at the end of the specified period for which the term deposit was previously made;

"securities" has the same meaning as is assigned to the term by section 9 of the *Corporations Law*;

"share" includes stock;

"short-term dealer" means—

(a) a corporation that, under section 65(1)(a) of the *Corporations Law* is declared to be an authorised dealer in the short-term money market; or

(b) a body corporate in respect of which a declaration under section 9 is, or is taken to be, in force;

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"short-term dealing account" means an account kept by a bank in respect of which a certificate issued by the Commissioner under section 32 is in force;

"special account" means an account kept by a bank in respect of which a certificate issued by the Commissioner under section 31 or 34 is in force;

"sweeping account" means an account kept by a bank in respect of which a certificate issued under section 33 is in force;

"term deposit" means a deposit of money with a financial institution for a specified period, or a specified period and then at call, in relation to which deposit the financial institution, instead of crediting a current account kept by the financial institution, issues a certificate of deposit or similar record of deposit;

"trustee company" means—

- (a) a company upon which power to act as trustee has been conferred by an Act of Parliament of a State; or
- (b) a prescribed company or a company of a prescribed class;

"voting share" has the same meaning as is assigned to the term by section 9 of the *Corporations Law*.

(2) A reference in this Act to the provision of finance includes a reference to—

- (a) the borrowing of money or the obtaining of other financial accommodation, including the issue of share capital by a building society or credit union;
- (b) the dealing in—
 - (i) securities; or
 - (ii) bills of exchange; or
 - (iii) promissory notes; or
 - (iv) certificates of deposit; or
 - (v) any matter or thing prescribed for the purposes of this paragraph;
- (c) the lending of money, with or without security;
- (d) the purchase, acquisition, discounting or factoring of debts due to another person.

(3) In this Act, a reference to carrying on a business of a particular kind includes reference to carrying on that business in the course of, as part of, incidentally to, or in connection with, the carrying on of another business.

(4) For the purposes of this Act, the value of a bill of exchange or a promissory note will be taken to be its nominal or face value.

(5) Where money is received or a liability incurred in a currency other than the currency of Australia, the amount of that receipt or liability is, for the purposes of this Act, the equivalent amount in the currency of Australia calculated at a rate of exchange that was a relevant ruling telegraphic transfer buying rate of exchange in Australia on the day on which the money was received or the liability incurred.

Application of Act to Crown

4. This Act binds the Crown not only in the right of the State but also, so far as the legislative power of the State permits, in all its other capacities.

Certain bodies not to be regarded as financial institutions

5. (1) None of the following is a financial institution:

- (a) a corporation the sole or principal business in South Australia of which is the operation of an approved superannuation scheme; or
- (b) a trustee of an approved superannuation scheme in that capacity; or
- (c) a corporation that is registered under the *Life Insurance Act 1945* of the Commonwealth; or
- (d) a corporation the sole or principal business in South Australia of which is insurance business as defined by section 3(1) of the *Insurance Act 1973* of the Commonwealth; or
- (e) a corporation that is a medical benefits organisation or a hospital benefits organisation registered under the *National Health Act 1953* of the Commonwealth; or
- (f) a dealer in securities who carries on the business of dealing in securities solely—
 - (i) in the capacity of official receiver or trustee within the meaning of the *Bankruptcy Act 1966* of the Commonwealth; or
 - (ii) in the capacity of receiver, receiver and manager or other person appointed by a court to carry on the business concerned; or
- (g) a dealer in securities, being a corporation, that acts as a dealer only in relation to its own debentures; or
- (h) the Treasurer; or
- (i) Credit Union Services Corporation (Australia) Limited; or

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* * * * *

(l) any prescribed person or person of a prescribed class.

(2) For the purposes of subsection (1)(a) and (b), an approved superannuation scheme means—

- (a) a scheme of superannuation retirement benefit or pension created for the benefit of employees or self-employed persons, not being a scheme declared under subsection (3) not to be an approved superannuation scheme for the purposes of this Act; or

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- (b) a scheme of superannuation retirement benefit or pension created and operated by or under any law of the Commonwealth or of a State or Territory.

(3) Where there are fewer than 20 contributors to a superannuation scheme, the Treasurer may, by notice given to the person by whom the scheme is operated, declare the scheme not to be an approved superannuation scheme for the purposes of this Act.

Receipts to which this Act applies

6. (1) Except as otherwise provided, this Act applies to—

- (a) a receipt of money in the State; and
- (b) a receipt of money outside the State in pursuance of a transaction of which—
- (i) South Australian law is the proper law; or
 - (ii) South Australian law would have been the proper law had not the parties expressly or by implication determined upon the law of some other place as the law to govern the transaction.

(2) Where a person receives a consideration, other than money (whether or not in consideration of having given credit to any person), in or towards settlement, satisfaction or discharge of any debt or obligation owing to that person, the person will, on receiving the consideration, be taken, for the purposes of this Act, to have received an amount of money equal to the value of that consideration.

(3) For the purposes of this Act, the crediting of an account of a person, including the crediting of an account effected by means of an entry or record made by use of a machine or device, will be taken to constitute a receipt of money by the person by whom the account is kept.

(4) A reference to the crediting of an account includes—

- (a) the depositing of money to the credit of the account by the person in whose name the account is kept or by another person; and
- (b) without limiting the generality of paragraph (a), the transfer of money to the credit of the account from another account of the person in whose name the account is kept or from an account of another person; and
- (c) the transfer between ledgers or divisions in an account where different terms and conditions apply in respect of those ledgers or divisions.

(5) Where a receipt arises by virtue of the crediting of an account, the receipt will be regarded as a receipt of money in the State if—

- (a) the account was established at an office or branch of a financial institution situated in the State and has not been transferred to an office or branch situated outside the State; or
- (b) the account was established at an office or branch of a financial institution situated outside the State but has been transferred (and was last transferred) to an office or branch situated in the State.

(6) Where—

- (a) an account kept by a financial institution is debited by the financial institution with an amount that is to be invested, on the instructions of the person on whose behalf the account is kept, with the financial institution; and
- (b) there is no corresponding credit to an account that constitutes a dutiable receipt for the purposes of this Act,

the amount so debited will be regarded as a receipt of money by the financial institution.

(7) An entry made in an account of a financial institution by that financial institution solely in accordance with its internal accounting practices does not constitute a dutiable receipt.

(8) Where a financial institution provides cash to a person in exchange for a cheque, the financial institution will not be regarded as having received money, except to the extent that the value of the cheque exceeds the amount of the cash given in exchange.

(9) Where a financial institution provides a cheque to a person in exchange for cash, the financial institution will not be regarded as having received money, except to the extent that the amount of cash exceeds the value of the cheque given in exchange.

(10) If a term deposit constitutes a short term dealing and the amount involved in the dealing is rolled over into a deposit or investment that does not constitute a short term dealing, the rollover will be regarded as a receipt of money of the amount so rolled over.

Definition of dutiable and non-dutiable receipts

7. (1) Subject to this section, a receipt to which this Act applies is a dutiable receipt.

(2) The following are, for the purposes of this Act, non-dutiable receipts:

- (a) a receipt of money for the credit of an exempt account; or
- (b) a receipt of money in the course of short-term dealings during a month by a registered financial institution that is a registered short-term money market operator, being a receipt that is taken into consideration for the purposes of ascertaining the average daily liability of the financial institution during that month; or
- (c) a receipt of money by a registered financial institution, being the repayment of money that has been invested in the course of short-term dealings by, or on behalf of, the financial institution; or
- (d) a receipt of money by a bank that is a registered financial institution from another such bank, being a receipt for the purpose of settling a balance due to the bank from the other bank in accordance with customary general clearance arrangements provided for banks by the Reserve Bank; or
- (e) a receipt of money by a building society that is a registered financial institution from another such building society, being a receipt for the purpose of settling a balance due to the building society from the other building society in accordance with general clearing arrangements carried out between building societies; or

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- (f) a receipt of money by a credit union that is a registered financial institution from another such credit union, or from Credit Union Services Corporation (Australia) Limited, being a receipt for the purpose of settling a balance due to the credit union from another credit union in accordance with general clearing arrangements carried out between credit unions; or
- (g) a receipt of money by a bank that is a registered financial institution for the credit of a foreign exchange clearing account or foreign exchange settlement account; or
- (h) a receipt of money by a dealer in securities as agent in respect of the issue of securities, bills of exchange (other than cheques), promissory notes or certificates of deposit (not including an amount that is a fee or commission); or
- (i) a receipt of money by a dealer in securities in respect of a sale or purchase of securities that is liable to duty under Part 3A of the *Stamp Duties Act 1923* (not including an amount that is a fee or commission); or
- (j) a receipt of money—
 - (i) by a management company from a person who is the trustee or representative for the purposes of a deed relating to the management company in accordance with Division 5 of Chapter 7.12 of the *Corporations Law*; or
 - (ii) by such a trustee or representative from such a management company; or
- (k) a receipt of money by a trustee company or the Public Trustee from the estate of a deceased person committed to the management of the trustee company or the Public Trustee; or
- (l) a receipt of money by a pastoral finance company that is a registered financial institution other than a receipt that is an amount received by the pastoral finance company in the course of banking business carried on by it or in the course of short-term dealings; or
- (m) a receipt of money by a financial institution solely by reason of the making of an entry in an account kept by the financial institution in error, to correct an error or by reason of the dishonour of a cheque; or
- (n) a receipt of money by a financial institution in consideration of the supply of goods by the financial institution (otherwise than in the course of carrying on rental business within the meaning of the *Stamp Duties Act 1923*); or
- (o) a receipt of money by a registered financial institution from, or on behalf of, a person for whose benefit the financial institution has drawn, accepted or endorsed a bill of exchange, the term of which bill of exchange is not more than 185 days and the face or nominal value of which is not less than \$50 000, being a receipt to satisfy the amount of the financial institution's engagement on the bill of exchange; or
- (p) a receipt of money by a registered financial institution from a charitable organisation for the purpose of investing that money; or
- (q) a receipt of money by a registered financial institution (being a bank, building society or credit union), being a payment to the credit of an account kept by that financial institution of an amount payable to the person in whose name the account is kept under or by virtue of the *Veterans' Entitlements Act 1986* of the Commonwealth or any other Act of the Commonwealth Parliament relating to the repatriation of members of the military forces of the Commonwealth; or

(r) a receipt of a class declared by regulation to be non-dutiable.

(3) Despite subsection (2)(a), a receipt to the credit of an exempt account will, unless the receipt has been credited to an account in the books of the person in whose name the exempt account is kept, be regarded as a dutiable receipt by that person.

(4) Where money is received in the State by a financial institution (otherwise than by the crediting of an account) for the credit of an account kept by the financial institution and the crediting of that account will constitute a dutiable receipt for the purposes of this Act, the initial receipt is non-dutiable.

(5) Where money is received in the State by a financial institution (otherwise than by the crediting of an account) for the credit of an account kept by some other financial institution and the crediting of that account will constitute a dutiable receipt for the purposes of this Act, the receipt by the firstmentioned financial institution is non-dutiable.

(6) Where—

(a) a financial institution acts as agent for the purpose of collecting money on behalf of a person who is declared, or is a member of a class declared, by the Treasurer, by notice in the *Gazette*, to be a person, or a class of persons, in relation to whom the provisions of this subsection apply; and

(b) the money so collected is not paid to an account kept by the financial institution in the name, or on behalf, of that person,

the receipt of money by the financial institution in the course of its agency is non-dutiable.

Short-term dealings

8. (1) For the purposes of this Act, an amount is received by a person in the course of short-term dealings where—

(a) the amount is an amount of cash of not less than \$50 000 received by that person by way of loan, advance or deposit repayable by him or her—

(i) at call; or

(ii) within 185 days; or

(iii) at call after a term of not more than 185 days,

not being an amount received by a bank by way of deposit repayable on demand or for the credit of a current account kept by it for another person; or

(b) the amount is a repayment of a loan, advance or deposit of not less than \$50 000 made by that person within 185 days before the amount is repaid; or

(c) the amount is an amount (not including a fee or commission) in respect of the issue of securities, bills of exchange (other than cheques), promissory notes or certificates of deposit, the term of which is not more than 185 days; or

(d) the amount is an amount (not including a fee or commission) in respect of a sale or purchase of securities, the term of which is not more than 185 days, being a sale or purchase that is not liable to duty under Part 3A of the *Stamp Duties Act 1923*; or

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- (e) the amount is the proceeds of the sale by that person of a bill of exchange or a promissory note before maturity and not later than 185 days after its acquisition by that person, not being a bill of exchange or a promissory note issued by that person; or
- (f) the amount is the proceeds of the sale by that person of securities or certificates of deposit before maturity and not later than 185 days after their acquisition by that person; or
- (g) the amount is the amount received by that person on maturity of securities, bills of exchange, promissory notes or certificates of deposit acquired by him or her within 185 days before the amount was received.

(2) A reference in subsection (1) to a bill of exchange, promissory note or certificate of deposit is a reference to a bill of exchange, promissory note or certificate of deposit, the face or nominal value of which is not less than \$50 000.

(3) For the purposes of this Act, the average daily liability of a person during a month in respect of short-term dealings is—

- (a) where the person is a registered financial institution (not being a person entitled to make application under section 32 for approval of an account as a short-term dealing account)—the amount calculated in accordance with the formula $\frac{A}{12B}$ where—

- (i) A is the sum of the daily closing balances of the liability of the financial institution to each person (not being a charitable organisation) in respect of amounts received whether within or outside South Australia (other than amounts included in a return by the financial institution under section 22) from that person in the course of short-term dealings, other than balances that are less than \$50 000; and

- (ii) B is the number of days in the month; and

- (b) where the person is a person in whose name a short-term dealing account is kept by a bank—the amount calculated in accordance with the formula $\frac{A}{B}$ where—

- (i) A is the sum of the daily closing balances of the liability of the bank to that person under that account; and

- (ii) B is the number of days in the month.

Declaration of short-term dealer in unofficial market

9. (1) The Commissioner may, by notice in the *Gazette*, declare a corporation that is a dealer in the unofficial short-term money market to be a short-term dealer for the purposes of this Act.

(2) The Commissioner may, by notice published in the *Gazette*, revoke a declaration under subsection (1).

Taxation Administration Act

9A. This Act should be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of this Act and other taxation laws.

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PART 3
GROUPING OF FINANCIAL INSTITUTIONS

Interpretation

13. In this Part—

"business" includes—

- (a) a trade or profession; and
- (b) any other activity carried on for fee, gain or reward; and
- (c) the activity, carried on by an employer, of employing one or more persons where that person performs or those persons perform duties for or in connection with another business.

Grouping of corporations

14. For the purposes of this Act, financial institutions that are corporations constitute a group if they are, for the purposes of the *Corporations Law*, related to each other.

Grouping where employees used in another business

15. For the purposes of this Act, where—

- (a) an employee of a financial institution, or two or more employees of a financial institution, performs or perform duties solely or mainly for or in connection with a business carried on by that financial institution and another financial institution or other financial institutions, or by another financial institution or other financial institutions; or
- (b) a financial institution has, in respect of the employment of, or the performance of duties by, one or more of its employees, an agreement, arrangement or undertaking (whether formal or informal, whether expressed or implied and whether or not the agreement, arrangement or undertaking includes provisions in respect of the supply of goods and services) with another financial institution or other financial institutions relating to a business carried on by that other financial institution or those other financial institutions, whether alone or together with another financial institution or other financial institutions,

that financial institution and—

- (c) each such other financial institution; or
- (d) both or all of those other financial institutions,

constitute a group.

Grouping of commonly controlled businesses

16. (1) A reference in this section to two businesses does not include a reference to two businesses both of which are owned by the same person or persons, not being a trustee or trustees, or by the trustee or trustees of a trust.

(2) For the purposes of this Act, where the same person (whether or not being a financial institution) has, or the same persons have together, a controlling interest, as referred to in subsection (3), in each of two businesses, being carried on by two or more financial institutions, the financial institutions that carry on those businesses constitute a group.

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(3) For the purposes of subsection (2), the same person has, or the same persons have together, a controlling interest in each of two businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of those paragraphs in the other business:

- (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors or a majority of the directors or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors, of the corporation are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person or of those persons acting together;
- (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, 50 per cent or more of the voting power attached to voting shares issued by the corporation;
- (c) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons—
 - (i) owns, or own together (whether beneficially or not beneficially), 50 per cent or more of the capital of the partnership; or
 - (ii) is, or are together, entitled (whether beneficially or not beneficially) to 50 per cent or more of the profits of the partnership;
- (d) a person has, or persons have together, a controlling interest in a business, being a business carried on under a trust, if that person (whether or not as the trustee of another trust) is a beneficiary or those persons (whether or not as the trustees of another trust) are together beneficiaries, in respect of 50 per cent or more of the value of the interests in the firstmentioned trust;
- (e) a person has, or persons have together, a controlling interest in a business, if that person (whether or not a trustee of a trust) is the sole owner of the business or those persons (whether or not trustees of a trust) are the owners of the business.

(4) Where a corporation has a controlling interest under subsection (3) in a business, it will be taken to have a controlling interest in any other business in which another corporation that is, for the purposes of the *Corporations Law*, related to it has a controlling interest.

(5) Where—

- (a) a person is a beneficiary under a trust; or
- (b) two or more persons together are beneficiaries under a trust,

in respect of 50 per cent or more of the value of the interests in that trust and the trustee or trustees of that trust has or have under subsection (3) a controlling interest in a business, that beneficiary or those beneficiaries will, for the purposes of that subsection, be taken to have a controlling interest in that business.

(6) Where—

- (a) a person has, or persons have together, a controlling interest under subsection (3) in a business being carried on by a financial institution or by two or more financial institutions; and
- (b) the financial institution or financial institutions that carries or carry on that business has or have a controlling interest under subsection (3) in another business,

the person or persons referred to in paragraph (a) will be taken to have a controlling interest for the purposes of that subsection in the business referred to in paragraph (b).

Smaller groups subsumed into larger groups

17. (1) Despite any other provision of this Part (except subsection (2) of this section), where a financial institution is, whether or not by virtue of this subsection, a member of two or more groups (each of which is in subsection (2) referred to as a smaller group), all of the members of those groups constitute, for the purposes of this Act, one group.

(2) Except for the purpose of determining whether a group is constituted under subsection (1), a group which, but for this subsection, would be a smaller group ceases to be a group if its members are members of a group constituted under subsection (1).

Grouping provisions to operate independently

18. The fact that a financial institution is not a member of a group constituted under a provision of this Part does not prevent that financial institution from being a member of a group constituted under another provision of this Part.

Beneficiaries under discretionary trusts

19. A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and other person, may benefit under that trust will be taken, for the purposes of this Part, to be a beneficiary in respect of 50 per cent or more of the value of the interests in that trust.

Exclusion of persons from groups

20. (1) Where the Commissioner is satisfied, having regard to the nature and degree of ownership or control of the businesses, the nature of the businesses and any other matters that the Commissioner considers relevant, that a business carried on by a member of a group is carried on substantially independently of, and is not substantially connected with the carrying on of, a business carried on by any other member of that group, the Commissioner may, by notice in writing served on that firstmentioned member, exclude that member from that group.

(2) The Commissioner cannot exercise the power conferred by subsection (1) so as to exclude a financial institution from a group on and from a date if that financial institution is or was on that date a corporation related, for the purposes of the *Corporations Law*, to another corporation which is a member of that group.

(3) Despite any other provision of this Part, a notice under subsection (1) has effect according to its tenor on and from the date specified in the notice (being a date that is the date of the notice or before the date of the notice) as the date on and from which the financial institution referred to in the notice is or will be taken to have been excluded from the group referred to in the notice.

Contributions from persons jointly liable to pay duty

20A. (1) A person who, during a period, is or was a member of a group within the meaning of this Part is jointly and severally liable with the other persons who are or were members of the group during that period to pay duty payable by members of that group in respect of that period.

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(2) Where two or more persons are jointly liable to pay duty, they are each liable for the whole duty, but any of them who has paid the duty may recover contributions as follows:

- (a) a person who has paid duty may recover by way of contribution from any other person jointly liable to pay that duty a sum which bears to the duty the same proportion as the share of dutiable receipts or average daily liability which that other person received or paid bears to the total dutiable receipts or average daily liability which the persons jointly liable to the duty received or paid;
- (b) a person entitled to contribution under this section may recover it in a court of competent jurisdiction as money paid to the use of the person liable to contribute, or may retain or deduct the amount of the contribution out of any money in his or her hands belonging or payable to the person liable to contribute.

(3) In this section—

"duty" means financial institutions duty, and includes penalty tax and interest payable under Part 5 of the *Taxation Administration Act 1996* in relation to financial institutions duty.

**PART 4
REGISTRATION**

DIVISION 1—FINANCIAL INSTITUTIONS

Registration of financial institutions

21. (1) Subject to this Act, a financial institution (not being a member of a group) and each financial institution that is a member of a group, being a financial institution or group which—

- (a) during the preceding 12 months had dutiable receipts totalling more than \$5 000 000; or
- (b) during the preceding month had dutiable receipts totalling more than \$416 666,

must, within 21 days after the end of that period or month, apply to the Commissioner in a manner and form approved by the Commissioner for registration as a financial institution under this Act.

(2) Subsection (1) does not apply to a registered financial institution.

(2a) A financial institution that fails to make an application to the Commissioner as required under subsection (1) is guilty of an offence.

Maximum penalty: \$10 000.

(3) A financial institution that is not required to apply for registration may at any time apply to the Commissioner for registration as a financial institution under this Act.

(4) The Commissioner—

- (a) will, upon receipt of an application under subsection (1), register the financial institution; and
- (b) may, upon receipt of an application under subsection (3), register the financial institution.

(5) The Commissioner may cancel the registration of a financial institution (not being a member of a group) if—

- (a) during the preceding 12 months the total of the dutiable receipts of the financial institution did not exceed \$5 000 000; and
- (b) during the preceding month the total of the dutiable receipts of the financial institution did not exceed \$416 666,

or if, in the Commissioner's opinion, the total of the dutiable receipts of the financial institution during the succeeding 12 months is not likely to exceed \$5 000 000.

(6) The Commissioner may cancel the registration of a financial institution that is a member of a group if—

- (a) during the preceding 12 months the total of the dutiable receipts of the group did not exceed \$5 000 000; and

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- (b) during the preceding month the total of the dutiable receipts of the group did not exceed \$416 666,

or if, in the Commissioner's opinion, the total of the dutiable receipts of the group during the succeeding 12 months is not likely to exceed \$5 000 000.

(7) Where a financial institution is registered only by reason of being a member of a group, the Commissioner may, upon the financial institution ceasing to be a member of a group, cancel its registration.

Returns by financial institutions

22. Subject to this Act, each financial institution that is registered or required to apply for registration under this Act must, within 21 days after the end of each month, lodge with the Commissioner, in a manner and form approved by the Commissioner, a return relating to that month in which is specified—

- (a) the total of the dutiable receipts other than the dutiable receipts referred to in paragraph (b); and
- (b) the number of dutiable receipts of, or exceeding, the relevant amount,

that were received by the institution during that month.

Returns by a nominated member of a group of financial institutions

23. (1) Where, in relation to a group of financial institutions that has made application under this section, the Commissioner is of the opinion that, having regard to—

- (a) the size of the group; and
- (b) the financial institutions that constitute the group; and
- (c) any other relevant matters,

it is expedient so to do, the Commissioner may nominate a member of that group to lodge, within 21 days after the end of each month, with the Commissioner, in a manner and form approved by the Commissioner, a return relating to that month in which is specified—

- (d) the total dutiable receipts of each member of the group during that month other than dutiable receipts referred to in paragraph (e); and
- (e) the number of dutiable receipts of each member of the group during that month of, or exceeding, the relevant amount; and
- (f) the total dutiable receipts of each member of the group during the period of 12 months immediately preceding that month.

(2) Where a member of a group nominated under subsection (1) lodges a return with the Commissioner in accordance with that subsection, each member of the group specified in the return will be taken to have lodged, when that return is lodged, a return under section 22.

(3) A nomination under subsection (1) may be either unconditional or subject to such conditions as the Commissioner thinks fit.

(4) The Commissioner may at any time, by notice in writing, revoke any nomination under subsection (1).

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Further returns

25. The Commissioner may, by notice in writing, require a financial institution to lodge with the Commissioner a return or further or fuller return as required by the Commissioner.

DIVISION 2—SHORT-TERM MONEY MARKET OPERATORS

Registration of short-term money market operators

26. (1) A person may make application to the Commissioner in a manner and form approved by the Commissioner for registration as a short-term money market operator for the purposes of this Act.

(2) A person may not make application under this section unless—

(a) the person is a short-term dealer; or

(b) the person carries on a business in South Australia of dealing in securities, bills of exchange, promissory notes or certificates of deposit in the short-term money market, or of making or receiving loans, advances or deposits in the short-term money market.

(3) Where the Commissioner is satisfied that an application under this section is duly made, the Commissioner may register the applicant as a short-term money market operator under this Act.

(4) The Commissioner may, by notice in writing given to a person who is a registered short-term money market operator, cancel the person's registration where satisfied that the person—

(a) has ceased to be a person who may make application for registration under this section; or

(b) has paid money to an exempt account in contravention of Part 6,

and may determine a period, not exceeding one year, during which the person is ineligible to make application under this section.

Returns by registered short-term money market operators

27. A registered short-term money market operator must, within 21 days after the end of each month, lodge with the Commissioner, in a manner and form approved by the Commissioner, a return relating to that month and must specify in that return the operator's average daily liability in respect of short-term dealings during that month and the daily amounts used in calculation of that average daily liability.

Further returns

28. The Commissioner may, by notice in writing, require a registered short-term money market operator to lodge with the Commissioner a return or further or fuller return as required by the Commissioner.

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**PART 5
LIABILITY TO DUTY**

Financial institutions duty

29. (1) Subject to this Act, a financial institution that receives money during a month is liable to pay financial institutions duty in respect of each such receipt to which this Act applies.

(2) The amount of financial institutions duty payable by a financial institution in respect of each receipt of money is—

(a) the prescribed percentage of the money received; or

(b) \$1 200,

whichever is the less.

(3) Subsection (1) does not apply to a non-dutiable receipt.

(4) A financial institution is not liable to pay duty under this section in respect of the receipt of money during a month if it is not registered under this Act and is not required to be so registered.

Financial institutions duty in respect of certain short-term dealings

30. Subject to this Act, a registered short-term money market operator is liable to pay financial institutions duty in respect of the operator's average daily liability during a month in respect of short-term dealings at the rate of 0.005 per cent of that average daily liability.

Time for payment of financial institutions duty

30A. Financial institutions duty payable by a financial institution or registered short-term money market operator must be paid to the Commissioner within the period within which the institution or operator is required under Part 4 to lodge with the Commissioner the return of the receipts or average daily liability in respect of which the duty is payable.

**PART 6
EXEMPT ACCOUNTS**

Special bank accounts of non-bank financial institutions

31. (1) A non-bank financial institution may make application to the Commissioner in a manner and form approved by the Commissioner for approval of an account kept in the State in the name of the non-bank financial institution by a bank that is a registered financial institution as a special account for the purposes of this Act.

(2) A bank that is a registered financial institution may make application to the Commissioner in a manner and form approved by the Commissioner for approval of an account kept in the name of the bank by another bank that is a registered financial institution as a special account for the purposes of this Act.

(3) Where an application is made under subsection (1) or (2), the Commissioner must, subject to this section, issue to the applicant a certificate of approval of the account to which the application relates as a special account for the purposes of this Act.

(4) Where a certificate under this section is produced to a bank that is a registered financial institution, the bank must designate the account to which the certificate relates as a special account for the purposes of this Act.

(5) Where a person in whose name a special account is kept by a bank is a pastoral finance company, an amount must not be paid to the credit of the special account unless the amount—

- (a) is an amount received by the pastoral finance company in the course of banking business carried on by it; or
- (b) is an amount received by the pastoral finance company in the course of short-term dealings; or
- (c) is an amount paid to that account from another account kept in the name of the pastoral finance company by a bank that is a registered financial institution.

(6) However, where a pastoral finance company—

- (a) pays to the credit of a special account kept in its name by a bank an amount that includes an amount other than an amount that, under subsection (5), it is authorised to pay to the credit of that account; and
- (b) pays to the credit of another account kept in South Australia in its name by a bank that is a registered financial institution (not being a special account) within 14 days after the firstmentioned amount is paid to the credit of the special account, that part of that amount that it is not authorised to pay to the credit of the special account,

the payment to the credit of the special account will not be considered a contravention of subsection (5).

(7) An amount will not be paid to the credit of a special account kept by a bank in the name of The Law Society of South Australia unless the amount is an amount deposited with The Law Society of South Australia under Part 4 of the *Legal Practitioners Act 1981*.

(8) An amount must not be paid to the credit of a special account kept by a bank in the name of a cash delivery company unless that amount was received by the company in the course, or for the purposes, of its business and does not include any fee, commission or other consideration to which the company is or may become entitled in its own right.

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(9) Where a person in whose name a special account is kept by a bank is a person prescribed for the purposes of subsection (11), an amount must not be paid to the credit of the special account unless it is a prescribed amount or an amount included in a class of prescribed amounts.

(10) Where the Commissioner is satisfied that an amount has been paid to the credit of a special account in contravention of this section, the Commissioner—

- (a) may, by notice in writing given to the financial institution at which the special account is kept and the person in whose name the account is kept, cancel the account as a special account for the purposes of this Act; and
- (b) may determine a period, not exceeding one year, during which the person in whose name the account is kept is ineligible to make application under this section.

(11) In this section—

"non-bank financial institution" means—

- (a) a registered financial institution, not being a bank; or
- (b) a registered financial institution, being a pastoral finance company; or
- (c) Credit Union Services Corporation (Australia) Limited; or

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- (f) The Law Society of South Australia; or
- (g) a cash delivery company; or
- (h) Australian Stock Exchange Limited; or
- (i) any prescribed person.

Short-term dealing account of registered short-term money market operator

32. (1) A person who is a registered short-term money market operator and is not a registered financial institution may make application to the Commissioner in a manner and form approved by the Commissioner for approval of an account kept in the State in the name of the operator by a bank that is a registered financial institution as a short-term dealing account for the purposes of this Act.

(2) Where an application is made under subsection (1), the Commissioner must, subject to this section, issue to the applicant a certificate of approval of the account as a short-term dealing account for the purposes of this Act.

(3) Where a certificate under this section is produced to a bank that is a registered financial institution, the bank must designate the account to which the certificate relates as a short-term dealing account for the purposes of this Act.

(4) An amount must not be paid to the credit of a short-term dealing account kept by a bank in the name of a registered short-term money market operator unless the amount—

- (a) is an amount received by that operator in the course of short-term dealings; or

- (b) is an amount paid to that account from another account kept in South Australia or a prescribed State or Territory by that bank or by another bank that is a registered financial institution in the name of that operator.

(5) An amount must not be credited to, or debited against, a short-term dealing account in contravention of a prohibition imposed by regulation.

(6) Where—

- (a) the Commissioner is satisfied that an amount has been credited to, or debited against, a short-term dealing account in contravention of subsection (4) or (5); or

- (b) the Commissioner cancels the registration of the person in whose name the account is kept as a short-term money market operator,

the Commissioner—

- (c) may, by notice in writing given to the bank at which the short-term dealing account is kept and the person in whose name the account is kept, cancel the certificate; and

- (d) may determine a period, not exceeding one year, during which the person in whose name the account is kept is ineligible to make application under this section.

Sweeping accounts

33. (1) A person who carries on a business in the State may make application to the Commissioner in a manner and form approved by the Commissioner for approval of an account kept in the State in the name of the applicant by a bank that is a registered financial institution as a sweeping account for the purposes of this Act.

(2) Where an application is made under subsection (1), the Commissioner has, subject to subsection (3), an absolute discretion to issue to the applicant a certificate of approval of the account as a sweeping account for the purposes of this Act.

(3) The Commissioner cannot issue a certificate under subsection (2) unless satisfied that the nature of the applicant's business is such that proceeds of the business must be paid to the credit of several accounts and then, at regular intervals, transferred to the credit of a consolidated account (being the account to which the application for a sweeping account relates).

(4) Where a certificate under this section is produced to the bank by which the account to which it relates is to be held as a sweeping account, the bank will designate the account to which the certificate relates as a sweeping account for the purposes of this Act.

(5) An amount must not be paid to the credit of a sweeping account kept by a bank unless—

- (a) the amount is paid to the credit of the account by debiting the amounts standing to the credit of other accounts and forthwith crediting, by mechanical or other device, the sweeping account with the total sum of the amounts so debited; and

(b) the accounts that are debited in order that the sweeping account may be credited in accordance with paragraph (a)—

- (i) are kept in South Australia in the name of the person in whose name the sweeping account is kept; and

- (ii) are kept by the same bank that keeps the sweeping account; and

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(iii) are non-exempt accounts.

(6) An amount must not be credited to, or debited against, a sweeping account in contravention of a prohibition imposed by regulation.

(7) Where the Commissioner is satisfied that an amount has been credited to, or debited against, a sweeping account in contravention of subsection (5) or (6), the Commissioner—

- (a) may, by notice in writing given to the bank at which the sweeping account is kept and the person in whose name the account is kept, cancel the certificate; and
- (b) determine a period, not exceeding one year, during which the person in whose name the account is kept is ineligible to make application under this section.

Other special accounts

34. (1) A person, who is eligible under subsection (2) to have an account kept in the State by a registered financial institution (being a bank, building society or credit union) approved as a special account, may apply to the Commissioner, in a manner and form approved by the Commissioner, for approval of the account as a special account.

(2) For the purposes of subsection (1)—

- (a) a dealer in securities is eligible to have an account kept in the dealer's name that is a dealer's trust account for the purposes of the *Corporations Law* approved as a special account;
- (b) a person who is under a prescribed statutory obligation to pay money to the credit of a trust account kept in the person's name is eligible to have that trust account approved as a special account;
- (c) a charitable organisation is eligible to have any account kept in its name approved as a special account.

(3) Where an application is made under subsection (1), the Commissioner must, subject to this section, issue to the applicant a certificate of approval of the account as a special account.

(4) Where a certificate under this section is produced to the registered financial institution at which the account is kept, the financial institution will designate the account to which the certificate relates as a special account for the purposes of this Act.

(5) The following restrictions apply in respect of accounts approved as special accounts under this section:

- (a) an amount must not be paid to the credit of such an account kept in the name of a dealer in securities unless it is an amount that is required or permitted to be paid to the credit of a dealer's trust account under the *Corporations Law*;
- (b) an amount must not be paid to the credit of such an account to which subsection (2)(b) applies unless that amount represents trust money received by the person in whose name the account is kept and required by statute to be paid to the credit of that account;
- (c) an amount must not be paid to the credit of such an account kept in the name of a charitable organisation unless that amount represents money to which the organisation is exclusively entitled.

(6) Where the Commissioner is satisfied that—

- (a) an amount has been paid to the credit of a special account in contravention of subsection (5); or
- (b) the person in whose name an account approved as a special account under this section is kept has ceased to be eligible to have the account approved,

the Commissioner—

- (c) may, by notice in writing given to the financial institution at which the special account is kept and the person in whose name the account is kept, cancel the account as a special account for the purposes of this Act; and
- (d) may determine a period, not exceeding one year, during which the person in whose name the account is kept is ineligible to make application under this section.

Government Department account

35. (1) An application for approval of an account kept in the State by a bank, building society or credit union that is a registered financial institution as a Government Department account for the purposes of this Act may be made—

- (a) by an approved Government instrumentality; or
- (b) by a department of the Government of the Commonwealth, another State or a Territory of the Commonwealth.

(2) Where an application is made under subsection (1), the Commissioner must issue to the applicant a certificate of approval of the account as a Government Department account for the purposes of this Act.

(3) Where a certificate under this section is produced to the registered financial institution at which the account is kept, the financial institution will designate the account to which the certificate relates as a Government Department account for the purposes of this Act.

Cancellation of designation of account

36. (1) Where the Commissioner, by notice under this Part, cancels a certificate of approval in respect of a special account, a short-term dealing account or a sweeping account, the account ceases to be an exempt account as from the date of cancellation stated in the notice.

(2) Where a financial institution receives a notice referred to in subsection (1) in respect of an account kept by the financial institution, it must, as from the date of cancellation stated in the notice, cancel the designation of the account as a special account, a short-term dealing account or a sweeping account (as the case may require).

Offence where certain payments are made to exempt accounts

36A. (1) If a person in whose name an exempt account is kept by a financial institution pays an amount, or causes, permits or authorises an amount to be paid, to the credit of the account in contravention of this Part, the person is guilty of an offence.

Maximum penalty: \$10 000.

(2) It is a defence to a charge of an offence against subsection (1) to prove that the defendant has lodged a return and paid duty to the Commissioner in accordance with section 37 in relation to the payment to which the charge relates.

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Payments and returns by account holders

37. (1) A person in whose name an exempt account to which this section applies is kept must, not later than two months after the end of each financial year—

- (a) lodge with the Commissioner a return in a form approved by the Commissioner—
 - (i) giving details of any amounts paid into the account in contravention of this Act; or
 - (ii) if no amount was paid into the account in contravention of this Act—stating that fact; and
- (b) if amounts were paid into the account in contravention of this Act, pay to the Commissioner in respect of each such amount—
 - (i) duty equal to—
 - (A) the prescribed percentage of the amount; or
 - (B) \$1 200,
 whichever is the less; and
 - (ii) additional duty equal to the amount of that duty.

(2) The Commissioner may remit additional duty payable under subsection (1) in whole or part.

(2a) A decision of the Commissioner under subsection (2) is a non-reviewable decision within the meaning of the *Taxation Administration Act 1996*.

(3) This section applies to the following classes of exempt accounts:

- (a) short term dealing accounts; and
- (b) special accounts kept in the name of a pastoral finance company; and
- (c) sweeping accounts; and
- (d) any other class of exempt accounts prescribed by regulation.

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(5) In this section—

"**financial year**" means the year ending on 30 June or on any other date approved by the Commissioner in a particular case.

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**PART 10
MISCELLANEOUS**

Undertaking by financial institution

62. (1) A financial institution that is not registered under this Act and is not required to be so registered may give an undertaking to the Commissioner, in a manner and form approved by the Commissioner, to make such payments to the Commissioner in respect of such receipts of money and at such times as it would be required to make if it were required to be registered under this Act.

(2) The Commissioner will decide whether or not to accept an undertaking given under subsection (1).

(3) Where the Commissioner accepts an undertaking given under subsection (1), the financial institution will be taken to be registered under this Act during the period during which the undertaking has effect in accordance with subsection (4).

(4) An undertaking accepted by the Commissioner under this section has effect from the date on which the Commissioner accepts the undertaking until—

- (a) the financial institution, by notice in writing to the Commissioner, withdraws the undertaking; or
- (b) the Commissioner, by notice in writing to the financial institution, withdraws acceptance of the undertaking.

Applications by financial institutions to pay receipts to the credit of non-exempt bank accounts

63. (1) A registered financial institution may apply to the Commissioner, in a manner and form approved by the Commissioner, for approval under this section to pay amounts received by it during a month to the credit of an account, being an account that is not an exempt account under this Act, kept in its name by a bank that is a registered financial institution.

(2) A registered financial institution must, in making an application under subsection (1), give a written undertaking to the Commissioner that, if the application is successful, it will not make, or cause to be made, any payment to the credit of any exempt account kept in its name by a bank (other than a short-term dealing account).

(3) Upon application under this section, the Commissioner may, by instrument in writing—

- (a) grant the approval to which the application relates unconditionally; or
- (b) grant the approval to which the application relates subject to such conditions as the Commissioner thinks fit; or
- (c) refuse the application.

(4) Where an application under this section is approved by the Commissioner and the financial institution does not breach the undertaking given under subsection (2), the financial institution will be taken to have paid duty in respect of receipts during a month that, under this Act, would have been payable to the credit of an exempt account but which were instead paid into a non-exempt bank account in accordance with the approval of the Commissioner.

(5) The Commissioner may at any time, by notice in writing, revoke an approval granted under this section.

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Passing on duty

75. (1) Nothing in this Act, in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act, prevents a registered financial institution from recovering from a person from whom it receives money, or with whom it has dealings, financial institutions duty paid by the financial institution in respect of that receipt of money, or those dealings.

(2) Nothing in this Act, in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act, prevents a registered short-term money market operator from recovering from a person on whose behalf the operator has had short-term dealings financial institutions duty paid by the operator in respect of the average daily liability of the operator in respect of those short-term dealings.

(3) Nothing in this Act, in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act, prevents a person from recovering from any other person with whom he or she has dealings an amount equal to the amount of financial institutions duty that he or she may be liable to pay to a registered financial institution on account of the receipt by that financial institution of money relating to those dealings.

Depositors with unregistered financial institutions

76. (1) Where—

- (a) a person deposits money with a financial institution that is not a registered financial institution under this Act; and
- (b) that financial institution has—
 - (i) during the preceding 12 months had dutiable receipts totalling more than \$5 000 000; or
 - (ii) during the preceding month had dutiable receipts totalling more than \$416 666; and
- (c) the deposit constitutes a receipt by the financial institution for the purposes of this Act,

the person must, within 21 days after the end of the month during which the deposit was made with the financial institution, lodge with the Commissioner, in a manner and form approved by the Commissioner, a return stating—

- (d) the total of the deposits that the person has made with the financial institution during that month other than deposits referred to in paragraph (e); and
- (e) the number of deposits of, or exceeding, the relevant amount.

(2) A person who is required to lodge with the Commissioner a return under subsection (1) is liable to pay financial institutions duty in respect of each such deposit of money made with the financial institution.

(3) The amount of financial institutions duty payable in respect of each deposit by virtue of subsection (2) is—

- (a) the prescribed percentage of the amount of the deposit; or
- (b) \$1 200,

whichever is the less.

(4) Subsection (2) does not apply to a deposit of money which, if it were a receipt of money by a registered financial institution, would constitute a non-dutiable receipt.

(5) Financial institutions duty payable by a person under this section must be paid to the Commissioner within the period within which the person is required under this section to lodge with the Commissioner the return of the deposits in respect of which the duty is payable.

Regulations

77. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

- (a) provide for the signing of returns, applications, notices, statements or forms by or on behalf of financial institutions or registered short-term money market operators; and
- (b) authorise the authentication of any certificate, notice or other document issued for the purpose of this Act; and

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(d) control or prohibit the making of charges or the implementation of practices or procedures by a financial institution or registered short-term money market operator which require or have the effect of requiring a person from whom they receive money, or with whom they have dealings, to pay to the financial institution or registered short-term money market operator any amount on account of imposition of duty under this Act other than the amount of financial institutions duty payable by the financial institution or registered short-term money market operator in respect of, or as a consequence of, that receipt of money or those dealings; and

(e) impose fines not exceeding \$1 250 for contravention of, or non-compliance with, any regulation.

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Financial Institutions Duty Act 1983**APPENDIX****LEGISLATIVE HISTORY***(entries in bold type indicate amendments incorporated since the last reprint)*

Long title:	substituted by 82, 1996, s. 18
Section 2:	repealed by 82, 1996, Sched. cl. 2
Section 3(1):	definition of "agent" repealed by 82, 1996, s. 19(a) definition of "approved government instrumentality" amended by 82, 1996, Sched. cl. 2 definition of "Commissioner" substituted by 82, 1996, s. 19(b) definition of "corporation" substituted by 69, 1994, s. 8 (Sched.) definition of "dealer in securities" substituted by 69, 1994, s. 8 (Sched.) definition of "dealing" repealed and definition of "deal" inserted in its place by 69, 1994, s. 8 (Sched.) definition of "duty" repealed by 82, 1996, s. 19(c) definition of "financial institution" amended by 69, 1994, s. 8 (Sched.) definition of "inspector" repealed by 82, 1996, s. 19(d) definition of "liquidator" repealed by 82, 1996, s. 19(e) definition of "premises" repealed by 82, 1996, s. 19(f) definition of "the prescribed percentage" inserted by 43, 1990, s.3(a); amended by 49, 1993, s. 3(a); 69, 1994, s. 3(a); paragraph (d) repealed by 69, 1994, s. 3(a) definition of "registered financial institution" amended by 82, 1996, Sched. cl. 2 definition of "the relevant amount" inserted by 43, 1990, s. 3(b); amended by s. 49 1993, s. 3(b); 69, 1994, s. 3(b); paragraph (d) repealed by 69, 1994, s. 3(b) definition of "rollover" inserted by 4, 1998, s. 3 definition of "securities" substituted by 69, 1994, s. 8 (Sched.) definition of "short-term dealer" amended by 69, 1994, s. 8 (Sched.); 82, 1996, Sched. cl. 2 definition of "trustee" repealed by 82, 1996, s. 19(g) definition of "voting share" substituted by 69, 1994, s. 8 (Sched.)
Section 3(4):	amended by 82, 1996, Sched. cl. 2
Section 5(1):	amended by 82, 1996, Sched. cl. 2
Section 5(1)(j):	repealed by 82, 1996, Sched. cl. 2
Section 5(1)(k):	repealed by 43, 1990, s. 4
Section 6(2), (3), (5), (6), (8) and (9):	amended by 82, 1996, Sched. cl. 2
Section 6(10):	inserted by 4, 1998, s. 4
Section 7(2):	amended by 69, 1994, s. 8 (Sched.); 82, 1996, Sched. cl. 2
Section 7(3) and (6):	amended by 82, 1996, Sched. cl. 2
Section 8(1):	amended by 82, 1996, Sched. cl. 2
Section 9(1):	amended by 82, 1996, Sched. cl. 2
Section 9A:	inserted by 82, 1996, s. 20
	Part 2 comprising ss. 10 - 12 and heading amended by 2, 1987, s. 3; repealed by 82, 1996, s. 21
Section 14:	amended by 69, 1994, s. 8 (Sched.)
Section 16(3):	amended by 82, 1996, Sched. cl. 2
Section 16(4):	amended by 69, 1994, s. 8 (Sched.); 82, 1996, Sched. cl. 2
Section 16(5) and (6):	amended by 82, 1996, Sched. cl. 2
Section 17(1):	amended by 82, 1996, Sched. cl. 2
Section 19:	amended by 82, 1996, Sched. cl. 2
Section 20(1):	amended by 82, 1996, Sched. cl. 2
Section 20(2):	amended by 69, 1994, s. 8 (Sched.); 82, 1996, Sched. cl. 2
Section 20(3):	amended by 82, 1996, Sched. cl. 2
Section 20A:	inserted by 82, 1996, s. 22

Section 21(1):	amended by 82, 1996, Sched. cl. 2
Section 21(2a):	inserted by 82, 1996, s. 23
Section 21(4) - (6):	amended by 82, 1996, Sched. cl. 2
Section 22:	amended by 43, 1990, s. 5; 82, 1996, Sched. cl. 2
Section 23(1):	amended by 43, 1990, s. 6; 82, 1996, Sched. cl. 2
Section 23(2):	amended by 82, 1996, Sched. cl. 2
Section 24:	repealed by 82, 1996, s. 24
Section 25:	substituted by 82, 1996, s. 25
Section 26(4):	amended by 82, 1996, Sched. cl. 2
Section 27:	amended by 82, 1996, Sched. cl. 2
Section 28:	substituted by 82, 1996, s. 26
Section 29(2):	amended by 43, 1990, s. 7
Section 30:	amended by 82, 1996, Sched. cl. 2
Section 30A:	inserted by 82, 1996, s. 27
Section 31(1) - (9):	amended by 82, 1996, Sched. cl. 2
Section 31(11):	definition of "non-bank financial institution" amended by 69, 1994, s. 4; 82, 1996, Sched. cl. 2 paragraph (d) repealed by 82, 1996, Sched. cl. 2 paragraph (e) repealed by 43, 1990, s. 8
Section 32(1) - (3):	amended by 82, 1996, Sched. cl. 2
Section 32(4):	amended by 43, 1990, s. 9; 82, 1996, Sched. cl. 2
Section 32(5):	amended by 82, 1996, Sched. cl. 2
Section 33(1) - (6):	amended by 82, 1996, Sched. cl. 2
Section 34(1) - (4):	amended by 82, 1996, Sched. cl. 2
Section 34(5):	amended by 69, 1994, s. 8 (Sched.); 82, 1996, Sched. cl. 2
Section 35(2) and (3):	amended by 82, 1996, Sched. cl. 2
Section 36(1) and (2):	amended by 82, 1996, Sched. cl. 2
Section 36A:	inserted by 82, 1996, s. 28
Section 37:	amended by 43, 1990, s. 10; substituted by 69, 1994, s. 5
Section 37(1):	amended by 82, 1996, s. 29(a), Sched. cl. 2
Section 37(2a):	inserted by 82, 1996, s. 29(b)
Section 37(4):	repealed by 82, 1996, s. 29(c)
	 Part 7 comprising ss. 38 - 52 and heading amended by 71, 1992, s. 3(1) (Sched.); 69, 1994, s. 6, s. 8 (Sched.); repealed by 82, 1996, s. 30
	 Part 8 comprising ss. 53, 54 and heading repealed by 82, 1996, s. 30
	 Part 9 comprising ss. 55 - 61 and heading amended by 71, 1992, s. 3(1) (Sched.); 69, 1994, s. 7, s. 8 (Sched.); repealed by 82, 1996, s. 30
Section 62(1) - (4):	amended by 82, 1996, Sched. cl. 2
Section 63(1) - (4):	amended by 82, 1996, Sched. cl. 2
Sections 64 - 66:	repealed by 82, 1996, s. 31
Section 67:	amended by 71, 1992, s. 3(1) (Sched.); repealed by 82, 1996, s. 31
Section 68:	amended by 71, 1992, s. 3(1) (Sched.); repealed by 82, 1996, s. 31
Sections 69 - 74:	repealed by 82, 1996, s. 31
Section 75(3):	amended by 82, 1996, Sched. cl. 2
Section 76(1):	amended by 43, 1990, s. 11(a); 82, 1996, Sched. cl. 2
Section 76(2):	amended by 82, 1996, Sched. cl. 2
Section 76(3):	amended by 43, 1990, s. 11(b), (c)
Section 76(5):	substituted by 82, 1996, s. 32
Section 77(2)(c):	repealed by 82, 1996, s. 33
Section 77(2):	amended by 82, 1996, Sched. cl. 2