

SOUTH AUSTRALIA

**FINANCIAL INSTITUTIONS DUTY ACT REGULATIONS, 1984**

# REGULATIONS UNDER THE FINANCIAL INSTITUTIONS DUTY ACT, 1983

## *Financial Institutions Duty Act Regulations, 1984*

being

No. 47 of 1984: *Gaz.* 5 April 1984, p. 851

as varied by

- No. 195 of 1984: *Gaz.* 25 October 1984, p. 1325
- No. 1 of 1985: *Gaz.* 10 January 1985, p. 56
- No. 32 of 1985: *Gaz.* 14 March 1985, p. 847
- No. 52 of 1985: *Gaz.* 11 April 1985, p. 1163
- No. 17 of 1988: *Gaz.* 11 February 1988, p. 311
- No. 57 of 1989: *Gaz.* 27 April 1989, p. 1156
- No. 195 of 1989: *Gaz.* 26 October 1989, p. 1309<sup>1</sup>
- No. 33 of 1992: *Gaz.* 2 April 1992, p. 997
- No. 33 of 1993: *Gaz.* 4 March 1993, p. 797<sup>2</sup>
- No. 98 of 1993: *Gaz.* 10 June 1993, p. 1871<sup>3</sup>
- No. 172 of 1993: *Gaz.* 15 July 1993, p. 581<sup>4</sup>
- No. 122 of 1994: *Gaz.* 28 July 1994, p. 232<sup>5</sup>
- No. 192 of 1994: *Gaz.* 17 November 1994, p. 1548<sup>6</sup>
- No. 124 of 1995: *Gaz.* 22 June 1995, p. 2948<sup>7</sup>
- No. 19 of 1998: *Gaz.* 19 February 1998, p. 962<sup>8</sup>

<sup>1</sup> Came into operation 1 November 1989: reg. 2.

<sup>2</sup> Came into operation 4 March 1993: reg. 2.

<sup>3</sup> Came into operation 10 June 1993: reg. 2.

<sup>4</sup> Came into operation 1 September 1993: reg. 2.

<sup>5</sup> Came into operation 28 July 1994: reg. 2.

<sup>6</sup> Came into operation 17 November 1994: reg. 2.

<sup>7</sup> Came into operation 1 July 1995: reg. 2.

<sup>8</sup> Came into operation 19 February 1998: reg. 2.

*Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.*

2.

1. These Regulations may be cited as the *Financial Institutions Duty Act Regulations, 1984*.

1A. In this Act, unless the context otherwise requires: "Act" means the *Financial Institutions Duty Act, 1983*.

2. The following are prescribed persons for the purposes of section 5(1)(l) of the Act:

- (a) Credit Union Financial Services (Australia) Limited;
- (b) Funds Transfer Services (Australia) Limited.

\* \* \* \* \*

\* \* \* \* \*

4. The following are prescribed States or Territories for the purpose of paragraph (b) of subsection (4) of section 32 of the Act:

- (a) New South Wales;
- (b) Victoria;
- (c) Western Australia;
- (d) Tasmania;
- (e) the Northern Territory;
- (f) the Australian Capital Territory.

5. (a) in paragraph (b) of this regulation:

"client" means:

- (i) a person who conducts an account with an institution and also conducts an account with the Reserve Bank; and
- (ii) credits in the first instance, to an account with that institution the receipts from his normal commercial operations.

"institution" means a registered financial institution defined in Section 3 of the Act.

"Reserve Bank" means the Rural Credits Department of the Reserve Bank of Australia.

(b) Receipts by an institution which:

- (i) are payments to that institution by the Reserve Bank;
- (ii) are to be credited to accounts of clients at the institution;

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- (iii) and are receipts which would, but for this regulation, be dutiable receipts in the hands of the institution,

are hereby declared to be a non-dutiable class of receipts for the purposes of paragraph (r) of subsection (2) of section 7 of the Act.

6. (1) Pursuant to and for the purposes of section 7(2) of the Act the following classes of receipt are declared to be non-dutiable:

- (a) a receipt of money by a foreign exchange dealer being a receipt that forms part of a transaction entered into by the dealer pursuant to a general authority granted and issued to the dealer, but not including, where the dealer is a bank, a receipt by the bank for the credit of an account of a customer of the bank with the whole or any part of the proceeds of any such transaction;
- (ab) a receipt of money resulting from the transfer of an account where the transfer of the account occurs as a result of a merger or transfer of engagements under Part 7 of the *Financial Institutions (South Australia) Code* or as a result of a conversion under Part 8 of that Code or as a result of such a merger, transfer or conversion under the corresponding Code of another State or a Territory of the Commonwealth;
- (ac) a receipt of money by a credit union that is a registered financial institution from Credit Union Financial Services (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;
- (b) 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 general clearing arrangements carried out between banks;
- (c) a receipt of money by a financial institution in respect of the repayment of an advance under the *Defence Service Homes Act 1918* of the Commonwealth;
- (d) a receipt of money by a registered financial institution in relation to any one of, or a combination of, the following transactions (not being a receipt comprising the crediting of an account of a customer of a registered financial institution with the proceeds of any such transaction or transactions):
- (i) an interest rate, currency or commodity swap;
  - (ii) an interest rate, currency or commodity option;
  - (iii) a forward exchange rate agreement;
  - (iv) a forward interest rate agreement;
  - (v) a futures contract traded on a Futures Exchange within the meaning of the *Corporations Law*;

4.

- (e) a receipt of money by a registered financial institution that is an offshore banking unit (within the meaning of Division 11A of Part III of the *Income Tax Assessment Act 1936* of the Commonwealth as amended from time to time) in relation to an offshore banking activity (within the meaning of section 121D of that Act of the Commonwealth).

(2) In this regulation, unless the context otherwise requires:

- (a) "foreign exchange dealer" means a person who is the holder of a general authority that is in force;
- (b) "general authority" means a general authority to engage in foreign currency transactions granted and issued under regulation 38A of the Banking (Foreign Exchange) Regulations of the Commonwealth to a person named in that authority.

7. (1) The following are prescribed as non-bank financial institutions for the purposes of section 31(11)(i) of the Act:

- (a) any person who is a futures broker within the meaning of the *Corporations Law*;
- (b) Credit Union Financial Services (Australia) Limited;
- (c) Funds Transfer Services (Australia) Limited;

\* \* \* \* \*

- (da) SA Produce Credit Pty. Ltd.;
- (e) Thomas Cook Pty Ltd.

(2) For the purposes of section 31(9) of the Act, the following amounts are prescribed—

- (a) in relation to a futures broker—any amount received from a client that is required to be deposited in a clients' segregated account under the *Futures Industry (South Australia) Code*;
- (ab) in relation to SA Produce Credit Pty. Ltd.—any amount received in the course, or for the purposes, of its business as a credit service;
- (b) in relation to Thomas Cook Pty. Ltd.—any amount received in the course of the banking business carried on by Thomas Cook Pty. Ltd. under an order of exemption granted by the Commonwealth Treasurer and published in the *Commonwealth of Australia Gazette* of 23 May, 1968.

\* \* \* \* \*

9. Pursuant to section 37 of the Act the form of certificate set out in the Schedule is the prescribed form of certificate for the purposes of subsection (1) of that section.

**Direct credits of pensions etc. non-dutiable**

10. (1) For the purposes of section 7(2) of the Act, a direct credit of a prescribed payment to an account kept by a financial institution is declared to be a class of receipt that is non-dutiable.

(2) For the purposes of this regulation, a payment is directly credited to an account if the authority making the payment pays it directly to the financial institution and the financial institution credits the payment to an account nominated by the person for whom the payment is intended.

(3) In this regulation—

"prescribed payment" means—

- (a) a pension, benefit, allowance or other payment under the *Social Security Act 1991* of the Commonwealth, as amended from time to time;
- (b) a pension, benefit, allowance or other payment under the *Veterans' Entitlements Act 1986* of the Commonwealth, as amended from time to time;
- (c) a payment known as a Domiciliary Nursing Care Benefit made by the Commonwealth Government;
- (d) a payment made by the Commonwealth Government as part of the scheme known as the Farm Household Support Scheme;
- (e) a payment from a source outside Australia approved by the Commissioner under this regulation as a prescribed payment.

(4) For the purposes of paragraph (e) of the definition of "prescribed payment", the Commissioner may approve a payment as a prescribed payment if satisfied—

- (a) that the payment corresponds to a payment referred to in another paragraph of that definition; and
- (b) that satisfactory arrangements have been made to enable financial institutions to recognise a direct credit of such a payment as a non-dutiable receipt; and
- (c) that financial institutions have been given at least one month's notice of the impending approval.

**Section 32(5): Amounts not to be debited against short-term dealing account**

11. (1) Pursuant to section 32(5) of the Act, an amount must not be debited against 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 paid by that operator in the course of short-term dealings; or
- (b) is an amount paid from that account to another account kept in the name of that operator in South Australia or in a prescribed State or Territory by that bank or by another bank that is a registered financial institution.

6.

(2) In this regulation—

"a prescribed State or Territory" means a State or Territory prescribed for the purposes of section 32(4)(b) of the Act.

THE SCHEDULE

F.I.D. FORM 14

FINANCIAL INSTITUTIONS DUTY ACT, 1983  
 ANNUAL CERTIFICATE IN RESPECT OF AN EXEMPT BANK ACCOUNT  
 PURSUANT TO SECTION 37(1)

THE COMMISSIONER OF STAMPS,  
 FINANCIAL INSTITUTIONS DUTY  
 BRANCH, BOX 1353, G.P.O.,  
 ADELAIDE, S.A. 5001

Registered No.
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1. Full Name (block letters).....

2. Full Business Address.....

.....

hereby certify that all amounts paid into the following exempt \*Bank/Building Society/Credit Union account(s):

*BANK/BUILDING SOCIETY/ CREDIT UNION	BRANCH ADDRESS	ACCOUNT NO.
.....	.....	.....
.....	.....	.....

were so paid in accordance with the *Financial Institutions Duty Act, 1983* during the financial year 19 /19 and hereby certify that amounts totalling \$ were paid into the following \*Bank/Building Society/Credit Union account(s)—

*BANK/BUILDING SOCIETY/ CREDIT UNION	BRANCH ADDRESS	ACCOUNT NO.
.....	.....	.....

in contravention of the *Financial Institutions Duty Act, 1983* during the financial year 19 /19 and enclose herewith duty at the rate of 0.04 per cent of that sum.

DUTY PAYABLE (remittance herewith)	\$
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I certify that the above details are true and correct.

\*DELETE THOSE NOT APPLICABLE

.....

(Date)

.....

(Signature of authorised person)

.....

RECEIVED the amount shown by cash register imprint

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8.

NAME	
POSTAL ADDRESS	
	POSTCODE

Registered No.
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NOTE: (RECEIPTS WILL NOT BE ISSUED UNLESS REQUESTED)

**APPENDIX****LEGISLATIVE HISTORY**

Regulation 1A:	inserted by 1, 1985, reg. 2
Regulation 2:	substituted by 57, 1989, reg. 2; 33, 1993, reg. 3
Regulation 2(c):	revoked by 124, 1995, reg. 3
Regulation 3:	revoked by 124, 1995, reg. 4
Regulation 4:	varied by 57, 1989, reg. 3; 98, 1993, reg. 3
Regulation 5:	inserted by 195, 1984, reg. 2
Regulation 6:	inserted by 1, 1985, reg. 3;
Regulation 6(1):	varied by 195, 1989, reg. 3; 33, 1992, reg. 2; 33, 1993, reg. 4; 98, 1993, reg. 4; 192, 1994, reg. 3; 19, 1998, reg. 3
Regulation 7:	inserted by 32, 1985, reg. 2; substituted by 17, 1988, reg. 2
Regulation 7(1):	substituted by 33, 1993, reg. 5; varied by 122, 1994, reg. 3(a)
Regulation 7(1)(d):	revoked by 124, 1995, reg. 5
Regulation 7(2):	varied by 122, 1994, reg. 3(b)
Regulation 8:	inserted by 32, 1985, reg. 2; revoked by 17, 1988, reg. 2
Regulation 9:	inserted by 32, 1985, reg. 2
Regulation 10:	inserted by 52, 1985, reg. 2; substituted by 172, 1993, reg. 3
Regulation 11:	inserted by 98, 1993, reg. 5
Schedule:	inserted by 32, 1985, reg. 3