



Australian Capital Territory

# **Financial Institutions Duty Act 1987**

**A1987-43**

**Republication No 2B**

**Effective: 14 November 1994 – 28 November 1994**

Republication date: 30 August 2017

Last amendment made by A1994-60

## **About this republication**

### **The republished law**

This is a republication of the *Financial Institutions Duty Act 1987* effective 14 November 1994 to 28 November 1994.

### **Kinds of republications**

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.



Australian Capital Territory

## **FINANCIAL INSTITUTIONS DUTY ACT 1987**

*As at 14 November 1994*

### **TABLE OF PROVISIONS**

Section

#### **PART I—PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation
4. Administration
5. Receipts to which Act applies
6. Dutiable and non-dutiable receipts
7. Short-term dealing
8. Pastoral finance company
9. Trustee corporation

#### **PART II—LIABILITY TO DUTY**

10. Financial institutions duty: general
11. Financial institutions duty: short-term dealers
12. Financial institution: application for registration
13. Registered financial institution: returns

#### **PART III—SHORT-TERM DEALING**

14. Short-term dealers: certification
15. Certified short-term dealers: duty
16. Short-term dealers: exempt accounts
17. Short-term dealers: returns

#### **PART IV—EXEMPT ACCOUNTS**

19. Exempt accounts: approval
20. Exempt accounts: designation

**TABLE OF PROVISIONS**—continued

## Section

- 21. Exempt accounts: cancellation
- 22. Notification of cancellation

**PART V—MISCELLANEOUS**

- 23. Payments to unregistered financial institutions
- 24. Recovery of duty
- 25. Offence
- 26. Review of decisions
- 27. Notification of decisions
- 28. Regulations



Australian Capital Territory

## **FINANCIAL INSTITUTIONS DUTY ACT 1987**

An Act to impose a duty on receipts by financial institutions

### **PART I—PRELIMINARY**

#### **Short title**

1. This Act may be cited as the *Financial Institutions Duty Act 1987*.<sup>1</sup>

#### **Commencement**

2. This Act shall come into operation on 1 September 1987.

#### **Interpretation**

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

“approved superannuation scheme” means:

- (a) a scheme of superannuation, retirement benefit or pension created for the benefit of employees or self employed persons, being a scheme the income of which is exempt from taxation under section 23F or 23FB of the *Income Tax Assessment Act 1936* of the Commonwealth; or
- (b) a scheme of superannuation, retirement benefit or pension created and operated under a law of the Territory, the Commonwealth, a State or another Territory;

“bank” means a bank within the meaning of the *Banking Act 1959* of the Commonwealth and the Reserve Bank;

“charitable organisation” means an association, society, institution or body carried on for a religious, educational, benevolent or charitable

purpose, other than one carried on for the purpose of securing pecuniary benefit to its members;

“cheque” includes payment order;

“Commissioner” has the same meaning as in the *Taxation (Administration) Act 1987*;

“dealer” has the same meaning as in the *Securities Industry Act 1980* of the Commonwealth;

“dealing”, in relation to securities, has the same meaning as in the *Securities Industry Act 1980* of the Commonwealth;

“exempt account” means an account in respect of which there is in force a certificate issued by the Commissioner under section 16 or 19;

“financial institution” means:

- (a) a bank;
- (b) a dealer;
- (c) a trustee corporation;
- (d) a person whose sole or principal business in the Territory is the provision of finance; and
- (e) a management company within the meaning of Division 6 of Part IV of the *Companies Act 1981* of the Commonwealth;

other than:

- (f) a person whose sole or principal business in the Territory is the operation of an approved superannuation scheme;
- (g) a corporation that is registered under the *Life Insurance Act 1945* of the Commonwealth;
- (h) a corporation whose sole or principal business is insurance business within the meaning of the *Insurance Act 1973* of the Commonwealth;
- (i) a corporation that is a medical benefits organisation or a hospital benefits organisation registered under the *National Health Act 1953* of the Commonwealth;

- (j) a dealer who is not a person referred to in paragraph (a), (c), (d) or (e) and who does not carry on a business of dealing in securities except:
  - (i) in his or her capacity as an official receiver or trustee within the meaning of the *Bankruptcy Act 1966* of the Commonwealth; or
  - (ii) in his or her capacity as a receiver, as a receiver and manager or as a person appointed by a court to carry on the business concerned;
- (k) a dealer, being a corporation other than a corporation referred to in paragraph (a), (c), (d) or (e), that carries on, or holds itself out as carrying on, a business of dealing in its debentures but does not carry on a business of dealing in any other securities; or
- (l) a pastoral finance company;

“money” includes a bill of exchange and a promissory note;

“pastoral finance company” means:

- (a) a person whose sole or principal business is that of:
  - (i) financing pastoral pursuits; or
  - (ii) a stock and station agent in respect of whom an order under section 11 of the *Banking Act 1959* of the Commonwealth is in force; or
- (b) a person in respect of whom an approval under section 8 is in force;

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

“registered financial institution” means a financial institution that is registered under this Act;

“short-term dealer” means a person who engages in short-term dealing;

“short-term dealing” means a dealing of the kind described in section 7;

“term deposit” does not include a short-term dealing;

“trustee corporation” means:

- (a) the Public Trustee;
- (b) a corporation, constituted under the law of a State or another Territory, in respect of which there is in force a certificate of approval by the Commissioner under section 9;
- (c) a trustee company within the meaning of the *Trustee Companies Act 1947*; and
- (d) a corporation prescribed for the purposes of this definition.

(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;
  - (ii) bills of exchange;
  - (iii) promissory notes;
  - (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; and
- (d) the purchase, acquisition, discounting or factoring of debts due to another person.

(3) In this Act, a reference to carrying on business of a particular kind includes a 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 shall 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 for the purposes of this Act is the equivalent amount in the currency of Australia calculated at a

rate of exchange that was the rate of exchange used to calculate that equivalent amount when the receipt or liability was incurred.

### **Administration**

4. The Commissioner has the general administration of this Act.

### **Receipts to which Act applies**

5. (1) Except as otherwise provided, this Act applies to a receipt of money in the Territory.

(2) Where a person receives a consideration, other than money (whether or not in consideration of his or her having given credit to any person), in or towards settlement, satisfaction or discharge of any debt or obligation owing to that person, the person shall, when he or she receives the consideration, be deemed 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, shall be deemed 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;
- (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 shall be regarded as a receipt of money in the Territory if:

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

(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 shall be regarded as a receipt of money by the financial institution.

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

(8) Where a financial institution provides a cheque to a person in exchange for cash, the financial institution shall 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.

### **Dutiable and non-dutiable receipts**

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

(2) The following are non-dutiable receipts:

- (a) a receipt of money for the credit of an exempt account;
- (b) a receipt of money in the course of short-term dealings during a month by a registered financial institution that is a certified short-term dealer, being a receipt that is taken into consideration for the purposes of ascertaining the average daily liability of the financial institution during that month;
- (c) a receipt of money by a registered financial institution, being the repayment of moneys that have been invested in the course of short-term dealings by, or on behalf of, the financial institution;
- (d) a receipt of money by a registered financial institution for the credit of an account held by another registered financial institution;
- (e) a receipt of money by a registered financial institution, being:

- (i) a pension, benefit or allowance payable under:
    - (A) the *Social Security Act 1947* of the Commonwealth; or
    - (B) the *Veterans' Entitlements Act 1986* of the Commonwealth; and
  - (ii) paid by way of credit to an account kept by a person with the financial institution, being a payment caused to be made to the financial institution by the Secretary to the Department of Social Security of the Repatriation Commission;
- (f) a receipt of money by a registered financial institution for transferring or remitting out of the Territory at the request of a person, being a receipt in the form of—
- (i) a cheque drawn on the financial institution by that person; or
  - (ii) a debit to an account kept by the financial institution on behalf of that person;
- (g) a receipt of money by a registered financial institution, being the proceeds of the closing of an account with the financial institution, where the money is credited to another account with the financial institution having the same terms and conditions as the closed account;
- (h) 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 6 of Part IV of the *Companies Act 1981* of the Commonwealth or a corresponding law in force in the Territory, a State or another Territory; or
  - (ii) by such a trustee or representative from such a management company;
- (i) a receipt of money by a trustee corporation from the estate of a deceased person committed to the management of the trustee company or the Public Trustee;
- (j) a receipt of money by a registered financial institution, being the crediting to an account of the financial institution of an amount of interest on a loan made by that financial institution to a person who is not a financial institution;

- (k) a receipt of money by a registered 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;
- (l) a receipt of money by a registered financial institution, being a credit to an account that is subsequently offset by a debit of the same amount made solely by reason of the dishonour of a cheque;
- (m) a receipt of money by a registered financial institution in consideration of the supply of goods by the financial institution;
- (n) 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, being a bill of exchange whose term is not more than 185 days and whose value is not less than \$50,000, being a receipt to satisfy the amount of the financial institution's engagement on the bill of exchange;
- (o) a receipt of money by a registered financial institution from a charitable organisation that holds a certificate under section 19 for the purpose of investing that money;
- (p) a receipt of money by a registered financial institution where:
  - (i) the receipt results from the reinvestment with the financial institution of a term deposit;
  - (ii) the term deposit is for an amount which includes the principal sum of the previous deposit and is in the same name as the previous deposit; and
  - (iii) duty has been paid by the financial institution on the principal sum of the previous deposit;to the extent that the amount received equals the principal sum of the previous deposit;
- (q) a receipt of money by a registered financial institution where:
  - (i) the receipt results from the drawing of a commercial bill to replace an expired bill;
  - (ii) the commercial bill is for the same amount and in the same name as the expired bill; and

- (iii) duty has been paid by the financial institution on the receipt by the financial institution of the amount for which the bill was first drawn;
- (r) a receipt of money by a registered financial institution for the credit of an account, where the receipt results from—
  - (i) the takeover by that financial institution of another financial institution;
  - (ii) the transfer by another financial institution of its engagements to that financial institution;
  - (iii) the amalgamation by that financial institution with another financial institution; or
  - (iv) a change by that financial institution of its identity as a financial institution.

**(3)** Notwithstanding paragraph (2) (a), a receipt to the credit of an exempt account shall, 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 Territory by a registered 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 Territory by a registered financial institution (otherwise than by the crediting of an account) for the credit of an account kept by another registered financial institution and the crediting of that account will constitute a dutiable receipt for the purposes of this Act, the receipt by the first-mentioned institution is non-dutiable.

**(6)** An entry made in an account of a registered financial institution, including an account kept by the financial institution on behalf of another person, that is made by the financial institution:

- (a) solely in accordance with its internal accounting practices; or
- (b) by reason of a change in its accounting practices;

does not constitute a dutiable receipt.

(7) Where a credit of an amount equal to a bad debt is made to an account held by a registered financial institution for the purpose of cancelling the bad debt and closing the account, the crediting of the account does not constitute a dutiable receipt.

### **Short-term dealing**

7. (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 not less than \$50,000 received by that person by way of loan, advance or deposit repayable by him or her:
  - (i) at call;
  - (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;

- (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;
- (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;
- (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;
- (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;
- (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 the 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 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 16 for approval of an account as a short-term dealing account)—the amount calculated in accordance with the formula:

$$\frac{\mathbf{B}}{\mathbf{D}}$$

where:

**B** is the sum of the daily closing balances of the liability of the financial institution to each person (not being a charitable organisation that holds a certificate under section 19) in respect of amounts received (other than amounts included in a return by the financial institution under section 13) from that person in the course of short-term dealings, other than balances that are less than \$50,000; and

**D** 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 registered financial institution—the amount calculated in accordance with the formula:

$$\frac{\mathbf{B}}{\mathbf{D}}$$

where:

**B** is the sum of the daily closing balances of the liability of the financial institution to that person under that account; and

**D** is the number of days in the month.

**Pastoral finance company**

**8. (1)** A person a substantial part of whose business is that of:

- (a) financing pastoral pursuits; or
- (b) a stock and station agent in respect of whom an order under section 11 of the *Banking Act 1959* of the Commonwealth is in force;

may apply to the Commissioner for approval to be treated as a pastoral finance company.

**(2)** An application shall:

- (a) be in writing, signed by the applicant; and
- (b) specify:
  - (i) the name and address of the applicant;
  - (ii) a general description of the business carried on by the applicant; and
  - (iii) the extent to which the applicant's business consists of financing pastoral pursuits or being a stock and station agent.

**(3)** Where the Commissioner is satisfied that a substantial part of the applicant's business is that of:

- (a) financing pastoral pursuits; or
- (b) a stock and station agent in respect of whom an order under section 11 of the *Banking Act 1959* of the Commonwealth is in force;

the Commissioner may in writing approve that the applicant be treated as a pastoral finance company.

**(4)** Where the Commissioner is satisfied that a person in respect of whom an approval is in force is no longer a person of the kind described in paragraph (3) (a) or (b), the Commissioner may cancel the approval.

**Trustee corporation**

**9. (1)** Where the Commissioner is satisfied that a corporation constituted under a law of a State or another Territory is a corporation that corresponds to the Public Trustee, the Commissioner may issue a certificate of approval in respect of the corporation.

**(2)** Where:

- (a) a certificate of approval is in force in respect of a corporation; and
- (b) the Commissioner is satisfied that the corporation no longer corresponds to the Public Trustee;

the Commissioner shall cancel the certificate.

## **PART II—LIABILITY TO DUTY**

### **Financial institutions duty: general**

**10. (1)** Subject to this Act, a registered financial institution that receives money during a month is liable to pay financial institutions duty at the rate determined by the Minister in respect of each such receipt to which this Act applies.

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

### **Financial institutions duty: short-term dealers**

**11.** Subject to this Act, a short-term dealer is liable to pay financial institutions duty at the rate determined by the Minister in respect of the dealer's average daily liability during a month in respect of short-term dealings.

### **Financial institution: application for registration**

**12. (1)** A financial institution may apply to the Commissioner for registration as a financial institution.

**(2)** An application shall:

- (a) be in writing, signed by the applicant; and
- (b) specify:
  - (i) the name and address of the applicant;
  - (ii) the place or places of business of the applicant in the Territory;
  - (iii) the kind of business conducted by the applicant in the Territory; and
  - (iv) the grounds on which the applicant claims to be a financial institution.

**(3)** Where the Commissioner is satisfied that the applicant is a financial institution, the Commissioner shall register the financial institution and issue a certificate of registration to the applicant.

(4) Where the Commissioner is satisfied that a registered financial institution is no longer a financial institution, the Commissioner may cancel the registration of the institution.

**Registered financial institution: returns**

13. (1) A registered financial institution:

- (a) that is not a certified short-term dealer; or
- (b) that is a certified short-term dealer but that also carries on the business of a financial institution other than short-term dealing;

shall, within 21 days after the end of each month, furnish to the Commissioner a return relating to that month.

(2) A return shall:

- (a) be in writing, in a form approved by the Commissioner;
- (b) in the case of a financial institution that is not a certified short-term dealer, specify:
  - (i) the total of the dutiable receipts other than the dutiable receipts of the kind referred to in subparagraph (ii); and
  - (ii) the number of dutiable receipts of, or exceeding, \$1,000,000;

that were received by the financial institution during the month to which the return relates; and

- (c) in the case of a financial institution of the kind referred to in paragraph (1) (b), specify:
  - (i) the total of the dutiable receipts other than the dutiable receipts of the kind referred to in subparagraph (ii); and
  - (ii) the number of dutiable receipts of, or exceeding, \$1,000,000;

that were received by the financial institution during the month to which the return relates, not being dutiable receipts received by the financial institution in its capacity as a certified short-term dealer.

### **PART III—SHORT-TERM DEALING**

#### **Short-term dealers: certification**

**14. (1)** A registered financial institution that is a short-term dealer may apply to the Commissioner for certification as a certified short-term dealer.

**(2)** An application shall:

- (a) be in writing, addressed to the Commissioner; and
- (b) specify:
  - (i) the name and address of the applicant;
  - (ii) the name under which the applicant carries on business;
  - (iii) a general description of the applicant's business, including the proportion of the business that consists of short-term dealing;
  - (iv) a description of the kind of short-term dealing engaged in by the applicant;
  - (v) where the books of accounts are held; and
  - (vi) the name of the person authorised by the applicant to furnish returns.

**(3)** Where the Commissioner is satisfied that the registered financial institution is a short-term dealer, the Commissioner may issue a certificate to the effect that the institution is a certified short-term dealer.

**(4)** Where the Commissioner is satisfied that a registered financial institution in respect of which a certificate under this section is in force is no longer a short-term dealer, the Commissioner may cancel the certificate.

**Certified short-term dealers: duty**

**15. (1)** Duty is not payable in respect of receipts of a certified short-term dealer in respect of short-term investments.

**(2)** Duty at a rate determined by the Minister is payable on the average daily liability in a month of a certified short-term dealer, being liability arising from the short-term dealings of that certified short-term dealer.

**Short-term dealers: exempt accounts**

**16. (1)** A short-term dealer who is not a registered financial institution may apply to the Commissioner for approval as an exempt account of an account with a financial institution, being an account that is used solely for the purpose of short-term dealing.

**(2)** An application shall:

- (a) be in writing, addressed to the Commissioner; and
- (b) specify:
  - (i) the name and address of the applicant;
  - (ii) the name and number of the account;
  - (iii) the name under which the applicant carries on business;
  - (iv) the name of the registered financial institution by whom the account is kept;
  - (v) the kind of business carried on by the applicant;
  - (vi) the proportion of the applicant's business that consists of short-term dealing;
  - (vii) a description of the kind of short-term dealing engaged in by the applicant; and
  - (viii) where the books of account are held.

**(3) Where the Commissioner is satisfied that:**

- (a) the applicant is a short-term dealer;
- (b) the account to which the application relates is an account with a registered financial institution; and
- (c) the account is used solely for the purpose of short-term dealing;

the Commissioner may issue a certificate of approval of the account as an exempt account.

**Short-term dealers: returns**

**17. (1)** A short-term dealer shall, within 21 days after the end of each month, furnish to the Commissioner a return relating to that month.

**(2)** A return shall:

- (a) be in writing, in a form approved by the Commissioner; and
- (b) specify:
  - (i) in respect of each day during the month to which the return relates—the sum of the daily closing balances of the liability of

- the dealer ascertained for the purposes of symbol **B** in the formula in paragraph 7 (3) (a) or (b), as the case requires; and
- (ii) the average daily liability of the dealer, calculated in accordance with subsection 7 (3).

#### **PART IV—EXEMPT ACCOUNTS**

##### **Exempt accounts: approval**

**19. (1)** An application may be made for approval as an exempt account of an account kept by a registered financial institution on behalf of:

- (a) a charitable organisation;
- (b) a hospital that is a recognised hospital under the *Health Insurance Act 1973* of the Commonwealth;
- (c) a school that is registered under the *Education Act 1937*;
- (ca) the Territory, the Commonwealth, a State or another Territory, a Territory authority or a statutory authority of the Commonwealth, a State or another Territory, being an account which is funded solely from the consolidated revenue of the Territory, the Commonwealth or that State or other Territory;
- (d) a person included in a class of persons prescribed for the purposes of this paragraph; or
- (e) a person, being a prescribed account.

**(2)** An application shall:

- (a) be in writing, addressed to the Commissioner; and
- (b) specify:
  - (i) the name and address of the applicant;
  - (ii) the name and number of the account;
  - (iii) the name of the registered financial institution by whom the account is kept; and
  - (iv) the grounds for making the application.

**(3)** Where the Commissioner is satisfied that an account to which an application relates is an account of a kind referred to in subsection (1), the

Commissioner may issue to the applicant a certificate of approval of the account as an exempt account.

**Exempt accounts: designation**

**20.** Where a certificate issued under section 16 or 19 is produced to the registered financial institution at which the account to which the certificate relates is kept, the financial institution shall designate the account as an exempt account.

**Exempt accounts: cancellation**

**21.** Where the Commissioner is satisfied that an exempt account is no longer an account of a kind described in section 16 or 19, the Commissioner shall, by notice in writing forwarded to the person in whose name the account is kept, cancel the certificate of approval of the account.

**Notification of cancellation**

**22. (1)** Where, under section 21, the Commissioner cancels the certificate of approval of an account, the Commissioner shall forward a copy of the notice referred to in that section to the registered financial institution by whom the account is kept.

**(2)** Where a registered financial institution receives a notice under this section, the institution shall cancel the designation as an exempt account of the account to which the notice relates.

**PART V—MISCELLANEOUS**

**Payments to unregistered financial institutions**

**23. (1)** Where a person pays money to an unregistered financial institution the person is liable to pay to the Commissioner an amount equal to the amount of duty that would have been payable by the financial institution if it were a registered financial institution and were liable in respect of the receipt of that money.

**(2)** A person who is liable under subsection (1) to pay duty shall, within 21 days after the end of the month in which the money was paid to the institution, furnish to the Commissioner a return relating to that month.

**(3)** A return shall specify:

- (a) the total payments made to an unregistered financial institution during the month to which the return relates, other than payments of \$1,000,000 or more; and
- (b) the number of payments of, or exceeding, \$1,000,000.

### **Recovery of duty**

**24.** Where a registered financial institution pays or is liable to pay duty in respect of a dutiable receipt, the person or persons to whose account the amount of the receipt is credited is liable, or are jointly and severally liable, to pay to the financial institution an amount equal to that duty.

### **Offence**

**25.** A short-term dealer in respect of whose account a certificate of exemption under section 16 is in force shall not use the account for a purpose other than short-term dealing.

Penalty:

- (a) in the case of a natural person—\$5,000 or imprisonment for 12 months, or both; and
- (b) in the case of a body corporate—\$25,000.

### **Review of decisions**

**26.** Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Commissioner:

- (a) refusing to grant, or cancelling, and approval under section 8;
- (b) refusing to register, or cancelling the registration of, a financial institution under section 12;
- (c) refusing to issue, or cancelling, a certificate under section 14;
- (d) refusing to issue a certificate of approval under section 16;
- (e) refusing to issue a certificate of approval under section 19; or
- (f) cancelling a certificate of approval under section 21.

### **Notification of decisions**

**27. (1)** Where the Commissioner makes a decision of the kind referred to in section 26 he or she shall cause notice in writing of the decision to be given:

- (a) in the case of a decision under section 8—to the pastoral finance company concerned;
- (b) in the case of a decision under section 12—to the financial institution concerned;
- (c) in the case of a decision under section 14 or 16—to the short-term dealer concerned;
- (d) in the case of a decision under section 19—to the organisation, hospital, school, statutory authority or other person concerned; and
- (e) in the case of a decision under section 21—to the person in whose name the account is kept.

(2) A notice under subsection (1) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

### **Regulations**

**28.** The Executive may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed, or;
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
-

**NOTE**

- 1 The *Financial Institutions Duty Act 1987* as shown in this reprint comprises Act No. 43, 1987 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

**Table of Ordinances**

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Financial Institutions Duty Ordinance 1987</i>	43, 1987	31 Aug 1987	1 Sept 1987	
<i>Financial Institutions Duty (Amendment) Ordinance 1988</i>	21, 1988	4 May 1988	4 May 1988	—
<i>Self-Government (Consequential Amendments) Ordinance 1989</i>	39, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164)	—

**Self-Government day 11 May 1989**

## NOTE—continued

Table 2

Table of Acts

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Financial Institutions Duty (Amendment) Act 1990</i>	46, 1990	30 Nov 1990	Ss. 1-3: 30 Nov 1990 Remainder: 1 Dec 1990	S. 12
<i>Acts Revision (Position of Crown) Act 1993</i>	44, 1993	27 Aug 1993	27 Aug 1993 (see s. 2)	—
<i>Public Sector Management (Consequential and Transitional Provisions) Act 1994</i>	38, 1994	30 June 1994	Ss. 1 and 2: 30 June 1994 Remainder: 1 July 1994 (see <i>Gazette</i> 1994, No. S142, p. 2)	Ss. 3, 5-12, 15 and 19
<i>Administrative Appeals (Consequential Amendments) Act 1994</i>	60, 1994	11 Oct 1994	Ss. 1 and 2: 11 Oct 1994 Remainder: 14 Nov 1994 (see s. 2 (2) and <i>Gazette</i> 1994, No. S250)	—

Table of Amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
S. 3 .....	am. No. 21, 1988; No. 38, 1989; Act No. 46, 1990
S. 3A .....	ad. Act No. 46, 1990 rep. No. 44, 1993
S. 6 .....	am. No. 38, 1989; Act No. 46, 1990
S. 7 .....	am. No. 21, 1988
S. 18 .....	am. No. 38, 1989 rep. Act No. 46, 1990
S. 19 .....	am. Act No. 46, 1990; No. 38, 1994
Ss. 20, 21 .....	am. Act No. 46, 1990
S. 26 .....	am. No. 38, 1989; Act No. 60, 1994
S. 27 .....	am. Act No. 46, 1990; No. 60, 1994
S. 28 .....	am. No. 38, 1989