

NORTHERN TERRITORY OF AUSTRALIA

FINANCIAL INSTITUTIONS (NT) ACT

As in force at 1 September 1997

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 September 1997

FINANCIAL INSTITUTIONS (NT) ACT

An Act to make provision for a uniform legislative scheme for certain financial institutions, to amend certain Acts, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Financial Institutions (NT) Act*.

2 Commencement

The various provisions of this Act shall come into operation on such date or dates as is or are respectively fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act:

AFIC means the Australian Financial Institutions Commission established by the AFIC Act.

AFIC Act means the *Australian Financial Institutions Commission Act 1992* of Queensland.

AFIC (NT) Code means the provisions applying because of section 5.

AFIC (NT) Regulations means the provisions applying because of section 6.

Appeals Tribunal means the Australian Financial Institutions Appeals Tribunal established under the AFIC Act.

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

financial institutions agreement has the same meaning as in the Financial Institutions (NT) Code.

Financial Institutions (NT) Code means the provisions applying because of section 8.

Financial Institutions (NT) Regulations means the provisions applying because of section 9.

Ministerial Council means the Ministerial Council established under the financial institutions agreement.

scheme legislation of the Territory means:

- (a) this Act and the regulations under this Act;
- (b) the AFIC (NT) Code;
- (c) the AFIC (NT) Regulations;
- (d) the Financial Institutions (NT) Code; and
- (e) the *Financial Institutions (NT) Regulations*.

4 References to Queensland Acts

In this Act, a reference to a Queensland Act includes a reference to:

- (a) that Queensland Act as amended and in force for the time being; and
- (b) an Act passed in substitution for that Act.

Part 2 AFIC (NT) Code and AFIC (NT) Regulations

5 Application in Territory of AFIC code

The AFIC Code set out in section 21 of the AFIC Act as in force for the time being:

- (a) applies as a law of the Territory; and
- (b) as so applying, may be referred to as the AFIC (NT) Code.

6 Application of regulations

- (1) The regulations in force for the time being under Part 5 of the AFIC Act:
 - (a) apply as regulations in force for the purposes of the AFIC (NT) Code; and

- (b) as so applying, may be referred to as the AFIC (NT) Regulations.
- (2) Subject to subsection (3), where regulations under Part 5 of the AFIC Act take effect from a specified day that is earlier than the day when they are notified in the Queensland Government *Gazette* under section 28A of the *Acts Interpretation Act 1954* of Queensland, subsection (1) has effect, and is taken always to have had effect, as if those regulations had taken effect under the AFIC Act from the specified day.
- (3) To the extent that a provision of the AFIC (NT) Regulations is taken because of a particular application of subsection (2) to have effect, or to have had effect, before the day of notification of the regulations referred to in that subsection, the provision:
- (a) operates to the advantage of a person (other than the Territory or an authority of the Territory) by:
- (i) increasing the person's rights; or
- (ii) relieving the person of liabilities; and
- (b) does not operate to the disadvantage of another person (other than the Territory or an authority of the Territory) by:
- (i) decreasing the person's rights; or
- (ii) imposing liabilities on the person.
- (4) Subsection (3) does not affect any other operation that the provision has because of subsection (2) or otherwise.

7 Interpretation of some expressions in Code and Regulations

- (1) In the AFIC (NT) Code and the AFIC (NT) Regulations:

Code means the AFIC (NT) Code.

Corporations Law and **Corporations Regulations** have the meaning provided for by Part 3 of the *Corporations (Northern Territory) Act*.

Financial Institutions Code means the Financial Institutions (NT) Code.

legislature of this State means the Legislative Assembly of the Territory.

Magistrate means a magistrate within the meaning of the *Magistrates Act*.

Premier means the Chief Minister.

this State means the Territory.

- (2) The *Corporations (Northern Territory) Act*, and the applicable provisions of the Territory within the meaning of that Act, are prescribed for the purposes of section 39(2) of the Code.

Part 3 Financial Institutions (NT) Code and Financial Institutions (NT) Regulations

8 Application in Territory of Financial Institutions Code

The Financial Institutions Code set out in section 30 of the *Financial Institutions Act* as in force for the time being:

- (a) applies as a law of the Territory; and
- (b) as so applying, may be referred to as the Financial Institutions (NT) Code.

9 Application of Financial Institutions Regulations

- (1) The regulations in force for the time being under Part 3 of the *Financial Institutions Act*:
- (a) apply as regulations in force for the purposes of the Financial Institutions (NT) Code; and
 - (b) as so applying, may be referred to as the *Financial Institutions (NT) Regulations*.
- (2) Subject to subsection (3), where regulations under Part 3 of the *Financial Institutions Act* take effect from a specified day that is earlier than the day when they are notified in the Queensland Government *Gazette* under section 28A of the *Acts Interpretation Act 1954* of Queensland, subsection (1) has effect, and is taken always to have had effect, as if those regulations had taken effect under the *Financial Institutions Act* from the specified day.

- (3) To the extent that a provision of the *Financial Institutions (NT) Regulations* is taken because of a particular application of subsection (2) to have effect, or to have had effect, before the day of notification of the regulations referred to in that subsection, the provision:
- (a) operates to the advantage of a person (other than the Territory or an authority of the Territory) by:
 - (i) increasing the person's rights; or
 - (ii) relieving the person of liabilities; and
 - (b) does not operate to the disadvantage of another person (other than the Territory or an authority of the Territory) by:
 - (i) decreasing the person's rights; or
 - (ii) imposing liabilities on the person.
- (4) Subsection (3) does not affect any other operation that the provision has because of subsection (2) or otherwise.

10 Interpretation of some expressions in Code and Regulations

- (1) In the Financial Institutions (NT) Code and the *Financial Institutions (NT) Regulations*:

AFIC Code means the AFIC (NT) Code.

Code means the Financial Institutions (NT) Code.

continuing association means:

- (a) an association of credit societies; or
- (b) a union of associations of credit unions,

registered under the *Credit Unions Act* immediately before 1 July 1992.

continuing association of credit unions means an association of credit unions registered under the *Credit Unions Act* immediately before 1 July 1992.

continuing building society means a permanent building society registered under the *Building Societies Act* immediately before 1 July 1992.

continuing credit union means a credit society registered under the *Credit Unions Act* immediately before 1 July 1992.

continuing foreign society means a foreign credit society registered under the *Credit Unions Act* immediately before 1 July 1992.

continuing society means a continuing building society or continuing credit union.

Corporations Law and **Corporations Regulations** have the meaning provided for by Part 3 of the *Corporations (Northern Territory) Act*.

Friendly Societies Code means the Friendly Societies (NT) Code as defined in the *Friendly Societies (NT) Act*.

legislature of this State means the Legislative Assembly.

Magistrate means a magistrate within the meaning of the *Magistrates Act*.

previous law means the *Building Societies Act* and the *Credit Unions Act*.

Registrar means:

- (a) the Registrar of Credit Unions within the meaning of the *Credit Unions Act*; and
- (b) the Registrar of Building Societies within the meaning of the *Building Societies Act*.

this State means the Territory.

- (2) In subsection (1), **registered** includes deemed to be registered.
- (3) The *Corporations (Northern Territory) Act*, and the applicable provisions of the Territory within the meaning of that Act, are prescribed for the purposes of section 65(4) of the Code.

Part 4 Conferral of functions and powers

11 Conferral of functions and powers on AFIC

AFIC has the functions and powers conferred or expressed to be conferred on it by or under the scheme legislation of the Territory.

12 Conferral of functions and powers on Tribunal

The Appeals Tribunal has the functions and powers conferred or expressed to be conferred on it by or under the scheme legislation of the Territory.

13 Conferral of jurisdiction on Queensland Supreme Court

- (1) Jurisdiction is conferred on the Supreme Court of Queensland in the matter of:
 - (a) an appeal under the scheme legislation of the Territory by a party to a proceeding before the Appeals Tribunal on a question of law from a decision of the Tribunal in the proceeding; or
 - (b) a reference under the scheme legislation of the Territory at the request of a party or by the Appeals Tribunal of its own initiative of a question of law arising in a proceeding before the Tribunal for decision.
- (2) Nothing in subsection (1) affects any other jurisdiction of any court or the operation of the *Jurisdiction of Courts (Cross-Vesting) Act*.

Part 5 State Supervisory Authority**14 Territory Supervisory Authority**

The Territory Supervisory Authority constituted, under the *Financial Institutions (Territory Supervisory Authority) Act*, by the Registrar of Financial Institutions, is the State supervisory authority for the Territory.

Part 6 Application to Crown**15 Crown is bound**

- (1) The scheme legislation of the Territory binds the Crown in right of the Territory and, so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.
- (2) Nothing in this section permits the Crown in any of its capacities to be prosecuted for an offence.

Part 7 Imposition of fees and other amounts

16 Fees for chargeable matters

This section imposes the fees that the *Financial Institutions (NT) Regulations* or the AFIC (NT) Regulations prescribe.

17 Levies, contributions and loans

(1) This section imposes:

- (a) the levy payable under section 119 of the AFIC (NT) Code by a financial institution;
- (b) the levy payable under section 95 of the Financial Institutions (NT) Code by a financial body;
- (c) the contributions payable under section 98 of the Financial Institutions (NT) Code by a credit union;
- (d) the support levy payable under section 99 of the Financial Institutions (NT) Code by a credit union; and
- (e) the compulsory loans payable under section 100 of the Financial Institutions (NT) Code by a credit union.

(2) An expression has in subsection (1) the meaning it would have if this section were in the AFIC (NT) Code or the Financial Institutions (NT) Code, as the case requires.

Part 8 General

18 Action to be taken by Chief Minister under certain report

(1) If the Chief Minister is provided with a report under section 49(6) of the AFIC (NT) Code, the Chief Minister must provide AFIC with a response to the report within 14 days after its receipt by the Chief Minister.

(2) If:

- (a) the Chief Minister does not provide AFIC with a response to the report within 14 days after receipt of the report; or
- (b) AFIC is of the opinion that it is necessary to do so,

AFIC may, by written notice given to the Chief Minister, request the Chief Minister to cause a copy of the report provided with the request to be laid before the Legislative Assembly within 3 sitting days after receipt of the request.

- (3) The Chief Minister must comply with the request.
- (4) If, at the time the Chief Minister would otherwise be required to lay a copy of the report before the Legislative Assembly, the Assembly is not sitting, the Chief Minister must give a copy of the report to the Clerk of the Legislative Assembly.
- (5) The Clerk must cause a copy of the report to be laid before the Legislative Assembly on its next sitting day.

19 Amendment of certain provisions

- (1) If, under the financial institutions agreement, the Ministerial Council:
 - (a) approves:
 - (i) a proposed amendment of the AFIC Act or the *Financial Institutions Act*; or
 - (ii) regulations proposed to be made under the AFIC Act or the *Financial Institutions Act* (whether or not amending other regulations); and
 - (b) approves proposed regulations to be made under this Act in connection with the operation of the proposed amendment or regulations referred to in paragraph (a),

the Administrator may make regulations in accordance with the approval varying the effect in the Territory of that Act or those regulations.

- (2) If regulations are made under subsection (1), the AFIC Act or the *Financial Institutions Act* or regulations in force under either of those Acts have effect in the Territory as if varied in accordance with the regulations made under subsection (1).

20 Indictable and summary offences

Section 59 of the Financial Institutions Code as in force for the time being is excluded from the Financial Institutions Code in its application under section 8 as a law of the Territory.

21 Aiding and abetting, attempts, &c.

Section 61 of the Financial Institutions Code as in force for the time being is excluded from the Financial Institutions Code in its application under section 8 as a law of the Territory.

22 Fees, fines and penalties

All fees, fines, penalties and other money which, under or by virtue of the scheme legislation of the Territory, are authorised or directed to be imposed on any person and are not, under that legislation, fees, levies, contributions, loans or other amounts payable to a specified person must be paid to the Territory.

Part 9 Transitional and consequential**23 Accounts, returns, audit, &c.**

- (1) For the purposes of this Act, section 68 of the *Building Societies Act* applies to accounting records and accounts of a building society in relation to accounts and accounting matters occurring before the commencement of this Act.
- (2) Division 4 of Part 6 of the Financial Institutions (NT) Code applies to accounting records and accounts of a building society after the commencement of this Act.
- (3) For the purposes of this Act, Division 3 of Part V of the *Credit Unions Act* applies to accounting records and accounts of a credit union registered under that Act in relation to accounts and accounting matters occurring before the commencement of this Act.
- (4) Division 4 of Part 6 of the Financial Institutions (NT) Code applies to accounting records and accounts of a credit union within the meaning of the *Credit Unions Act* after the commencement of this Act.
- (5) For the purposes of this or any other Act, documents required to be lodged under the *Building Societies Act* by a building society or under the *Credit Unions Act* by a credit union in relation to accounts and accounting matters that occurred before the commencement of this Act may be lodged in accordance with this Act.

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- (6) If a building society or credit union, respectively, contravenes or fails to comply with:
- (a) the *Building Society Act* or the regulations made under that Act or the *Credit Unions Act* or the rules made under that Act; or
 - (b) this Act or the regulations,
- the rights and liabilities of the building society, the credit union or of any other person shall not, except where the contrary is expressly provided, under either of those Acts or this Act, or any other Act or law, be affected or prejudiced thereby.
- (7) In the event of a contravention or failure to comply with an Act or regulations referred to in subsection (6), the Registrar may institute proceedings against a building society or credit union in accordance with the relevant Act.

24 Records

On and from 1 July 1992, each record and each other document in relation to the affairs of a continuing society held by:

- (a) the Registrar of Credit Unions within the meaning of the *Credit Unions Act*, for the purposes of that Act; or
- (b) the Registrar of Building Societies within the meaning of the *Building Societies Act*, for the purposes of that Act,

becomes the property of the Territory Supervisory Authority and is to be taken to be held for the purposes of:

- (c) the scheme legislation of the Territory; and
- (d) proceedings in relation to the society being conducted under the law relevant to the society before that date.

25 General savings and transitional provisions

- (1) Except as otherwise provided by this Act or the Financial Institutions (NT) Code or by regulations made under section 26, anything done under a provision of:
- (a) the *Building Societies Act* that had effect immediately before its amendment by the *Financial Institutions (NT) (Consequential Amendments) Act*; or
 - (b) the *Credit Unions Act* that had effect immediately before its repeal by the *Credit Unions Act Repeal Act*,

and that had effect immediately before the commencement of a corresponding provision of the Financial Institutions (NT) Code is to be considered to have been done under the corresponding provision.

- (2) Subsection (2) applies even if, when done under the corresponding provision of the Financial Institutions (NT) Code, the thing can only be done by a different person or body and, in such a case, is to be considered to have been done by the other person or body.

26 Savings and transitional

- (1) The Administrator may, on the recommendation of the Minister made with the approval of the Ministerial Council, make regulations of a saving or transitional nature consequent on the enactment or commencement of this Act.
- (2) If the regulations so provide, they have effect despite any provision of the Financial Institutions (NT) Code or the AFIC (NT) Code.
- (3) Any such provision may, if the regulations so provide, take effect on the date of commencement of this section or a later date.
- (4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the *Gazette*, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to a person (other than the Territory or an authority of the Territory), the rights of the person existing before the date of the publication; or
 - (b) to impose a liability on a person (other than the Territory or an authority of the Territory) in respect of anything done or omitted to be done before the date of the publication.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Financial Institutions (NT) Act 1992 (Act No. 22, 1992)

Assent date 2 June 1992
Commenced 1 July 1992 (*Gaz* S35, 30 June 1992)

Friendly Societies (NT) Act 1997 (Act No. 22, 1997)

Assent date 22 May 1997
Commenced 1 September 1997 (*Gaz* G34, 27 August 1997, p 2)

3 LIST OF AMENDMENTS

s 10 amd No. 22, 1997, s 15