

Queensland



# AUSTRALIAN FINANCIAL INSTITUTIONS COMMISSION ACT 1992

**Reprinted as in force on 1 July 1992  
(includes amendments up to Act No. 11 of 1992)**

**Reprint No. 1**

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy

# Information about this reprint

This Act is reprinted as at 2 July 1992. As required by section 5 of the *Reprints Act 1992*, it—

- shows the law as amended by all amendments that commenced before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the *Reprints Act 1992*, the reprint includes, in a suitable place, a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the *Reprints Act 1992*, to omit the enacting words as permitted by section 7(1)(a) of that Act.

**Also see Endnotes for—**

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

Queensland



**AUSTRALIAN FINANCIAL  
INSTITUTIONS COMMISSION ACT 1992**

**TABLE OF PROVISIONS**

Section		Page
	<b>PART 1—PRELIMINARY</b>	
	<i>Division 1—Introductory</i>	
1	Short title .....	3
2	Commencement .....	3
	<i>Division 2—Interpretation</i>	
3	Definitions .....	3
	<b>PART 2—ESTABLISHMENT OF AFIC AND ITS BOARD</b>	
4	Establishment of AFIC .....	4
5	AFIC is a body corporate etc. ....	4
6	AFIC exempt public authority under Corporations Law of Queensland ...	4
7	The Board .....	5
	<b>PART 3—ESTABLISHMENT OF APPEALS TRIBUNAL</b>	
8	Establishment .....	5
	<b>PART 4—AFIC (QUEENSLAND) CODE AND AFIC (QUEENSLAND) REGULATIONS</b>	
9	Application in Queensland of the AFIC Code .....	5
10	Application of regulations in force under Part 5 .....	5
11	Interpretation of some expressions in the AFIC (Queensland) Code and the AFIC (Queensland) Regulations .....	6
	<b>PART 5—POWER TO MAKE REGULATIONS FOR PURPOSES OF AFIC CODE</b>	
12	Interpretation .....	6
13	General regulation-making power .....	7
14	Specific regulation-making powers .....	7

*Australian Financial Institutions Commission  
Act 1992*

---

15	Saving and transitional regulation-making power . . . . .	9
----	---	---

**PART 6—MISCELLANEOUS**

16	Action to be taken by Premier if provided with a report under section 49(6) of AFIC (Queensland) Code . . . . .	9
17	Jurisdiction conferred on Supreme Court . . . . .	10
18	Statutory Bodies Financial Arrangements Act does not apply . . . . .	10
19	Penalty Units Act does not apply . . . . .	10
20	Standards . . . . .	11

**PART 7—AFIC CODE**

21	AFIC Code . . . . .	11
----	---------------------	----

**ENDNOTES**

1	Index to Endnotes . . . . .	12
2	Date to which amendments incorporated . . . . .	12
3	List of legislation . . . . .	12
4	List of annotations . . . . .	13

# AUSTRALIAN FINANCIAL INSTITUTIONS COMMISSION ACT 1992

[as amended by all amendments that commenced before 2 July 1992<sup>2</sup>]

**An Act to make provision for a uniform legislative scheme for certain financial institutions and, in particular, to establish the Australian Financial Institutions Commission**

## PART 1—PRELIMINARY

### *Division 1—Introductory*

#### **Short title**

1. This Act may be cited as the *Australian Financial Institutions Commission Act 1992*<sup>3-4</sup>.

#### **Commencement**

2. This Act commences on a day to be fixed by proclamation<sup>3</sup>.

### *Division 2—Interpretation*

#### **Definitions**

3. In this Act—

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

“**AFIC (Queensland) Code**” means the provisions applying because of

section 9;

**“AFIC (Queensland) Regulations”** means the provisions applying because of section 10;

**“Appeals Tribunal”** means the Australian Financial Institutions Appeals Tribunal;

**“financial institutions legislation”** has the meaning given by section 8 of the AFIC (Queensland) Code;

**“Financial Institutions (Queensland) Code”** has the same meaning as in the *Financial Institutions (Queensland) Act 1992*;

**“Ministerial Council”** has the meaning given by section 3 of the AFIC (Queensland) Code.

## **PART 2—ESTABLISHMENT OF AFIC AND ITS BOARD**

### **Establishment of AFIC**

**4.** A commission called the Australian Financial Institutions Commission is established.

### **AFIC is a body corporate etc.**

**5.** The Australian Financial Institutions Commission—

- (a) is a body corporate; and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

### **AFIC exempt public authority under Corporations Law of Queensland**

**6.** AFIC is an exempt public authority for the purposes of the

Corporations Law of Queensland.

### **The Board**

7. There is a board of directors of AFIC.

## **PART 3—ESTABLISHMENT OF APPEALS TRIBUNAL**

### **Establishment**

8. A tribunal called the Australian Financial Institutions Appeals Tribunal is established.

## **PART 4—AFIC (QUEENSLAND) CODE AND AFIC (QUEENSLAND) REGULATIONS**

### **Application in Queensland of the AFIC Code**

9. The AFIC Code set out in section 21 as in force for the time being—
  - (a) applies as a law of Queensland; and
  - (b) as so applying may be referred to as the AFIC (Queensland) Code.

### **Application of regulations in force under Part 5**

10. The regulations in force for the time being under Part 5—
  - (a) apply as regulations in force for the purposes of the AFIC (Queensland) Code; and

- (b) as so applying may be referred to as the AFIC (Queensland) Regulations.

### **Interpretation of some expressions in the AFIC (Queensland) Code and the AFIC (Queensland) Regulations**

**11.(1)** In the AFIC (Queensland) Code and the AFIC (Queensland) Regulations—

**“Corporations Law”** and **“Corporations Regulations”** have the meaning given by Part 3 of the *Corporations (Queensland) Act 1990*;

**“Financial Institutions Code”** means the Financial Institutions (Queensland) Code;

**“Legislature of this State”** means the Legislative Assembly of Queensland;

**“Magistrate”** means a Stipendiary Magistrate appointed under the *Stipendiary Magistrates Act 1991*;

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

**“this State”** means the State of Queensland.

(2) The *Corporations (Queensland) Act 1990*, and the applicable provisions of Queensland within the meaning of that Act, are prescribed for the purpose of section 39(2) of the AFIC (Queensland) Code.

## **PART 5—POWER TO MAKE REGULATIONS FOR PURPOSES OF AFIC CODE**

### **Interpretation**

**12.(1)** In this Part—

**“the Code”** means the AFIC Code set out in section 21 as in force for the time being.

(2) Words and expressions used in the Code have the same respective



meanings in this Part.

### **General regulation-making power**

**13.(1)** The Governor in Council may make regulations for the purposes of the Code.

**(2)** A regulation may be made only on the recommendation of the Ministerial Council.

### **Specific regulation-making powers**

**14.(1)** A regulation may make provision with respect to—

- (a) the keeping of registers and records by AFIC; and
- (b) the lodging or registration of documents, the time and way of submitting documents for lodgment or registration and the requirements with which documents lodged with AFIC must comply; and
- (c) prescribing or approving forms for the purposes of the Code, the method of verifying any information required by or in forms and the completion or preparation of forms in accordance with the directions contained in forms; and
- (d) prescribing fees for the registration or exemption of financial bodies and fees to be paid in relation to any document lodged, filed, registered with or issued by AFIC or the Appeals Tribunal or for any act or service required or authorised to be performed by AFIC or the Appeals Tribunal; and
- (e) prescribing the way in which, the persons by whom, and the directions or requirements in accordance with which, forms used for the purposes of the Code are required or permitted to be signed, prepared or completed and generally regulating the signing, preparation and completion of forms; and
- (f) the matters to be contained in the rules of a special services provider; and
- (g) the summoning of, conduct of, and procedure and voting at

meetings required or authorised under the Code to be held, the number of persons constituting a quorum at a meeting, the sending of notices of meetings to persons entitled to attend meetings, the lodging with AFIC of notices of meetings and of resolutions passed at meetings; and

- (h) the proof of debts of a special services provider, the time within which debts can or may be proved and generally regulating the proving of debts for the purposes of the Code.

**(2)** A regulation may require—

- (a) if a document required by or under the Code to be lodged or given under the Code is required to be verified or certified and no way of verification or certification is prescribed by the Code—that the documents must be verified or certified by statutory declaration or affidavit made by such persons as are prescribed; and
- (b) if no express provision is made in the Code for verification or certification of a document—that the documents must be verified or certified by statutory declaration or affidavit made by such persons as are prescribed.

**(3)** A regulation may provide that, if a document that is required by or under the Code to be lodged with, or given to, AFIC is signed or so lodged or given on behalf of a person by the person's agent duly authorised in writing, there must be—

- (a) lodged or given with; or
- (b) endorsed on; or
- (c) annexed to;

the document, the original or a verified copy of the authority.

**(4)** A regulation may be made—

- (a) creating offences against the regulation; and
- (b) fixing a maximum penalty of a fine of \$25 000 for a contravention of the regulation.

**(5)** A power conferred by this section to make a regulation providing for the imposition of fees may be exercised by providing for all or any of the following matters—

- (a) specific fees;
- (b) maximum or minimum fees;
- (c) scales of fees;
- (d) the reduction, waiver or refund of fees.

### **Saving and transitional regulation-making power**

**15.(1)** A regulation may make provision of a saving or transitional nature consequent on the commencement of the Code or a provision of the Code.

**(2)** If the regulation so provides, it has effect despite any provision of the Code.

## **PART 6—MISCELLANEOUS**

### **Action to be taken by Premier if provided with a report under section 49(6) of AFIC (Queensland) Code**

**16.(1)** If the Premier is provided with a report under section 49(6) of the AFIC (Queensland) Code, the Premier must provide AFIC with a response to the report within 14 days of its receipt by the Premier.

**(2)** If—

- (a) the Premier does not provide AFIC with a response to the report within 14 days of 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 Premier, request the Premier to cause a copy of the report provided with the request to be laid before the Legislative Assembly within 14 days of receipt of the request.

**(3)** The Premier must comply with the request.

**(4)** If, at the time the Premier would otherwise be required to lay a copy of the report before the Legislative Assembly, the Legislative Assembly is not sitting, the Premier must give a copy of the report to the Clerk of the

Parliament.

(5) The Clerk must cause a copy of the report to be laid before the Legislative Assembly on its next sitting day.

(6) For the purposes of its printing and publication, the report is taken to have been laid before the Legislative Assembly, and to have been ordered to be printed by the Legislative Assembly, when it is given to the Clerk.

### **Jurisdiction conferred on Supreme Court**

17. If the financial institutions legislation of another participating State authorises—

- (a) a party to a proceeding before the Appeals Tribunal to appeal to the Supreme Court of Queensland, on a question of law, from a decision of the Tribunal in the proceeding; or
- (b) the Appeals Tribunal, at the request of a party or of its own initiative, to refer a question of law arising in a proceeding before the Tribunal to the Supreme Court of Queensland for decision;

jurisdiction in the matter is conferred on the Supreme Court of Queensland.

### **Statutory Bodies Financial Arrangements Act does not apply**

18. The *Statutory Bodies Financial Arrangements Act 1982* does not apply to AFIC or to any body or fund established under or for the purposes of the financial institutions legislation.

### **Penalty Units Act does not apply**

19. Sections 4, 5, 6 and 7 of the *Penalty Units Act 1985* do not apply to a monetary penalty for which provision is made in the AFIC (Queensland) Code or the AFIC (Queensland) Regulations.

### **Standards**

20.(1) In this section—

“prescribed day” means—

- (a) 1 July 1992; or
- (b) a later day fixed by order in council made on the recommendation of the Ministerial Council.

(2) For the purposes of the Board of AFIC making any standard under Part 4 of the AFIC (Queensland) Code before the prescribed day, the provisions of the Part that require—

- (a) the Board or AFIC to do anything in relation to a State supervisory authority; or
- (b) a State supervisory authority to do anything in relation to a resolution of the Board;

do not apply.

## **PART 7—AFIC CODE**

### **AFIC Code**

**21.** The AFIC Code is as follows—

**[The Australian Financial Institutions Commission Code is reprinted as a separate reprint.]**

## ENDNOTES

### 1 Index to Endnotes

		Page
2	Date to which amendments incorporated . . . . .	12
3	List of legislation . . . . .	12
4	List of annotations . . . . .	13

### 2 Date to which amendments incorporated

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. Accordingly, this reprint includes all amendments that commenced operation before 2 July 1992. Future amendments of the *Australian Financial Institutions Commission Act 1992* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

### 3 List of legislation

#### **Australian Financial Institutions Commission Act 1992 No 8**

date of assent 27 March 1992

s 3, Parts 2, 4 ss 18, s 20 commenced 10 April 1992 (SL No 73 Gaz 10 April 1992 pp 2112–3)

remaining provisions commenced 1 July 1992 (SL No 168 Gaz 26 June 1992 p 2045)

as amended by—

#### **Financial Institutions Legislation Amendment Act 1992 No 11 Parts 1, 2**

date of assent 6 May 1992

commenced 1 July 1992 (SL No 168 Gaz 26 June 1992 p 2045)

## 4 List of annotations

### Key to abbreviations in list of annotations

RA	=	<i>Reprints Act 1992</i>
amd	=	amended
ins	=	inserted
om	=	omitted
renum	=	renumbered
sub	=	substituted
Pt hdg	=	Part heading
Div hdg	=	Division heading
Sdiv hdg	=	Subdivision heading
hdg prec	=	heading preceding
prov hdg	=	provision heading
cl	=	clause
pres	=	present
orig	=	original

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

**Application in Queensland of the AFIC Code)**  
s 9            amd 1992 No 11 Part 2 s 4