

Queensland



AUSTRALIAN FINANCIAL INSTITUTIONS COMMISSION ACT 1992

**Reprinted as in force on 27 July 1994
(includes amendments up to Act No. 27 of 1994)**

Reprint No. 2

**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 27 July 1994. The reprint shows the law as amended by all amendments that commenced on or before that day.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use standard punctuation consistent with current legislative drafting practice (s 27).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A Table of previous reprints is included in the Endnotes.

Also see Endnotes for—

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

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**AUSTRALIAN FINANCIAL
INSTITUTIONS COMMISSION ACT 1992**

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AUSTRALIAN FINANCIAL INSTITUTIONS COMMISSION ACT 1992

[as amended by all amendments that commenced on or before 27 July 19942]

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*³⁻⁵.

Commencement

2. This Act commences on a day to be fixed by proclamation.

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

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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

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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.

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.

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

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AFIC Code

21. The AFIC Code is as follows—

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

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 27 July 1994. Future amendments of the Australian Financial Institutions Commission Act 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Table of previous reprints

Reprint No.	Amendments included	Reprint date
1	Act No. 11 of 1992	1 July 1992

4 List of legislation

Australian Financial Institutions Commission Act 1992 No. 8

date of assent 27 March 1992

s 3, Pts 2, 4 ss 18, 20–21 commenced 10 April 1992 (1992 SL No. 73 Gaz 10 April 1992 pp 2112–3)

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

as amended by—

Financial Institutions Legislation Amendment Act 1992 No. 11 Pts 1–2

date of assent 6 May 1992

Pt 1 commenced on date of assent

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

Financial Institutions Legislation Amendment Act 1994 No. 27 Pts 1, 4

date of assent 28 June 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1994 (1994 SL No. 222)

5 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

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 s 4

Jurisdiction conferred on Supreme Court

s 17 om 1994 No. 27 s 69

Penalty Units Act does not apply

s 19 om 1994 No. 27 s 70