



Financial Sector Legislation Amendment Act (No. 1) 2000

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**An Act to amend laws in connection with the
reform of the financial sector, and for related
purposes**

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An Act to amend laws in connection with the reform of the financial sector, and for related purposes

[Assented to 21 December 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Financial Sector Legislation
Amendment Act (No. 1) 2000*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the 28th day after the day on which it receives the Royal Assent.

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- (2) Item 21 of Schedule 1 commences on the day on which this Act receives the Royal Assent.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Actuarial services provided by APRA

- (1) APRA is taken to have had the function of providing actuarial services for the period commencing on 1 July 1998 and ceasing at the end of the day on which the Australian Government Actuary ceases to be a part of APRA.
- (2) Subsection (1) does not mean that APRA did not or does not have the power to provide actuarial services that are incidental to another function of APRA.
- (3) Subsection (1) confers functions and powers to the extent to which they are not in excess of the legislative power of the Commonwealth.
- (4) In this section:

APRA means the Australian Prudential Regulation Authority established by section 7 of the *Australian Prudential Regulation Authority Act 1998*.

5 Compensation for acquisition of property

- (1) If:
- (a) apart from this section, the operation of section 4 would result in the acquisition of property from a person otherwise than on just terms; and
- (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;
- the Commonwealth is liable to pay to the person compensation of a reasonable amount as agreed on between the Commonwealth and the person. If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute

proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the Court determines.

(2) Any damages or compensation recovered or other remedy given in a proceeding that is commenced otherwise than under this section is to be taken into account in assessing compensation payable in a proceeding that is commenced under this section and that arises out of the same event or transaction.

(3) In this section:

acquisition of property and *just terms* have the same respective meanings as in paragraph 51(xxxi) of the Constitution.

Schedule 1—Banking Act 1959

1 After paragraph 11CA(1)(a)

Insert:

- (aa) the body corporate is likely to contravene a prudential regulation or a prudential standard, and such a contravention is likely to give rise to a prudential risk; or

2 After paragraph 11CA(1)(c)

Insert:

- ; or (d) the body corporate is conducting its affairs in an improper or in a financially unsound way.

3 At the end of subsection 11CA(6)

Add “, and the *affairs* of a body corporate include those set out in section 53 of that Law.

4 At the end of subsection 13(1)

Add:

The requirement to supply information may include a requirement to supply books, accounts or documents.

5 Subsection 13(4)

Repeal the subsection, substitute:

APRA’s power to investigate or appoint an investigator if information etc. not provided

- (4) APRA may investigate the affairs of an ADI, or appoint a person to do so, if the ADI fails to comply with a requirement to provide information, books, accounts or documents under this section.

6 Subsection 13A(1)

After “APRA may”, insert “investigate the affairs of an ADI,”.

Note: The heading to subsection 13A(1) is altered by omitting “*or control*” and substituting “, *or investigation or control*”.

7 Subsection 13B(1)

Omit “A person appointed by APRA to investigate”, substitute “An investigator of”.

8 Subsection 13B(1)

Omit “person”, substitute “investigator”.

9 Paragraph 13B(1A)(a)

Repeal the paragraph.

10 Subparagraph 13B(1A)(b)(i)

Omit “person”, substitute “investigator”.

11 At the end of subsection 62(1)

Add:

The requirement to supply information may include a requirement to supply books, accounts or documents.

12 At the end of paragraph 62(1A)(a)

Add “, books, accounts or documents”.

13 Subsection 62(2)

After “information” (first occurring), insert “, books, accounts or documents”.

14 Subsection 62(2)

Omit “information is”, substitute “information, books, accounts or documents are”.

15 Subsections 62(3) and (4)

After “information” (wherever occurring), insert “, books, accounts or documents”.

16 Subsection 62(4)

Omit “is not admissible”, substitute “is not, or are not, admissible”.

16A Section 63

Insert:

- (1AA) If consent has been given under this section to an arrangement, agreement or reconstruction, the Treasurer must arrange for notice of the consent to be published in the *Gazette* as soon as practicable.

16B After subsection 63(3)

Insert:

- “(3A) In making a decision whether to consent to an arrangement, agreement or reconstruction, the Treasurer must take the national interest into account.”.

17 Subsection 63(5)

After “this section”, insert “and section 64”.

18 After section 63

Insert:

64 Conditions on consent to restructure an ADI

- (1) The Treasurer’s consent under subsection 63(1) is subject to the conditions (if any) imposed by the Treasurer on the consent.
- (2) The Treasurer may, by written notice given to the person who has been given the consent:
 - (a) impose conditions, or further conditions, on the consent; or
 - (b) revoke or vary any condition imposed on the consent; or
 - (c) revoke the consent if the Treasurer is satisfied that there has been a contravention of a condition to which the consent is subject.
- (2A) The Treasurer must arrange for a copy of a notice that has been given under subsection (2) to be published in the *Gazette* as soon as practicable.
- (3) The Treasurer’s powers under subsection (2) may be exercised on the Treasurer’s own initiative. The Treasurer’s powers under paragraph (2)(a) or (b) may be exercised on application made to the Treasurer by the person who has been given the consent.

19 Application of new section 64

Section 64 of the *Banking Act 1959* does not apply to a consent given before the commencement of that section.

20 After section 65

Insert:

65A Injunctions

Restraining injunctions

- (1) If a person has engaged, is engaging or is proposing to engage, in conduct that constituted, constitutes or would constitute:
- (a) a contravention of a provision of section 7, 8, 66, 66A or 67, or a condition imposed under section 64; or
 - (b) attempting to contravene the provision or condition; or
 - (c) aiding, abetting, counselling or procuring a person to contravene the provision or condition; or
 - (d) inducing or attempting to induce, whether by threats, promises or otherwise, a person to contravene the provision or condition; or
 - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the provision or condition; or
 - (f) conspiring with others to contravene the provision or condition;

the Federal Court of Australia may grant an injunction in accordance with subsection (2).

- (2) The injunction:
- (a) may restrain the person from engaging in the conduct; and
 - (b) may also require that person to do a particular act or thing, if the Court thinks it desirable to do so.

The Court may grant the injunction on such terms as it thinks appropriate.

- (3) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:
- (a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) whether or not the person has previously engaged in conduct of that kind; and

- (c) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.

Performance injunctions

- (4) If a person has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do an act or thing that the person is required:
 - (a) by a provision of section 7, 8, 66, 66A or 67 to do; or
 - (b) by a condition on a consent given under subsection 63(1);the Court may grant an injunction requiring the person to do that act or thing. It may grant the injunction on such terms as the Court thinks appropriate.
- (5) The power of the Court to grant an injunction requiring a person to do an act or thing may be exercised:
 - (a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
 - (b) whether or not the person has previously refused or failed to do that act or thing; and
 - (c) whether or not there is an imminent danger of substantial damage to any other person if the person refuses or fails to do that act or thing.

Who may apply for an injunction

- (6) The Court may only grant an injunction on the application of:
 - (a) APRA—in all cases; or
 - (b) the Treasurer—in the case of a contravention of a condition imposed under section 64; or
 - (c) ASIC or a member of the ADI—in the case of a contravention of a condition imposed under section 64 that has been imposed in relation to a demutualisation of an ADI.In this subsection, *demutualisation* has the same meaning as in section 63.

Consent injunctions

- (7) If an application for an injunction under subsection (1) or (4) has been made, the Court may, if the Court thinks it appropriate, grant

an injunction by consent of all the parties to the proceedings, whether or not the Court is satisfied that the subsection applies.

Interim injunctions

- (8) The Court may grant an interim injunction pending determination of an application under subsection (1).

Variation or discharge of injunctions

- (9) The Court may discharge or vary an injunction granted under subsection (1), (4) or (7).

Damages undertakings

- (10) APRA, ASIC and the Treasurer cannot be required, as a condition of granting an interim injunction, to give an undertaking as to damages.

Damages orders

- (11) If the Court has power under this section to grant an injunction restraining a person from engaging in particular conduct, or requiring a person to do a particular act or thing, the Court may, either in addition to or in substitution for the grant of the injunction, order that person to pay damages to any other person.
- (12) The powers conferred on the Court by this section are in addition to any other of its powers, and do not derogate from its other powers.

21 After subsection 69(11A)

Insert:

- (11B) The Treasurer may, by instrument in writing, delegate any of his or her functions or powers under this section to:
- (a) a Commonwealth authority for which the Treasurer is the responsible Minister; or
 - (b) a member, or staff member, of such an authority.

In this section, *Commonwealth authority* and *responsible Minister* have the respective meanings given by the *Commonwealth Authorities and Companies Act 1997*.

(11C) The reference to the Treasurer in paragraph (3AA)(a) is to be read as including a reference to the authority or person to whom the Treasurer has delegated his or her function under subsection (3).

Schedule 2—Reserve Bank Act 1959

1 Subsection 5(1) (definition of *officer of the Reserve Bank Service*)

Repeal the definition.

2 Subsection 5(1) (definition of *officer or officer of the Bank*)

Repeal the definition.

3 Subsection 5(1)

Insert:

staff member of the Reserve Bank Service means:

- (a) a person appointed by the Bank under section 67; or
- (b) a person engaged by the Bank under section 68.

4 Subsection 14(6) (paragraph (a) of the definition of *official*)

Repeal the paragraph, substitute:

- (a) a staff member of the Reserve Bank Service; or

5 Subsection 25B(1)

Omit “an officer”, substitute “a staff member”.

6 Paragraph 25L(1)(b)

Omit “an officer”, substitute “a staff member”.

7 Subsection 37(1)

Omit “an officer of the Bank”, substitute “a staff member of the Reserve Bank Service”.

8 Sections 66 to 69

Repeal the sections, substitute:

66 The Reserve Bank Service

The persons appointed, engaged or assisting the Bank under this Part constitute the Reserve Bank Service.

67 Appointment of staff

- (1) The Bank may appoint such staff as the Bank considers necessary for the performance of its functions.
- (2) The terms and conditions of appointment (including as to remuneration) are to be determined by the Bank.

68 Consultants and other people engaged to perform services

- (1) The Bank may engage consultants, or other people, that are suitably qualified to provide advice to it or perform services for it.
- (2) The terms and conditions of engagement (including as to remuneration) are to be determined by the Bank.

9 Transitional provision for staff of the Reserve Bank

- (1) A person appointed as an officer or a temporary or casual employee under Part VII of the *Reserve Bank Act 1959* as in force immediately before the commencement of this item and whose appointment is in force immediately before that commencement, is taken to have been appointed as a member of the Reserve Bank Service under section 67 of that Act as in force immediately after the commencement of this item.
- (2) The rights and entitlements of a person covered by subitem (1) are not affected merely because they cease to be appointed under Part VII of the *Reserve Bank Act 1959* as in force immediately before the commencement of this item and are taken to have been appointed under section 67 of that Act as in force immediately after the commencement of this item.

10 Sections 71 and 73

Repeal the sections.

11 Subsection 79A(1) (paragraphs (b) and (c) of the definition of officer)

Repeal the paragraphs, substitute:

- (b) a staff member of the Reserve Bank Service; or

12 Paragraph 79A(5)(b)

Omit “an officer of the Reserve Bank”, substitute “a staff member of the Reserve Bank Service”.

13 Paragraphs 79A(6)(b) and (c)

Repeal the paragraphs, substitute:

(b) a staff member of the Reserve Bank Service;

14 Subsection 79B(1)

Omit “an officer, agent or other person carrying on any business of the Reserve Bank”, substitute “a staff member of the Reserve Bank Service, or an agent or other person carrying on any business of the Reserve Bank,”.

Schedule 3—Superannuation Industry (Supervision) Act 1993

Part 1—Amendments relating to enforcement

1 Subparagraph 6(1)(e)(iv)

Omit “(other than sections 126B to 126F)”.

2 Subsection 10(1) (paragraph (b) of the definition of *approved guarantee*)

Repeal the paragraph.

3 Subsection 10(1) (definition of *approved non-ADI financial institution*)

Repeal the definition.

4 Subsection 10(1) (paragraphs (m) and (n) of the definition of *reviewable decision*)

Repeal the paragraphs, substitute:

- (m) a decision of APRA under section 92 refusing to grant an arrangement approval or a trustee’s subsection 92(5) approval; or
- (n) a decision of APRA under section 92 revoking an arrangement approval or a trustee’s subsection 92(5) approval; or

5 Subsection 10(1) (after paragraph (p) of the definition of *reviewable decision*)

Insert:

- (pa) a decision of the Regulator under subsection 120A(1), (2) or (3) to disqualify an individual; or
- (pb) a decision of the Regulator under subsection 120A(5) refusing to revoke the disqualification of an individual; or

6 Subsection 10(1) (paragraphs (r), (ra) and (rb) of the definition of *reviewable decision*)

Omit “APRA”, substitute “the Regulator”.

7 Paragraph 71(1)(ba)

Repeal the paragraph.

8 At the end of subsection 92(4)

Add:

- ; or (c) an arrangement in relation to the management and control of the fund that:
 - (i) has been agreed to between a majority of the members of the fund and the employer, or employers, of those members; and
 - (ii) is approved by APRA in writing.

9 After subsection 92(4)

Insert:

Arrangement approval

- (4A) When deciding whether or not to approve an arrangement under subparagraph (4)(c)(ii), APRA must have regard to any written guidelines determined by APRA under this subsection.
- (4B) The approval of the arrangement given under subparagraph (4)(c)(ii) (the *arrangement approval*):
 - (a) is subject to the conditions set out in the approval (if any); and
 - (b) may be revoked by APRA by written notice given to the trustee.
- (4C) Without limiting paragraph (4B)(b), APRA may revoke an arrangement approval if:
 - (a) APRA is satisfied that there has been a contravention of a condition to which the approval is subject; or
 - (b) the trustee applies in writing for its revocation.
- (4D) APRA may vary or revoke the conditions of the arrangement approval by written notice given to the trustee.

10 Paragraph 92(5)(a)

Repeal the paragraph, substitute:

- (a) there is a single trustee of the fund who is a constitutional corporation; and

11 Paragraph 92(5)(c)

Repeal the paragraph, substitute:

- (c) the trustee is an approved trustee (under section 26); and
- (ca) the trustee's approval specifies that the trustee is also approved for the purposes of this subsection, either generally or in relation to the fund or a class of funds to which the fund belongs; and

12 Subsections 92(6), (7), (8), (9), (10), (11) and (12)

Repeal the subsections, substitute:

Trustee's subsection 92(5) approval

- (6) When deciding whether or not to specify in a trustee's approval (under section 26) that the trustee is also approved for the purposes of subsection 92(5), APRA must have regard to any written guidelines determined by APRA under this subsection.
- (7) The approval of the trustee for the purposes of subsection 92(5) (the *trustee's subsection 92(5) approval*):
 - (a) is subject to the conditions set out in the approval (if any); and
 - (b) may be revoked by APRA by written notice given to the trustee.
- (8) Without limiting paragraph (7)(b), APRA may revoke a trustee's subsection 92(5) approval if:
 - (a) APRA is satisfied that there has been a contravention of a condition to which the approval is subject; or
 - (b) the trustee applies in writing for its revocation.
- (9) For the purposes of sections 27A, 27B, 27C, 27D, 27E and 29, the trustee's subsection 92(5) approval and any conditions to which it is subject are to be treated as conditions to which the trustee's approval under section 26 is subject.

13 At the end of subsection 120(1)

Add:

- ; or (c) the Regulator has disqualified the individual under section 120A.

14 After section 120

Insert:

120A The Regulator may disqualify individuals

- (1) The Regulator may disqualify an individual if satisfied that:
 - (a) the person has contravened this Act on one or more occasions (whether before or after the commencement of this section); and
 - (b) the nature or seriousness of the contravention or contraventions, or the number of contraventions, provides grounds for disqualifying the individual.
- (2) The Regulator may disqualify an individual who is, or was (including before the commencement of this section), a responsible officer of a trustee, investment manager or custodian (the *body corporate*) if satisfied that:
 - (a) the body corporate has contravened this Act on one or more occasions (whether before or after the commencement of this section); and
 - (b) at the time of one or more of the contraventions, the individual was a responsible officer of the body corporate; and
 - (c) in respect of the contravention or contraventions that occurred while the individual was a responsible officer of the body corporate—the nature or seriousness of it or them, or the number of them, provides grounds for the disqualification of the individual.
- (3) The Regulator may disqualify an individual if satisfied that the individual is otherwise not a fit and proper person to be a trustee, investment manager or custodian, or a responsible officer of a body corporate that is a trustee, investment manager or custodian.
- (4) A disqualification takes effect on the day on which it is made.
- (5) The Regulator may revoke a disqualification on application by the disqualified individual or on its own initiative. A revocation takes effect on the day on which it is made.

(6) The Regulator must give the individual written notice of a disqualification, revocation of a disqualification or a refusal to revoke a disqualification.

(7) The Regulator must cause particulars of a notice given under subsection 120A(6) or 344(6) (result of internal review) to be published in the *Gazette* as soon as practicable.

15 Subsections 126(1) and (2)

Omit “(other than a self managed superannuation fund)”.

16 Subsections 126A(1) and (2)

Omit “(other than a self managed superannuation fund)”.

17 Subsections 126B(1) and (3)

Omit “APRA” (wherever occurring), substitute “the Regulator”.

18 Paragraph 126B(3)(e)

Omit “APRA’s”, substitute “the Regulator’s”.

19 Subsection 126B(4)

Omit “APRA” (first occurring), substitute “The Regulator”.

20 Subsection 126B(4)

Omit “APRA” (second occurring), substitute “the Regulator”.

21 Paragraph 126B(6)(b)

Omit “APRA”, substitute “the Regulator”.

22 Subsection 126B(7)

Omit “APRA” (first occurring), substitute “The Regulator”.

23 Subsection 126B(7)

Omit “APRA” (second occurring), substitute “the Regulator”.

24 Subsections 126C(1) to (5)

Omit “APRA” (wherever occurring), substitute “the Regulator”.

25 At the end of subsection 126D(1)

Add:

Note: APRA's power under this subsection does not extend to self managed superannuation funds, see subsection 6(1).

26 After subsection 126D(1)

Insert:

(1A) If, having regard to any of the following:

- (a) the offence to which the application relates;
- (b) the time that has passed since the applicant committed the offence;
- (c) the applicant's age when the applicant committed the offence;
- (d) the orders made by the court in relation to the offence;
- (e) any other relevant matter;

the Commissioner of Taxation is satisfied that the applicant is highly unlikely to:

- (f) contravene this Act; and
- (g) do anything that would result in a self managed superannuation fund not complying with this Act;

the Commissioner must, by notice in writing given to the applicant, make a declaration waiving the applicant's status as a disqualified person for the purposes of this Part.

Note: The Commissioner's power under this subsection only extends to self managed superannuation funds, see subsection 6(1).

27 Subsections 126D(3) and (4)

Omit "APRA" (wherever occurring), substitute "the Regulator".

28 Paragraphs 126E(2)(a) and (b) and (3)(e)

Omit "APRA", substitute "the Regulator".

29 Subsection 126F(1)

Omit "APRA" (wherever occurring), substitute "the Regulator".

Note: The heading to section 126F is altered by omitting "APRA's" and substituting "The Regulator's".

30 Subsections 126F(2) and (3)

Omit "APRA" (first occurring), substitute "The Regulator".

31 Subsections 126F(2) and (3)

Omit “APRA” (wherever occurring, other than the first occurrence), substitute “the Regulator”.

32 Subsections 126F(4) and (5)

Omit “APRA”, substitute “the Regulator”.

33 At the end of Part 16

Add:

131B Offence of holding oneself out as an actuary or auditor

- (1) A person is guilty of an offence if:
- (a) the person holds themselves out as an actuary; and
 - (b) the person is not an actuary.

Maximum penalty: 50 penalty units.

- (2) A person is guilty of an offence if:
- (a) the person holds themselves out as an approved auditor; and
 - (b) the person is not an approved auditor.

Maximum penalty: 50 penalty units.

- (3) Subsections (1) and (2) are offences of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

34 After section 141

Insert:

141A Property vested in acting trustee—former trustee’s obligations relating to books, identification of property and transfer of property

- (1) This section applies if:
- (a) after the commencement of this section, the Regulator makes an order under subsection 138(1) or (2) vesting the property of a superannuation entity in an acting trustee; or

- (b) the Regulator made such an order before the commencement of this section and that order is still in force when this section commences.
- (2) In this section, the person in whom the property was vested immediately before the order was made is referred to as the **former trustee**.
- (3) The former trustee is guilty of an offence:
- (a) if paragraph (1)(a) applies—if the former trustee does not, within 14 days of the order being made, give the acting trustee all books relating to the entity’s affairs that are in the former trustee’s possession, custody or control; or
 - (b) if paragraph (1)(b) applies—if the former trustee does not, within 14 days of the commencement of this section, give the acting trustee all books relating to the entity’s affairs that are in the former trustee’s possession, custody or control.

Maximum penalty: 50 penalty units.

- (4) The acting trustee may, by notice in writing to the former trustee, require the former trustee, so far as the former trustee can do so:
- (a) to identify property of the entity; and
 - (b) to explain how the former trustee has kept account of that property.
- (5) The acting trustee may, by notice in writing to the former trustee, require the former trustee to take specified action that is necessary to bring about a transfer of specified property of the entity to the acting trustee.
- (6) The former trustee is guilty of an offence if:
- (a) the acting trustee gives the former trustee a notice under subsection (4) or (5); and
 - (b) the former trustee does not, within 28 days of the notice being given, comply with the requirement in the notice.

Maximum penalty: 50 penalty units.

- (7) Subsections (3) and (6) are offences of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For **strict liability**, see section 6.1 of the *Criminal Code*.

35 At the end of section 253

Add:

- ; and (d) to authorise the Regulator to accept written undertakings and to apply to the Court for an order remedying breaches of such undertakings.

36 After Division 3 of Part 25

Insert:

Division 3A—Regulator may accept and enforce undertakings

262A Acceptance and enforcement of undertakings

- (1) The Regulator may accept a written undertaking given by a person in connection with a matter in relation to which the Regulator has a function or power under this Act.
- (2) The person may withdraw or vary the undertaking at any time, but only with the Regulator's consent.
- (3) If the Regulator considers that the person who gave the undertaking has breached any of its terms, the Regulator may apply to the Court for an order under subsection (4).
- (4) If the Court is satisfied that the person has breached a term of the undertaking, the Court may make all or any of the following orders:
 - (a) an order directing the person to comply with that term of the undertaking;
 - (b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
 - (c) any order that the Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (d) any other order that the Court considers appropriate.

37 Subparagraph 287(2)(a)(ii)

Omit "or".

38 Subparagraph 287(2)(a)(iii)

Repeal the subparagraph.

39 Paragraphs 287(2)(a) and (b)

Omit “, signing the record, or production of the book”, substitute “or signing the record”.

40 Paragraph 287(3)(b)

Omit “or produced the book, as the case may be”.

41 Paragraph 287(3)(c)

Repeal the paragraph.

42 Application provisions for immunities relating to production of books

- (1) Subsections 287(2) and (3) of the *Superannuation Industry (Supervision) Act 1993*, as in force after the commencement of item 39, apply in relation to a requirement made, as mentioned in paragraph 287(2)(a) of that Act as so in force, on or after that commencement.
- (2) Subsections 287(2) and (3) of the *Superannuation Industry (Supervision) Act 1993*, as in force before that commencement, continue to apply in relation to a requirement made, as mentioned in paragraph 287(2)(a) of that Act as so in force, before that commencement.

43 After section 324

Insert:

324A Time for instituting criminal proceedings

Despite anything in any other law, proceedings for an offence against a provision of this Act may be instituted within the period of 5 years after the act or omission alleged to constitute the offence or, with the Minister’s consent, at any later time.

44 Subsection 344(12)

After “(d),”, insert “(pa), (pb),”.

Part 2—Amendments relating to application of Criminal Code

Division 1—Substantive amendments

45 At the end of Division 1 of Part 1

Add:

9A Application of the *Criminal Code*

- (1) Chapter 2 (except Part 2.5) of the *Criminal Code* applies to all offences against this Act, other than offences against the following provisions:
 - (a) subsections 34(2), 68(1), 101(2), 102(4), 129(3B), 129(7), 130(2B), 130(6), 141(2) and 142(3);
 - (b) section 145;
 - (c) subsections 152(2) and (3), 153(1) and (2), 157(1), 157A(2) and 158(1);
 - (d) section 161;
 - (e) subsections 163(1), 184(1), 202(1), 278(3) and 282(2);
 - (f) section 285;
 - (g) subsection 288(4);
 - (h) sections 306, 307 and 308;
 - (i) subsections 313(12), 314(4), 357(5), 359(5), 361(7), 363(6), 364(4) and 366(8).
- (2) Section 17 does not apply in relation to an offence against this Act to which the *Criminal Code* applies.

46 Subsection 36(2)

Repeal the subsection, substitute:

- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1).

Maximum penalty: 50 penalty units.
- (2A) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 25 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

47 Subsection 36A(7)

Repeal the subsection, substitute:

- (7) A person is guilty of an offence if the person contravenes this section.

Maximum penalty: 50 penalty units.

- (7A) A person is guilty of an offence if the person contravenes this section. This is an offence of strict liability.

Maximum penalty: 25 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

48 Subsection 64(3)

Repeal the subsection, substitute:

- (3) The employer is guilty of an offence if the employer contravenes subsection (2).

Maximum penalty: 100 penalty units.

- (3A) The employer is guilty of an offence if the employer contravenes subsection (2). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

49 Subsection 103(3)

Repeal the subsection, substitute:

- (3) A person is guilty of an offence if the person contravenes subsection (1), (2) or (2A). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

50 Subsection 104(2)

Repeal the subsection, substitute:

- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

51 Subsection 105(2)

Repeal the subsection, substitute:

- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

52 Subsection 107(3)

Repeal the subsection, substitute:

- (3) The trustee is guilty of an offence if the trustee contravenes subsection (2).

Maximum penalty: 100 penalty units.

- (4) The trustee is guilty of an offence if the trustee contravenes subsection (2). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

53 Subsection 108(3)

Repeal the subsection, substitute:

- (3) The trustee is guilty of an offence if the trustee contravenes subsection (2).

Maximum penalty: 100 penalty units.

- (4) The trustee is guilty of an offence if the trustee contravenes subsection (2). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

54 Subsection 111(3)

Repeal the subsection, substitute:

- (3) The trustee is guilty of an offence if the trustee contravenes subsection (1) or (2).

Maximum penalty: 100 penalty units.

- (4) The trustee is guilty of an offence if the trustee contravenes subsection (1) or (2). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

55 Subsection 112(5)

Repeal the subsection, substitute:

- (5) A person is guilty of an offence if the person contravenes this section.

Maximum penalty: 100 penalty units.

- (6) A person is guilty of an offence if the person contravenes this section. This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

56 Subsections 113(1) and (2)

Repeal the subsections, substitute:

- (1) For each year of income, the trustee of a superannuation entity must appoint an approved auditor to give the trustee a report, in the approved form, of the operations of the entity for that year. The appointment must be made within whichever of the periods set out in the regulations that apply to the entity.
- (1A) The trustee must give to the auditor any document that the auditor requests, in writing, be given to him or her. The trustee must do so within 14 days of the request. Only documents that are relevant to the preparation of the report may be requested.
- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1) or (1A).

Maximum penalty: Imprisonment for 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (2A) The trustee is guilty of an offence if the trustee contravenes subsection (1) or (1A). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

57 Subsections 113(4) and (5)

Repeal the subsections, substitute:

- (4) The auditor must give the report to the trustee within the specified period after the end of the year of income. The period is specified in the regulations.

- (5) The auditor is guilty of an offence if the auditor contravenes subsection (4).

Maximum penalty: Imprisonment for 6 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (6) The auditor is guilty of an offence if the auditor contravenes subsection (4). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

58 Subsection 122(2)

Repeal the subsection, substitute:

- (2) The investment manager is guilty of an offence if the investment manager contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

59 Subsection 124(2)

Repeal the subsection, substitute:

- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

60 Subsection 154(2)

Repeal the subsection, substitute:

- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1).

Maximum penalty: 100 penalty units.

- (2A) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

61 Subsection 169(3)

Repeal the subsection, substitute:

- (3) The trustee is guilty of an offence if the trustee contravenes subsection (1) or (2).

Maximum penalty: Imprisonment for 1 year.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (4) The trustee is guilty of an offence if the trustee contravenes subsection (1) or (2). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

62 Subsections 184(2) and (3)

Repeal the subsections, substitute:

Defences

- (2) Subsection (1) does not apply if the defendant proves that one of the exceptions to the insider trading rules in sections 180 to 183 apply to the defendant.
- (3) In the case of the defendant having entered into, or procured another person to enter into, a transaction or agreement at a time when certain information was in the defendant's possession, subsection (1) does not apply if the defendant proves that:
 - (a) the information came into the defendant's possession solely as a result of the information having been made known in a way that would, or would be likely to, bring it to the attention of persons who commonly invest in superannuation interests of a kind whose price or value might be affected by the information; or
 - (b) the other party to the transaction or agreement knew, or ought reasonably to have known, of the information before entering into the transaction or agreement.

62A Paragraph 252C(2)(c)

Omit "or (7)", substitute ", (7), (7A) or (7B)".

62B After subsection 252C(7)

Insert:

- (7A) It is not an offence if the information, or the information contained in the document, as the case may be, is all or any of the following:
 - (a) information identifying a particular self-managed superannuation fund (other than information disclosing the tax file number of the fund);
 - (b) information that is reasonably necessary to enable members of the public to contact persons who perform functions in relation to a particular self-managed superannuation fund;
 - (c) a statement of the Commissioner's opinion as to whether or not a particular self-managed superannuation fund is a complying superannuation fund in relation to a particular year of income for the purposes of Division 2 of Part 5.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7A) (see subsection 13.3(3) of the *Criminal Code*).

(7B) If information referred to in subsection (7A) is disclosed to the Registrar of the Australian Business Register established under section 24 of the *A New Tax System (Australian Business Number) Act 1999*, the Registrar may enter the information in that Register.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7B) (see subsection 13.3(3) of the *Criminal Code*).

63 Subsection 254(4)

Repeal the subsection, substitute:

(4) The trustee is guilty of an offence if the trustee contravenes subsection (1).

Maximum penalty: 50 penalty units.

(5) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 25 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

64 At the end of section 257

Add:

(2) The trustee must give a copy of the notice to the individual or to each member of the committee (whichever is relevant) within 3 days of the appointment of the individual or member.

65 Subsection 260(2)

Repeal the subsection, substitute:

(2) A person appointed to investigate and make a report under subsection 257(1) (whether as an individual or as a member of a committee) is guilty of an offence if the report is not given to APRA:

- (a) before the expiry of the deadline; or
- (b) within such further time as APRA, by written notice, allows.

Maximum penalty: 100 penalty units.

- (3) A person appointed to investigate and make a report under subsection 257(1) (whether as an individual or as a member of a committee) is guilty of an offence if the report is not given to APRA:

- (a) before the expiry of the deadline; or
(b) within such further time as APRA, by written notice, allows.

This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

66 Section 262

Repeal the section, substitute:

262 Trustee must comply with requirements

- (1) The trustee is guilty of an offence if the trustee contravenes a requirement imposed on the trustee by or under section 257, 258 or 259.

Maximum penalty: 100 penalty units.

- (2) The trustee is guilty of an offence if the trustee contravenes a requirement imposed on the trustee by or under section 257, 258 or 259. This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

67 Subsection 299C(3)

Repeal the subsection, substitute:

- (3) The employer is guilty of an offence if the employer contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 10 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

68 Subsection 299F(4)

Repeal the subsection, substitute:

- (4) The trustee is guilty of an offence if the trustee contravenes the requirement to make the request.

Maximum penalty: 100 penalty units.

- (4A) The trustee is guilty of an offence if the trustee contravenes the requirement to make the request. This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

69 Subsection 299G(4)

Repeal the subsection, substitute:

- (4) The trustee is guilty of an offence if the trustee contravenes the requirement to make the request.

Maximum penalty: 100 penalty units.

- (4A) The trustee is guilty of an offence if the trustee contravenes the requirement to make the request. This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

70 Subsection 299H(6)

Repeal the subsection, substitute:

- (6) The trustee is guilty of an offence if the trustee contravenes a requirement of this section.

Maximum penalty: 100 penalty units.

- (7) The trustee is guilty of an offence if the trustee contravenes a requirement of this section. This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

71 Subsection 299J(6)

Repeal the subsection, substitute:

- (6) The trustee is guilty of an offence if the trustee contravenes a requirement of this section.

Maximum penalty: 100 penalty units.

- (7) The trustee is guilty of an offence if the trustee contravenes a requirement of this section. This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

72 Subsection 299K(6)

Repeal the subsection, substitute:

- (6) The trustee is guilty of an offence if the trustee contravenes a requirement of this section.

Maximum penalty: 100 penalty units.

- (7) The trustee is guilty of an offence if the trustee contravenes a requirement of this section. This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

73 Subsection 299L(6)

Repeal the subsection, substitute:

- (6) The trustee is guilty of an offence if the trustee contravenes a requirement of this section.

Maximum penalty: 100 penalty units.

- (7) The trustee is guilty of an offence if the trustee contravenes a requirement of this section. This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

74 Subsection 299M(4)

Repeal the subsection, substitute:

- (4) The trustee is guilty of an offence if the trustee contravenes subsection (2).

Maximum penalty: 100 penalty units.

- (5) The trustee is guilty of an offence if the trustee contravenes subsection (2). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

75 Subsection 299Y(2)

Repeal the subsection, substitute:

- (2) The trustee is guilty of an offence if the trustee contravenes subsection (1).

Maximum penalty: 100 penalty units.

- (3) The trustee is guilty of an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Maximum penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

76 Subsection 347A(6)

Repeal the subsection, substitute:

- (6) The trustee is guilty of an offence if the trustee contravenes subsection (5).

Maximum penalty: 50 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Division 2—Technical amendments

77 After subsection 18(7B)

Insert:

- (7BA) Subsection (7B) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

78 At the end of section 29

Add:

- (4) Subsection (3) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

79 After subsection 63(7)

Insert:

- (7A) Subsection (7) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

80 After subsection 63(10)

Insert:

- (10A) Subsection (10) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

81 At the end of section 121

Add:

(4) Subsection (3) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

82 At the end of subsection 123(1)

Add:

Note: A defendant bears an evidential burden in relation to the matters in paragraphs (1)(a) and (b) (see subsection 13.3(3) of the *Criminal Code*).

83 At the end of section 123

Add:

(6) Subsections (4) and (5) are offences of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

84 After subsection 140(3)

Insert:

(3A) Subsection (3) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

85 At the end of subsection 163(1)

Add:

Note: A defendant bears an evidential burden in relation to the matters in paragraphs (1)(a) and (b) (see subsection 13.3(3) of the *Criminal Code*).

86 At the end of section 163

Add:

(3) Subsection (2) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

87 After subsection 201(4)

Insert:

(4A) Paragraph (4)(a) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

88 At the end of section 265

Add:

(4) Subsection (3) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

89 After subsection 303(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

90 At the end of subsection 303(2)

Add:

Note: A defendant bears a legal burden in relation to the matters in subsection (2) (see section 13.4 of the *Criminal Code*).

91 After subsection 331(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

Schedule 3 Superannuation Industry (Supervision) Act 1993
Part 2 Amendments relating to application of Criminal Code

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

92 After subsection 377(3)

Insert:

(3A) Subsection (3) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

Schedule 4—Miscellaneous amendments

Australian Prudential Regulation Authority Act 1998

1 Subsection 3(1) (definition of *officer of the Reserve Bank Service*)

Omit “an officer”, substitute “a person”.

1A Paragraph 56(2)(c)

Omit “or (7B)”, substitute “, (7B) or (7C)”.

1B After subsection 56(7B)

Insert:

(7C) If information referred to in subsection (7A) or paragraph (7B)(a) that relates to a body that is, or has at any time been, regulated by APRA under the *Superannuation Industry (Supervision) Act 1993* is disclosed to the Registrar of the Australian Business Register established under section 24 of the *A New Tax System (Australian Business Number) Act 1999*, the Registrar may enter the information in that Register.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7C) (see subsection 13.3(3) of the *Criminal Code*).

Financial Corporations Act 1974

2 Paragraph 22A(1)(b)

Omit “a member”, substitute “a staff member”.

3 Subsection 22A(6) (definition of *Reserve Bank Service*)

Omit “subsection 66(2)”, substitute “section 66”.

Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999

4 Paragraph 3(2)(e)

Omit “subsections (12), (14) and (15)”, substitute “subsection (12)”.

5 Subsections 3(14) and (15)

Repeal the subsections.

Note: These subsections have become redundant because the conditions for their operation have failed.

Retirement Savings Accounts Act 1997

6 At the end of section 8

Add:

- (2) However, an *RSA*, or *retirement savings account*, can only be provided by a life insurance company as a policy.

Note: Section 16 provides that *policy* has the same meaning as in the *Life Insurance Act 1995*.

Superannuation (Resolution of Complaints) Act 1993

7 Subsection 7(1)

Omit “nor more than 10”.

[Minister’s second reading speech made in—
House of Representatives on 13 April 2000
Senate on 26 June 2000]

(58/00)
