

Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021

No. 64, 2021

An Act to deal with consequential and transitional matters in connection with the *Financial Regulator Assessment Authority Act 2021*, and for related purposes

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Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021

No. 64, 2021

An Act to deal with consequential and transitional matters in connection with the *Financial Regulator Assessment Authority Act 2021*, and for related purposes

[*Assented to 29 June 2021*]

The Parliament of Australia enacts:

1 Short title

This Act is the *Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions)* *Act 2021*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 29 June 2021 |
| 2. Schedule 1 | The later of:  (a) the start of the day after this Act receives the Royal Assent; and  (b) the commencement of the *Financial Regulator Assessment Authority Act 2021*.  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 1 July 2021  (paragraph (b) applies) |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Main amendments

Australian Prudential Regulation Authority Act 1998

1 Subsection 56(1)

Insert:

***Financial Regulator Assessment Authority official*** means an entrusted person within the meaning of the *Financial Regulator Assessment Authority Act 2021*.

2 Paragraph 56(2)(c)

After “(6),”, insert “(6AA), (6AB),”.

3 After subsection 56(6)

Insert:

(6AA) It is not an offence if the disclosure of protected information or the production of a protected document is to a Financial Regulator Assessment Authority official for the purposes of the performance of the Financial Regulator Assessment Authority’s functions or the exercise of the Financial Regulator Assessment Authority’s powers.

Note: A defendant bears an evidential burden in relation to the matters in subsection (6AA) (see subsection 13.3(3) of the *Criminal Code*).

(6AB) It is not an offence if:

(a) the disclosure of protected information or the production of a protected document is by a person who is or has been a Financial Regulator Assessment Authority official; and

(b) the person acquired the information or accessed the document in the course of the person’s duties in relation to the Financial Regulator Assessment Authority.

Note 1: A defendant bears an evidential burden in relation to the matters in subsection (6AB) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: Division 3 of Part 4 of the *Financial Regulator Assessment Authority Act 2021* deals with disclosure of information by Financial Regulator Assessment Authority officials.

4 After subsection 56(8)

Insert:

(8A) However, subsection (8) does not prevent a person who is, or has been, a Financial Regulator Assessment Authority official from being required to disclose, or produce a document containing, protected information (within the meaning of the *Financial Regulator Assessment Authority Act 2021*) when it is necessary to do so for the purposes of that Act.

5 After subsection 56(9)

Insert:

(9A) Subsection (9) does not apply if the information is disclosed, or the document is produced, in accordance with subsection (6AA) or (6AB).

6 Paragraph 56(12)(a)

After “(6),”, insert “(6AA),”.

Australian Securities and Investments Commission Act 2001

7 After paragraph 127(2A)(b)

Insert:

(ba) the Financial Regulator Assessment Authority;

8 In the appropriate position

Insert:

Part 34—Application provision relating to Schedule 1 to the Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021

333 Application—confidentiality

The amendment of section 127 made by Part 1 of Schedule 1 to the *Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions)* *Act 2021* applies in relation to any use or disclosure of information after the commencement of that Part, whether ASIC obtained the information before or after that commencement.

Banking Act 1959

9 After subparagraph 11CM(1)(a)(ii)

Insert:

(iia) a Financial Regulator Assessment Authority official (within the meaning of that subsection); or

Insurance Act 1973

10 After subparagraph 109E(1)(a)(ii)

Insert:

(iia) a Financial Regulator Assessment Authority official (within the meaning of that subsection); or

11 Paragraph 109E(1)(c)

After “(6),”, insert “(6AA), (6AB),”.

Life Insurance Act 1995

12 After subparagraph 231E(1)(a)(ii)

Insert:

(iia) a Financial Regulator Assessment Authority official (within the meaning of that subsection); or

13 Paragraph 231E(1)(c)

After “(6),”, insert “(6AA), (6AB),”.

14 Application of amendments

The amendments of the *Australian Prudential Regulation Authority Act 1998*, the *Banking Act 1959*, the *Insurance Act 1973* and the *Life Insurance Act 1995* made by this Part apply in relation to:

(a) any disclosure of information after the commencement of this item, whether the information was disclosed or obtained under, or for the purposes of, a prudential regulation framework law before or after that commencement; and

(b) any production of a document after the commencement of this item, whether the document was given or produced under, or for the purposes of, a prudential regulation framework law before or after that commencement.

Part 2—Other amendments

Australian Prudential Regulation Authority Act 1998

15 At the end of section 55B

Add:

(6) If the Chair makes a determination under subsection (4), the Chair must give the following to the Financial Regulator Assessment Authority as soon as practicable:

(a) a copy of the determination;

(b) a written statement of the reasons why the Chair made the determination.

16 Transitional provision—determinations made before commencement

If the Chair makes a determination under subsection 55B(4) of the *Australian Prudential Regulation Authority Act 1998* before the commencement of this Part, the Chair must give the following to the Financial Regulator Assessment Authority as soon as practicable after the commencement of this Part:

(a) a copy of the determination;

(b) a written statement of the reasons why the Chair made the determination.

Australian Securities and Investments Commission Act 2001

17 At the end of section 122C

Add:

(6) If the Chairperson makes a determination under subsection (4), the Chairperson must give the following to the Financial Regulator Assessment Authority as soon as practicable:

(a) a copy of the determination;

(b) a written statement of the reasons why the Chairperson made the determination.

18 Transitional provision—determinations made before commencement

If the Chairperson makes a determination under subsection 122C(4) of the *Australian Securities and Investments Commission Act 2001* before the commencement of this Part, the Chairperson must give the following to the Financial Regulator Assessment Authority as soon as practicable after the commencement of this Part:

(a) a copy of the determination;

(b) a written statement of the reasons why the Chairperson made the determination.

[*Minister’s second reading speech made in—*

*House of Representatives on 13 May 2021*

*Senate on 15 June 2021*]

(46/21)