



# **Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023**

**No. 45, 2023**

**An Act to provide for the collection of levy imposed  
on persons relating to the AFCA scheme, and for  
related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



---

# Contents

<b>Part 1—Preliminary</b>	2
1 Short title .....	2
2 Commencement .....	2
3 Simplified outline of this Act .....	2
4 Act binds the Crown .....	3
5 External Territories .....	3
6 Extraterritorial application .....	3
7 Definitions .....	3
<b>Part 2—Pre-imposition information and estimates of claims and costs</b>	6
8 Information required from levy payers before a levy period .....	6
9 Initial estimate of claims, fees and costs for a levy period .....	7
10 Revised estimate of claims, fees and costs for a levy period .....	11
11 Initial estimate of unpaid claims, and AFCA’s unpaid fees, for complaints given to AFCA before the accumulation recovery day .....	11
12 Revised estimate of unpaid claims, and AFCA’s unpaid fees, for complaints given to AFCA before the accumulation recovery day .....	12
<b>Part 3—Payment of levy, late payment penalty and shortfall penalty</b>	13
13 When levy due for payment .....	13
14 Late payment penalty .....	14
15 Default notice .....	14
16 Shortfall penalty .....	15
17 Payment of levy, late payment penalty and shortfall penalty .....	16
18 Waiver of levy, late payment penalty and shortfall penalty .....	16
19 Recovery of levy, late payment penalty and shortfall penalty .....	16
20 Substantiation notices .....	17
21 Compliance with substantiation notice .....	17
22 Failure to comply with substantiation notice .....	18
23 Exempting laws ineffective .....	18
24 Internal review of certain decisions .....	19
25 Administrative Appeals Tribunal review of certain decisions .....	20
<b>Part 4—Other matters</b>	21
26 Treatment of partnerships .....	21

---

---

27	Treatment of unincorporated associations .....	21
28	Treatment of RSE licensees.....	22
29	Treatment of multiple trustees.....	22
30	Approved forms.....	23
31	Regulations.....	24



# **Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023**

**No. 45, 2023**

---

---

**An Act to provide for the collection of levy imposed  
on persons relating to the AFCA scheme, and for  
related purposes**

*[Assented to 3 July 2023]*

The Parliament of Australia enacts:

---

*No. 45, 2023*

*Financial Services Compensation Scheme of Last Resort Levy  
(Collection) Act 2023*

*1*

## Part 1—Preliminary

### 1 Short title

This Act is the *Financial Services Compensation Scheme of Last Resort Levy (Collection) Act 2023*.

### 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. The whole of this Act	At the same time as the <i>Financial Services Compensation Scheme of Last Resort Levy Act 2023</i> commences.  However, the provisions do not commence at all if that Act does not commence.	4 July 2023

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 Simplified outline of this Act

This Act is about the collection of levy imposed by the *Financial Services Compensation Scheme of Last Resort Levy Act 2023*.

Persons on whom levy is to be imposed may be notified that they must provide information to ASIC for a levy period.

There are rules dealing with when information that is required to be given is not given, is unsatisfactory, or is false or misleading.

ASIC must give a notice specifying when levy is due for payment.

Late payment penalty will be payable if levy remains unpaid after it becomes due for payment.

#### **4 Act binds the Crown**

- (1) This Act binds the Crown in right of each of the States, of the Australian Capital Territory and of the Northern Territory. However, it does not bind the Crown in right of the Commonwealth.
- (2) This Act does not make the Crown liable to a pecuniary penalty or to be prosecuted for an offence.

#### **5 External Territories**

This Act extends to every external Territory.

#### **6 Extraterritorial application**

This Act extends to acts, omissions, matters and things outside Australia.

#### **7 Definitions**

In this Act:

***accumulation recovery day*** has the same meaning as in the *Corporations Act 2001*.

Section 7

---

**AFCA** (short for the Australian Financial Complaints Authority) has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

**AFCA's accumulated unpaid fees** has the same meaning as in the *Corporations Act 2001*.

**AFCA scheme** has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

**AFCA's unpaid fees** has the same meaning as in the *Corporations Act 2001*.

**amount** includes a nil amount.

**approved form** has the meaning given by section 30.

**ASIC** means the Australian Securities and Investments Commission.

**capital reserve** means an amount equal to \$5 million to be applied by the CSLR operator for the purposes mentioned in paragraphs 1069Q(1)(a) to (e) of the *Corporations Act 2001*.

**capital reserve establishment contribution** means an amount equal to approximately one third of the capital reserve.

**claims, fees and costs estimate** means an estimate determined under section 9 or 10.

**CSLR operator** has the same meaning as in the *Corporations Act 2001*.

**first levy period** has the same meaning as in the Levy Act.

**late payment penalty** means penalty payable under section 14.

**levy** means levy imposed by the Levy Act.

**Levy Act** means the *Financial Services Compensation Scheme of Last Resort Levy Act 2023*.

**levy month** means one of the 12 months of the calendar year.



**levy period** has the same meaning as in the Levy Act.

**offence against this Act** includes an offence against Chapter 7 of the *Criminal Code* that relates to this Act.

**person** has a meaning affected by sections 26, 27, 28 and 29.

**pre-CSLR complaint** means a complaint that:

- (a) is for AFCA to finalise (including by making a determination); and
- (b) is given to AFCA before the accumulation recovery day; and
- (c) is a complaint of a kind covered by paragraph 1065(1)(a) of the *Corporations Act 2001*.

Note: AFCA will have finalised many of these complaints before this Act commences.

**qualifying period** has the same meaning as in the Levy Act.

**relevant AFCA determination** has the same meaning as in the *Corporations Act 2001*.

**shortfall penalty** means penalty payable under section 16.

**sub-sector** has the same meaning as in the Levy Act.

## Part 2—Pre-imposition information and estimates of claims and costs

### 8 Information required from levy payers before a levy period

- (1) ASIC may, before the start of a levy period, notify a person in writing that this section applies to the person for the levy period.
- (2) The person must, for the levy period:
  - (a) provide to ASIC information in the approved form and in the manner (if any) determined under paragraph (4)(b); and
  - (b) do so by:
    - (i) unless subparagraph (ii) applies—28 days after the day the person is notified under subsection (1) for the levy period; or
    - (ii) if ASIC has determined a later day under paragraph (4)(a)—that day.

Note: The information may be used to work out the amount of levy payable by the person, and may need to be substantiated (see section 20). A penalty may apply if the information is false or misleading (see section 16).

- (3) An approved form may require:
  - (a) information relating to the person; and
  - (b) information relating to one or more other persons on whom levy may be imposed for the levy period.

Note: The approved form could also be the approved form for returns to be provided to ASIC under section 11 of the *ASIC Supervisory Cost Recovery Levy (Collection) Act 2017*.

- (4) ASIC may, by notice published on ASIC's website, determine:
  - (a) the day on which the information must be provided to ASIC; and
  - (b) the manner in which ASIC requires the information to be provided.

A notice under this subsection must state the date on which the notice was published on ASIC's website.

- (5) A day determined by ASIC under paragraph (4)(a):
- (a) must be 2 months or more after the day on which the notice is first published on ASIC's website; and
  - (b) may be a different day for different classes of persons on whom levy may be imposed for the levy period.

*Offence*

- (6) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (2); and
  - (b) the person omits to do an act; and
  - (c) the omission breaches the requirement.

Penalty: 10 penalty units.

- (7) An offence against subsection (6) is an offence of strict liability.
- (8) Subsection (6) does not apply to the extent that the person has a reasonable excuse.

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

- (9) Information provided under this section in the approved form is taken, for the purposes of the *Corporations Act 2001*, not to be a document lodged with ASIC.

## **9 Initial estimate of claims, fees and costs for a levy period**

- (1) The CSLR operator may, by legislative instrument made within 12 months before the start of the second levy period or a later levy period, determine for the levy period and a sub-sector an estimate that is the sum of:
- (a) the specified amount equal to what the CSLR operator reasonably believes (having regard to actuarial principles)

Section 9

---

will be the total amount of compensation payable under section 1063 of the *Corporations Act 2001*:

- (i) during the levy period; and
  - (ii) for the sub-sector;
- other than any such compensation relating to pre-CSLR complaints; and
- (b) the specified amount equal to what the CSLR operator reasonably believes (having regard to actuarial principles) will be the portion of the sum of the following that is attributable to the sub-sector:
    - (i) the sum of AFCA's unpaid fees expected for each of the months in the levy period, other than any such fees relating to pre-CSLR complaints;
    - (ii) the CSLR operator's expected administrative costs for the levy period;
    - (iii) ASIC's expected administrative costs notified under subsection (4) for the levy period;
    - (iv) for each of the second and third levy periods—the capital reserve establishment contribution reduced (but not below zero) by half of any specified excess worked out under subsection (6) before the start of that levy period;
    - (v) for the fourth and each later levy period—the amount (if any) equal to that necessary to restore the capital reserve; and
  - (c) any specified shortfall worked out under subsection (5) for an earlier levy period and the sub-sector; and
  - (d) for the next levy period that starts after any specified shortfall is worked out under subsection (6)—the portion of that shortfall that the CSLR operator reasonably believes (having regard to actuarial principles) is the portion attributable to the sub-sector; and
  - (e) for the third levy period—any specified shortfall worked out under subsection (7) for the first levy period and the sub-sector;
- less any excess amounts referred to in subsection (2).

- (2) The excess amounts are as follows:
- (a) any specified excess worked out under subsection (5) for an earlier levy period and the sub-sector;
  - (b) for the third levy period—any specified excess worked out under subsection (7) for the first levy period and the sub-sector;
  - (c) for the fourth levy period—the portion of any specified excess:
    - (i) worked out under subsection (6); and
    - (ii) that remains after the application of subparagraph (1)(b)(iv) for earlier levy periods;that the CSLR operator reasonably believes (having regard to actuarial principles) is the portion attributable to the sub-sector.

Note: A single instrument under subsection (1) may determine estimates for several sub-sectors.

- (3) The legislative instrument must include each of the amounts referred to in subparagraphs (1)(b)(i) to (v) and paragraph (2)(c).

*ASIC's administrative costs*

- (4) Before the second levy period or a later levy period, ASIC may notify the CSLR operator of the administrative costs that ASIC has incurred, or expects to incur, for the levy period in performing ASIC's functions:
- (a) under this Act; and
  - (b) under Part 7.10B of the *Corporations Act 2001*; and
  - (c) under Part 5A.1 or 7.6 of that Act, or Part 2-2 of the *National Consumer Credit Protection Act 2009*, relating to:
    - (i) liability to pay instalments of levy; or
    - (ii) payments by the CSLR operator.

*Reconciliation for earlier levy periods—annual levy*

- (5) The CSLR operator may, for an earlier levy period and a sub-sector, work out whether the sum of the total amount of levy paid that was earlier imposed by section 8 or 9 of the Levy Act:

Section 9

---

- (a) for that earlier levy period; and
- (b) in relation to claims, fees and costs estimates for that earlier levy period and the sub-sector:

falls short of, or exceeds, the most recent claims, fees and costs estimate for that earlier levy period and the sub-sector.

*Reconciliation for first levy period—levy for pre-CSLR complaints*

- (6) The CSLR operator may, at any time before the start of the fourth levy period, work out whether the sum of:
  - (a) the total amount of levy paid that was earlier imposed by section 10 of the Levy Act for the first levy period; and
  - (b) the total amount of levy paid that was earlier imposed by section 8 or 9 of the Levy Act for a levy period in relation to amounts:
    - (i) referred to in paragraph (1)(d) of this section; and
    - (ii) included in claims, fees and costs estimates for that earlier levy period;

falls short of, or exceeds, the most recent revised estimate determined under section 12 of this Act.

*Reconciliation for first levy period—estimate of costs*

- (7) The CSLR operator may, for the first levy period and a sub-sector, work out whether the estimate under subsection 1069M(1) of the *Corporations Act 2001* for the first levy period and the sub-sector:
  - (a) falls short of; or
  - (b) exceeds;

the revised costs determined under subsection 1069M(3) of that Act for the first levy period and the sub-sector.

*Reconciliations—no double counting*

- (8) The same shortfall or excess worked out under subsection (5), (6) or (7) is not to be included in an estimate under subsection (1) more than once.

**10 Revised estimate of claims, fees and costs for a levy period**

- (1) The CSLR operator may:
- (a) after the start of the second levy period or a later levy period; and
  - (b) after recalculating the amounts referred to in subsections 9(1) and (2) for the levy period and a sub-sector;
- determine for the levy period and the sub-sector a revised estimate using those recalculated amounts.

Note: A single instrument may determine revised estimates for several sub-sectors.

- (2) The determination must include each of the recalculated amounts referred to in paragraph (1)(b) (including each of the recalculated amounts referred to in subparagraphs 9(1)(b)(i) to (v) and paragraph 9(2)(c)).
- (3) The determination may specify whether further levy needs to be imposed under subsection 8(2) of the Levy Act for the levy period and the sub-sector.
- (4) The determination must be made as a legislative instrument if the determination so specifies that further levy needs to be imposed. Otherwise, the determination may be made as a legislative instrument or a notifiable instrument.

Note: If the determination is made as a notifiable instrument, any shortfall in levy can only be recovered:

- (a) as annual levy for a later levy period (see paragraph 9(1)(c) and subsection 9(5)), which will require a legislative instrument to be made under subsection 9(1); or
- (b) as special levy resulting from a legislative instrument made by the Minister under section 1069H of the *Corporations Act 2001*.

**11 Initial estimate of unpaid claims, and AFCA's unpaid fees, for complaints given to AFCA before the accumulation recovery day**

The CSLR operator may, by legislative instrument made at any time after the commencement of this Act, determine for the first levy period an estimate that is the sum of:

---

## Section 12

---

- (a) the specified amount equal to what the CSLR operator reasonably believes (having regard to actuarial principles) will be the total amount of compensation that:
  - (i) will be payable under section 1063 of the *Corporations Act 2001*; and
  - (ii) relates to pre-CSLR complaints; and
- (b) the specified amount equal to what the CSLR operator reasonably believes (having regard to actuarial principles) will be the portion of the total amount of AFCA's unpaid fees for all months that relates to pre-CSLR complaints; and
- (c) the specified amount equal to AFCA's accumulated unpaid fees.

Note: Some of this compensation may become payable, or some of these fees may become unpaid fees, after the end of the first levy period. Such compensation and fees will still be part of this estimate for the first levy period.

### **12 Revised estimate of unpaid claims, and AFCA's unpaid fees, for complaints given to AFCA before the accumulation recovery day**

The CSLR operator may, by notifiable instrument made:

- (a) after the start of the first levy period; and
- (b) after recalculating the amounts referred to in paragraphs 11(a) to (c);

determine for the first levy period a revised estimate using those recalculated amounts.

Note: From this revised estimate:

- (a) any shortfall in levy can only be recovered as annual levy for a later levy period (see paragraph 9(1)(d) and subsection 9(6)), which will require a legislative instrument to be made under subsection 9(1); and
- (b) any surplus in levy will reduce annual levy for a later levy period (see subparagraph 9(1)(b)(iv) and paragraph 9(2)(c)), which will be reflected in a legislative instrument to be made under subsection 9(1).



## **Part 3—Payment of levy, late payment penalty and shortfall penalty**

### **13 When levy due for payment**

*Levy for pre-CSLR complaints is payable in 2 instalments*

- (1) Levy imposed by section 10 of the Levy Act on a person for the first levy period is payable by the person in 2 equal instalments. Each instalment is due and payable on a business day that is:
- (a) specified in a notice that ASIC gives to the person in relation to the instalment; and
  - (b) not before the 30th day after the day on which the notice is given; and
  - (c) for the first instalment—in the first levy period; and
  - (d) for the second instalment—in the second levy period.

Note: The notice for the second instalment may be given in the first levy period. In that case, the person may choose to pay the second instalment in the first levy period, rather than waiting until the second levy period when the second instalment is due and payable.

*Annual levy, further levy and special levy*

- (2) Levy imposed by subsection 8(1), (2) or (3) or section 9 of the Levy Act on a person for the second levy period or a later levy period is payable by the person in a single instalment. The instalment is due and payable on a business day that is:
- (a) specified in a notice that ASIC gives to the person in relation to the levy period; and
  - (b) not before the 30th day after the day on which the notice is given.

Note: If a person is given a notice for levy imposed by subsection 8(1) of the Levy Act for a levy period, the person will be given a further notice if any further levy is imposed by subsection 8(2) of that Act, or any special levy is imposed by subsection 8(3) or section 9 of that Act, on the person for the levy period.

## Section 14

---

*ASIC's notice may instead be given to a nominated person*

- (3) If the person referred to in subsection (1) or (2) nominates another person by written notice given to ASIC:
  - (a) the notice under paragraph (a) of that subsection may be given to the nominated person; and
  - (b) the obligation imposed on the person by that subsection may be discharged by the nominated person.
- (4) To avoid doubt, subsection (3) does not otherwise affect the person's liability to pay levy.

### **14 Late payment penalty**

- (1) If any instalment of levy payable by a person remains unpaid at the start of a levy month after the instalment became due for payment, the person is liable to pay the Commonwealth, for that levy month, a penalty worked out using the following formula:

$$\text{Amount of the instalment remaining unpaid at the start of the levy month} \times \frac{0.2}{12}$$

- (2) Late payment penalty for a levy month is due and payable at the end of the levy month.
- (3) However, ASIC may, by written notice given to the person before, on or after the day on which late payment penalty would be due and payable apart from this subsection, specify a later day as the day on which the late payment penalty is due and payable. The notice has effect, and is taken always to have had effect, according to its terms.

### **15 Default notice**

- (1) ASIC may give a person a notice stating the amount that, in ASIC's opinion, is an instalment of levy payable by the person for a levy period if:
  - (a) a person fails to provide to ASIC information required to be provided under section 8 for the levy period; or

- (b) ASIC is not satisfied with information provided by the person under section 8 for the levy period; or
  - (c) a person fails to comply with a requirement under section 20 to provide to ASIC information, or a document, relating to the person and the levy period.
- (2) The amount stated in the notice is taken to be the instalment of levy payable by the person for the levy period, unless the contrary is proved.

## **16 Shortfall penalty**

- (1) Subsection (3) applies if:
- (a) a person makes a statement to ASIC of information provided under section 8 for a levy period; and
  - (b) the statement is false or misleading in a material particular, whether because of things in it or omitted from it; and
  - (c) the amount of an instalment of levy the person paid for the levy period (the *paid amount*) was worked out on the basis of the statement; and
  - (d) the paid amount fell short of the instalment of levy payable by the person for the levy period (worked out on the basis of the statement not being false or misleading).
- (2) However, subsection (3) does not apply if the person took reasonable steps to ensure the statement was correct.
- (3) The person is liable to pay, by way of penalty, an amount equal to twice the amount of the shortfall worked out under paragraph (1)(d).
- (4) Shortfall penalty is due and payable on a business day that is:
- (a) specified in a notice that ASIC gives to the person in relation to the levy period; and
  - (b) not before the 30th day after the day on which the notice is given.
- (5) However, ASIC may, by written notice given to the person before, on or after the day on which shortfall penalty would be due and

## Section 17

---

payable apart from this subsection, specify a later day as the day on which the shortfall penalty is due and payable. The notice has effect, and is taken always to have had effect, according to its terms.

### **17 Payment of levy, late payment penalty and shortfall penalty**

Each of the following are payable to ASIC on behalf of the Commonwealth:

- (a) an instalment of levy;
- (b) late payment penalty;
- (c) shortfall penalty.

### **18 Waiver of levy, late payment penalty and shortfall penalty**

- (1) ASIC may, on behalf of the Commonwealth, waive the payment of the whole or a part of one or more of the following amounts payable by a person, if ASIC is satisfied that there are exceptional circumstances justifying the waiver:
  - (a) an instalment of levy;
  - (b) late payment penalty;
  - (c) shortfall penalty.
- (2) ASIC may do so on its own initiative or on written application by a person.
- (3) Applications must be in the approved form.

### **19 Recovery of levy, late payment penalty and shortfall penalty**

- (1) The following amounts may be recovered by the Commonwealth from a person as debts due to the Commonwealth:
  - (a) an instalment of levy that is due and payable by the person;
  - (b) late payment penalty that is due and payable by the person;
  - (c) shortfall penalty that is due and payable by the person.
- (2) ASIC is authorised, as agent of the Commonwealth, to bring proceedings in the name of the Commonwealth for the recovery of

a debt due to the Commonwealth of a kind mentioned in subsection (1).

## **20 Substantiation notices**

- (1) This section applies to a person if:
  - (a) the person has provided to ASIC, under section 8 for a levy period, information (***required information***) relating to the person or to one or more other persons on whom levy may be imposed; or
  - (b) information (also ***required information***) relating to the person is to be used by ASIC for the purposes of calculating the levy payable by the person for a levy period.
- (2) ASIC may give the person a written notice that requires the person to do either or both of the following:
  - (a) give to ASIC, within the period and in the manner and form specified in the notice, information that could be capable of substantiating the required information;
  - (b) produce to ASIC, within the period and in the manner and form specified in the notice, documents that could be capable of substantiating the required information.
- (3) The notice must:
  - (a) name the person to whom it is given; and
  - (b) specify the information to which it relates; and
  - (c) explain the effect of sections 21 and 22.

## **21 Compliance with substantiation notice**

- (1) A person who is given a substantiation notice must comply with the notice:
  - (a) within the period specified in the notice; or
  - (b) within such further time as ASIC allows under subsection (3).
- (2) A person given a substantiation notice under section 20 may apply to ASIC for further time to comply with the notice. An application

## Section 22

---

must be in writing and made within 21 days after the notice is given.

- (3) ASIC may, by written notice given to the person, extend the period within which the person must comply with the notice.

### **22 Failure to comply with substantiation notice**

- (1) A person commits an offence if:
- (a) the person is subject to a requirement under section 21; and
  - (b) the person refuses or fails to comply with the requirement.

Penalty: 10 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) Subsection (1) does not apply if the person complies with the notice to the extent to which the person is capable of complying with it.

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

- (4) Subsection (1) does not apply to the extent that the person has a reasonable excuse.

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

- (5) It is a reasonable excuse for an individual to refuse or fail to answer a question or produce a document on the ground that to do so might tend to incriminate the individual or expose the individual to a penalty.

### **23 Exempting laws ineffective**

- (1) Nothing in a law passed before the commencement of this section exempts a person from liability to pay levy.
- (2) If a law (including a provision of a law) passed after the commencement of this section purports to exempt a person from:
- (a) liability to pay taxes under laws of the Commonwealth; or

- (b) liability to pay certain taxes under laws of the Commonwealth that would otherwise include levy; the law does not operate to exempt the person from liability to pay levy unless the exemption expressly refers to levy under this Act.
- (3) To avoid doubt, this section does not apply in relation to an exemption under this Act or the Levy Act.

## **24 Internal review of certain decisions**

- (1) A person who is affected by a decision of ASIC under section 18 may, if dissatisfied with the decision, request ASIC to reconsider the decision.
- (2) The request must:
  - (a) be made by notice given to ASIC in the approved form within:
    - (i) the period of 21 days after the day on which the person first receives notice of the decision; or
    - (ii) any further period that ASIC allows; and
  - (b) set out the reasons for making the request.
- (3) After receiving the request, ASIC must review the decision or cause the decision to be reviewed by a person:
  - (a) to whom ASIC's power under this section is delegated; and
  - (b) who was not involved in the making of the decision.
- (4) Within 30 business days after receiving the request, the person reviewing the decision must:
  - (a) reconsider the decision; and
  - (b) confirm, revoke or vary the decision, as the person thinks fit.
- (5) If the person reviewing the decision does not confirm, revoke or vary the decision within the period of 30 business days after receiving the request, the person is taken to have confirmed the decision under subsection (4) immediately after the end of that period.

Section 25

---

- (6) The person reviewing the decision must give a notice in writing to the person that made the request that sets out the result of the reconsideration of the decision and gives the reasons for that reconsideration.

**25 Administrative Appeals Tribunal review of certain decisions**

Applications may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision of ASIC that has been confirmed or varied under subsection 24(4) or a decision that has been taken to have been confirmed under subsection 24(5); or
- (b) a decision of ASIC under subsection 24(4) to revoke a decision.



## **Part 4—Other matters**

### **26 Treatment of partnerships**

- (1) This Act applies to a partnership as if it were a person, but with the changes set out in this section.
- (2) An obligation that would otherwise be imposed on the partnership by this Act is imposed on each partner instead, but may be discharged by any of the partners.
- (3) An offence against this Act that is committed by a partnership is taken to have been committed by each partner in the partnership, at the time the offence was committed, who:
  - (a) did the relevant act or made the relevant omission; or
  - (b) aided, abetted, counselled or procured the relevant act or omission; or
  - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the partner).

### **27 Treatment of unincorporated associations**

- (1) This Act applies to an unincorporated association as if it were a person, but with the changes set out in this section.
- (2) An obligation that would otherwise be imposed on the association by this Act is imposed on each member of the association's committee of management instead, but may be discharged by any of the members.
- (3) An offence against this Act that would otherwise have been committed by the unincorporated association is taken to have been committed by each member of the association's committee of management, at the time the offence was committed, who:
  - (a) did the relevant act or made the relevant omission; or

## Section 28

---

- (b) aided, abetted, counselled or procured the relevant act or omission; or
- (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the member).

### 28 Treatment of RSE licensees

- (1) This Act applies to an RSE licensee that is a group of individual trustees as if the group were a person, but with the changes set out in this section.
- (2) An obligation that would otherwise be imposed on the group by this Act is imposed on each individual, but may be discharged by any of the individuals.
- (3) An offence against this Act that would otherwise have been committed by the group is taken to have been committed by each individual trustee, at the time the offence was committed, who:
  - (a) did the relevant act or made the relevant omission; or
  - (b) aided, abetted, counselled or procured the relevant act or omission; or
  - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the individual).

### 29 Treatment of multiple trustees

- (1) This section applies if the trustee or trustees of a trust are treated during a period as constituting:
  - (a) a single legal entity (the **notional entity**) under section 761FA of the *Corporations Act 2001*; or
  - (b) a single person (also the **notional entity**) under section 15 of the *National Consumer Credit Protection Act 2009*.
- (2) This Act applies to the notional entity during the period as if the notional entity were a person, but with the changes set out in this section.

- (3) During the period, or any part of the period, that the trust has 2 or more trustees:
- (a) an obligation that would otherwise be imposed on the notional entity by this Act is imposed instead on each trustee, but may be discharged by any of the trustees; and
  - (b) an offence against this Act that would otherwise have been committed by the notional entity is taken to have been committed by each trustee, at the time the offence was committed, who:
    - (i) did the relevant act or made the relevant omission; or
    - (ii) aided, abetted, counselled or procured the relevant act or omission; or
    - (iii) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the trustee).
- (4) During the period, or any part of the period, that the trust has only one trustee:
- (a) an obligation that would otherwise be imposed on the notional entity by this Act is imposed instead on that single trustee; and
  - (b) an offence against this Act that would otherwise have been committed by the notional entity is taken to have been committed by that single trustee.

### **30 Approved forms**

- (1) Information, a notice, statement, application or other document under this Act is in the **approved form** if, and only if:
- (a) it is in the form prescribed in the regulations, or, if the regulations do not prescribe a form, it is in a form approved, in writing, by ASIC; and
  - (b) it is provided in the manner prescribed in the regulations, or, if the regulations do not prescribe a manner, in the manner required by ASIC (which may include electronically).
- (2) A different approved form may be prescribed, or approved, for different classes of person.

Section 31

---

**31 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed by the regulations; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

---

*[Minister's second reading speech made in—  
House of Representatives on 8 March 2023  
Senate on 22 March 2023]*

(16/23)