



Western Australia

## **Financial Institutions Duty Regulations 1984**

Compare between:

[01 Jul 2000, 01-y0-03] and [29 Jun 2004, 01-z0-07]

FINANCIAL INSTITUTIONS DUTY ACT 1983

**Financial Institutions Duty Regulations 1984**

**1. Citation**

These regulations may be cited as the *Financial Institutions Duty Regulations 1984*<sup>1</sup>.

[2. ——— Repealed in Gazette 8 June 1990 p.2688.]

**3. When return or application deemed to be furnished**

A return or an application for registration or certification shall not be deemed to have been furnished to the Commissioner unless and until the appropriate form, duly signed and containing a full, true and complete statement of all matters and things required to be stated in that form, has been lodged at the office of the Commissioner.

**3A. Prescription under definition of financial institution**

Credit Union Financial Services (Australia) Ltd. is prescribed as a person that is not a financial institution for the purposes of the definition of “**financial institution**” in section 3 (1) of the Act.

[Regulation 3A inserted in Gazette 30 August 1985 p.3066;  
amended in Gazette 8 January 1993 p.70.]

**4. Prescription for purposes of section 10 (4) (o)**

The Government of this State is prescribed for the purposes of section 10 (4) (o) of the Act.

**5. Prescription under section 10 (4) (r)**

- (1) A receipt that is a credit to an income account of a registered financial institution where an offsetting debit is made to a mortgage loan account with that financial institution is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.
- (2) There is prescribed under and for the purposes of section 10 (4) (r) of the Act, as a class of receipts to which the Act does not apply, every receipt of money by a bank, building society or credit union that is a registered financial institution being a direct deposit to the credit of an account kept by the bank, building society or credit union in payment of any of the following —
  - (a) any pension, benefit or allowance under the *Social Security Act 1991* of the Commonwealth;
  - (b) any pension or allowance under the *Veterans' Entitlements Act 1986* of the Commonwealth;
  - (c) farm household support under the *Farm Household Support Act 1992* of the Commonwealth;
  - (d) a domiciliary nursing care benefit under the *National Health Act 1953* of the Commonwealth;
  - (e) a pension paid by the Department of Social Security of the United Kingdom;
  - (f) any allowance or benefit under the *A New Tax System (Family Assistance) Act 1999* or the *A New Tax System (Family Assistance) (Administration) Act 1999* of the Commonwealth;
  - (g) any bonus payment made under the *A New Tax System (Bonuses for Older Australians) Act 1999* of the Commonwealth.
- (3) A receipt by a bank to the credit of a clearing account kept on behalf of a financial institution under an agreement between the bank and that financial institution where the clearing account is

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held solely for the purpose of clearing cheques drawn by the customers of the financial institution is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

(4) Where an account with a registered financial institution has been closed as a result of —

- (a) the closure or amalgamation of a branch or branches of that registered financial institution;
- (b) any conversion, updating or relocating of data processing systems within that registered financial institution; or
- (c) the loss of a customer's electronic banking card,

the crediting of a new account kept by that registered financial institution in the same customer's name by the transferring of the proceeds, other than closing interest, of the account which was closed is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

(4a) Where —

- (a) as a result of —
  - (i) the closure or amalgamation of a branch or branches of a registered financial institution;
  - (ii) any conversion, updating or relocating of data processing systems within a registered financial institution; or
  - (iii) the loss of a customer's electronic banking card, an amount is credited to a loan account with a registered financial institution solely for the purpose of the closure of that loan account; and
- (b) a new loan account for that amount is established by that registered financial institution in the same customer's name,

the credit referred to in paragraph (a) is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

- (5) A receipt to an internal pay-roll clearing account of —
- (a) an amount which represents salaries or wages which are to be credited to accounts in Western Australia kept by registered financial institutions in the names of employees of the person from whom, or which, that amount was received; or
  - (b) an amount paid in settlement of credit granted to an employer by the crediting of amounts representing salaries or wages to accounts in Western Australia kept by registered financial institutions in the names of employees of that employer,

is prescribed, under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

- (6) In subregulation (5) **“internal pay-roll clearing account”** means an account kept by a registered financial institution, other than in the name of another person, solely for the purpose of facilitating the payment of salaries and wages to accounts kept by that or any other registered financial institution in the names of employees of the persons from whom, or which, the salaries and wages are received.
- (7) A receipt by a bank that is a registered financial institution to the credit of a clearing or settlement account kept by an SCH participant (other than a registered financial institution), being an account —
- (a) that is used solely for the purpose of depositing receipts from SCH-regulated transfers or depositing funds or transferring funds from another account for the purpose of meeting the SCH settlement obligations of that participant; and
  - (b) from which all funds are transferred at the close of each day to another account,

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is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

- (8) In subregulation (7) “**SCH**”, “**SCH participant**” and “**SCH-regulated transfer**” have the same meaning as in section 9 of the Corporations Law.

*[Regulation 5 amended in Gazette 29 March 1985 p.1105; 7 June 1985 p.1933; 10 May 1991 p.2402; 18 May 1993 p.2472; 28 April 1995 p.1514; 3 November 1995 pp.5205-6; 29 October 1996 p.5744; 30 June 2000 p.3471-2 .]*

**5A. Prescription under section 10(4)(r) — Real Time Gross Settlement system accounts**

- (1) A receipt —
- (a) received by a financial institution for the credit of a customer’s RTGS account; and
  - (b) arising as a result of —
    - (i) a transaction settled through the Real Time Gross Settlement system; or
    - (ii) a transfer of money from another account of that customer in Western Australia for the purposes of ensuring that the RTGS account retains a credit balance,

is prescribed under section 10(4)(r) of the Act as a receipt to which the Act does not apply.

- (2) In subregulation (1) —
- “**financial institution**” means a registered financial institution that holds an exchange settlement account with the Reserve Bank of Australia;
- “**Real Time Gross Settlement system**” means the electronic system operated by the Reserve Bank of Australia to effect transactions received by electronic feeder systems operated by the Reserve Bank of Australia, Austraclear Limited

(ACN 002 060 773) or Australian Payments Clearing Association Limited (ACN 055 136 519);

**“RTGS account”** means an account —

- (a) kept by a financial institution solely for the purpose of recording —
  - (i) transactions settled through the Real Time Gross Settlement system; and
  - (ii) transfers of money from other accounts of that customer in Western Australia for the purposes of ensuring that the account retains a credit balance;

and

- (b) the balance of which is transferred daily to another account kept for that customer in this State by the financial institution.

*[Section 5A inserted in Gazette 24 November 1998 pp.6328-9.]*

**5B. Prescription under section 10 (4) (r) — Defence Service Homes Corporation loans**

A receipt by a bank which is the consequence of a loan repayment made in respect of a Defence Service Homes Corporation loan is prescribed under section 10 (4) (r) of the Act as a receipt to which the Act does not apply.

*[Regulation 5B inserted in Gazette 10 May 1991 p.2402.]*

**5C. Prescription under section 10(4)(r) — first home owner grants**

- (1) A receipt that arises from the payment of a first home owner grant and that is —
  - (a) a direct deposit to the credit of an account kept by a registered financial institution in the name of an applicant for the grant;

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- (b) a credit to an account of a delegate of the Commissioner that is used by the delegate solely for the purpose of receiving the payment of first home owner grants; or
- (c) the transfer of a credit referred to in paragraph (b) to an account referred to in paragraph (a),

is prescribed under section 10(4)(r) of the Act as a receipt to which the Act does not apply.

- (2) In subregulation (1) —

**“delegate of the Commissioner”** means a financial institution or other person to which functions of the Commissioner are delegated under an administration agreement entered into under section 37 of the *First Home Owner Grant Act 2000*;

**“first home owner grant”** means a grant authorised to be paid under the *First Home Owner Grant Act 2000* or under a corresponding law within the meaning of that Act.

*[Regulation 5B inserted in Gazette 30 June 2000 pp.3432-3.]*

**6. Prescription under section 13 (14) (h)**

Thomas Cook Pty. Ltd. is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 6 inserted in Gazette 15 February 1985 p.581.]*

**7. Prescription under section 13 (10)**

Every amount received by Thomas Cook Pty. Ltd., other than amounts received in the course of banking business carried on by it under the order of exemption granted by the Treasurer of the Commonwealth as gazetted in the *Commonwealth of Australia Gazette* dated 23 May 1968, is prescribed as constituting a class of amounts for the purposes of section 13 (10) of the Act.

*[Regulation 7 inserted in Gazette 15 February 1985 p.581.]*



**7A. Prescription under section 13 (14) (h)**

Credit Union Financial Services (Australia) Ltd is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7A inserted in Gazette 30 August 1985 p.3066;  
amended in Gazette 8 January 1993 p.70.]*

**7B. Prescription under section 13 (10)**

Every amount received by Credit Union Financial Services (Australia) Ltd other than —

- (a) amounts upon which duty, as specified in section 10 (3) of the Act, has been or will be paid by a credit union that is a registered financial institution;
- (b) amounts which are the proceeds of short term dealings which have been credited to a short term dealing account operated by Credit Union Financial Services (Australia) Ltd under section 14 of the Act;
- (c) amounts representing interest transferred to another account kept by a bank under section 14 (6) of the Act; or
- (d) amounts transferred to its special account, from an account in a State or Territory that has a corresponding law, by Credit Union Financial Services (Australia) Ltd that balance the special account,

is prescribed as constituting a class of amounts for the purposes of section 13 (10) of the Act.

*[Regulation 7B inserted in Gazette 30 August 1985 p.3066;  
amended in Gazette 8 January 1993 p.70.]*

~~[7C. —~~ *Repealed in Gazette 28 April 1995 p.1515.]*

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**7D. Prescription under section 13 (14) (h) — ASX Operations Pty Ltd**

ASX Operations Pty Ltd is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7D inserted in Gazette 8 June 1990 p.2688.]*

**7E. Prescription under section 13 (10) — special account of ASX Operations Pty Ltd**

Every amount received by ASX Operations Pty Ltd other than amounts to effect settlements between dealers, being stockbrokers, in respect of the purchase and sale of securities is prescribed as being a class of amounts for the purposes of section 13 (10) of the Act.

*[Regulation 7E inserted in Gazette 8 June 1990 p.2688.]*

**7F. Prescription under section 13 (14) (h)**

The Legal Contribution Trust is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7F inserted in Gazette 21 June 1991 p.3071; amended in Gazette 3 November 1995 p.5206.]*

**7G. Prescription under section 13 (14) (h) — Australian Stock Exchange Ltd**

Australian Stock Exchange Ltd is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7G inserted in Gazette 22 May 1992 p.2149.]*

**7H. Prescription under section 13 (10) — special account of Australian Stock Exchange Ltd**

Every amount received by Australian Stock Exchange Ltd other than amounts —

- (a) which represent deposits lodged in accordance with section 889 of the *Corporations Law*; or

- (b) which result from the redemption, recovery or conversion to cash of any deposit invested by Australian Stock Exchange Ltd in accordance with section 891 of the *Corporations Law*,

is prescribed as constituting a class of amounts for the purposes of section 13 (10) of the Act.

*[Regulation 7H inserted in Gazette 22 May 1992 p.2150.]*

**7I. Prescription under section 14 (5)**

An amount paid out of a short term dealing account kept in the name of a certified short term dealer other than an amount paid —

- (a) by that certified short term dealer in the course of short term dealing; or
- (b) to the credit of another account, other than an exempt account, kept in Western Australia by a registered financial institution in the name of that certified short term dealer,

is a prescribed amount for the purpose of section 14 (5) of the Act.

*[Regulation 7I inserted in Gazette 28 April 1995 p.1515.]*

**7J. Prescription under section 13 (14) (h)**

Fruit & Produce Agents Association Pty Ltd is prescribed as a person for the purposes of section 13 (14) of the Act.

*[Regulation 7J inserted in Gazette 5 August 1997 p.4491.]*

**7K. Prescription under section 13 (10)**

Every amount received by Fruit & Produce Agents Association Pty Ltd other than amounts to effect settlements between agents and buyers in respect of the purchase and sale of fruit and produce is prescribed as constituting a class of amounts for the purposes of section 13 (10) of the Act.

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*[Regulation 7K inserted in Gazette 5 August 1997 p.4491.]*

**7L. Prescription under section 13(14)(h) — Options Clearing House Pty Ltd**

Options Clearing House Pty Ltd is prescribed as a person for the purposes of section 13(14) of the Act.

*[Regulation 7L inserted in Gazette 21 July 1998 p.3861.]*

**7M. Prescription under section 13(10) — special account for Options Clearing House Pty Ltd**

Every amount received by Options Clearing House Pty Ltd other than amounts to effect settlements between dealers, being stockbrokers, in respect of the purchase and sale of options traded on the Australian Stock Exchange is prescribed for the purposes of section 13(10) of the Act.

*[Regulation 7M inserted in Gazette 21 July 1998 p.3861.]*

**8. Allowance of expenses**

Where a person is required under section 70 of the Act to attend and give evidence before the Commissioner there may be allowed to that person the sum, not exceeding in any case the minimum wage payable in the metropolitan area from time to time *per diem*, actually and necessarily lost by him by reason of his attendance, and, in addition, if he resides more than 7 kilometres from the place at which he is required to attend, such sum for travelling expenses, not exceeding the sum actually paid as the Commissioner thinks reasonable.

**9. How duty to be paid etc.**

- (1) A person may pay duty by delivery of cash, banknotes, bank draft, postal order or cheque at the office of the Commissioner.
- (2) Where a remittance in payment of duty is posted by or on behalf of a person to the Commissioner, the payment shall not be

deemed to have been made until the remittance has been received by the Commissioner.

- (3) Where a cheque has been delivered or remitted to the Commissioner in payment of the duty, the duty shall, notwithstanding any receipt given therefor, not be deemed to have been paid until the amount for which the cheque is drawn has been collected.
- (4) The Commissioner shall issue a receipt for every amount of duty paid in person at the office of the Commissioner and upon request for any amount of duty paid by any other means, and, the receipt may be issued by such persons as the Commissioner authorizes.

[10. — Repealed in Gazette 24 July 1998 p.3909.]

## 11. Signatures

- (1) Every application, statement, return, certificate, notice or other communication required by or under the Act to be made or furnished to the Commissioner, shall be signed —
  - (a) in the case of an individual so required — in the name of that individual;
  - (b) in the case of trustees so required — in the name of any one or more of the trustees resident in Australia, or where there is no trustee resident in Australia — of the agent in Australia for the trustee;
  - (c) in the case of a company — in the name of an authorized officer or the public officer of the company;
  - (d) in the case of any municipality or any Department, authority, agency or instrumentality of the Crown in right of a State — by the officer or officers appointed.
- (2) Subject to subregulation (3) of this regulation, the documents specified in subregulation (1) of this regulation shall be signed personally by the person in whose name they are required to be signed.

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- (3) Where it is not possible or practicable for the person specified in subregulation (2) of this regulation personally to sign documents required to be signed in his name, or where, on account of special circumstances, the Commissioner so permits, the person who is required to make or furnish those documents, or the directors of a company which is so required, may authorize, in writing another person to sign the documents in the name of the person so specified, before his own signature as a person so authorized.
- (4) An authority under subregulation (3) of this regulation is not effective in relation to a return, notice or other documents required to be made, given or furnished at the office of the Commissioner unless and until notice of the authority, accompanied by a specimen signature of the authorized person and a statement of the capacity in which the authorized person acts in the business of the person giving the authority, has been given to the Commissioner at that office by the person giving the authority.
- (5) The Commissioner may, at any time, if he thinks fit, disapprove of the authorization of a person to sign documents in pursuance of subregulation (3) of this regulation and direct that document signed by that person under the authorization shall not be accepted.
- (6) Every document signed in accordance with these regulations in the name of the person in whose name it is required by this regulation to be signed shall be deemed to have been signed by that person.
- (7) Notice of the cancellation of the authorization of any person under this regulation shall be given to the Commissioner.
- (8) A person shall not, except in accordance with these regulations —
  - (a) authorize, permit, suffer or procure to be signed otherwise than in his own name and by himself personally, or to be used unsigned; or

- (b) be party or privy to, or be directly or indirectly concerned in, the signing otherwise than in his own name and by himself personally, or the use unsigned, of,

a document required by these regulations to be signed either in his own name and by himself personally, or in his own name before the signature of some other person.

Penalty: \$1 000.

- (9) A person shall not, except in accordance with these regulations, sign, or purport to sign either in his own name, or in any other name, or use unsigned, a document required by these regulations to be signed personally by, or in the name of, some other person.

Penalty: \$1 000.

**12. Prescription of Commissioner as State taxation officer**

The Commissioner is prescribed as a State taxation officer for the purposes of Part IIIA of the *Taxation Administration Act 1953* of the Commonwealth.

*[Regulation 12 inserted in Gazette 27 March 1986 p.1303.]*

**13. Prescription under section 58 (2)**

For the purposes of section 58 (2) of the Act, the prescribed rate of interest is 6% per annum.

*[Regulation 13 inserted in Gazette 30 June 1989 p.1896; amended in Gazette 5 July 1991 p.3378; 31 July 1992 p.3800; 25 September 1992 p.4776; 28 November 1997 p.7031.]*

*[Schedule 1 Repealed in Gazette 24 July 1998 p.3909.]*

### Notes

- <sup>1</sup> This is a compilation of the *Financial Institutions Duty Regulations 1984* and includes the amendments effected by the regulations referred to in the following Table<sup>2,3</sup>.

### Compilation table

| <b>Citation</b>   | <b>Gazettal</b>           | <b>Commencement</b>            |
|---|---------------------------|--------------------------------|
| <i>Financial Institutions Duty Regulations 1984</i>                   | 20 Jan 1984<br>pp.126-8   | 20 Jan 1984                    |
| <i>Financial Institutions Duty Amendment Regulations 1984</i>         | 22 Jun 1984<br>p.1667     | 22 Jun 1984                    |
| <i>Financial Institutions Duty Amendment Regulations 1985</i>         | 15 Feb 1985<br>p.581      | 15 Feb 1985                    |
| <i>Financial Institutions Duty Amendment Regulations (No. 2) 1985</i> | 29 Mar 1985<br>p.1105     | 18 Apr 1985 (see regulation 2) |
| <i>Financial Institutions Duty Amendment Regulations (No. 3) 1985</i> | 7 Jun 1985<br>p.1933      | 17 Jun 1985 (see regulation 2) |
| <i>Financial Institutions Duty Amendment Regulations (No. 4) 1985</i> | 7 Jun 1985<br>p.1933      | 10 Jun 1985 (see regulation 2) |
| <i>Financial Institutions Duty Amendment Regulations (No. 5) 1985</i> | 30 Aug 1985<br>p.3066     | 30 Aug 1985                    |
| <i>Financial Institutions Duty Amendment Regulations 1986</i>         | 27 Mar 1986<br>p.1303     | 27 Mar 1986                    |
| <i>Financial Institutions Duty Amendment Regulations 1987</i>         | 16 Apr 1987<br>pp.1365-6  | 16 Apr 1987                    |
| <i>Financial Institutions Duty Amendment Regulations 1988</i>         | 8 Jul 1988<br>p.2372      | 8 Jul 1988                     |
| <i>Financial Institutions Duty Amendment Regulations 1989</i>         | 30 Jun 1989<br>p.1896     | 30 Jun 1989                    |
| <i>Financial Institutions Duty Amendment Regulations 1990</i>         | 8 Jun 1990<br>p.2688      | 8 Jun 1990                     |
| <i>Financial Institutions Duty Amendment Regulations 1991</i>         | 10 May 1991<br>p.2402     | 10 May 1991                    |
| <i>Financial Institutions Duty Amendment Regulations (No. 2) 1991</i> | 21 Jun 1991<br>p.3071     | 23 Nov 1991 (see regulation 2) |
| <i>Financial Institutions Duty Amendment Regulations (No. 3) 1991</i> | 5 Jul 1991<br>p.3378      | 5 Jul 1991                     |
| <i>Financial Institutions Duty Amendment Regulations 1992</i>         | 22 May 1992<br>pp.2149-50 | 22 May 1992                    |



| Citation  | Gazettal                  | Commencement                   |
|---|---------------------------|--------------------------------|
| <i>Financial Institutions Duty Amendment Regulations 1992</i>         | 31 Jul 1992<br>p.3800     | 31 Jul 1992                    |
| <i>Financial Institutions Duty Amendment Regulations (No. 2) 1992</i> | 25 Sep 1992<br>p.4776     | 25 Sep 1992                    |
| <i>Financial Institutions Duty Amendment Regulations (No. 3) 1992</i> | 8 Jan 1993<br>p.70        | 8 Jan 1993                     |
| <i>Financial Institutions Duty Amendment Regulations 1993</i>         | 18 May 1993<br>p.2472     | 18 May 1993                    |
| <i>Financial Institutions Duty Amendment Regulations 1995</i>         | 28 Apr 1995<br>pp.1514-15 | 28 Apr 1995                    |
| <i>Financial Institutions Duty Amendment Regulations (No. 2) 1995</i> | 3 Nov 1995<br>pp.5205-6   | 3 Nov 1995                     |
| <i>Financial Institutions Duty Amendment Regulations 1996</i>         | 29 Oct 1996<br>p.5744     | 29 Oct 1996                    |
| <i>Financial Institutions Duty Amendment Regulations 1997</i>         | 5 Aug 1997<br>pp.4491-2   | 5 Aug 1997                     |
| <i>Financial Institutions Duty Amendment Regulations (No. 2) 1997</i> | 28 Nov 1997<br>p.7031     | 28 Nov 1997                    |
| <i>Financial Institutions Duty Amendment Regulations 1998</i>         | 24 Jul 1998<br>p.3909     | 24 Jul 1998                    |
| <i>Financial Institutions Duty Amendment Regulations (No. 2) 1998</i> | 21 Jul 1998<br>p.3861     | 21 Jul 1998                    |
| <i>Financial Institutions Duty Amendment Regulations (No. 3) 1998</i> | 24 Nov 1998<br>pp.6328-9  | 24 Nov 1998                    |
| <i>Financial Institutions Duty Amendment Regulations 2000</i>         | 30 Jun 2000<br>pp.3432-3  | 1 Jul 2000 (see regulation 2)  |
| <i>Financial Institutions Duty Amendment Regulations (No. 2) 2000</i> | 30 Jun 2000<br>pp.3471-2  | 1 Jul 2000 (see regulations 2) |

[These regulations were repealed by the Revenue Laws Amendment and Repeal Act 2004 s. 37\(2\) \(No. 12 of 2004\) as at 29 Jun 2004 \(see s. 2\(1\) and \(2\)\)](#)

<sup>2</sup> Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 7 this Act is to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002*. Pt. 1 and Pt. 3 Div. 2 of those regulations read as follows:

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## **Part 1 — Preliminary**

### **1. Citation**

These regulations may be cited as the *Commonwealth Places (Mirror Taxes Administration) Regulations 2002*.

### **2. Commencement**

- (1) These regulations do not have effect unless an arrangement is in operation under section 5 of the Act.
- (2) When such an arrangement is in operation, these regulations and the modifications they prescribe are deemed to have taken effect on 6 October 1997.
- (3) If a State taxing law was repealed before these regulations take effect then, despite the repeal, when these regulations are deemed under subsection (2) to have taken effect, the repealed law is deemed to have been modified, in accordance with these regulations, on 6 October 1997.

### **3. Modification of State taxing laws**

- (1) In its operation as an applied WA law, the Act is modified by omitting section 7.
- (2) For the purposes of section 7(2) of the Act, each State taxing law is taken to be modified to the extent necessary to give effect to subregulation (3).
- (3) If —
  - (a) a State taxing law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding applied law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction;
  - (b) a person is required or permitted, or could be required or permitted, to take an action under both the State taxing law and the corresponding applied law in relation to the event, state of affairs or transaction;
  - (c) the person has taken the action in accordance with the corresponding applied law; and
  - (d) the Commissioner has enough information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the State taxing law or the corresponding applied law or both, as the case requires,

then —

- (e) the person is not required to take the action under the State taxing law; and
  - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the State taxing law in relation to the event, state of affairs or transaction.
- (4) The particular modifications set out in these regulations of certain State taxing laws have effect for the purposes of section 7(2) of the Act.

### **Part 3 — Financial institutions duty**

#### **Division 2 — The *Financial Institutions Duty Regulations 1984***

##### **32. Modification of the *Financial Institutions Duty Regulations 1984***

This Division sets out modifications of the *Financial Institutions Duty Regulations 1984*\*.

[\* Reprinted as at 25 June 1997.

For amendments to 14 November 2002 see 2001 Index to Legislation of Western Australia, Table 4, p. 101.]

##### **33. Regulation 2 inserted**

After regulation 1 the following regulation is inserted —

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#### **2. Application of regulations in non-Commonwealth places**

- (1) In these regulations —
  - (a) a reference to these regulations is to be read as a reference to these regulations in their application as a law of Western Australia; and
  - (b) a reference to the Act is to be read as a reference to the Act in its application as a law of Western Australia.
- (2) These regulations are to be read with the applied FID Regulations as a single body of law.
- (3) In these regulations —

“**applied FID Regulations**” means the *Financial Institutions Duty Regulations 1984* of Western Australia in their operation as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act.

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3 Under the *Commonwealth Places (Mirror Taxes Administration) Act 1999* s. 8(2) of the Commonwealth, this Act is to be read and construed with any modifications referred to in subsection (1) of that section and, in particular, with the modifications set out in the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*. Pt. 1 and Pt. 3 Div. 2 of that notice read as follows:

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## **Part 1 — Preliminary**

### **1. Citation**

This notice may be cited as the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*.

### **2. Commencement**

- (1) This notice does not have effect unless an arrangement is in operation under section 9 of the Commonwealth Places Mirror Taxes Act in relation to Western Australia.
- (2) When such an arrangement is in operation, this notice and the modifications it prescribes are deemed to have taken effect on 6 October 1997.
- (3) If an applied WA law was repealed before this notice takes effect then, despite the repeal, when this notice is deemed under subsection (2) to have taken effect, the repealed law is deemed to have been modified on 6 October 1997 as set out in this notice.

### **3. Definitions**

In this notice —

“**applied WA law**” means the provisions of a State taxing law of Western Australia that apply or are taken to have applied in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act;

“**Commonwealth Mirror Taxes Act**” means the *Commonwealth Places (Mirror Taxes) Act 1998* of the Commonwealth;

“**WA taxing law**” means a State taxing law of Western Australia.

### **4. Modification of applied WA laws**

- (1) For the purposes of section 8 of the Commonwealth Mirror Taxes Act, each applied WA law is taken to be modified to the extent necessary to give effect to subregulation (2).
- (2) If —

- (a) an applied WA law applies, or could apply, to any extent, to or in relation to an event, state of affairs or transaction, and the corresponding State taxing law also applies, or could apply, to any extent, to or in relation to the same event, state of affairs or transaction;
- (b) a person is required or permitted, or could be required or permitted, to take an action under both the applied WA law and the corresponding State taxing law in relation to the event, state of affairs or transaction;
- (c) the person has taken the action in accordance with the corresponding State taxing law; and
- (d) the Commissioner has enough information about the event, state of affairs or transaction to carry out his or her functions in relation to it under the applied WA law or the corresponding State taxing law or both, as the case requires,

then —

- (e) the person is not required to take the action under the applied WA law; and
  - (f) the Commissioner may carry out his or her functions in relation to the event, state of affairs or transaction as if the person had taken whatever action is required or permitted under the applied WA law in relation to the event, state of affairs or transaction.
- (3) The particular modifications set out in this notice of certain applied WA laws have effect for the purposes of section 8 of the Commonwealth Mirror Taxes Act.

### **Part 3 — Financial institutions duty**

#### **Division 2 — The applied *Financial Institutions Duty Regulations 1984***

##### **44. Modification of the applied regulations**

This Division sets out modifications of the *Financial Institutions Duty Regulations 1984*\* of Western Australia.

[\* Reprinted 25 June 1997.

For amendments to 9 December 2002 see 2001 Index to Legislation of Western Australia, Table 4, p. 101.]

##### **45. Regulation 2 inserted**

After regulation 1 the following regulation is inserted —

“

**2. Application of regulations in Commonwealth places**

- (1) In these regulations —
- (a) a reference to these regulations is to be read as a reference to these regulations in their application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act; and
  - (b) a reference to the Act is to be read as a reference to the Act in its application as a law of the Commonwealth in or in relation to Commonwealth places in Western Australia in accordance with the Commonwealth Mirror Taxes Act.
- (2) These regulations are to be read with the corresponding FID Regulations as a single body of law.
- (3) In addition to being modified as prescribed by the *Commonwealth Places (Mirror Taxes) (Modification of Applied Laws (WA)) Notice 2002*, these regulations are deemed to be further modified to any extent that is necessary or convenient to enable these regulations to operate effectively as a law of the Commonwealth.
- (4) In these regulations —
- “**corresponding FID Regulations**” means the *Financial Institutions Duty Regulations 1984* of Western Australia in their application as a law of Western Australia.

”.

**46. Regulation 4 modified**

Regulation 4 is modified by deleting “this State” and inserting instead —

“ the State of Western Australia ”.

”.