

# AUSTRALIAN CAPITAL TERRITORY

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## Financial Institutions Duty Ordinance 1987

No. 43 of 1987

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# AUSTRALIAN CAPITAL TERRITORY

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## Financial Institutions Duty Ordinance 1987

No. 43 of 1987

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 27 August 1987.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

JOHN BROWN  
Minister of State for the Arts, Sport, the  
Environment, Tourism and Territories

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An Ordinance to impose a duty on receipts by financial institutions

### PART I—PRELIMINARY

#### Short title

1. This Ordinance may be cited as the *Financial Institutions Duty Ordinance 1987*.<sup>1</sup>

#### Commencement

2. This Ordinance shall come into operation on 1 September 1987.

#### Interpretation

3. (1) In this Ordinance, unless the contrary intention appears:

"approved superannuation scheme" means:

- (a) a scheme of superannuation, retirement benefit or pension created for the benefit of employees or self employed persons,

being a scheme the income of which is exempt from taxation under section 23F or 23FB of the *Income Tax Assessment Act 1936*; or

- (b) a scheme of superannuation, retirement benefit or pension created and operated under a law of the Commonwealth or of a State or another Territory;

"bank" means a bank within the meaning of the *Banking Act 1959* and the Reserve Bank;

"charitable organisation" means an association, society, institution or body carried on for a religious, educational, benevolent or charitable purpose, other than one carried on for the purpose of securing pecuniary benefit to its members;

"cheque" includes payment order;

"Commissioner" has the same meaning as in the *Taxation (Administration) Ordinance 1987*;

"dealer" has the same meaning as in the *Securities Industry Act 1980*;

"dealing", in relation to securities, has the same meaning as in the *Securities Industry Act 1980*;

"exempt account" means an account in respect of which there is in force a certificate issued by the Commissioner under section 16, 18 or 19;

"financial institution" means:

- (a) a bank;
- (b) a dealer;
- (c) a trustee corporation;
- (d) a person whose sole or principal business in the Territory is the provision of finance; and
- (e) a management company within the meaning of Division 6 of Part IV of the *Companies Act 1981*;

other than:

- (f) a person whose sole or principal business in the Territory is the operation of an approved superannuation scheme;

- (g) a corporation that is registered under the *Life Insurance Act 1945*;
- (h) a corporation whose sole or principal business is insurance business within the meaning of the *Insurance Act 1973*;
- (i) a corporation that is a medical benefits organisation or a hospital benefits organisation registered under the *National Health Act 1953*;
- (j) a dealer who is not a person referred to in paragraph (a), (c), (d) or (e) and who does not carry on a business of dealing in securities except:
  - (i) in his or her capacity as an official receiver or trustee within the meaning of the *Bankruptcy Act 1966*; or
  - (ii) in his or her capacity as a receiver, as a receiver and manager or as a person appointed by a court to carry on the business concerned;
- (k) a dealer, being a corporation other than a corporation referred to in paragraph (a), (c), (d) or (e), that carries on, or holds itself out as carrying on, a business of dealing in its debentures but does not carry on a business of dealing in any other securities; or
- (l) a pastoral finance company;

"money" includes a bill of exchange and a promissory note;

"pastoral finance company" means:

- (a) a person whose sole or principal business is that of:
  - (i) financing pastoral pursuits; or
  - (ii) a stock and station agent in respect of whom an order under section 11 of the *Banking Act 1959* is in force; or
- (b) a person in respect of whom an approval under section 8 is in force;

"receipt" includes a payment, repayment, deposit or subscription and the crediting of an account;

"registered financial institution" means a financial institution that is registered under this Ordinance;

"short-term dealer" means a person who engages in short-term dealing;

"short-term dealing" means a dealing of the kind described in section 7;

"trustee corporation" means:

- (a) the Public Trustee;
- (b) a corporation, constituted under the law of a State or another Territory, in respect of which there is in force a certificate of approval by the Commissioner under section 9;
- (c) a trustee company within the meaning of the *Trustee Companies Ordinance 1947*; and
- (d) a corporation prescribed for the purposes of this definition.

**(2)** A reference in this Ordinance to the provision of finance includes a reference to:

- (a) the borrowing of money or the obtaining of other financial accommodation, including the issue of share capital by a building society or credit union;
- (b) the dealing in:
  - (i) securities;
  - (ii) bills of exchange;
  - (iii) promissory notes;
  - (iv) certificates of deposit; or
  - (v) any matter or thing prescribed for the purposes of this paragraph;
- (c) the lending of money, with or without security; and
- (d) the purchase, acquisition, discounting or factoring of debts due to another person.

**(3)** In this Ordinance, a reference to carrying on business of a particular kind includes a reference to carrying on that business in the course of, as part of, incidentally to, or in connection with, the carrying on of another business.

(4) For the purposes of this Ordinance, the value of a bill of exchange or a promissory note shall be taken to be its nominal or face value.

(5) Where money is received or a liability incurred in a currency other than the currency of Australia, the amount of that receipt or liability for the purposes of this Ordinance is the equivalent amount in the currency of Australia calculated at a rate of exchange that was the rate of exchange used to calculate that equivalent amount when the receipt or liability was incurred.

### **Administration**

4. The Commissioner has the general administration of this Ordinance.

### **Receipts to which Ordinance applies**

5. (1) Except as otherwise provided, this Ordinance applies to a receipt of money in the Territory.

(2) Where a person receives a consideration, other than money (whether or not in consideration of his or her having given credit to any person), in or towards settlement, satisfaction or discharge of any debt or obligation owing to that person, the person shall, when he or she receives the consideration, be deemed to have received an amount of money equal to the value of that consideration.

(3) For the purposes of this Ordinance, the crediting of an account of a person, including the crediting of an account effected by means of an entry or record made by use of a machine or device, shall be deemed to constitute a receipt of money by the person by whom the account is kept.

(4) A reference to the crediting of an account includes:

- (a) the depositing of money to the credit of the account by the person in whose name the account is kept or by another person;
- (b) without limiting the generality of paragraph (a), the transfer of money to the credit of the account from another account of the person in whose name the account is kept or from an account of another person; and
- (c) the transfer between ledgers or divisions in an account where different terms and conditions apply in respect of those ledgers or divisions.

(5) Where a receipt arises by virtue of the crediting of an account, the receipt shall be regarded as a receipt of money in the Territory if:

- (a) the account was established at an office or branch of a financial institution situated in the Territory and has not been transferred to an office or branch situated outside the Territory; or
  - (b) the account was established at an office or branch of a financial institution situated outside the Territory but has been transferred (and was last transferred) to an office or branch situated in the Territory.
- (6) Where:
- (a) an account kept by a financial institution is debited by the financial institution with an amount that is to be invested, on the instructions of the person on whose behalf the account is kept, with the financial institution; and
  - (b) there is no corresponding credit to an account that constitutes a dutiable receipt for the purposes of this Ordinance;

the amount so debited shall be regarded as a receipt of money by the financial institution.

(7) Where a financial institution provides cash to a person in exchange for a cheque, the financial institution shall not be regarded as having received money, except to the extent that the value of the cheque exceeds the amount of cash given in exchange.

(8) Where a financial institution provides a cheque to a person in exchange for cash, the financial institution shall not be regarded as having received money, except to the extent that the amount of cash exceeds the value of the cheque given in exchange.

### **Definition of dutiable and non-dutiable receipts**

**6. (1)** Subject to this section, a receipt to which this Ordinance applies is a dutiable receipt.

- (2) The following are non-dutiable receipts:
- (a) a receipt of money for the credit of an exempt account;
  - (b) a receipt of money in the course of short-term dealings during a month by a registered financial institution that is a certified short-term dealer, being a receipt that is taken into consideration for the purposes of ascertaining the average daily liability of the financial institution during that month;



- (c) a receipt of money by a registered financial institution, being the repayment of moneys that have been invested in the course of short-term dealings by, or on behalf of, the financial institution;
- (d) a receipt of money by a registered financial institution for the credit of an account held by another registered financial institution;
- (e) a receipt of money by a registered financial institution, being:
  - (i) a pension, benefit or allowance payable under:
    - (A) the *Social Security Act 1947*, other than one payable under Part VI, VIA or VIB of that Act; or
    - (B) the *Veterans' Entitlements Act 1986*; and
  - (ii) paid by way of a credit to an account kept by a person with the financial institution, being a payment caused to be made to the financial institution by the Secretary to the Department of Social Security or the Repatriation Commission;
- (f) a receipt of money by a registered financial institution for crediting to an account in a State or another Territory, being a State or another Territory where there is in force a law imposing duty on receipts by financial institutions;
- (g) a receipt of money by a registered financial institution, being the proceeds of the closing of an account with the financial institution, where the money is credited to another account with the financial institution having the same terms and conditions as the closed account;
- (h) a receipt of money:
  - (i) by a management company from a person who is the trustee or representative for the purposes of a deed relating to the management company in accordance with Division 6 of Part IV of the *Companies Act 1981* or a corresponding law in force in a State or in another Territory; or
  - (ii) by such a trustee or representative from such a management company;

- (i) a receipt of money by a trustee corporation from the estate of a deceased person committed to the management of the trustee company or the Public Trustee;
- (j) a receipt of money by a registered financial institution, being the crediting to an account of the financial institution of an amount of interest on a loan made by that financial institution to a person who is not a financial institution;
- (k) a receipt of money by a registered financial institution solely by reason of the making of an entry in an account kept by the financial institution in error, to correct an error or by reason of the dishonour of a cheque;
- (l) a receipt of money by a registered financial institution, being a credit to an account that is subsequently offset by a debit of the same amount made solely by reason of the dishonour of a cheque;
- (m) a receipt of money by a registered financial institution in consideration of the supply of goods by the financial institution;
- (n) a receipt of money by a registered financial institution from, or on behalf of, a person for whose benefit the financial institution has drawn, accepted or endorsed a bill of exchange, being a bill of exchange whose term is not more than 185 days and whose value is not less than \$50,000, being a receipt to satisfy the amount of the financial institution's engagement on the bill of exchange;
- (o) a receipt of money by a registered financial institution from a charitable organisation that holds a certificate under section 19 for the purpose of investing that money;
- (p) a receipt of money by a registered financial institution where:
  - (i) the receipt results from the reinvestment with the financial institution of a term deposit;
  - (ii) the term deposit is for the same amount, the same term and in the same name as the original deposit; and
  - (iii) duty has been paid by the financial institution on the principal sum of the original deposit;
- (q) a receipt of money by a registered financial institution where:

- (i) the receipt results from the drawing of a commercial bill to replace an expired bill;
- (ii) the commercial bill is for the same amount, the same term and in the same name as the expired bill; and
- (iii) duty has been paid by the financial institution on the receipt by the financial institution of the amount for which the bill was first drawn.

(3) Notwithstanding paragraph (2) (a), a receipt to the credit of an exempt account shall, unless the receipt has been credited to an account in the books of the person in whose name the exempt account is kept, be regarded as a dutiable receipt by that person.

(4) Where money is received in the Territory by a registered financial institution (otherwise than by the crediting of an account) for the credit of an account kept by the financial institution and the crediting of that account will constitute a dutiable receipt for the purposes of this Ordinance, the initial receipt is non-dutiable.

(5) Where money is received in the Territory by a registered financial institution (otherwise than by the crediting of an account) for the credit of an account kept by another registered financial institution and the crediting of that account will constitute a dutiable receipt for the purposes of this Ordinance, the receipt by the first-mentioned institution is non-dutiable.

(6) An entry made in an account of a registered financial institution, including an account kept by the financial institution on behalf of another person, that is made by the financial institution:

- (a) solely in accordance with its internal accounting practices; or
- (b) by reason of a change in its accounting practices;

does not constitute a dutiable receipt.

(7) Where a credit of an amount equal to a bad debt is made to an account held by a registered financial institution for the purpose of cancelling the bad debt and closing the account, the crediting of the account does not constitute a dutiable receipt.

### **Short-term dealing**

7. (1) For the purposes of this Ordinance, an amount is received by a person in the course of short-term dealings where:

- (a) the amount is an amount of not less than \$50,000 received by that person by way of loan, advance or deposit repayable to him or her:
  - (i) at call;
  - (ii) within 185 days; or
  - (iii) at call after a term of not more than 185 days;  
not being an amount received by a bank by way of deposit repayable on demand or for the credit of a current account kept by it for another person;
- (b) the amount is a repayment of a loan, advance or deposit of not less than \$50,000 made by that person within 185 days before the amount is repaid;
- (c) the amount is an amount (not including a fee or commission) in respect of the issue of securities, bills of exchange (other than cheques), promissory notes or certificates of deposit, the term of which is not more than 185 days;
- (d) the amount is an amount (not including a fee or commission) in respect of a sale or purchase of securities, the term of which is not more than 185 days;
- (e) the amount is the proceeds of the sale by that person of a bill of exchange or a promissory note before maturity and not later than 185 days after its acquisition by that person, not being a bill of exchange or a promissory note issued by that person;
- (f) the amount is the proceeds of the sale by that person of securities or certificates of deposit before maturity and not later than 185 days after their acquisition by the person; or
- (g) the amount is the amount received by that person on maturity of securities, bills of exchange, promissory notes or certificates of deposit acquired by him or her within 185 days before the amount was received.

**(2)** A reference in subsection (1) to a bill of exchange, promissory note or certificate of deposit is a reference to a bill of exchange, promissory note or certificate of deposit, the value of which is not less than \$50,000.

**(3)** For the purposes of this Ordinance the average daily liability of a person during a month in respect of short-term dealings is:

- (a) where the person is a registered financial institution (not being a person entitled to make application under section 16 for approval of an account as a short-term dealing account)—the amount calculated in accordance with the formula:

$$\frac{B}{D}$$

where:

**B** is the sum of the daily closing balances of the liability of the financial institution to each person (not being a charitable organisation that holds a certificate under section 19) in respect of amounts received (other than amounts included in a return by the financial institution under section 13) from that person in the course of short-term dealings, other than balances that are less than \$50,000; and

**D** is the number of days in the month; and

- (b) where the person is a person in whose name a short-term dealing account is kept by a registered financial institution—the amount calculated in accordance with the formula:

$$\frac{B}{D}$$

where:

**B** is the sum of the daily closing balances of the liability of the financial institution to that person under that account; and

**D** is the number of days in the month.

### **Pastoral finance company**

**8. (1)** A person a substantial part of whose business is that of:

- (a) financing pastoral pursuits; or  
(b) a stock and station agent in respect of whom an order under section 11 of the *Banking Act 1959* is in force;

may apply to the Commissioner for approval to be treated as a pastoral finance company.

**(2)** An application shall:

- (a) be in writing, signed by the applicant; and

- (b) specify:
- (i) the name and address of the applicant;
  - (ii) a general description of the business carried on by the applicant; and
  - (iii) the extent to which the applicant's business consists of financing pastoral pursuits or being a stock and station agent.

(3) Where the Commissioner is satisfied that a substantial part of the applicant's business is that of:

- (a) financing pastoral pursuits; or
- (b) a stock and station agent in respect of whom an order under section 11 of the *Banking Act 1959* is in force;

the Commissioner may in writing approve that the applicant be treated as a pastoral finance company.

(4) Where the Commissioner is satisfied that a person in respect of whom an approval is in force is no longer a person of the kind described in paragraph (3) (a) or (b), the Commissioner may cancel the approval.

### **Trustee corporation**

9. (1) Where the Commissioner is satisfied that a corporation constituted under a law of a State or another Territory is a corporation that corresponds to the Public Trustee, the Commissioner may issue a certificate of approval in respect of the corporation.

- (2) Where:
- (a) a certificate of approval is in force in respect of a corporation; and
  - (b) the Commissioner is satisfied that the corporation no longer corresponds to the Public Trustee;

the Commissioner shall cancel the certificate.

## **PART II—LIABLILITY TO DUTY**

### **Financial institutions duty: general**

**10. (1)** Subject to this Ordinance, a registered financial institution that receives money during a month is liable to pay financial institutions duty at the rate determined by the Minister in respect of each such receipt to which this Ordinance applies.

**(2)** Subsection (1) does not apply to a non-dutiable receipt.

**Financial institutions duty: short-term dealers**

**11.** Subject to this Ordinance, a short-term dealer is liable to pay financial institutions duty at the rate determined by the Minister in respect of the dealer's average daily liability during a month in respect of short-term dealings.

**Financial institution: application for registration**

**12. (1)** A financial institution may apply to the Commissioner for registration as a financial institution.

**(2)** An application shall:

- (a)** be in writing, signed by the applicant; and
- (b)** specify:
  - (i)** the name and address of the applicant;
  - (ii)** the place or places of business of the applicant in the Territory;
  - (iii)** the kind of business conducted by the applicant in the Territory; and
  - (iv)** the grounds on which the applicant claims to be a financial institution.

**(3)** Where the Commissioner is satisfied that the applicant is a financial institution, the Commissioner shall register the financial institution and issue a certificate of registration to the applicant.

**(4)** Where the Commissioner is satisfied that a registered financial institution is no longer a financial institution, the Commissioner may cancel the registration of the institution.

**Registered financial institution: returns**

**13. (1)** A registered financial institution:

- (a)** that is not a certified short-term dealer; or

(b) that is a certified short-term dealer but that also carries on the business of a financial institution other than short-term dealing; shall, within 21 days after the end of each month, furnish to the Commissioner a return relating to that month.

(2) A return shall:

- (a) be in writing, in a form approved by the Commissioner;
- (b) in the case of a financial institution that is not a certified short-term dealer, specify:
  - (i) the total of the dutiable receipts other than the dutiable receipts of the kind referred to in subparagraph (ii); and
  - (ii) the number of dutiable receipts of, or exceeding, \$1,000,000; that were received by the financial institution during the month to which the return relates; and
- (c) in the case of a financial institution of the kind referred to in paragraph (1) (b), specify:
  - (i) the total of the dutiable receipts other than the dutiable receipts of the kind referred to in subparagraph (ii); and
  - (ii) the number of dutiable receipts of, or exceeding, \$1,000,000; that were received by the financial institution during the month to which the return relates, not being dutiable receipts received by the financial institution in its capacity as a certified short-term dealer.

### **PART III—SHORT-TERM DEALING**

#### **Short-term dealers: certification**

14. (1) A registered financial institution that is a short-term dealer may apply to the Commissioner for certification as a certified short-term dealer.

(2) An application shall:

- (a) be in writing, addressed to the Commissioner; and
- (b) specify:
  - (i) the name and address of the applicant;
  - (ii) the name under which the applicant carries on business;



- (iii) a general description of the applicant's business, including the proportion of the business that consists of short-term dealing;
- (iv) a description of the kind of short-term dealing engaged in by the applicant;
- (v) where the books of accounts are held; and
- (vi) the name of the person authorised by the applicant to furnish returns.

(3) Where the Commissioner is satisfied that the registered financial institution is a short-term dealer, the Commissioner may issue a certificate to the effect that the institution is a certified short-term dealer.

(4) Where the Commissioner is satisfied that a registered financial institution in respect of which a certificate under this section is in force is no longer a short-term dealer, the Commissioner may cancel the certificate.

#### **Certified short-term dealers: duty**

15. (1) Duty is not payable in respect of receipts of a certified short-term dealer in respect of short-term investments.

(2) Duty at a rate determined by the Minister is payable on the average daily liability in a month of a certified short-term dealer, being liability arising from the short-term dealings of that certified short-term dealer.

#### **Short-term dealers: exempt accounts**

16. (1) A short-term dealer who is not a registered financial institution may apply to the Commissioner for approval as an exempt account of an account with a financial institution, being an account that is used solely for the purpose of short-term dealing.

- (2) An application shall:
- (a) be in writing, addressed to the Commissioner; and
  - (b) specify:
    - (i) the name and address of the applicant;
    - (ii) the name and number of the account;
    - (iii) the name under which the applicant carries on business;

- (iv) the name of the registered financial institution by whom the account is kept;
  - (v) the kind of business carried on by the applicant;
  - (vi) the proportion of the applicant's business that consists of short-term dealing;
  - (vii) a description of the kind of short-term dealing engaged in by the applicant; and
  - (viii) where the books of account are held.
- (3) Where the Commissioner is satisfied that:
- (a) the applicant is a short-term dealer;
  - (b) the account to which the application relates is an account with a registered financial institution; and
  - (c) the account is used solely for the purpose of short-term dealing;

the Commissioner may issue a certificate of approval of the account as an exempt account.

### **Short-term dealers: returns**

17. (1) A short-term dealer shall, within 21 days after the end of each month, furnish to the Commissioner a return relating to that month.

- (2) A return shall:
- (a) be in writing, in a form approved by the Commissioner; and
  - (b) specify:
    - (i) in respect of each day during the month to which the return relates—the sum of the daily closing balances of the liability of the dealer ascertained for the purposes of symbol **B** in the formula in paragraph 7 (3) (a) or (b), as the case requires; and
    - (ii) the average daily liability of the dealer, calculated in accordance with subsection 7 (3).

## **PART IV—EXEMPT ACCOUNTS**

### **Exempt accounts: approval of Government accounts**

**18. (1)** An application may be made for approval as an exempt account of an account kept by a registered financial institution on behalf of the Commonwealth, a State or another Territory or a statutory authority of the Commonwealth, a State or another Territory.

**(2)** An application shall:

- (a) be in writing, addressed to the Commissioner; and
- (b) specify:
  - (i) the name of the account;
  - (ii) the government or body on whose behalf the account is kept;
  - (iii) in the case of an account kept on behalf of a statutory authority—whether the account is used solely for other than commercial purposes.

**(3)** Where an application is made in respect of an account kept on behalf of the Commonwealth, a State or another Territory, the Commissioner shall issue to the applicant a certificate of approval of the account as an exempt account.

**(4)** Where an application is made in respect of an account kept on behalf of a statutory authority and:

- (a) the Commissioner is satisfied that the account is used by the authority solely for other than commercial purposes; or
- (b) the account is kept on behalf of a statutory authority that is a body corporate to which Division 3 of Part XI of the *Audit Act 1901* applies;

the Commissioner shall issue to the applicant a certificate of approval of the account as an exempt account.

#### **Exempt accounts: approval generally**

**19. (1)** An application may be made for approval as an exempt account of an account kept by a registered financial institution on behalf of:

- (a) a charitable organisation;
- (b) a hospital that is a recognised hospital under the *Health Insurance Act 1973*;

- (c) a school that is registered under the *Education Ordinance 1937*; or
  - (d) a person included in a class of persons prescribed for the purposes of this paragraph.
- (2) An application shall:
- (a) be in writing, addressed to the Commissioner; and
  - (b) specify:
    - (i) the name and address of the applicant;
    - (ii) the name and number of the account;
    - (iii) the name of the registered financial institution by whom the account is kept; and
    - (iv) the grounds for making the application.

(3) Where the Commissioner is satisfied that an account to which an application relates is an account of a kind referred to in subsection (1), the Commissioner may issue to the applicant a certificate of approval of the account as an exempt account.

#### **Exempt accounts: designation**

20. Where a certificate issued under section 16, 18 or 19 is produced to the registered financial institution at which the account to which the certificate relates is kept, the financial institution shall designate the account as an exempt account.

#### **Exempt accounts: cancellation**

21. Where the Commissioner is satisfied that an exempt account is no longer an account of a kind described in section 16, 18 or 19, the Commissioner shall, by notice in writing forwarded to the person in whose name the account is kept, cancel the certificate of approval of the account.

#### **Notification of cancellation**

22. (1) Where, under section 21, the Commissioner cancels the certificate of approval of an account, the Commissioner shall forward a copy of the notice referred to in that section to the registered financial institution by whom the account is kept.

(2) Where a registered financial institution receives a notice under this section, the institution shall cancel the designation as an exempt account of the account to which the notice relates.

## **PART V—MISCELLANEOUS**

### **Payments to unregistered financial institutions**

23. (1) Where a person pays money to an unregistered financial institution the person is liable to pay to the Commissioner an amount equal to the amount of duty that would have been payable by the financial institution if it were a registered financial institution and were liable in respect of the receipt of that money.

(2) A person who is liable under subsection (1) to pay duty shall, within 21 days after the end of the month in which the money was paid to the institution, furnish to the Commissioner a return relating to that month.

(3) A return shall specify:

- (a) the total payments made to an unregistered financial institution during the month to which the return relates, other than payments of \$1,000,000 or more; and
- (b) the number of payments of, or exceeding, \$1,000,000.

### **Recovery of duty**

24. Where a registered financial institution pays or is liable to pay duty in respect of a dutiable receipt, the person or persons to whose account the amount of the receipt is credited is liable, or are jointly and severally liable, to pay to the financial institution an amount equal to that duty.

### **Offence**

25. A short-term dealer in respect of whose account a certificate of exemption under section 16 is in force shall not use the account for a purpose other than short-term dealing.

Penalty:

- (a) in the case of a natural person—\$5,000 or imprisonment for 12 months, or both; and
- (b) in the case of a body corporate—\$25,000.

**Review of decisions**

26. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Commissioner:

- (a) refusing to grant, or cancelling, an approval under section 8;
- (b) refusing to register, or cancelling the registration of, a financial institution under section 12;
- (c) refusing to issue, or cancelling, a certificate under section 14;
- (d) refusing to issue a certificate of approval under section 16;
- (e) refusing to issue a certificate of approval under section 19; or
- (f) cancelling a certificate of approval under section 21.

**Notification of decisions**

27. (1) Where the Commissioner makes a decision of the kind referred to in section 26 he or she shall, within 28 days of the date of the decision, cause notice in writing of the decision to be given:

- (a) in the case of a decision under section 8—to the pastoral finance company concerned;
- (b) in the case of a decision under section 12—to the financial institution concerned;
- (c) in the case of a decision under section 14 or 16—to the short-term dealer concerned;
- (d) in the case of a decision under section 19—to the organisation, hospital, school or person concerned; and
- (e) in the case of a decision under section 21—to the person in whose name the account is kept.

(2) A notice under subsection (1) shall:

- (a) include a statement to the effect that subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 28 (4) of that Act applies—include a statement to the effect that a person whose interests are

affected by the decision may request a statement pursuant to section 28 of that Act.

(3) The validity of a decision referred to in subsection (1) shall not be taken to be affected by a failure to comply with subsection (2).

### **Regulations**

28. The Minister may make regulations, not inconsistent with this Ordinance, prescribing matters:

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

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#### **NOTE**

1. Notified in the *Commonwealth of Australia Gazette* on 31 August 1987.