# Financial Sector Reform (Victoria) Act 1999

Act No. 37/1999

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The main purposes of this Act are—

(a) to facilitate the registration of building societies, credit unions and friendly societies and related bodies as companies under the Corporations Law in accordance with amendments made by the Financial Sector Reform (Victoria) Act 1999†
2. Commencement

(1) This Part, subdivisions 2, 3 and 4 of Division 2 of Part 6, subdivisions 1, 2, 3 and 4 of Division 3 of Part 6 and sections 47, 48 and 57 come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act (including the items in the Schedules) come into operation on a day or days to be proclaimed, not being a day or days before the transfer date within the meaning of section 3(16) of the Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999 of the Commonwealth.

3. Definitions

In this Act—

"AFIC" means the Australian Financial Institutions Commission established by the AFIC Act;

"AFIC Act" means the Australian Financial Institutions Commission Act 1992 of Queensland;

"AFIC Code" means the AFIC (Victoria) Code;

"AFIC (Victoria) Code" means the provisions applying before the transfer date because of section 5 of the Financial Institutions (Victoria) Act 1992 and includes the AFIC (Victoria) Regulations;
"AFIC (Victoria) Regulations" means the provisions applying before the transfer date because of section 6 of the Financial Institutions (Victoria) Act 1992;

"AFIC Regulations" means the AFIC (Victoria) Regulations;

"APRA" means the Australian Prudential Regulation Authority;

"APRA Act" means the Australian Prudential Regulation Authority Act 1998 of the Commonwealth;

"APRA employee" means a person appointed under section 45 of the APRA Act;

"ASIC" means the Australian Securities and Investments Commission;

"authorised APRA officer", in a provision of Part 4, means a person authorised under section 9 to perform or exercise the functions or powers of an authorised APRA officer under that provision;

"employee", in relation to AFIC, includes a person engaged by AFIC on a contract for services;

"enforcement power" means a function or power relating to—
- the investigation of an offence; or
- the institution and carrying on of a prosecution of an offence; or
- matters relating to an investigation or prosecution of an offence;

"Financial Institutions Code" means the Financial Institutions (Victoria) Code;
"financial institutions legislation" has the same meaning as in section 8 of the AFIC Code;

"Financial Institutions (Victoria) Code" means the provisions applying before the transfer date because of section 8 of the Financial Institutions (Victoria) Act 1992 and includes the Financial Institutions (Victoria) Regulations;

"Financial Institutions (Victoria) Regulations" means the provisions applying before the transfer date because of section 9 of the Financial Institutions (Victoria) Act 1992;

"Financial Institutions Regulations" means the Financial Institutions (Victoria) Regulations;

"fiscal bodies legislation" has the same meaning as in section 3 of the AFIC Code;

"Friendly Societies Code" means the Friendly Societies (Victoria) Code;

"Friendly Societies (Victoria) Code" means the provisions applying before the transfer date because of section 5 of the Friendly Societies (Victoria) Act 1996 and includes the Friendly Societies (Victoria) Regulations;

"Friendly Societies (Victoria) Regulations" means the provisions applying before the transfer date because of section 6 of the Friendly Societies (Victoria) Act 1996;

"FSR Act" means the Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999 of the Commonwealth;

"FS(TB) Act" means the Financial Sector (Transfers of Business) Act 1999 of the Commonwealth;
"relevant Commonwealth body" means APRA or ASIC;
"society" means an entity that, before the transfer date, was a society under the Financial Institutions Code;
"SSA" means State Supervisory Authority;
"transfer date" means the date that, under section 3(16) of the FSR Act, is specified as the transfer date for the purposes of that Act;
"VicFIC" means the Victorian Financial Institutions Commission.

4. **Crown is bound**

   (1) This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

   (2) Nothing in this section permits the Crown in any of its capacities to be prosecuted for an offence.
PART 2—REGISTRATION OF CERTAIN ENTITIES AS COMPANIES

5. Transferring financial institutions

(1) On the transfer date, each transferring financial institution of this jurisdiction is taken, in accordance with Schedule 4 of the Corporations Law of Victoria, to become registered as a company under that Law under the name under which the institution was registered under the previous governing Code immediately before the transfer date.

(2) Sub-section (1) applies even if the institution is an externally-administered body corporate immediately before the transfer date.

(3) Registration under the Corporations Law of Victoria of a transferring financial institution of this jurisdiction as a company does not create a new legal entity.

(4) In this section, "previous governing code" and "transferring financial institution of this jurisdiction" have the same respective meanings as they have in Schedule 4 of the Corporations Law.
PART 3—CONFERRAL OF FUNCTIONS AND POWERS ON APRA AND ASIC

6. Conferral of functions and powers on APRA

(1) APRA has the functions and powers conferred or expressed to be conferred on it by or under this Act.

(2) APRA has power to do acts in Victoria in the performance or exercise of any function or power conferred or expressed to be conferred on APRA by or under a law of another jurisdiction corresponding to this Act.

7. Conferral of functions and powers on ASIC

(1) ASIC has the functions and powers conferred or expressed to be conferred on it by or under this Act.

(2) ASIC has power to do acts in Victoria in the performance or exercise of any function or power conferred or expressed to be conferred on ASIC by or under a law of another jurisdiction corresponding to this Act.
PART 4—AUTHORISED DEPOSIT TAKING INSTITUTIONS AND LIFE INSURANCE COMPANIES: TRANSFER OF BUSINESS

8. Words defined in FS (TB) Act

Unless the contrary intention appears, words defined in the FS(TB) Act have the same respective meanings in this Part.

9. Authorised APRA officer

(1) APRA may, in writing, authorise a person who is an APRA board member, or an APRA staff member, to perform or exercise the functions or powers of an authorised APRA officer under a particular provision of this Part.

(2) The functions and powers necessary for the purposes of this section are conferred on APRA.

10. Voluntary transfers

(1) The purpose of this section is to facilitate voluntary transfers of business under Part 3 of the FS(TB) Act for regulated bodies.

(2) This section applies when a certificate of transfer issued under section 18 of the FS(TB) Act comes into force under Division 3 of Part 3 of that Act.

(3) The receiving body is taken to be the successor in law of the transferring body, to the extent of the transfer.

(4) In particular—

(a) if the transfer is a total transfer, all the assets and liabilities of the transferring body become respectively the assets and liabilities of the receiving body without any transfer, conveyance or assignment; and
(b) if the transfer is a partial transfer, all the assets and liabilities of the transferring body included in the list of assets and liabilities specified in the statement of detail become respectively assets and liabilities of the receiving body without any transfer, conveyance or assignment; and

(c) to the extent of the transfer, the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body.

(5) If there is an approved section 20 statement in relation to the transfer that specifies—

(a) that particular things are to happen or are taken to be the case, those things are taken to happen, or to be the case, in accordance with the statement; or

(b) a mechanism for determining things that are to happen or are taken to be the case, things determined in accordance with that mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism.

11. Compulsory transfers

(1) The purpose of this section is to facilitate compulsory transfers of business under Part 4 of the FS(TB) Act for regulated bodies.

(2) This section applies when a certificate of transfer issued under section 33 of the FS(TB) Act comes into force under Division 3 of Part 4 of that Act.

(3) The receiving body is taken to be the successor in law of the transferring body, to the extent of the transfer.
(4) In particular—

(a) if the transfer is a total transfer, all the assets and liabilities of the transferring body become respectively the assets and liabilities of the receiving body without any transfer, conveyance or assignment; and

(b) if the transfer is a partial transfer, all the assets and liabilities of the transferring body that are included in the list, referred to in section 33(2)(c) of the FS(TB) Act, included in, or attached to, the certificate of transfer become respectively assets and liabilities of the receiving body without any transfer, conveyance or assignment; and

(c) to the extent of the transfer, the duties, obligations, immunities, rights and privileges applying to the transferring body apply to the receiving body.

(5) If the certificate of transfer includes provisions of a kind referred to in section 33(3) of the FS(TB) Act specifying—

(a) that particular things are to happen or are taken to be the case, those things are taken to happen or to be the case, in accordance with those provisions; or

(b) a mechanism for determining things that are to happen or are taken to be the case, things determined in accordance with that mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism.

(6) If there is an approved section 30 statement in relation to the transfer that specifies—

(a) that particular things are to happen or are taken to be the case, those things are taken to happen or to be the case, in accordance with those provisions; or

(b) a mechanism for determining things that are to happen or are taken to be the case, things determined in accordance with that mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism.
happen, or to be the case, in accordance with the statement; or

(b) a mechanism for determining things that are to happen or are taken to be the case, things determined in accordance with that mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism.

12. Certificates evidencing operation of Part

(1) An authorised APRA officer may, by a certificate in writing signed by the officer, certify anything in relation to the effect of this Part, and, in particular may certify that—

(a) a particular asset of a transferring body has become a transferred asset of a receiving body; or

(b) a particular liability of a transferring body has become a transferred liability of a receiving body.

(2) For all purposes and in all proceedings, a certificate under sub-section (1) is evidence of the matters certified.

13. Interests in land

Without prejudice to the generality of this Part and despite anything to the contrary in any other Act or law, if, immediately before the date on which an asset of a transferring body becomes a transferred asset of a receiving body, the transferring body is the registered proprietor of an interest in land under the Transfer of Land Act 1958, then on and after that date—

(a) the receiving body is to be taken to be the registered proprietor of that interest in land; and
(b) the receiving body has the same rights and remedies in respect of that interest as the transferring body had.

(2) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of an authorised APRA officer, must make any amendments in the Register that are necessary because of the operation of this Part.

14. Certificates in relation to other assets

(1) This section applies if—

(a) an asset, other than land or an interest in land, becomes, under this Part, an asset of a receiving body; and

(b) there is lodged with the entity who has, under the law, responsibility for keeping a register or record relating to assets of that kind a certificate that—

(i) is signed by an authorised APRA officer; and

(ii) identifies the asset; and

(iii) states the asset has, under this Part, become an asset of the receiving body.

(2) The entity may—

(a) register or record the matter in the same manner as transactions in relation to assets of that kind are registered or recorded; and

(b) deal with, and give effect to, the certificate.

(3) This section does not affect the operation of the Corporations Law.
15. Documents purporting to be certificates

A document purporting to be a certificate mentioned in section 13 or 14 is taken to be a certificate of that type unless the contrary is established.

16. Relationship of Part with other laws

(1) This Part has effect despite anything in a contract, deed, undertaking, agreement or other instrument.

(2) Nothing done under this Part—

(a) places a receiving body, a transferring body or another person in breach of contract or confidence or otherwise makes any of them guilty of a civil wrong; or

(b) places a receiving body, a transferring body or another person in breach of—

(i) a law of the State; or

(ii) a contractual provision prohibiting, restricting or regulating the assignment or transfer of an asset or liability or the disclosure of information; or

(c) releases a surety, wholly or partly, from all or any of the surety’s obligations.

(3) Without limiting sub-section (1), if, apart from this section, the advice or consent of a person would be necessary in a particular respect, the advice is taken to have been obtained or the consent is taken to have been given.
PART 5—INDUSTRY SUPERVISION FUND

17. Industry Supervision Fund

(1) There shall be established in the Trust Fund an account to be known as the "Industry Supervision Fund".

(2) There shall be paid into the Industry Supervision Fund—

(a) out of the Supervision Fund under the Financial Institutions (Victoria) Act 1992 at such time or times as are determined by the Minister—

(i) such part of the amount standing to the credit of that Fund as VicFIC determines represents the amount of supervision levy paid into that Fund under the Co-operative Housing Societies Act 1958 before the commencement of item 8 of Part 1 of Schedule 2 and unexpended; and

(ii) such part of the amount standing to the credit of that Fund as the Minister determines but not including any amounts received as supervision levy under the Financial Institutions (Victoria) Act 1992, the Friendly Societies Act 1986, the Friendly Societies Code or the Co-operative Housing Societies Act 1958;

(b) the amounts received as supervision levy under the Co-operative Housing Societies Act 1958 on or after the commencement of item 8 of Part 1 of Schedule 2;

(c) any income from the investment of money standing to the credit of the Industry
Supervision Fund and the proceeds of sale of any investment;

(d) any other money approved by the Treasurer.

(3) There shall be paid out of the Industry Supervision Fund—

(a) expenses incurred in the administration of the **Trustee Companies Act 1994**, the **Co-operative Housing Societies Act 1958**, the **Industrial and Provident Societies Act 1958** and the **Benefit Associations Act 1958**;

(b) expenses incurred in administering the Industry Supervision Fund;

(c) any other amounts authorised under this or any other Act to be paid out of the Industry Supervision Fund.

(4) Money standing to the credit of the Industry Supervision Fund may be invested in any manner in which trust funds may be invested under the **Trustee Act 1958**.

### 18. Financial statements of Industry Supervision Fund

(1) As soon as practicable after the end of each financial year, the Minister must cause to be prepared financial statements of the Industry Supervision Fund for that year.

(2) The Minister must cause copies of the financial statements to be available for inspection by the public during ordinary working hours.

(3) This section is in addition to the requirements of Part 7 of the **Financial Management Act 1994**.
PART 6—REPEALS AND TRANSITIONAL

Division 1—Repeals

19. **Repeals on transfer date**

(1) The **Building Societies Act 1986** is **repealed**.

(2) Parts 2, 3, 4 and 5, sections 25, 26, 42, 43, 43A, 48 and 48A and Parts 7, 8, 9, 10, 11, 12 and 14 of the **Financial Institutions (Victoria) Act 1992** are **repealed**.

(3) Parts 2, 3 and 4, sections 14, 15, 16, 17 and 18 and Parts 6, 7, 8, 9 and 10 and Schedule 1 of the **Friendly Societies (Victoria) Act 1996** are **repealed**.

20. **Repeal of remaining provisions**

(1) The **Financial Institutions (Victoria) Act 1992** is **repealed**.

(2) The **Friendly Societies (Victoria) Act 1996** is **repealed**.

(3) VicFIC is dissolved and the members go out of office.

(4) The amount standing to the credit of the Supervision Fund under the **Financial Institutions (Victoria) Act 1992** immediately before the commencement of this section forms part of the Consolidated Fund.
Division 2—Provisions relating to AFIC

Subdivision 1—AFIC to continue

21. Continuation of AFIC for certain purposes

(1) This section applies despite—

(a) the repeal of the AFIC Act by the Financial Sector Reform (Queensland) Act 1999 of Queensland; and

(b) the repeal of the Financial Institutions (Victoria) Act 1992.

(2) AFIC and its board continue in existence, but only for the following purposes—

(a) to give effect to matters relating to the transfer, under a law of the Commonwealth or of another State or a Territory or this Act, of any of its functions under the fiscal bodies legislation to APRA or ASIC;

(b) to prepare reports and financial statements.

22. Delegation of AFIC's powers

(1) AFIC's board may delegate AFIC’s powers to an appropriately qualified employee of AFIC.

(2) In sub-section (1), "appropriately qualified" includes having the qualifications, experience or standing appropriate to exercise the power.

Subdivision 2—Provisions about AFIC's staff

23. Definition

In this subdivision—

"employees", of AFIC, includes the executive director of AFIC.
24. **Transfer of staff to APRA under transfer agreement**

(1) The Queensland Minister administering the Financial Sector Reform (Queensland) Act 1999 of Queensland may enter into a transfer agreement under Division 2 of Part 1 of Schedule 8 of the FSR Act, that determines, or provides for determining, that particular employees of AFIC become APRA employees on a particular date, not being a date before the transfer date.

(2) The transfer agreement has effect according to its terms.

25. **Effect of transfer under section 24 or of employees of AFIC becoming appointed to the Australian Public Service**

(1) This section applies if a person becomes an APRA employee under section 24.

(2) This section also applies if a person—

   (a) is appointed to the Australian Public Service under section 81B(1) of the Public Service Act 1922 of the Commonwealth on or after the transfer date; and

   (b) immediately before the appointment, the person was an employee of AFIC.

(3) If the person is the executive director of AFIC, the executive director's appointment under the AFIC Code immediately ends.

(4) If the person is another employee of AFIC, the employee's employment with AFIC immediately ends.

(5) A person is not entitled to receive any payment or other benefit, whether under a contract or otherwise, because the person's appointment or employment ends under this section.

26. **Statement of accrued benefits etc.**
Before an employee of AFIC becomes an APRA employee under section 24 or is appointed to the Australian Public Service as mentioned in section 25(2), AFIC must give the person, and APRA or the Commonwealth Public Service Commissioner, a written statement stating particulars of the benefits to which the person has an accrued entitlement, the person's remuneration and the person's length of service with AFIC.

Subdivision 3—Information may be given to APRA or ASIC

27. Giving of information

(1) This section applies to—

(a) a director of AFIC's board; and

(b) an employee of AFIC; and

(c) a person appointed by AFIC to carry out duties under the fiscal bodies legislation; and

(d) a person who has been a person mentioned in paragraph (a), (b) or (c).

(2) A person to whom this section applies may disclose to APRA or ASIC information the person acquired while engaged in the administration of the fiscal bodies legislation.

(3) This section applies despite section 155 of the AFIC Code and section 477 of the Friendly Societies Code.

Subdivision 4—Transfer of AFIC's assets and liabilities

28. Transfer of assets and liabilities

(1) The Queensland Minister administering the Financial Sector Reform (Queensland) Act 1999 of Queensland may enter into a transfer agreement under Division 3 of Part 1 of Schedule 8 of the
FSR Act connected with the transfer of AFIC's assets or liabilities to APRA or ASIC.

(2) The transfer agreement has effect according to its terms.

Subdivision 5—Proceedings involving AFIC

29. Continuation and preservation of certain civil proceedings involving AFIC

(1) This section applies to a proceeding—

(a) whether or not it arose or arises under the fiscal bodies legislation; and

(b) regardless of where it arose or arises.

(2) For the purposes of a proceeding commenced before the transfer date to which AFIC was a party immediately before that date, the State of Queensland is substituted for AFIC as a party to the proceeding.

(3) For the purposes of a proceeding not commenced before the transfer date and which could if commenced after the date be brought against AFIC, or but for the commencement of section 19 and the dissolution of AFIC, could have been brought against AFIC, the proceeding may instead be brought against the State of Queensland.

(4) For the purposes of this section, evidence that would have been admissible for or against AFIC is admissible for or against the State of Queensland.

(5) This section does not apply to a proceeding for an offence.

30. Continuation of certain offence proceedings

(1) This section applies to a proceeding for an offence brought under section 63 of the AFIC Code by
AFIC, or a person authorised in writing by AFIC, that commenced before the transfer date but was not completed before the date.

(2) On and after the transfer date, the proceeding may continue to be prosecuted by either APRA or ASIC in place of AFIC or the person authorised by AFIC and APRA or ASIC may be substituted in the proceeding for AFIC or the person.

(3) The functions and powers necessary for this section are conferred on APRA and ASIC.

Division 3—Provisions relating to VicFIC

Subdivision 1—General

31. Supervision Fund

(1) Amounts standing to the credit of the Consultancy Services Fund established under section 43A of the Financial Institutions (Victoria) Act 1992 immediately before the transfer date form part of the Supervision Fund established under section 41 of that Act.

(2) VicFIC must pay out of the Supervision Fund at such time or times as VicFIC determines—

(a) to APRA—

(i) such amount in respect of liabilities relating to leave or other entitlements of employees of VicFIC who become employees of APRA, being liabilities existing immediately before the date on which the relevant employees become employees of APRA, as is determined by VicFIC; and

(ii) such amount in respect of any other liabilities of VicFIC that, by reason of
this Act, become liabilities of APRA, as is determined by VicFIC;

(b) to ASIC—

(i) such amount in respect of liabilities relating to leave or other entitlements of employees of VicFIC who become employees of ASIC, being liabilities existing immediately before the date on which the relevant employees become employees of ASIC, as is determined by VicFIC; and

(ii) such amount in respect of any other liabilities of VicFIC that, by reason of this Act, become liabilities of ASIC, as is determined by VicFIC;

(c) to each building society, credit union and friendly society, an amount determined by VicFIC as representing the amount of supervision levy paid by the building society, credit union or friendly society into the supervision fund and unexpended.

32. Credit Unions Contingency Fund

(1) On the day before the transfer date, VicFIC must, under section 99A of the Financial Institutions Code, distribute the whole of retained earnings to the contribution accounts of credit unions.

(2) For the purposes of sub-section (1), section 99A(3) of the Financial Institutions Code does not apply.

(3) Immediately after VicFIC complies with sub-section (1) it must pay from the Credit Unions Contingency Fund to each credit union the amount standing to the credit union's credit in the fund.

(4) Sub-section (3) applies despite section 103 of the Financial Institutions Code.
(5) In this section—

"contribution accounts", of credit unions, means the parts of the Credit Unions Contingency Fund that, under section 98(10) of the Financial Institutions Code, are treated as a deferred asset in the accounts of the credit unions;

"credit union" means a credit union under the Financial Institutions Code;

"retained earnings" has the same meaning as in section 99A of the Financial Institutions Code.

33. Audit of funds

(1) VicFIC must cause the financial statements of VicFIC to be audited by the Auditor-General or a person authorised by the Auditor-General.

(2) The Audit Act 1994 applies to an audit under sub-section (1) as if it were an audit under Part 3 of that Act.

Subdivision 2—Provisions about VicFIC’s staff

34. Transfer of staff to APRA under transfer agreement

(1) The Minister may enter into a transfer agreement under Division 2 of Part 1 of Schedule 8 of the FSR Act that determines, or provides for determining, that particular employees of VicFIC become APRA employees on a particular date, not being a date before the transfer date.

(2) The transfer agreement has effect according to its terms.

35. Effect of transfer to APRA or APS

(1) This section applies—
(a) if a person becomes an APRA employee under section 34; or

(b) if—

(i) a person is appointed to the Australian Public Service under section 81B(1) of the Public Service Act 1922 of the Commonwealth on or after the transfer date; and

(ii) immediately before the appointment, the person was an employee of VicFIC.

(2) The employee's employment with VicFIC immediately ends.

(3) A person is not entitled to receive any payment or other benefit because the person's appointment or employment ends under this section.

36. Statement of accrued benefits etc

Before an employee of VicFIC becomes an APRA employee under section 34 or is appointed to the Australian Public Service as mentioned in section 35(1)(b)(i), VicFIC must give the person, and APRA or the Commonwealth Public Service Commissioner, a written statement stating particulars of—

(a) the person's remuneration; and

(b) the person's accrued benefits and entitlements in respect of service with VicFIC and prior service recognised by VicFIC;

(c) the person's length of service with VicFIC and the length of prior service recognised by VicFIC.

Subdivision 3—Information may be given to APRA and ASIC
37. Giving of information

(1) This section applies to—
   (a) a member of VicFIC; and
   (b) an employee of VicFIC;
   (c) a person appointed by VicFIC for the purpose of carrying out duties under the fiscal bodies legislation; and
   (d) a person who has been a person mentioned in paragraph (a), (b) or (c).

(2) A person to whom this section applies may disclose to APRA or ASIC information the person acquired while engaged in the administration of the fiscal bodies legislation.

(3) This section applies despite section 47 of the Financial Institutions (Victoria) Act 1992 and section 410 of the Financial Institutions Code or section 477 of the Friendly Societies Code.

Subdivision 4—Transfer of VicFIC's assets and liabilities

38. Transfer of assets and liabilities

(1) The Minister may enter into a transfer agreement under Division 3 of Part 1 of Schedule 8 of the FSR Act connected with the transfer of VicFIC's assets or liabilities to APRA or ASIC, other than assets or liabilities relating to co-operative housing societies.

(2) The transfer agreement has effect according to its terms.

39. Transfer of assets and liabilities relating to co-operative housing societies

(1) VicFIC may enter into an agreement with the Registrar connected with the transfer to the State
Subdivision 5—Proceedings involving VicFIC

40. Continuation and preservation of civil proceedings involving VicFIC

(1) For the purposes of a proceeding commenced before the transfer date to which VicFIC was a party immediately before that date, the State is substituted for VicFIC as a party to the proceeding.

(2) For the purposes of a proceeding not commenced before the transfer date and which could, if commenced after the date, be brought against VicFIC, or but for the commencement of section 20, could have been brought against VicFIC, the proceeding may instead be brought against the State.

(3) For the purposes of this section, evidence that would have been admissible for or against VicFIC is admissible for or against the State.

(4) This section does not apply to a proceeding for an offence.

41. Continuation of certain offence proceedings

(1) This section applies to a proceeding for an offence brought under section 404 of the Financial Institutions Code or section 471 of the Friendly Societies Code by VicFIC, or a person authorised in writing by VicFIC, that commenced before the transfer date but that was not completed before the date.

(2) On and after the transfer date, the proceeding may continue to be prosecuted by either APRA or
ASIC in place of VicFIC or the person authorised by VicFIC and APRA or ASIC may be substituted for VicFIC or the person.

(3) The functions and powers necessary for this section are conferred on APRA and ASIC.

Division 4—APRA’s and ASIC’s functions and powers under Codes

42. Conferral of functions and powers relating to financial institutions and friendly societies

(1) Either relevant Commonwealth body has the same enforcement powers relating to anything done or omitted to be done under a Code before the transfer date as AFIC or VicFIC had immediately before that date.

(2) For the purposes of sub-section (1), a Code applies with all necessary changes.

(3) In this section—

"Code" means—

(a) AFIC Code;

(b) Financial Institutions Code;

(c) Friendly Societies Code.

43. AFIC Code provisions

(1) Part 8 of the AFIC Code, other than sections 50, 51, 55 and 58, and the other provisions of the Code relevant to the Part, continue to apply on and after the transfer date in relation to anything done or omitted to be done before that date as if section 19 had not commenced.

(2) Despite sub-section (1), a provision, or part of a provision, applying under that sub-section that creates an offence is not limited in its application
(3) For the purposes of the application mentioned in sub-section (1)—

(a) a reference in the Code to AFIC is taken to be a reference to either relevant Commonwealth body;

(b) a reference in the Code to a financial institution is taken to be a reference to an entity that on the transfer date is a company under the Corporations Law and that, immediately before that date, was a financial institution under the Code; and

(c) in section 52(1) of the Code, the words "the financial institutions scheme" are taken to be omitted and the words "investigating whether an offence against the fiscal bodies legislation has been committed" are taken to be substituted; and

(d) a reference in section 52(1)(a) or (b) of the Code to an employee of AFIC or of a State supervisory authority is taken to be a reference to an employee of either relevant Commonwealth body; and

(e) section 52(5) of the Code is taken to be omitted; and

(f) a reference in section 53(1) or (2) of the Code to the executive director is taken to be a reference to either relevant Commonwealth body; and

(g) a reference in section 53(5) of the Code to officers and employees of the State supervisory authorities is taken to be a reference to officers and employees of either relevant Commonwealth body; and
(h) section 63(1A) and (1B) of the Code are taken to be omitted; and

(i) a reference in section 63(2) of the Code to the Ministerial Council is taken to be a reference to the Minister administering this Act; and

(j) the Code applies with all other necessary changes.

(4) This section does not limit section 42.

44. Financial Institutions Code provisions

(1) Subdivision 1A of Division 2 of Part 2 (other than sections 75, 79 and 82), Part 10 and sections 392, 397, 398 and 404 of the Financial Institutions Code, and the other provisions of the Code relevant for that subdivision and those Parts and sections, continue to apply on and after the transfer date in relation to anything done or omitted to be done before that date as if section 19 had not commenced.

(2) Despite sub-section (1), a provision, or part of a provision, applying under that sub-section that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the purposes of the application mentioned in sub-section (1)—

(a) a reference in the Code to the SSA is taken to be a reference to either relevant Commonwealth body; and

(b) a reference in the Code to a financial body is taken to be a reference to an entity that on the transfer date is a company under the Corporations Law and that, immediately before that date, was a financial body under the Code; and
(c) a reference in the Code to a society is taken to be reference to an entity that on the transfer date is a company under the Corporations Law and that, immediately before that date, was a society under the Code; and

(d) in section 76(1) of the Code, the words "the financial institutions legislation" are taken to be omitted and the words "investigating whether an offence against the financial institutions legislation has been committed" are taken to be substituted; and

(e) a reference in section 76(1)(a) or (b) of the Code to an employee of the SSA is taken to be a reference to an employee of either relevant Commonwealth body; and

(f) section 76(5) of the Code is taken to be omitted; and

(g) in the definition of "financial body to which this section applies" in section 397(1) of the Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and

(h) section 397(2) of the Code is taken to be omitted; and

(i) in the definition of "financial body to which this section applies" in section 398(1) of the Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and

(j) in the definition of "prescribed person" in section 398(1) of the Code, paragraphs (a) and (b) are taken to be omitted; and

(k) section 398(2) of the Code is taken to be omitted; and
(l) a reference in section 404(2) of the Code to the Minister is taken to be a reference to the Minister administering this Act; and

(m) the Code applies with all other necessary changes.

(4) This section does not limit section 42.

45. Friendly Societies Code provisions

(1) Subdivision 2 of Division 2 of Part 2 (other than sections 31, 35 and 38), Divisions 3 and 4 of Part 4A, Part 10 and sections 460, 465, 466 and 471 of the Friendly Societies Code, and the other provisions of the Code relevant to that subdivision, Division or Part or those sections, continue to apply on and after the transfer date in relation to anything done or omitted to be done before that date as if section 19 had not commenced.

(2) Despite sub-section (1), a provision, or part of a provision, applying under that sub-section that creates an offence is not limited in its application to anything done or omitted to be done before the transfer date.

(3) For the purposes of the application mentioned in sub-section (1)—

(a) a reference in the Code to the SSA is taken to be a reference to either relevant Commonwealth body;

(b) a reference in the Code to a society is taken to be a reference to an entity that on the transfer date is a company under the Corporations Law and that, immediately before that date, was a society under the Code; and

(c) in section 32(1) of the Code, the words "the friendly societies legislation" are taken to be
omitted and the words "investigating whether an offence against the friendly societies legislation has been committed" are taken to be substituted; and

(d) a reference in section 32(1)(a) or (b) of the Code to an employee of the SSA is taken to be a reference to an employee of either relevant Commonwealth body; and

(e) section 32(4) of the Code is taken to be omitted; and

(f) in the definition of "society to which this section applies" in section 465(1) of the Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and

(g) section 465(2) of the Code is taken to be omitted; and

(h) in the definition of "society to which this section applies" in section 466(1) of the Code, paragraphs (a), (b), (d), (e) and (f) are taken to be omitted; and

(i) in the definition of "prescribed person" in section 466(1) of the Code, paragraphs (a) and (b) are taken to be omitted; and

(j) section 466(2) of the Code is taken to be omitted; and

(k) a reference in section 471(2) of the Code to the Minister is taken to be a reference to the Minister administering this Act; and

(l) the Code applies with all other necessary changes.

(4) This section does not limit section 42.

46. Conferral of functions and powers
The functions and powers necessary for the purposes of this Division are conferred on APRA and ASIC.

**Division 5—Miscellaneous**

**47. Dormant accounts**

(1) This section applies if—

(a) before the transfer date a society transferred an amount from a person's deposit account with a society to another account under section 138A(4)(c) of the Financial Institutions Code; and

(b) immediately before the transfer date the amount has not been lawfully totally paid out as mentioned in section 138A(6)(b) of that Code.

(2) Immediately before the transfer date the amount remaining in the other account for the person is taken to have been transferred back to the person's deposit account as if it had never been classified as a dormant account or closed under section 138A of the Financial Institutions Code.

**48. Withdrawable shares in building societies**

(1) A person who, immediately before the transfer date, was entitled to a withdrawable share of a building society, is deemed to have become on that date the holder of a deposit with the building society of an amount equal to the amount paid up on the share.

(2) The holder of the deposit continues to have the same voting or other rights (if any) as the holder of the withdrawable share had.

(3) Any withdrawable shares of a building society on issue immediately before the transfer date and
converted to deposits under sub-section (1) are deemed to have been cancelled.

(4) This section applies subject to such standards or rules about the conversion of withdrawable shares to deposits as are determined by VicFIC.

(5) In this section—

"building society" means a transferring financial institution of this jurisdiction (within the meaning of Part 1 of Schedule 4 to the Corporations Law) authorised under the Financial Institutions Code to operate as a building society immediately before the transfer date;

"withdrawal share" means a withdrawable share within the meaning of the Financial Institutions Code.

49. Matters in relation to dissolved or deregistered societies

(1) This section applies if, before the transfer date, a society's registration has been cancelled under—

(a) the Financial Institutions Code; or
(b) the Friendly Societies Code; or
(c) the Building Societies Act 1986 or a corresponding previous enactment; or
(d) the Friendly Societies Act 1986 or a corresponding previous enactment; or
(e) the Co-operation Act 1981 or a corresponding previous enactment.

(2) If property vested in ASIC under section 38 was held by a society whose registration has been cancelled as mentioned in sub-section (1) and was so held on trust, ASIC may—

(a) continue to act as trustee; or
(b) apply to a court for the appointment of a new trustee.

(3) If a society referred to in sub-section (2) had property that it did not hold on trust, ASIC may—

(a) dispose of or deal with the property as it sees fit; and

(b) apply any money it receives to—

(i) defray expenses incurred by ASIC in exercising its powers in relation to the society; and

(ii) make payments authorised by sub-section (4)—

and must deal with the rest (if any) under Part 9.7 of the Corporations Law which is deemed to apply as if the society had been a company.

(4) The property remains subject to all liabilities imposed on the property under a law and does not have the benefit of any exemption that the property might otherwise have because it is vested in ASIC.

(5) ASIC's obligation under sub-section (4) is limited to satisfying the liabilities out of the society's property to the extent that the property is properly available to satisfy those liabilities.

(6) ASIC must keep—

(a) a record of property that it knows is vested in it under section 38; and

(b) a record of its dealings with that property; and

(c) account of all money received from those dealings; and

(d) all accounts, vouchers, receipts and papers relating to the property and that money.
(7) ASIC may do an act on behalf of the society or the society's liquidator if ASIC is satisfied the society or liquidator would be bound to do the act if the society still existed.

(8) A person may recover from an insurer of the society an amount that was payable to the society under the insurance contract if—

(a) the society had a liability to the person; and

(b) the insurance contract covered the liability immediately before the cancellation of the registration.

(9) ASIC may establish a society as a company if ASIC is satisfied that the society's registration should not have been cancelled.

(10) A court may make an order that ASIC establish a society as a company if—

(a) an application for so establishing a society is made to the court—

(i) by a person aggrieved by the cancellation of the society's registration; or

(ii) by a former liquidator of the society; and

(b) the court is satisfied that it is just that the society be so established.

(11) If the court makes an order under sub-section (10), it may—

(a) validate anything done between the cancellation of the society's registration and its establishment as a company; and

(b) make any other order it considers appropriate.
(12) ASIC must give notice of the establishment of a company in the Commonwealth of Australia Gazette and, if it exercises its power under sub-section (9) in response to an application by a person, it must also give notice to the applicant.

(13) If a society is established as a company, the society is taken to have continued in existence until the transfer date and to be a transferring financial institution of this jurisdiction as referred to in Part 2.

(14) A person who was a director of a society immediately before its registration was cancelled becomes a director of the company as which it is established under this section as from the time when ASIC or a court so establishes it.

(15) Any property of the society that is still vested in ASIC revests in the company so established and, if the society held particular property subject to a security or other interest or claim, the society takes the property subject to that interest or claim.

(16) The functions and powers that are necessary for the purposes of this section are conferred on ASIC.

(17) In this section—

"society" means an entity that was—

(a) a society under the Financial Institutions Code or the Friendly Societies Code;

(b) a building society under the Building Societies Act 1986 or a corresponding previous enactment; or

(c) a friendly society under the Friendly Societies Act 1986 or a corresponding previous enactment; or
50. **Mergers and transfers of engagements commenced under Financial Institutions (Victoria) Code**

(1) This section applies if a transfer of engagements or merger commenced before the transfer date under Part 7 of the Financial Institutions (Victoria) Code and immediately before that date has not been completed, or been given effect.

(2) The transfer of engagements or merger may be completed, or be given effect, under Part 7 of the Financial Institutions (Victoria) Code on or after the transfer date and, for that purpose, that Part, and other provisions of the Code relevant to that Part, continue to apply as if section 19 had not commenced.

(3) For the purpose of the application mentioned in sub-section (2)—

(a) a reference in the Financial Institutions (Victoria) Code to the SSA is taken to be a reference to either relevant Commonwealth body; and

(b) a reference in the Financial Institutions (Victoria) Code to the SSA of a participating State is taken to be a reference to either relevant Commonwealth body; and

(c) the Financial Institutions (Victoria) Code applies with all other necessary changes.

(4) For the purposes of this section a transfer of engagements was commenced before the transfer date under Part 7 of the Financial Institutions (Victoria) Code if, before that date—
(a) one of the following conditions was satisfied in relation to each society or foreign society involved—

(i) the transfer was approved by a special resolution of the society or foreign society, in accordance with the relevant Financial Institutions Code;

(ii) the relevant SSA made a determination, under the relevant Financial Institutions Code, that the transfer may be approved by the board of the society or foreign society; or

(b) in a case where each entity involved in the transfer is a society, VicFIC gave a direction, under the Financial Institutions (Victoria) Code, requiring the transfer.

(5) For the purposes of this section, a merger was commenced before the transfer date if, before that date, one of the following conditions was satisfied in relation to each society or foreign society involved—

(a) the merger was approved by a special resolution of the society or foreign society, in accordance with the relevant Financial Institutions Code;

(b) the relevant SSA made a determination, under the relevant Financial Institutions Code, that the merger may be approved by the board of the society or foreign society.

(6) The functions and powers of the SSA that are necessary for the purposes of this section are conferred on each relevant Commonwealth body.

(7) In this section—

"financial institutions agreement" has the same meaning as in section 3 of the AFIC Code;
"foreign society" means a body corporate that, before the transfer date, was a society under the financial institutions legislation of another participating State, whether or not it was registered as a foreign society under Part 11 of the Financial Institutions (Victoria) Code;

"participating State" means a State that, immediately before the transfer date, was a party to the financial institutions agreement and in which, immediately before that date, the foreign society was incorporated;

"relevant Financial Institutions Code" means—
(a) in relation to a society, the Financial Institutions (Victoria) Code; or
(b) in relation to a foreign society, the law of another participating State corresponding to the Financial Institutions (Victoria) Code;

"relevant SSA" means—
(a) in relation to a society, VicFIC; or
(b) in relation to a foreign society, the State supervisory authority under the financial institutions legislation of the other participating State;

"society" means an entity that, immediately before the transfer date, was a society under the Financial Institutions (Victoria) Code.

51. Mergers and transfers of engagements commenced under Friendly Societies (Victoria) Code

(1) This section applies if a transfer of engagements or merger commenced before the transfer date under Part 7 of the Friendly Societies (Victoria)
Code and immediately before that date has not been completed, or been given effect.

(2) The transfer of engagements or merger may be completed, or be given effect, under Part 7 of the Friendly Societies (Victoria) Code on or after the transfer date and, for that purpose, that Part, and other provisions of the Code relevant to that Part, continue to apply as if section 19 had not commenced.

(3) For the purposes of the application mentioned in sub-section (2)—

(a) a reference in the Friendly Societies (Victoria) Code to the SSA is taken to be a reference to either relevant Commonwealth body; and

(b) a reference in the Friendly Societies (Victoria) Code to the SSA of a participating State is taken to be a reference to either relevant Commonwealth body; and

(c) the Friendly Societies (Victoria) Code applies with all other necessary changes.

(4) For the purposes of this section a transfer of engagements was commenced before the transfer date under Part 7 of the Friendly Societies (Victoria) Code if, before that date—

(a) one of the following conditions was satisfied in relation to each society or foreign society involved—

(i) the transfer was approved by a special resolution of the society or foreign society, in accordance with the relevant Friendly Societies Code;

(ii) the relevant SSA made a determination, under the relevant Friendly Societies Code, that the transfer may be approved
by the board of the society or foreign society; or

(b) in a case where each entity involved in the transfer is a society, VicFIC gave a direction, under the Friendly Societies (Victoria) Code, requiring the transfer.

(5) For the purposes of this section, a merger was commenced before the transfer date if, before that date, one of the following conditions was satisfied in relation to each society or foreign society involved—

(a) the merger was approved by a special resolution of the society or foreign society in accordance with the relevant Friendly Societies Code;

(b) the relevant SSA made a determination, under the relevant Friendly Societies Code, that the merger may be approved by the board of the society or foreign society.

(6) The functions and powers of the SSA that are necessary for the purposes of this section are conferred on each relevant Commonwealth body.

(7) In this section—

"financial institutions agreement" has the same meaning as in section 3 of the AFIC Code;

"foreign society" means a body corporate that, before the transfer date, was a society under the friendly societies legislation of another participating State, whether or not it was registered as a foreign society under Part 11 of the Friendly Societies (Victoria) Code;

"friendly societies legislation" has the same meaning as in section 8A of the AFIC Code;
"participating State" means a State which, immediately before the transfer date, was a party to the financial institutions agreement and in which, immediately before that date, the foreign society was incorporated;

"relevant Friendly Societies Code" means—
(a) in relation to a society, the Friendly Societies (Victoria) Code; or
(b) in relation to a foreign society, the law of another participating State corresponding to the Friendly Societies (Victoria) Code;

"relevant SSA" means—
(a) in relation to a society, VicFIC; or
(b) in relation to a foreign society, the State supervisory authority under the friendly societies legislation of the other participating State;

"society" means an entity that, immediately before the transfer date, was a society under the Friendly Societies (Victoria) Code.

52. Australian Financial Institutions Appeals Tribunal

(1) This section applies on the transfer date.

(2) The Australian Financial Institutions Appeals Tribunal established under section 8 of the AFIC Act ceases to exist by reason of the Financial Sector Reform (Queensland) Act 1999 of Queensland.

(3) All applications made to the Australian Financial Institutions Appeal Tribunal under a Code for review of a decision that have not been decided are taken to have been withdrawn.
(4) In this section—

"Code" means the AFIC Code, Financial Institutions Code or Friendly Societies Code.

53. Funds of Committees

(1) On the transfer date, any money held by a former Committee forms part of the Industry Supervision Fund under Part 5.

(2) In this section—

"former committee" means—

(a) the Credit Unions Advisory Committee established by Part 7 of the Financial Institutions (Victoria) Act 1992;

(b) the Friendly Societies Advisory Committee under Part 6 of the Friendly Societies (Victoria) Act 1996;

(c) the Victorian Building Societies Advisory Committee under Part 2 of the Building Societies Act 1986.

Division 6—State taxes

54. Exemption from State taxes

(1) No stamp duty or other tax is chargeable under any Act in respect of anything effected by or done under this Act.

(2) Sub-section (1) does not apply to Part 4.

Division 7—References to financial institutions and friendly societies

55. Building societies and credit unions

Unless the contrary intention appears, a reference in an Act (other than this Act) or a legislative instrument to a building society or credit union
Financial Sector Reform (Victoria) Act 1999
Act No. 37/1999

has effect on and after the transfer date as a reference to an authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth.

56. Friendly societies

Unless the contrary intention appears, a reference in an Act (other than this Act) or a legislative instrument to a friendly society has effect on and after the transfer date as a reference to a body—

(a) that, immediately before the transfer date, was a society within the meaning of the Friendly Societies Code; or

(b) a body that is a friendly society for the purposes of the Life Insurance Act 1995 of the Commonwealth.

Division 8—Regulations

57. Regulations

The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
PART 7—CONSEQUENTIAL AMENDMENTS

58. Consequential amendments

On the coming into operation of an item in Schedule 1, 2 or 3, the Act specified in the heading to that item is amended as set out in that item.
SCHEDULES

SCHEDULE 1

AMENDMENTS ARISING FROM CHANGES TO CORPORATIONS LAW BEFORE 1999


1.1 In section 1(a), after "Securities" insert "and Investments".

1.2 In section 3(1), in the definitions of "applicable provision", "ASC Act", "ASC Law", "ASC Law of Victoria", "ASC Regulations", "ASC Regulations of Victoria" "Commonwealth law", "corresponding law" and "national scheme law of this jurisdiction", for "ASC" (wherever occurring) substitute "ASIC".

1.3 In section 3(1)—

(a) in the definition of "ASC Act", after "Securities" insert "and Investments";

(b) in the definition of "Commission"—

(i) after "Securities" insert "and Investments";

(ii) for "ASC" substitute "ASIC".

1.4 In section 20, for "ASC" (wherever occurring) substitute "ASIC".

1.5 Part 6 is repealed.

1.6 In sections 26 and 27, for "ASC" substitute "ASIC".

1.7 In section 41(2)(a) for "ASC" (wherever occurring) substitute "ASIC".

1.8 In section 54(2)(a) for "ASC" (wherever occurring) substitute "ASIC".

1.9 In Divisions 1, 2 and 6 of Part 11, for "ASC" (wherever occurring) substitute "ASIC".

1.10 In section 60—

(a) in the definition of "affairs", for "section 260 of the Corporations Law" substitute "section 246AA of the Corporations Law";
(b) in paragraph (b) of the definition of "books", for "accounts or accounting records" substitute "financial reports or financial records".

1.11 In section 90, for "ASC" (wherever occurring) substitute "ASIC".

1.12 In section 93, paragraph (b) is repealed.

1.13 Section 94 is repealed.

1.14 At the end of section 97 insert—

"(2) Sub-section (1) does not apply to a transfer made on or after the commencement of item 1.14 of Schedule 1 of the Financial Sector Reform (Victoria) Act 1999.".

2. Interpretation of Legislation Act 1984

2.1 In section 32(1), in paragraph (g) of the definition of "Code", for "ASC" substitute "ASIC".

2.2 In section 38A, for "ASC" (where twice occurring) substitute "ASIC".

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SCHEDULE 2

PART 1

AMENDMENT OF CO-OPERATIVE HOUSING SOCIETIES ACT 1958 CONSEQUENTIAL ON REFORM OF FINANCIAL SECTOR

1. In section 3(1)—
   (a) the definition of "Commission" is repealed;
   (b) for the definition of "Registrar" substitute—
       "Registrar" means the Registrar of Co-operative Housing Societies referred to in section 62;".

2. For section 3A substitute—
   "3A. Construction of references to Commission
       A reference in this Act or the Regulations or in any instrument made for the purposes of this Act to the Victorian Financial Institutions Commission is to be construed as a reference to the Registrar, unless a contrary intention appears".

3. In section 9 for sub-section (1) substitute—
   "(1) A society may not be registered by a name identical with that by which a society is already registered, or so nearly resembling that name or the name of any body corporate registered under the Corporations Law as in the opinion of the Registrar is calculated to deceive.".

4. In section 9(2) for "such subsisting company building society or friendly society" substitute "body corporate registered under the Corporations Law".

5. In section 9, for sub-section (3) substitute—
   "(3) A society may change its name by special resolution if the new name is not identical with that of any society previously registered and still subsisting or so nearly resembling that name or the name of any body corporate registered under the Corporations Law as in the opinion of the Registrar is calculated to deceive unless the society or body corporate is in course of being wound up and consents in writing to the registration".
6. In sections 11, 12, 13, 14 and 16, for "Commission" (wherever occurring) substitute "Registrar".

7. In sections 44A and 44B, the heading to Division 6 of Part 2 and sections 44C and 44D, for "Commission" (wherever occurring) substitute "Registrar".

8. In Division 7 of Part 2, before section 44D, insert—

"44CA. Industry Supervision Fund

The Registrar must pay all amounts received as supervision levy under section 44D into the Industry Supervision Fund established under the Financial Sector Reform (Victoria) Act 1999."

9. In Division 1 of Part IV insert—

"62. Employment of Registrar

There is to be employed under Part 3 of the Public Sector Management and Employment Act 1998 a Registrar of Co-operative Housing Societies for the purposes of this Act.

62A. Registrar's functions

(1) Subject to this Act, the Registrar is responsible for the general administration of this Act.

(2) The Registrar has the functions that are conferred on the Registrar by or under this Act.

(3) The Registrar must have a seal of office.

(4) The Registrar may enter into an arrangement or agreement with the Australian Prudential Regulation Authority or any other person or body.

62B. Delegation by Registrar

The Registrar may by instrument delegate to any employee of the public service or, with the approval of the Minister, any other person any of the Registrar's functions or powers under this Act, other than this power of delegation.

10. After section 69 insert—

"70. Public office of Registrar and inspection of documents

(1) The Registrar must maintain a public office.

(2) Any person may on payment of the prescribed fee—
(a) inspect at the office of the Registrar the certificate of registration and rules of any society and information and returns submitted under section 41(1) or (2);

(b) obtain from the Registrar a certified copy of the certificate of registration of any society, a certified copy of the rules, or of any part of the rules, of any society or a copy of any information or return submitted under section 41(1) or (2) or of any part of such information or return;

(c) with the permission of the Registrar, inspect at the office of the Registrar and obtain from the Registrar a certified copy of the whole or any part of any other registered document.

70A. Power of Registrar to reject documents etc.

(1) If the Registrar is of the opinion that a document submitted to the Registrar—

(a) contains matter contrary to law; or

(b) contains matter that, in a material particular, is false or misleading in the form or context in which it is included; or

(c) because of an omission or misdescription, has not been duly completed; or

(d) does not comply with the requirements of this Act; or

(e) contains an error, alteration or erasure—

the Registrar may refuse to register, or may reject, the document and may request—

(f) that the document be appropriately amended or completed and resubmitted; or

(g) that a fresh document be submitted in its place; or

(h) if the document has not been duly completed, that a supplementary document be submitted.

(2) The Registrar may require a person who submits a document to the Registrar to produce another document, or to give any information, that the Registrar considers necessary in order to form an opinion whether the Registrar should refuse to register or should reject the document.

11. In section 71A(1), for "Commission" (where twice occurring) substitute "Registrar". 

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12. In section 71A(3), for "A member of the Commission" substitute "The Registrar".

13. In section 71B, for "Commission" (wherever occurring) substitute "Registrar".

14. In section 72A, for "Commission" (wherever occurring) substitute "Registrar".

15. After section 72A insert—

"Division 3—General

72B. Secrecy

(1) A person to whom this section applies must not, except to the extent necessary to carry out that person's duties, give to any other person any information of which that person has knowledge through the carrying out of those duties or make use of that information except in the course of carrying out those duties.

Penalty: $2000 or imprisonment for one year or both.

(2) Nothing in sub-section (1) precludes a person to whom this section applies from—

(a) producing a document to a court in the course of
criminal proceedings or in the course of any
proceedings under this Act; or

(b) divulging or communicating to a court in the course
of any proceedings referred to in paragraph (a) any
matter or thing coming under the notice of the person
in the performance of official duties or in the
performance of a function or the exercise of a power
referred to in sub-section (1); or

(c) producing a document or divulging or communicating
information to—

(i) the Minister or a nominee of the Minister; or

(ii) the Registrar; or

(iii) a person appointed or employed by the
Registrar for the purpose of carrying out the
duties of the Registrar under this Act; or

(iv) the Director of Fair Trading; or

(v) the Commissioner of Corporate Affairs; or
(vi) the Commissioner, Second Commissioner or a Deputy Commissioner under any law of the Commonwealth relating to taxation or to any person authorised by the Commissioner or Second Commissioner or a Deputy Commissioner; or

(vii) the Commissioner of State Revenue; or

(viii) the Commissioner or any other officer of any State or Territory of the Commonwealth administering any law of that State or Territory relating to taxation or to any person authorised by the Commissioner or any other officer; or

(ix) the Treasurer or a nominee of the Treasurer; or

(x) any special commission (within the meaning of the Evidence (Commissions) Act 1982) where—

(A) the Registrar has received a request in writing for information from a special commission; and

(B) the Minister has given written approval to the Registrar of the communication of that information; and

(C) the Registrar has given to that person written approval of the communication of that information; or

(xi) a member of the police force engaged in his or her official duties; or

(xii) the Australian Securities and Investments Commission; or

(xiii) the Australian Prudential Regulation Authority; or

(d) producing a document or divulging or communicating information that is required or permitted by any Act to be produced, divulged or communicated, as the case may be, if, where the document or information relates to the personal affairs of another person, that other person has given consent in writing; or

(e) producing to the committee established under section 72 such statistical or general information as the person considers appropriate.
(3) This section applies to—
   (a) the Registrar;
   (b) a member of the staff of the Registrar;
   (c) APRA;
   (d) a person appointed or employed by the Registrar for the purpose of carrying out the duties of the Registrar under this Act;
   (e) the committee established under section 72;
   (f) a member of the committee established under section 72."

16. In section 73, for subsection (1) substitute—

"(1) The Treasurer of Victoria may, with the approval of the Governor in Council, execute a guarantee in favour of any bank or of any other person or body corporate or unincorporate (including any trustee), approved by the Treasurer of Victoria, (in this Division referred to as an "approved body"), guaranteeing the repayment of any loan to be made by the bank or approved body to any society registered under this Act".

17. In section 74(c), (d) and (e) omit "friendly society" (wherever occurring).

18. In section 76(1A) and (3) for "Commission" substitute "Registrar".
PART 2

OTHER AMENDMENTS TO CO-OPERATIVE HOUSING SOCIETIES ACT 1958

1. At the end of section 6 insert—

"(2) Sub-section (1) does not apply to section 33(1B), (1C) or (1D)."

2. After section 24(3)(c) insert—

"(ca) where the mortgage given by the person to the society is assigned or transferred by the society (unless there is another mortgage given by the person);"

3. After section 33(1A) insert—

"(1B) With the approval of the registrar and subject to such conditions as the registrar determines, a society may assign or transfer its interest under a mortgage of freehold land for the purpose of—

(a) raising money for the repayment by the society in whole or in part of any loan made to the society; or

(b) extinguishing the loan.

(1C) A society must, if the registrar so directs, assign or transfer its interest under a mortgage of freehold land for a purpose referred to in sub-section (1B).

(1D) The registrar must not give a direction under sub-section (1C) unless satisfied that the assignment or transfer would not disadvantage the members of the society.

(1E) Upon the assignment or transfer under sub-section (1B) or (1C) of a mortgage given by a member to a society—

(a) the shares of the member in the society related to the mortgage are cancelled; and

(b) the member ceases to be a member by reason of that mortgage;

(c) the amount owing by the member under or in respect of the mortgage is reduced by the amount (if any) paid up in respect of the shares."

4. In section 47(1) after "special resolution" insert "or by the registrar".
5. In section 47(2), for "such approval" substitute "approval by special resolution".

6. After section 47(3) insert—

"(3A) The registrar may alter the rules of a society and must register and certify the alteration.".

7. After section 59(4)(a) insert—

"(ab) that the society has no interest under any mortgage of freehold land;".

8. In section 59(8) for "The provisions of Subdivision F of Division 4 of Part XII of the Companies (Victoria) Code" substitute "Chapter 5A of the Corporations Law".

9. After section 60(2) insert—

"(2A) A past member is not liable to contribute to the assets of the society in respect of any debt or liability to the society under a mortgage given by the member to the society that has been assigned or transferred by the society.".

10. Section 61 is repealed.

11. In section 76(2) after "until" insert "the mortgage given by the member to the society is assigned or transferred by the society or".

12. In section 87 omit "with respect to the conduct of the business of the society.".
SCHEDULE 3

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

1. **Benefit Associations Act 1958**
   1.1 In section 3, for the definition of "Registrar" substitute—
   "Registrar" means the Registrar of Co-operative Housing Societies.".
   1.2 In section 4(3), for paragraph (a) substitute—
   "(a) a body that, immediately before the transfer date within the meaning of the Financial Sector Reform (Victoria) Act 1999, was a society within the meaning of the Friendly Societies (Victoria) Code;".
   1.3 In section 5, for "the Commission" substitute "the Registrar of Co-operative Housing Societies".
   1.4 In section 10, omit "the Friendly Societies Act 1986.".
   1.5 After section 30 insert—
   "31. Giving of information
   The Commission, a member of the Commission, a member of the staff of the Commission or a person who has been such a member or member of staff may disclose to the Registrar information that the Commission or member acquires while engaged in the administration of this Act.".

2. **Co-operatives Act 1996**
   2.1 In section 306, paragraphs (c), (d) and (e) are **repealed**.
   2.2 In section 306, paragraph (f) is **repealed**.

3. **Corporations (Victoria) Act 1990**
   3.1 In section 93, paragraph (e) is **repealed**.

4. **Dentists Act 1972**
   4.1 In section 36(4), for sub-paragraph (iv) substitute—
   "(iv) a body that was a society within the meaning of the Friendly Societies (Victoria) Code immediately before the transfer date within the meaning of the Financial Sector Reform (Victoria) Act 1999;".

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Financial Sector Reform (Victoria) Act 1999
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(iva) a society registered or deemed to be registered under the Industrial and Provident Societies Act 1958.

5. Environment Protection Act 1970

5.1 In section 4(1), in the definition of "financial institution", for paragraphs (b) and (c) substitute—

"(b) an authorised deposit-taking institution within the meaning of the Banking Act 1959 of the Commonwealth; or

(c) a body that was a society within the meaning of the Friendly Societies (Victoria) Code immediately before the transfer date within the meaning of the Financial Sector Reform (Victoria) Act 1999 or is a friendly society for the purposes of the Life Insurance Act 1995 of the Commonwealth; or".


6.1 In section 4(2)—

(a) omit "society or" (where first occurring);

(b) omit "the Friendly Societies Act 1986, the Building Societies Act 1958,".

7. Friendly Societies (Victoria) (Amendment) Act 1997

7.1 Section 41 and Schedule 1 are repealed.

8. Funerals (Pre-Paid Money) Act 1993

8.1 In section 6(1), for paragraph (a) substitute—

"(a) a funeral benefit fund established or deemed to be established under the Friendly Societies (Victoria) Code or by a body that is a friendly society for the purposes of the Life Insurance Act 1995 of the Commonwealth; or".

9. Industrial and Provident Societies Act 1958

9.1 In section 3(1) for the definition of "Registrar" substitute—

"Registrar" means the Registrar of Co-operative Housing Societies;"

9.2 In section 41A(1)(c), omit ", the Friendly Societies Act 1958".

9.3 Sections 47B and 47D are repealed.
9.4 In section 47E(1)—

(a) omit "or" at the end of paragraph (c);

(b) paragraph (d) is repealed.

9.5 In section 47F, for "... incorporated association or friendly society" (wherever occurring) substitute "or incorporated association".

9.6 After section 62 insert—

"62A. Giving information

The Commission, a member of the Commission and a member of the staff of the Commission or a person who has been such a member or member of staff may disclose to the Registrar information that the Commission or member acquired while engaged in the administration of this Act."

10. Pharmacists Act 1974

10.1 In section 3, in paragraph (b) of the definition of "pharmacy department", for "established for the purposes of the Friendly Societies Act 1986" substitute "established or deemed to have been established for the purposes of the Friendly Societies (Victoria) Code".

10.2 In section 21 for sub-section (4) substitute—

"(4) Nothing in this section or section 33(1)(a), (b) or (c) applies to a company that, immediately before the transfer date within the meaning of the Financial Sector Reform (Victoria) Act 1999, was a friendly society or foreign society within the meaning of the Friendly Societies Code.".


11.1 Sections 6 and 8 are repealed.

12. Trade Unions Act 1958

12.1 In section 6, paragraph (a) is repealed.

12.2 In section 6, the passage beginning "Provided however" and ending at the end of the section is repealed.

13.1 In section 9(1), in the definition of "business" paragraphs (c), (d) and (e) are **repealed**.
NOTES

† Minister's second reading speech—
Legislative Assembly: 22 April 1999
Legislative Council: 25 May 1999

The long title for the Bill for this Act was "to make provision for the reform of the financial sector, to amend and repeal the Financial Institutions (Victoria) Act 1992 and the Friendly Societies (Victoria) Act 1996 and to amend the Co-operative Housing Societies Act 1958 and certain other Acts and for other purposes."