



**SOUTH AUSTRALIAN OFFICE OF FINANCIAL
SUPERVISION (REGISTER OF FINANCIAL INTERESTS)
AMENDMENT ACT 1994**

No. 61 of 1994

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ELIZABETHAE II REGINAE

A.D. 1994

No. 61 of 1994

An Act to amend the South Australian Office of Financial Supervision Act 1992.

[Assented to 27 October 1994]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *South Australian Office of Financial Supervision (Register of Financial Interests) Amendment Act 1994*.

(2) The *South Australian Office of Financial Supervision Act 1992* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Substitution of s. 33

3. Section 33 of the principal Act is repealed and the following section is substituted:

Register of financial interests of members and employees

33. (1) In this section—

"Register" means the register of financial interests in financial institutions maintained under subsection (5);

"relevant particulars" of a financial interest in a financial institution for inclusion in a statement under this section means—

- (a) the name of the person in whose name the interest is held and, if that person is not the person by whom the statement is given, details of the relationship between them; and
- (b) the nature of the financial interest; and
- (c) the name of the financial institution; and

- (d) if the financial interest consists of securities issued by a financial institution—
 - (i) the nominal value of the securities; and
 - (ii) the nature and number of the securities and, where the securities are marketable securities, the market value of the securities at the time of delivery of the written statement; and
- (e) if the financial interest consists of a deposit with a financial institution—
 - (i) the amount of the deposit; and
 - (ii) details of the terms of the deposit; and
- (f) if the financial interest consists of a liability under a loan or other financial accommodation from a financial institution—
 - (i) the amount of the outstanding liability to the financial institution; and
 - (ii) details of the terms of the loan or financial accommodation; and
- (g) if the financial interest consists of membership of a financial institution—details of the membership; and
- (h) any other information prescribed by regulation;

“SAOFS officer” means—

- (a) a member of SAOFS; or
- (b) the chief executive officer; or
- (c) an employee of SAOFS;

“spouse” includes putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationships Act 1975*).

(2) For the purposes of this Act, each of the following is an **associate** of a person:

- (a) the person’s spouse; or
- (b) a parent or child of the person or the person’s spouse where the parent or child lives with the person on a genuine domestic basis; or
- (c) a trustee of a trust of which the person is a beneficiary, in his or her capacity as the trustee of that trust; or

- (d) a body corporate (whether inside or outside Australia) of which the person holds, or associates of the person, or the person together with associates, hold a legal or equitable interest in more than 20 per cent of the issued share capital; or
- (e) a body corporate (whether inside or outside Australia) that is, or the directors of which are, accustomed or under an obligation (formal or informal) to act in accordance with the person's directions, instructions or wishes; or
- (f) where a relationship or chain of relationships can be traced under any one or more of paragraphs (c), (d) or (e) between a trustee or a body corporate and—
 - (i) the person; or
 - (ii) the person's spouse; or
 - (iii) a parent or child of the person or the person's spouse where the parent or child lives with the person on a genuine domestic basis,the trustee or body corporate.

(3) For the purposes of subsection (2), a **beneficiary** of a trust includes an object of a discretionary trust.

(4) A person holds a financial interest in a financial institution if the person or an associate of the person—

- (a) owns securities of a financial institution; or
- (b) has money on deposit with a financial institution; or
- (c) has a liability to a financial institution because of a loan or financial accommodation granted by the financial institution; or
- (d) is a member of a financial institution.

(5) SAOFS must maintain a register of financial interests of SAOFS officers in financial institutions.

(6) SAOFS must appoint one of its employees (the "**Registrar**") to be responsible for maintaining the Register.

(7) A person who becomes a SAOFS officer must, within 14 days, give the Registrar a written statement setting out—

- (a) the date on which he or she became a SAOFS officer (the "**relevant date**"); and
- (b) the relevant particulars of financial interests held by the officer in financial institutions on the relevant date; and

- (c) if the officer held no financial interest in a financial institution on the relevant date—a statement to that effect.

Penalty: Division 7 fine.

(8) A SAOFS officer who acquires or ceases to hold a financial interest in a financial institution must, within 14 days, give the Registrar a written statement setting out—

- (a) the date on which the officer acquired or ceased to hold the interest; and
(b) the relevant particulars of the interest.

Penalty: Division 7 fine.

(9) A SAOFS officer must, within 14 days after 31 March and 30 September in each year (the "half-yearly reporting dates"), give the Registrar a written statement setting out—

- (a) the relevant particulars of financial interests held by the officer in financial institutions on the relevant half-yearly reporting date; or
(b) if the officer held no financial interest in a financial institution on the relevant half-yearly reporting date—a declaration to that effect.

Penalty: Division 7 fine.

(10) It is a defence to a charge of an offence against subsection (7), (8) or (9) for the defendant to prove—

- (a) that the act or omission alleged to constitute the offence arose out of a lack of knowledge of, or a mistaken belief about, the existence or particulars of a financial interest; or
(b) that, in giving the relevant particulars of a financial interest, the defendant overstated the extent of the financial interest.

(11) The Registrar must, on receipt of a statement under this section, include the statement in the Register.

(12) SAOFS must keep the Register at its principal office and must allow members of the public to inspect the Register during normal business hours without fee.

Transitional provision

4. A person who is, on the commencement of this Act, a member, chief executive officer or an employee of SAOFS will, for the purposes of section 33(7) of the principal Act, be taken to have become a SAOFS officer on the day on which this Act commences.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor