



Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021

No. 64, 2021

**An Act to deal with consequential and transitional
matters in connection with the *Financial Regulator
Assessment Authority Act 2021*, and for related
purposes**

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

Contents

1	Short title.....	2
2	Commencement.....	2
3	Schedules.....	3
Schedule 1—Amendments		4
Part 1—Main amendments		4
<i>Australian Prudential Regulation Authority Act 1998</i>		4
<i>Australian Securities and Investments Commission Act 2001</i>		5
<i>Banking Act 1959</i>		6
<i>Insurance Act 1973</i>		6
<i>Life Insurance Act 1995</i>		7
Part 2—Other amendments		8
<i>Australian Prudential Regulation Authority Act 1998</i>		8
<i>Australian Securities and Investments Commission Act 2001</i>		8



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purposes**

[Assented to 29 June 2021]

The Parliament of Australia enacts:

*No. 64, 2021 Financial Regulator Assessment Authority (Consequential Amendments
and Transitional Provisions) Act 2021 1*

1 Short title

This Act is the *Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 June 2021
2. Schedule 1	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) the commencement of the <i>Financial Regulator Assessment Authority Act 2021</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2021 (paragraph (b) applies)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Main amendments

Australian Prudential Regulation Authority Act 1998

1 Subsection 56(1)

Insert:

Financial Regulator Assessment Authority official means an entrusted person within the meaning of the *Financial Regulator Assessment Authority Act 2021*.

2 Paragraph 56(2)(c)

After “(6),” insert “(6AA), (6AB),”.

3 After subsection 56(6)

Insert:

(6AA) It is not an offence if the disclosure of protected information or the production of a protected document is to a Financial Regulator Assessment Authority official for the purposes of the performance of the Financial Regulator Assessment Authority’s functions or the exercise of the Financial Regulator Assessment Authority’s powers.

Note: A defendant bears an evidential burden in relation to the matters in subsection (6AA) (see subsection 13.3(3) of the *Criminal Code*).

(6AB) It is not an offence if:

- (a) the disclosure of protected information or the production of a protected document is by a person who is or has been a Financial Regulator Assessment Authority official; and
- (b) the person acquired the information or accessed the document in the course of the person’s duties in relation to the Financial Regulator Assessment Authority.

Note 1: A defendant bears an evidential burden in relation to the matters in subsection (6AB) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: Division 3 of Part 4 of the *Financial Regulator Assessment Authority Act 2021* deals with disclosure of information by Financial Regulator Assessment Authority officials.

4 After subsection 56(8)

Insert:

- (8A) However, subsection (8) does not prevent a person who is, or has been, a Financial Regulator Assessment Authority official from being required to disclose, or produce a document containing, protected information (within the meaning of the *Financial Regulator Assessment Authority Act 2021*) when it is necessary to do so for the purposes of that Act.

5 After subsection 56(9)

Insert:

- (9A) Subsection (9) does not apply if the information is disclosed, or the document is produced, in accordance with subsection (6AA) or (6AB).

6 Paragraph 56(12)(a)

After “(6),” insert “(6AA),”.

Australian Securities and Investments Commission Act 2001

7 After paragraph 127(2A)(b)

Insert:

- (ba) the Financial Regulator Assessment Authority;

8 In the appropriate position

Insert:

Part 34—Application provision relating to Schedule 1 to the Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021

333 Application—confidentiality

The amendment of section 127 made by Part 1 of Schedule 1 to the *Financial Regulator Assessment Authority (Consequential Amendments and Transitional Provisions) Act 2021* applies in relation to any use or disclosure of information after the commencement of that Part, whether ASIC obtained the information before or after that commencement.

Banking Act 1959

9 After subparagraph 11CM(1)(a)(ii)

Insert:

- (ia) a Financial Regulator Assessment Authority official (within the meaning of that subsection); or

Insurance Act 1973

10 After subparagraph 109E(1)(a)(ii)

Insert:

- (ia) a Financial Regulator Assessment Authority official (within the meaning of that subsection); or

11 Paragraph 109E(1)(c)

After “(6),” insert “(6AA), (6AB),”.

Life Insurance Act 1995

12 After subparagraph 231E(1)(a)(ii)

Insert:

- (ia) a Financial Regulator Assessment Authority official (within the meaning of that subsection); or

13 Paragraph 231E(1)(c)

After “(6),” insert “(6AA), (6AB),”.

14 Application of amendments

The amendments of the *Australian Prudential Regulation Authority Act 1998*, the *Banking Act 1959*, the *Insurance Act 1973* and the *Life Insurance Act 1995* made by this Part apply in relation to:

- (a) any disclosure of information after the commencement of this item, whether the information was disclosed or obtained under, or for the purposes of, a prudential regulation framework law before or after that commencement; and
- (b) any production of a document after the commencement of this item, whether the document was given or produced under, or for the purposes of, a prudential regulation framework law before or after that commencement.

Part 2—Other amendments

Australian Prudential Regulation Authority Act 1998

15 At the end of section 55B

Add:

- (6) If the Chair makes a determination under subsection (4), the Chair must give the following to the Financial Regulator Assessment Authority as soon as practicable:
 - (a) a copy of the determination;
 - (b) a written statement of the reasons why the Chair made the determination.

16 Transitional provision—determinations made before commencement

If the Chair makes a determination under subsection 55B(4) of the *Australian Prudential Regulation Authority Act 1998* before the commencement of this Part, the Chair must give the following to the Financial Regulator Assessment Authority as soon as practicable after the commencement of this Part:

- (a) a copy of the determination;
- (b) a written statement of the reasons why the Chair made the determination.

Australian Securities and Investments Commission Act 2001

17 At the end of section 122C

Add:

- (6) If the Chairperson makes a determination under subsection (4), the Chairperson must give the following to the Financial Regulator Assessment Authority as soon as practicable:
 - (a) a copy of the determination;
 - (b) a written statement of the reasons why the Chairperson made the determination.

18 Transitional provision—determinations made before commencement

If the Chairperson makes a determination under subsection 122C(4) of the *Australian Securities and Investments Commission Act 2001* before the commencement of this Part, the Chairperson must give the following to the Financial Regulator Assessment Authority as soon as practicable after the commencement of this Part:

- (a) a copy of the determination;
- (b) a written statement of the reasons why the Chairperson made the determination.

*[Minister's second reading speech made in—
House of Representatives on 13 May 2021
Senate on 15 June 2021]*

(46/21)

No. 64, 2021 *Financial Regulator Assessment Authority (Consequential Amendments
and Transitional Provisions) Act 2021* 9