

Financial Advisers Amendment Bill (No 3)

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Financial Markets (Regulators and KiwiSaver) Bill as reported from the Commerce Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- Financial Markets Authority Bill comprising clauses 1 and 2, Parts 1 to 4, and Schedules 1 to 4
 - Securities Amendment Bill (No 3) comprising Part 5
 - Securities Markets Amendment Bill (No 2) comprising Part 6
 - KiwiSaver Amendment Bill comprising Part 7 and Schedule 6
 - This bill comprising Part 8 and Schedule 7
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Financial Advisers Amendment Bill (No 3)

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

Hon Simon Power

Financial Advisers Amendment Bill (No 3)

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title
This Act is the Financial Advisers Amendment Act **2011**.

2 Commencement
This Act comes into force on 1 May 2011.

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217 Principal Act amended
This **Part** amends the Financial Advisers Act 2008.

218 Office of Commissioner for Financial Advisers disestablished
The office of the Commissioner for Financial Advisers is dis-established. 10

Amendments to Financial Advisers Act 2008

219 Interpretation
The definition of **Commissioner for Financial Advisers** or **Commissioner** in section 5 is repealed.

220 Outline of this Part 15
Section 78(2)(a) is repealed.

- 221 Heading to subpart 1 of Part 4 amended**
The heading to subpart 1 of Part 4 is amended by omitting “Commissioner for Financial Advisers, code of professional conduct,” and substituting “Code of professional conduct”.
- 222 Heading above section 79 and sections 79 and 80 repealed** 5
The heading above section 79 and sections 79 and 80 are repealed.
- 223 Section 81 substituted**
Section 81 is repealed and the following section substituted:
“81 Establishment of code committee 10
The code committee is established.”
- 224 Membership of disciplinary committee**
Section 105(3) is amended by omitting “the Commissioner” and substituting “one of the members of the disciplinary committee”. 15
- 225 Failure to comply with summons by Commissioner to attend disciplinary committee hearing**
The heading to section 137 is amended by omitting “by Commissioner”.
- 227 Consequential replacements of references to Commissioner** 20
(1) The provisions specified in **Part 1 of Schedule 7** are consequentially amended by omitting “Commissioner” in each place where it appears and substituting in each case “FMA”.
(2) The provisions specified in **Part 2 of Schedule 7** are consequentially amended by omitting “Commissioner’s” in each place where it appears and substituting in each case “FMA’s”. 25
(3) Section 89(2) is consequentially amended by omitting “he or she” and substituting “it”.

Transitional provisions

228 Transitional provisions for general transfer of functions of Commissioner for Financial Advisers to FMA

On and from the date on which this section comes into force, (except as specified in **section 229**),—

- (a) all information and documents held by the Commissioner for Financial Advisers are held by the FMA (and this transfer does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993); and
- (b) anything done or omitted to be done or that is to be done by, or in relation to, the Commissioner for Financial Advisers must be treated as having been done or omitted or to be done by, or in relation to, the FMA; and
- (c) the FMA may complete any matter or thing that would, but for this **Part**, have been completed by the Commissioner for Financial Advisers; and
- (d) any reference in an enactment (other than this Act), proceedings, or other thing (whether express or implied) to the Commissioner for Financial Advisers must be read as a reference to the FMA (unless the context otherwise requires).

229 Functions of Commissioner for Financial Advisers as chair of disciplinary committee continue to reside with chair

- (1) **Section 228** does not apply to any information or documents held by, any act or omission by, any matter or thing uncompleted by, or any reference to the Commissioner for Financial Advisers in his or her capacity as chairperson of the disciplinary committee.
- (2) The matters referred to in **subsection (1)** continue to reside with the chairperson of the disciplinary committee for the time being.

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Schedule 7

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**Amendments to replace references to
Commissioner for Financial Advisers**

Part 1

Replacing “Commissioner” with “FMA” 5

Section 82(a) and (c)

Section 83(1), (3), (4), and (5)

Section 88(1) and (2)

Heading to section 89 and section 89(1) and (2)

Section 90(1) and (2) 10

Section 91

Section 92(1) and (4)

Section 94(1)

Section 95(1)(b)

Section 96(2) 15

Part 2

Replacing “Commissioner’s” with “FMA’s”

Section 83(4)(a) and (b)

Heading to section 88

Section 89(1)(b) 20

Heading to section 90

Section 90(2)(a)

Heading to section 91

Legislative history

5 April 2011

Divided from Financial Markets (Regulators and
KiwiSaver) Bill (Bill 211–2) by committee of the
whole House as Bill 211–3E
