



Financial Advisers Amendment Act 2009

Public Act 2009 No 24
Date of assent 27 July 2009
Commencement see section 2

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act amended	2
4 Meaning of financial advice clarified	2
5 Individual who is QFE employee or agent	2
6 Employer or principal of financial adviser must be registered	2
7 Disclosure by qualifying financial entity	2
8 New section 75 substituted	3
75 Exemption from liability for employee or agent of QFE	3
9 Commissioner's approval of draft code	3
10 Investigation by Commission	3
11 Content of disciplinary committee's notice of complaint	4
12 Offence of performing financial adviser service without being registered	4
13 Right of appeal	4
14 Territorial scope	4
15 New section 161A inserted	4
161A Financial Service Providers (Registration and Dispute Resolution) Act 2008 amended	4
16 Securities Markets Act 1988 amended	4

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Financial Advisers Amendment Act 2009.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Financial Advisers Act 2008.

4 Meaning of financial advice clarified

Section 13(1) is amended by adding “; or” and also by adding the following paragraph:

“(g) a disclosure statement for the purposes of the Retirement Villages Act 2003.”

5 Individual who is QFE employee or agent

Section 17(1) is amended by omitting “qualified financial entity (the **QFE**)” and substituting “**QFE**”.

6 Employer or principal of financial adviser must be registered

Section 18(1) is amended by inserting “or engages” after “employs”.

7 Disclosure by qualifying financial entity

Section 26 is amended by repealing subsection (1) and substituting the following subsections:

“(1) This section applies—

“(a) if a financial adviser (**A**)—

“(i) is not an authorised financial adviser; and

“(ii) is an employee or agent of a QFE; and

“(iii) performs a financial adviser service in relation to a category 2 product in the course of the QFE’s business; or

“(b) if a financial adviser (**A**)—

- “(i) is not an authorised financial adviser; and
- “(ii) is an employee of a QFE; and
- “(iii) performs a financial adviser service in relation to a category 1 product of which the QFE is the issuer in the course of the QFE’s business.

“(1A) In this section, **the financial adviser service** means a financial adviser service referred to in—

- “(a) subsection (1)(a)(iii); or
- “(b) subsection (1)(b)(iii).”

8 New section 75 substituted

Section 75 is repealed and the following section substituted:

“75 Exemption from liability for employee or agent of QFE

“(1) This section applies to—

- “(a) a financial adviser who—
 - “(i) is not an authorised financial adviser; and
 - “(ii) is an employee or agent of a QFE; and
 - “(iii) performs a financial adviser service in relation to a category 2 product in the course of the QFE’s business; and
- “(b) a financial adviser who—
 - “(i) is not an authorised financial adviser; and
 - “(ii) is an employee of a QFE; and
 - “(iii) performs a financial adviser service in relation to a category 1 product of which the QFE is the issuer in the course of the QFE’s business.

“(2) A financial adviser to whom this section applies is exempt from liability under this Act for contravention of a financial adviser obligation.”

9 Commissioner’s approval of draft code

Section 88(3) is amended by omitting “subsection” and substituting “section”.

10 Investigation by Commission

Section 97(2) is amended by inserting “it” after “investigate a complaint if”.

- 11 Content of disciplinary committee’s notice of complaint**
Section 100 is amended by omitting “Commission’s” and substituting “disciplinary committee’s”.
- 12 Offence of performing financial adviser service without being registered**
Section 114(1) is amended by omitting “performs a financial adviser service without being registered” and substituting “, without being registered, performs a financial adviser service that under this Act only a registered financial adviser may perform”.
- 13 Right of appeal**
Section 138(1)(a)(ii) is amended by omitting “67(4): or” and substituting “67(4); or”.
- 14 Territorial scope**
Section 157 is amended by omitting “by a person in New Zealand,”.
- 15 New section 161A inserted**
The following section is inserted immediately before section 162:
“161A Financial Service Providers (Registration and Dispute Resolution) Act 2008 amended
“(1) This section amends the Financial Service Providers (Registration and Dispute Resolution) Act 2008.
“(2) Section 7(2)(m) is amended by adding ‘, except to the extent that an individual may be required to be registered in order to perform a financial adviser service under the Financial Advisers Act 2008’.”
- 16 Securities Markets Act 1988 amended**
Section 164(6) is repealed.
-

Legislative history

21 July 2009

Divided from Securities Disclosure and Financial
Advisers Amendment Bill (Bill 13–2) by committee
of the whole House as Bill 13–3B

23 July 2009

Third reading

27 July 2009

Royal assent

This Act is administered by the Ministry of Economic Development.
