



Interpretation rulings in terms of s. 142

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What does section 142 mean?

What is the purpose of an interpretation ruling? Section 142(2)

What is the status of an interpretation ruling?

- ❖ **Is it binding?**
- ❖ **If so, on whom?**
 - **The regulatory authority? Section 142(3) & 142(5)**
 - **Regulated entities?**

May a financial institution take a different interpretation to an Interpretation Ruling?

May a financial institution challenge an Interpretation Ruling?

- ❖ **Review – on what grounds? e.g. section 142(1) & (2)**
- ❖ **Collateral / defensive challenge**

Is there precedent for this sort of power?

Constitutionality of section 142

Section 142 of the Financial Sector Regulation Act 9 of 2017

142. Interpretation rulings.—(1) The responsible authority for a financial sector law may publish a statement (an “interpretation ruling”) regarding the interpretation or application of a specified provision of that law, in circumstances specified in the statement.

(2) The purpose of an interpretation ruling is to promote clarity, consistency and certainty in the interpretation and application of financial sector laws.

(3) The responsible authority must interpret and apply the provision of the financial sector law to which the interpretation ruling relates in accordance with the interpretation ruling.

(4) An interpretation ruling ceases to be effective if—

(a) a provision of the financial sector law that was the subject of the interpretation ruling is repealed or amended in a manner that materially affects the interpretation ruling, in which case the interpretation ruling will cease to be effective from the date that the repeal or amendment is effective; or

(b) a court overturns or modifies an interpretation of the financial sector law on which the interpretation ruling is based, in which case the interpretation ruling will cease to be effective from the date of judgment unless—

- (i) ... ;
 - (ii) ... ; or
 - (iii)
- (5) The responsible authority that issues an interpretation ruling may amend or revoke the interpretation ruling if it is necessary to do so because of a judicial decision or a change in the law.
- (6) An interpretation ruling ceases to be effective upon the occurrence of any of the circumstances described in subsection (4), whether or not the responsible authority publishes a notice of withdrawal or modification of the interpretation ruling.
- (7) Before the responsible authority issues an interpretation ruling, it must publish—
- (a) a draft of the proposed interpretation ruling; and
 - (b) a notice calling for written public comments within a period specified in the notice, which period must be at least one month from the date of publication of the notice.
- (8) The responsible authority is not obliged to comply with subsection (7) in relation to an amendment to, or a revocation of, an interpretation ruling.
- (9) The responsible authority that issues an interpretation ruling must publish it.



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