

EXPLANATORY STATEMENT

STATUTORY RULES 1986 NO. 153

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL  
NATIONAL COMPANIES AND SECURITIES COMMISSION  
REGULATIONS (AMENDMENT)

1. Section 53 of the National Companies and Securities Commission Act ("the Act") provides in sub-section (1) that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to the Act. Sub-section 53(4) of the Act provides that the power of the Governor-General to make regulations shall be exercised only in accordance with advice that is consistent with resolutions of the Ministerial Council for Companies and Securities ("the Council").

2. The Council was established under an agreement between the Commonwealth and the States ("the agreement"), executed on 22 December 1978, that provides the framework for a uniform system of law and administration in relation to company law and the regulation of the securities industry in the six States and the Australian Capital Territory.

3. Under sub-clause 45(1) of the agreement, the Council may consider a proposal for the amendment of regulations made under the Commonwealth Acts enacted for the purposes of the co-operative companies and securities scheme. Should the Council approve any draft amending regulation which gives effect to such a proposal, the Commonwealth is then required, under sub-clause 45(2) of the agreement, to submit the draft regulations to the Federal Executive Council for making by the Governor-General.

4. The accompanying regulations are identical in form and substance to draft regulations approved by the Council.

5. The purpose of the accompanying regulations is to amend regulation 13 of the National Companies and Securities Commission Regulations ("NCSCR") to make amendments consequent upon the Northern Territory becoming a party to the Co-operative Companies and Securities Scheme. The Northern Territory Application of Laws legislation, which has been approved by the Council, was approved by the Northern Territory Legislative Assembly on 18 June 1986 with a commencement date of 1 July 1986.

6. NCSCR regulation 13 is amended by adding new paragraphs to prescribe certain enactments for the purposes of paragraph 47(2)(a) of the Act.

New paragraph (aaa) declares the Companies Act 1963 of the Northern Territory a prescribed enactment for the purposes of paragraph 47(2)(a) of the Act.

New paragraph (ja) declares the Companies (Acquisition of Shares) (Application of Laws) Act 1986 of the Northern Territory a prescribed enactment for the purposes of paragraph 47(2) of the Act.

New paragraph (jb) declares the Companies (Application of Laws) Act 1986 of the Northern Territory a prescribed enactment for the purposes of 47(2)(a) of the Act.

New paragraph (md) declares the National Companies and Securities Commission (Northern Territory Provisions) Act 1986 a prescribed enactment for the purposes of 47(2)(a) of the Act.

New paragraph (tf) declares the Securities Industry (Application of Laws) Act 1986 of the Northern Territory a prescribed enactment for the purposes of paragraph 47(2)(a) of the Act.

In paragraph 47(2)(a) the Act provides that nothing in sub-section 47(1) of the Act shall preclude a person from producing a document to a court in the course of criminal proceedings or in the course of any proceedings under this Act, any other prescribed Act or any prescribed State Act. Regulation 13 prescribes the enactments for the purposes of paragraph 47(2)(a).

S.R.

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