

2001

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**CORPORATIONS (REPEALS, CONSEQUENTIALS
AND TRANSITIONALS) BILL 2001**

EXPLANATORY MEMORANDUM

(Circulated by authority of
the Minister for Financial Services and Regulation, the Honourable J.B. Hockey MP
and the Attorney-General, the Honourable Daryl Williams AM QC MP)

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Outline

1.1. The Corporations (Repeals, Consequential and Transitional) Bill 2001 is one of a package of bills responding to the High Court’s decisions in *Re Wakim; ex parte McNally* (1999) 198 CLR 511 (*Wakim*) and *The Queen v Hughes* (2000) 74 ALJR 802; 171 ALR 155 (*Hughes*).

1.2. The other bills are:

- Corporations Bill 2001 (“Corporations Bill”);
- Australian Securities and Investments Commission Bill 2001 (“ASIC Bill”);
- Corporations (Fees) Bill 2001;
- Corporations (Securities Exchanges Levies) Bill 2001;
- Corporations (Futures Organisations Levies) Bill 2001; and
- Corporations (National Guarantee Fund Levies) Bill 2001.

1.3. The object of these seven Bills (“the new corporations legislation”) is to establish a replacement legislative foundation for the Corporations Law scheme. This Bill:

- (a) makes amendments to Commonwealth legislation to take account of the enactment of the new corporations legislation (for example, by updating cross references);
- (b) provides for transitional arrangements for the ACT to complement the transitional provisions in the Corporations Bill (it is expected that the States will pass their own repeal, transitional and consequential legislation);
- (c) makes technical changes to the transitional provisions of the Corporations and ASIC Bill, including to take into account the High Court’s decision in *Australian Securities and Investments Commission v Edensor Nominees Pty Ltd* (2001) 75 ALJR 363; 177 ALR 329 (*Edensor*); and
- (d) makes changes to bring the Corporations Bill up to date with changes recently made to the Corporations Law by the *Treasury Legislation Amendment (Application of Criminal Code) Act (No. 1) 2001*.

1.4. Further information about the background to the package of Bills may be found in the explanatory memorandum for the Corporations Bill.

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Regulation Impact Statement and Financial Impact Statement

Regulation impact statement

2.1. The Bill is part of a package of legislation which will for practical purposes restore the regulatory environment which existed before the High Court's decisions in *Hughes* and *Wakim*.

2.2. On that basis, the Office of Regulation Review has advised that a Regulation Impact Statement is not required for the Bill.

Financial impact statement

2.3. The Bill does not have any financial impact.

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Notes on individual clauses

Part 1 - Preliminary

Clause 1: Short title

3.1. The short title of the Act will be the *Corporations (Repeals, Consequential and Transitional) Act 2001*.

Clause 2: Commencement

3.2. Most provisions in the Bill commence at the same time as the *Corporations Act 2001*.

3.3. Some amendments in the Bill are consequential amendments relating to other bills before the Parliament. Specific commencement clauses that are contingent on the passage and commencement of the other legislation are included to cover these amendments. If the relevant condition is not met, the items specified do not come into operation.

Part 2 – Repeals and amendments

Clause 3: Schedule(s)

3.4. Some Commonwealth legislation currently refers to or interacts with the existing corporations legislation (including the *Corporations Act 1989*, the *Corporations Law* and the *Australian Securities and Investments Commission Act 1989*). The Schedules to the Bill specify Commonwealth legislation that is amended to take account of the titles of the new corporations legislation, and to remove references to legislation that is to be repealed by this Bill.

3.5. In some cases, references to provisions are amended to correct existing cross referencing errors or to take account of the limited instances where provision in new corporations legislation has been renumbered.

Part 3 – Special transitional arrangements for ACT

3.6. Part 3 of the Bill covers transitional arrangements for the ACT that relate to the present national scheme and former co-operative scheme legislation, with the object of providing for a seamless transition from the *Corporations Law* to the new corporations legislation. These

transitional arrangements complement the transitional provisions in Part 10 of the *Corporations Act 2001* in so far as those latter provisions relate to the transition from the national scheme legislation enacted for the ACT.

3.7. It is expected that each of the States will enact similar provisions dealing with the transition from their national scheme legislation. However, there will necessarily be some difference in the provisions to be enacted by the States as it is expected that the States will be retaining their national scheme legislation with limited operation rather than repealing it.

Division 1 – Transitional arrangements for the former Corporations Law and ASIC Law

Clause 4: Definitions

3.8. This clause sets out various definitions used in this Division.

Clause 5: Corresponding provision

3.9. This clause defines “corresponding provision” in a similar way to the transitional provisions in Part 10 of the Corporations Bill 2001.

Clause 6: Extinguishing rights and liabilities, and terminating proceedings, dealt with by new Corporations legislation

3.10. A key element of the transitional provisions of the new corporations legislation is, as far as possible, to create as a matter of federal law rights and liabilities equivalent to those existing under the present legislation immediately before the commencement of the new legislation (Corporations Bill, clauses 1400 and 1401; ASIC Bill, clauses 276 and 277; Corporations (Fees) Bill, clause 9; Corporations (Securities Exchanges Levies) Bill, clause 8; Corporations (Futures Organisations Levies) Bill, clause 6; and Corporations (National Guarantee Fund Levies) Bill, clause 6). Where this is done, clause 6 of the Bill provides for the extinguishment of the existing rights and liabilities under the existing corporations legislation enacted for the ACT. This includes liability to pay fees, charges and levies under a provision of the old ACT corporations legislation (subclause 6(3)).

3.11. Another feature of the transitional provisions of the new corporations legislation is, as far as practicable, to bring existing court proceedings under federal jurisdiction. This is done by creating new court proceedings in the same court, exercising federal jurisdiction, under (or as a prosecution for an offence against) the corresponding provisions of the new corporations legislation (Corporations Bill, clause 1383; ASIC Bill, clause 267). Subclause 6(2) of the Bill terminates existing proceedings that relate to the present corporations legislation enacted for the ACT. Any rights and liabilities arising from interlocutory orders made in those proceedings are terminated by subclause 7(3).

Clause 7: Court proceedings and orders

3.12. In order to comply with the requirements of Chapter III of the Constitution, the transitional provisions of the new corporations legislation do not create, as a matter of federal law, rights and liabilities equivalent to those arising from orders of a court (Corporations Bill, clause 1400(1); ASIC Bill, clause 276(1)). Accordingly, where a court has made a final determination in the exercise of State jurisdiction, any future steps in relation to the matter (such as an appeal) would need to continue within State jurisdiction. Matters arising under Territory law are generally being treated in the same way as matters under State law. Subclause 7(2) of the Bill provides that where

new proceedings are not being created, the old proceedings may be continued; and any decisions or orders may be appealed against, reviewed or enforced as if the old corporations legislation had not been repealed. This includes the provisions of the old legislation that confers functions and powers on Commonwealth officers and authorities.

3.13. For the avoidance of doubt, subclause 7(4) ensures that Part 9 of the *Corporations Act 1989* (jurisdiction and procedure of courts) continues to have the same operation in relation to proceedings preserved by subclause 7(2) as it did before commencement of the new corporations legislation.

Division 2 – Transitional arrangements for the former co-operative scheme legislation

3.14. Division 2 sets out transitional provisions related to the repeal of the former co-operative scheme legislation of the ACT. That legislation continues to have some application in relation to matters that arose before the commencement of the present national scheme legislation (see *Corporations Act 1989*, subsection 76(1)).

3.15. It is expected that the States will retain their co-operative scheme legislation at this stage.

Clause 8: Definitions

3.16. This clause sets out various definitions used in this Division.

Clause 9: Winding up started before commencement

3.17. Clause 9 ensures that the winding up of any body corporate that was started under a law in force in the ACT before the commencement of the Corporations Law continues under the original law. This is presently achieved by section 601 of the Corporations Law. That section is not included in the Corporations Bill. Its operation is preserved by clause 1408 of the Corporations Bill in relation to jurisdictions that retain their co-operative scheme legislation. However, given the repeal of the former ACT legislation, the treatment of ongoing windings up is being dealt with by a specific provision to avoid any doubt. Specifically, clause 9 enables the bodies corporate in question to continue to be wound up in the same manner as if the *Companies Act 1981* had not been repealed and the *Corporations Act 1989* had not been enacted, with references in the Companies Act to the National Companies and Securities Commission taken to be references to ASIC (subclause 9(2)).

Clause 10: Companies Liquidation Account

3.18. Clause 10 continues the effect of section 72 of the *Corporations Act 1989* in relation to money in, or paid into, the Companies Liquidation Account established under the *Companies Act 1981* (section 72 of the *Corporations Act 1989* is not included in the Corporations Bill). As a result, section 427 of the *Companies Act 1981* continues to apply to that Account.

Clause 11: General

3.19. Clause 11 provides that Acts repealed by Part 2 of Schedule 1 (the former co-operative scheme Acts, see notes to Schedule 1 below) continue to apply in the ACT to matters to which those Acts applied immediately before the commencement of the *Corporations Act 2001*. It also makes clear that those Acts are to be treated as applying to companies dissolved before 1 January 1991.

3.20. As a result, for example, provisions such as section 460 of the *Companies Act 1981* continue to apply in relation to companies dissolved before that date, whether they were registered under that Act or a previous company law. Accordingly, ASIC will be able to continue to act as a representative of those companies (for example, to execute documents). ASIC will also be able to reinstate dissolved companies to the extent that it could have done so had the *Companies Act 1981* not been repealed.

Part 4 – Functions of Commonwealth agencies in relation to transitional national scheme law matters

Clause 12: Definitions

3.21. Clause 12 sets out various definitions used in Part 4.

Clause 13: Continuing functions of Commonwealth agencies under State and Territory national scheme laws

3.22. As noted, while the transitional provisions of the new corporations legislation “federalise” existing rights and liabilities and any associated court proceedings, court proceedings that have been subject to pre-commencement decisions in the exercise of State or Territory jurisdiction will remain subject to State and Territory law. It may be necessary for Commonwealth officers and authorities to continue to carry out functions in relation to these matters. Clause 271 of the ASIC Bill enables ASIC to do so.

3.23. Subclause 13(1) of the Bill does the same for other Commonwealth officers or authorities. This provision effectively replaces those in Division 3 of the *Corporations Act 1989*, which presently enable them to perform functions and exercise powers under the national scheme laws of the States. By paragraph 13(1)(b), Commonwealth officers or authorities (including ASIC) continue to have their existing functions and powers in relation to court proceedings that have been subject to pre-commencement decisions under the legislation for the ACT that are not being treated as involving federal jurisdiction.

3.24. It is expected that the State Corporations Acts – which, among other things, confer the functions and powers on the Commonwealth officers and authorities – will remain in place with an appropriately limited application (including to enable non-federal proceedings to be completed).

3.25. Subclause 13(2) provides that a Commonwealth officer or authority is not subject to any directions in relation to the performance or exercise of a power or function conferred by or under a State or Territory transitional law in relation to non-federal proceedings, nor under a duty to perform or exercise those powers or functions. This avoids the risk of the imposition of a duty on a Commonwealth officer or authority in circumstances where that duty may be invalid, following the decision in *Hughes*, on the basis that it has no sufficient connection with a head of federal legislative power.

Part 5 – Regulations

Clause 14: The regulations

3.26. Clause 14 allows regulations to be made in relation to matters that are required or permitted by the Bill to be prescribed, or are necessary or convenient for giving effect to the Bill (subclause 14(1)). It also provides that the regulations may modify the effect of Part 3, in relation to special transitional arrangements for the ACT (subclause 14(2)).

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Schedule 1 - Repeals

Part 1 – The applied laws

4.1. The following items wholly repeal the *Australian Securities and Investments Commission Act 1989* and the *Corporations Act 1989*:

Item 1: *Australian Securities and Investments Commission Act 1989*

Item 2: *Corporations Act 1989*

Part 2 – The former co-operative Acts

4.2. The items in Part 2 repeal the whole of the former co-operative scheme Commonwealth Acts.

- *Companies Act 1981*
- *Companies (Fees: Taxation Component) Act 1989*
- *Companies (Acquisition of Shares) Act 1980*
- *Companies (Acquisition of Shares – Fees: Taxation Component) Act 1989*
- *Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980*
- *Companies (Transitional Provisions) Act 1981*
- *Securities Industry Act 1980*
- *Securities Industry (Fees: Taxation Component) Act 1980*
- *Futures Industry Act 1980*
- *Futures Industry (Fees: Taxation Component) Act 1980*

4.3. As noted, it is expected that the States will retain their co-operative scheme legislation for the time being. Clause 272 of the ASIC Bill enables ASIC to continue to carry out the functions and exercise the powers of the National Companies and Securities Commission in relation to that legislation.

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Schedule 2 – Amendment of new corporations legislation on commencement of that legislation

5.1. Schedule 2 makes amendments to the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001* to:

- (a) update the transitional provisions in light of the decision of the High Court in *Edensor*;
- (b) make minor drafting corrections that do not involve changes in substance; and
- (c) make an amendment consequent on the repeal of the *Securities Industry Act 1980*.

Australian Securities and Investments Commission Act 2001

Item 1: Section 122

5.2. Item 1 recasts section 122 of the *Australian Securities and Investments Commission Act 2001* (“the new ASIC Act”) to remove an erroneous reference to section 249. Section 249 was removed from the *Australian Securities and Investments Commission Act 1989* (“the old ASIC Act”) in 1991 by the *Corporations Legislation Amendment Act 1990*.

Item 2: Subsection 254(1), new definition *old Corporations Law*

5.3. Item 2 inserts a definition of “old corporations legislation”. That term is referred to in the amendments below.

Item 3: Subsection 255(4)

5.4. Item 3 substitutes a new definition of “State validation Act”. This substitution takes account of drafting changes to that legislation since the Corporations Bill was settled. It does not involve a change of substance.

Item 4: Subsection 266(1), insertion of new paragraphs into definition of *federal ASIC proceeding*

5.5. Item 4 inserts new paragraphs to add additional types of proceeding to the list of federal ASIC proceedings. These include:

- proceedings in relation to a matter to which the old ASIC legislation of the Commonwealth, a State or Territory applied and in to which the Commonwealth is seeking an injunction or declaration;

- proceedings in relation to a matter to which the old ASIC legislation of the Commonwealth, a State or Territory applied and to which the Commonwealth or a person suing or being sued on behalf of the Commonwealth, was a party; and
- certain other proceedings in relation to a matter to which the old ASIC legislation of the Commonwealth, a State or Territory applied and which involve the exercise of federal jurisdiction.

5.6. The new paragraphs apply to both civil proceedings under a provision of the old ASIC legislation and proceedings brought as or connected with the prosecution for an offence against the old ASIC legislation.

5.7. The amendments in item 4 are essentially technical in nature and take account of the decision of the High Court in *Edensor*. That decision clarified the extent to which certain proceedings under the Corporations Law of the States involve the exercise of federal jurisdiction. As a result, it is necessary for the definition of federal ASIC proceeding to be extended to cover proceedings of kind considered in *Edensor*; that is, proceedings in which the Commonwealth is seeking an injunction under the ASIC or Corporations Law of a State. The definition will also cover other forms of proceeding that, by reason of jurisdiction conferred by the *Judiciary Act 1903*, potentially involve the exercise of federal jurisdiction. An effect of the amendments is that a greater range of existing proceedings will be continued as federal proceedings under section 268 of the *ASIC Act 2001*.

Item 5 New sections 268A and 268B, appeals and effect of decisions in relation to former federal ASIC proceedings

5.8. Item 5 inserts new sections 268A and 268B into the new ASIC Act.

5.9. Section 268A will provide that a decision or order made in a concluded federal ASIC proceeding that related to a matter under the old corporations legislation may be appealed against, or otherwise reviewed or enforced, in the same way as if it was a decision or order made in relation to the *Corporations Act 2001*. This ensures that rights to take further steps in relation to concluded federal proceedings are preserved even if the further steps have not been initiated before commencement (clause 268 of the ASIC Bill only continues proceedings that have not been concluded before commencement). Section 268A applies in relation to both civil and criminal proceedings in the exercise of federal jurisdiction.

5.10. Section 268B makes it clear that decisions or orders made in a federal ASIC proceeding, in relation to a matter to which the old ASIC Act applied prior to the commencement of the new ASIC Act, continue to have effect despite the provision of the old ASIC Act ceasing to have effect. New rights and liabilities equivalent to those arising under such decisions or orders are not created by clause 276 of the ASIC Bill. Section 268B applies in relation to both civil and criminal proceedings in the exercise of federal jurisdiction.

Item 6: Subsection 271(4), insertion of paragraph (aa) into definition of non-federal proceeding

5.11. Section 271 of the new ASIC Act enables ASIC to carry out functions under State law in relation to ongoing non-federal proceedings under the old ASIC legislation (refer to the definition of *non-federal proceeding* in section 271), in the limited instances where the proceedings are not being ‘federalised’ by the operation of section 267 of the new ASIC Act. The amendments to section 271 ensure that ASIC can also carry out functions under State law in relation to ongoing non-federal proceedings under the old corporations legislation.

5.12. Item 6 extends the meaning of non-federal proceeding to include the same type of proceedings under the *Corporations Act 2001*.

Item 7: Subsection 271(4), insertion of subparagraph (b)(ia) into definition of *non-federal proceeding*

5.13. Item 7 extends the definition of non-federal proceeding to include an enforcement, appeal or review proceeding in relation to a court order made before the commencement of the new ASIC Act in relation to a proceeding under the old corporations legislation of a State or Territory.

Item 8: Subsection 271(4), insertion of subparagraph (b)(iii) into definition of *non-federal proceeding*

5.14. Item 8 extends the definition of non-federal proceeding to include a proceeding brought as, or connected with, a prosecution for an offence against a provision of the old corporations legislation of a State or Territory.

Item 9: Subsection 271(4), amendment of paragraph (c) of definition of *non-federal proceeding*

5.15. Item 9 takes account of the insertion of paragraph 271(4)(aa) by referring to it in paragraph (c). As a result, paragraph (c) provides that non-federal proceedings include enforcement, appeal or review proceedings in relation to a court order made *after* the commencement of the new ASIC Act in relation to non-federal proceedings under both the new ASIC Act and the *Corporations Act 2001*.

Items 10 & 11: Subsections 272(1) and (2), amendment of provisions about NCSC's functions and powers

5.16. Items 10 and 11 make minor technical changes to section 272 of the ASIC Act to ensure that ASIC is able to perform the functions and exercise the powers of the former National Companies and Securities Commission; notwithstanding the proposed repeal of the co-operative scheme legislation of the ACT which includes the *Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980*.

Corporations Act 2001

Item 12: Subsection 9(1), definition of *person*

5.17. Item 12 amends the definition of “person” in the *Corporations Act 2001* to take account of former section 85A of the Corporations Law not being re-enacted in the *Corporations Act 2001*. The substance of former section 85A will be covered by section 22(1)(a) of the *Acts Interpretation Act 1901*.

Item 13: New section 766J, powers and functions of the ASX

5.18. Item 13 inserts new section 766J into Part 7.1A of the *Corporations Act 2001*. It provides that, in addition to having the legal capacity and powers set out in its constitution, the Australian Stock Exchange Limited (“ASX”) has the powers and functions conferred upon it by the *Corporations Act 2001* (subsection 766J(1)) and that it is to perform those functions and may exercise the powers (subsection 766J(3)). Further, item 13 clarifies that the powers and functions

conferred upon the Exchange by the *Corporations Act 2001* are not affected by its constitution (subsection 766J(2)).

5.19. This provision continues the effect of existing section 36D of the *Securities Industry Act 1980* (which is repealed by Schedule 1). The operation of section 36D is presently preserved by section 81 of the *Corporations Act 1989*. Item 2 is being enacted to avoid any doubt about the functions and powers of the ASX.

Item 14: Subsection 1372(4)

5.20. Item 14 substitutes a new definition of “State validation Act”. This change to the Corporations Bill corresponds to that made to the ASIC Bill by Item 3.

Item 15: Subsection 1382(1), insertion of new paragraphs into definition of *federal corporations proceeding*

5.21. Item 15 inserts new paragraphs that add additional types of proceeding to the list of federal corporations proceedings. The purpose and effect of these changes are similar to the changes to the definition of “federal ASIC proceeding” outlined in relation to item 4 above. However, they differ in so far as the Corporations Law of the ACT is treated in the same way as the Corporations Law of the Northern Territory, which is a law for the government of that Territory (the old ASIC Act is a law of the Commonwealth rather than a law for the government of the ACT).

Item 16: New sections 1384A and 1384B, appeals and effect of decisions in relation to some former federal corporations proceedings

5.22. Item 16 inserts new sections 1384A and 1384B into the *Corporations Act 2001*. These provisions have a similar purpose in relation to the *Corporations Act 2001* as new sections 268A and 268B have in relation to the new ASIC Act (as outlined in relation to item 5 above).

6

Schedule 3 – Consequential amendment of existing provisions

6.1. Schedule 3 makes consequential amendments to Commonwealth Acts that currently refer to the Corporations Law and other superseded legislation. It also provides general transitional arrangements relating to references to old corporations legislation or old ASIC legislation in Commonwealth Acts.

6.2. The bulk of the amendments under Part 2 of Schedule 3 make simple amendments to references to the old corporations legislation and old ASIC legislation in Commonwealth Acts. For the most part, this is done by updating them so that they refer to the titles of the new corporations legislation. As there will only be one *Corporations Act 2001* applying throughout the referring States, the Bill also removes references to individual jurisdictions when referring to the new legislation.

6.3. Occasionally, section references or definitions have also been amended where those references or definitions no longer exist in or under the *Corporations Act 2001*. For example:

- where a Commonwealth Act previously referred to a provision of the *Corporations Act 1989* that has been included in the *Corporations Act 2001* with different section numbering, such as in subsection 141(7) of the *Airports Act 1996*; or
- where a Commonwealth Act previously referred to a definition under the Corporations Law that has been undated or removed, such as the definition of “prescribed interest” in the *Insurance Act 1973*.

Amendments to the Acts Interpretation Act 1901

6.4. The Bill amends the *Acts Interpretation Act 1901* (“the AIA”) to take account of the new corporations legislation. Section 40A of the AIA provides that ASIC Law and ASIC Regulations have the meaning provided for by the *Australian Securities and Investments Commission Act 1989*, and Corporations Law and Corporations Regulations have the meaning provided for by the *Corporations Act 1989*. The section is to be amended to take account of the repeal of this legislation, and to provide a regime in relation to references to the new corporations legislation.

6.5. The amendments to the AIA essentially duplicate the effect of section 1405 of the *Corporations Act 2001* (which covered references in the new corporations legislation) in relation to all Commonwealth Acts that continue to refer to old corporations legislation and old ASIC legislation. For the purposes of this item, “new corporations legislation”, “old corporations legislation”, “new ASIC legislation” and “old ASIC legislation” have the same meanings as they have in Part 10.1 of the *Corporations Act 2001* or Part 16 of the *Australian Securities and Investments Commission Act 2001*, as applicable.

6.6. The effect of this item is that, where appropriate, references in Commonwealth Acts, regulations and other instruments to a provision in the new corporations legislation or new ASIC legislation will be taken to include a reference to the provision of the old corporations legislation or old ASIC legislation that corresponds to that other provision. For example, if a Commonwealth Act provides that a person is disqualified from holding a particular office or licence if they have been convicted of an offence against a specified provisions of the *Corporations Act 2001*, they will also be disqualified if they were previously convicted of offences against the corresponding provisions of the Corporations Law.

Commonwealth legislation amended

6.7. The Commonwealth Acts that are amended by Schedule 3 are listed below:

- *Aboriginal and Torres Strait Islander Commission Act 1989*
- *Aboriginal Councils and Associations Act 1976*
- *ACIS Administration Act 1999*
- *Acts Interpretation Act 1901*
- *Administrative Appeals Tribunal Act 1975*
- *Administrative Decisions (Judicial Review) Act 1977*
- *Aerospace Technologies of Australia Limited Sale Act 1994*
- *Agricultural and Veterinary Chemicals Code Act 1994*
- *Air Navigation Act 1920*
- *Airports Act 1996*
- *Airports (Transitional) Act 1996*
- *Air Services Act 1995*
- *A New Tax System (Australian Business Number) Act 1999*
- *A New Tax System (Goods and Services Tax) Act 1999*
- *A New Tax System (Luxury Car Tax) Act 1999*
- *Auditor-General Act 1997*
- *Australian Hearing Services Act 1991*
- *Australian Industry Development Corporation Act 1970*
- *Australian Land Transport Development Act 1988*
- *Australian Meat and Live-stock Industry 1997*
- *Australian Postal Corporation Act 1989*
- *Australian Prudential Regulation Authority Act 1998*
- *Australian Sports Drug Agency Act 1990*
- *Banking Act 1959*
- *Bank Integration Act 1991*
- *Bankruptcy Act 1966*

- *Broadcasting Services Act 1992*
- *CFM Sale Act 1996*
- *Charter of the United Nations Act 1945*
- *Cheques Act 1986*
- *Child Support (Registration and Collection) Act 1988*
- *Coal Mining Industry (Long Service Leave Funding) Act 1992*
- *Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992*
- *Commonwealth Authorities and Companies Act 1997*
- *Commonwealth Banks Act 1959*
- *Commonwealth Borrowing Levy Act 1987*
- *Commonwealth Electoral Act 1918*
- *Commonwealth Funds Management Limited Act 1990*
- *Commonwealth Serum Laboratories Act 1961*
- *Commonwealth Superannuation Board Act 2001*
- *Crimes Act 1914*
- *Criminal Code Act 1995*
- *Crown Debts (Priority) Act 1981*
- *Customs Act 1901*
- *Dairy Produce Act 1986*
- *Defence Housing Authority Act 1987*
- *Education Services for Overseas Students Act 2000*
- *Environment Protection and Biodiversity Conservation Act 1999*
- *Equal Opportunity for Women in the Workplace Act 1999*
- *Evidence Act 1995*
- *Excise Act 1901*
- *Export Market Development Grants Act 1997*
- *Federal Airports Corporation Act 1986*
- *Federal Proceedings (Costs) Act 1981*
- *Film Licensed Investment Company Act 1998*
- *Financial Corporations (Transfer of Assets and Liabilities) Act 1993*
- *Financial Corporations Act 1974*
- *Financial Sector (Collection of Data) Act 2001*
- *Financial Sector (Transfers of Business) Act 1999*
- *Financial Transaction Reports Act 1988*
- *Fisheries Management Act 1991*
- *Foreign Evidence Act 1994*
- *Foreign Proceedings (Excess of Jurisdiction) Act 1984*

Consequential amendment of existing provisions

- *Fringe Benefits Tax Assessment Act 1986*
- *Health Insurance Commission (Reform and Separation of Functions) Act 1997*
- *Hearing Services and AGHS Reform Act 1997*
- *Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Act 1996*
- *Income Tax Assessment Act 1936*
- *Income Tax Assessment Act 1997*
- *Industry Research and Development Act 1986*
- *Insurance Act 1973*
- *Insurance (Agents and Brokers) Act 1984*
- *Interactive Gambling Act 2001*
- *International Air Services Commission Act 1992*
- *Judiciary Act 1903*
- *Life Insurance Act 1995*
- *Management and Investment Companies Act 1983*
- *National Environment Protection Measures (Implementation) Act 1998*
- *National Health Act 1953*
- *National Rail Corporation Agreement Act 1992*
- *National Residue Survey (Excise) Levy Act 1998*
- *Norfolk Island Act 1979*
- *Off-shore Minerals (Registration Fees) Act 1981*
- *Patents Act 1990*
- *Payment Systems and Netting Act 1998*
- *Pay-roll Tax (Territories) Assessment Act 1971*
- *Petroleum Resource Rent Tax Assessment Act 1987*
- *Petroleum (Submerged Lands) Act 1967*
- *Petroleum (Submerged Lands) (Registration Fees) Act 1967*
- *Pig Industry Act 1986*
- *Pig Industry Act 2001*
- *Pipeline Authority Act 1973*
- *Pooled Development Funds Act 1992*
- *Primary Industries (Customs) Charges Act 1999*
- *Primary Industries (Excise) Levies Act 1999*
- *Privacy Act 1988*
- *Protection of the Sea (Oil Pollution Compensation Fund) Act 1993*
- *Qantas Sale Act 1992*
- *Reserve Bank Act 1959*
- *Retirement Savings Accounts Act 1997*

- *Safety, Rehabilitation and Compensation Act 1988*
- *Service and Execution of Process Act 1992*
- *Snowy Hydro Corporatisation Act 1997*
- *Snowy Mountains Engineering Corporation Limited Sale Act 1993*
- *Social Security Act 1991*
- *States Grants (Petroleum Products) Act 1965*
- *States Grants (Primary and Secondary Education Assistance) Act 1996*
- *Stevedoring Levy (Collection) Act 1998*
- *Superannuation Act 1990*
- *Superannuation Benefits (Supervisory Mechanisms) Act 1990*
- *Superannuation Guarantee (Administration) Act 1992*
- *Superannuation Industry (Supervision) Act 1993*
- *Sydney Airport Demand Management Act 1997*
- *Taxation Administration Act 1953*
- *Telecommunications Act 1997*
- *Telecommunications (Interception) Act 1979*
- *Telstra Corporation Act 1991*
- *Tobacco Advertising Prohibition Act 1992*
- *Trade Practices Act 1974*
- *Tradex Scheme Act 1999*
- *Veterans' Entitlements Act 1986*
- *Wool International Act 1993*
- *Wool International Privatisation Act 1999*
- *Wool Services Privatisation Act 2000*
- *Workplace Relations Act 1996*
- *Workplace Relations (Registered Organisations) Act 2001*
- *Year 2001 Information Disclosure Act 1999*

Schedule 4 – Amendments dependent on prior commencement of Administrative Review Tribunal legislation

7.1. This Schedule contains amendments to the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001* that arise as a result of the Administrative Review Tribunal (Consequential and Transitional Provisions) Bill (“the ARTCTP Bill”) that is before Parliament as at the time of introduction of the Bill. For the most part, they are simple amendments that update references in the new corporations legislation to take account of new titles of, and new references and definitions in, the ARTCTP Bill.

7.2. The amendments in Schedule 4 deal with the situation in which the ARTCTP Bill commences before or at the same time as this Bill. In that case, the ARTCTP Bill will have amended the Corporations Law and the *Australian Securities and Investments Commission Act 1989*. This Bill makes corresponding amendments to the new corporations legislation. Schedule 5 covers the situation in which the ARTCTP Bill commences after this Bill (see below).

Schedule 5 – Amendments dependent on later commencement of Administrative Review Tribunal legislation

8.1. Schedule 5 deals with the amendment of the Administrative Review Tribunal (Consequential and Transitional Provisions) Bill (“the ARTCTP Bill”), that it is before Parliament at the time of introduction of the Bill, in the event that it has not commenced.

8.2. Without amendment, the amendments in the ARTCTP Bill would contain references to the Corporations Law and the *Australian Securities and Investments Commission Act 1989*. To fix this, the Bill contains amendments to the ARTCTP Bill to update these references on its commencement.

Schedule 6 – Criminal Code related amendments

9.1. Schedule 6 of the Bill makes amendments to the *Corporations Act 2001* to reflect amendments that were made to the Corporations Law by the *Treasury Legislation Amendment (Application of Criminal Code) Act (No. 1) 2001* (“the TLA Act”)

9.2. The amendments made to the Corporations Law by the TLA Act reflected the requirements of the *Criminal Code Act 1995* and corrected anomalies relating to Chapter 5C of the Corporations Law. They took effect from 28 April 2001. However, as they took effect after the date at which the Commonwealth and the States had settled on the text of the corporations legislation to be the subject of references in accordance with section 51(xxxvii) of the Constitution, they were not included in the Corporations Bill 2001 introduced into Parliament on 4 April 2001.

9.3. As a result, the Bill makes consequential amendments to give effect to the TLA Act. Without doing so, the *Corporations Act 2001* would reflect the position under the Corporations Law prior to the TLA Act changes.

9.4. An explanation for the amendments to the Corporations Law that are contained in the TLA Act can be found in the explanatory memorandum to the TLA Bill.