

2008

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Governance Review Implementation  
(AASB and AUASB) Bill 2008**

**No.     , 2008**

*(Treasury)*

**A Bill for an Act to amend the *Australian Securities  
and Investments Commission Act 2001*, and for  
related purposes**



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## Contents

1	Short title .....	1
2	Commencement .....	1
3	Schedule(s) .....	2
<b>Schedule 1—Amendments</b>		3
	<i>Australian Securities and Investments Commission Act 2001</i>	3
<b>Schedule 2—Transitional provisions</b>		17
	Part 1—Definitions	17
	Part 2—Assets, liabilities and legal proceedings	19
	Part 3—Reference to, and things done by or in relation to, the AASB or the AUASB	22
	Part 4—Staff and consultants	28
	Part 5—Other matters	30



1     **A Bill for an Act to amend the *Australian Securities***  
2     ***and Investments Commission Act 2001, and for***  
3     **related purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act may be cited as the *Governance Review Implementation*  
7                     *(AASB and AUASB) Act 2008.*

8     **2 Commencement**

9                     This Act commences on the first 1 July occurring on or after the  
10                     day on which this Act receives the Royal Assent.

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### **3 Schedule(s)**

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Each Act that is specified in a Schedule to this Act is amended or

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repealed as set out in the applicable items in the Schedule

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concerned, and any other item in a Schedule to this Act has effect

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according to its terms.

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## **Schedule 1—Amendments**

### *Australian Securities and Investments Commission Act 2001*

#### **1 Subsection 5(1)**

Insert:

*Office of the AASB* means the Office of the Australian Accounting Standards Board.

#### **2 Subsection 5(1)**

Insert:

*Office of the AUASB* means the Office of the Auditing and Assurance Standards Board.

#### **3 Before section 225**

Insert:

### **Subdivision A—The Financial Reporting Council**

#### **4 Paragraph 225(2)(b)**

Repeal the paragraph, substitute:

- (b) giving the AASB advice or feedback on the AASB’s:
  - (i) priorities; and
  - (ii) business plans; and
  - (iii) procedures; and
- (ba) giving the Office of the AASB advice or feedback on the Office’s:
  - (i) budgets; and
  - (ii) staffing arrangements (including level, structure and composition of staffing); and

#### **5 Paragraph 225(2)(d)**

Repeal the paragraph.

#### **6 Paragraph 225(2)(j)**

Omit “and periodically reviewing”.

1 **7 Paragraph 225(2)(j)**

2 Omit “the AASB”, substitute “those processes”.

3 **8 Paragraph 225(2A)(b)**

4 Repeal the paragraph, substitute:

5 (b) giving the AUASB advice or feedback on the AUASB’s:

6 (i) priorities; and

7 (ii) business plans; and

8 (iii) procedures; and

9 (ba) giving the Office of the AUASB advice or feedback on the  
10 Office’s:

11 (i) budgets; and

12 (ii) staffing arrangements (including level, structure and  
13 composition of staffing); and

14 **9 Paragraph 225(2A)(d)**

15 Repeal the paragraph.

16 **10 Paragraph 225(2A)(j)**

17 Omit “and periodically reviewing”.

18 **11 Paragraph 225(2A)(j)**

19 Omit “the AUASB”, substitute “those processes”.

20 **12 Section 226**

21 Repeal the section, substitute:

22 **Subdivision B—The Australian Accounting Standards Board**  
23 **and the Office of the Australian Accounting**  
24 **Standards Board**

25 **226 The Office of the Australian Accounting Standards Board**

26 (1) The Office of the Australian Accounting Standards Board is  
27 established.

28 (2) The Office of the AASB consists of:

29 (a) the Chair of the AASB; and

30 (b) the other members of the AASB; and

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1 (c) the staff of the Office of the AASB.

2 Note: The Office of the AASB does not have a legal identity separate from  
3 the Commonwealth.

#### 4 **226A Office of the AASB's functions and powers**

5 (1) The Office of the AASB has the following functions:

6 (a) to make such arrangements as are necessary to give effect to  
7 the decisions of the AASB;

8 (b) to provide technical services to the AASB;

9 (c) to provide administrative services to the AASB;

10 (d) to provide information to the AASB;

11 (e) to advise the AASB about the performance of any of the  
12 AASB's functions;

13 (f) to make resources and facilities (including meeting facilities,  
14 communication facilities and secretariat services) available to  
15 the AASB;

16 (g) such other functions as are conferred on the Office by this  
17 Act;

18 (h) to do anything incidental to, or conducive to, the performance  
19 of any of the above functions.

20 (2) The Office of the AASB has power to:

21 (a) establish committees, advisory panels and consultative  
22 groups; and

23 (b) receive money contributed towards its or the AASB's  
24 operating costs; and

25 (c) do anything else that is necessary for, or reasonably  
26 incidental to, the performance of its functions.

### 27 **13 Subsection 227(1) (notes 1 and 2)**

28 Repeal the notes, substitute:

29 Note 1: The AASB was established by subsection 226(1) of the *Australian*  
30 *Securities and Investments Commission Act 1989* and is continued in  
31 existence by section 261 of this Act.

32 Note 2: The standards made under paragraph (b) are given legal effect by the  
33 Corporations Act. The standards formulated under paragraph (c) do  
34 not have legal effect under the Corporations Act itself but may be  
35 applied or adopted by some other authority.

36 Note 3: See section 224 and sections 228 to 233 for the framework within  
37 which the AASB is to formulate and make accounting standards.

1 **14 Subsection 227(3)**

2 Repeal the subsection, substitute:

3 *Power to establish committees etc.*

4 (3) The AASB has power to establish committees, advisory panels and  
5 consultative groups.

6 **15 After section 227**

7 Insert:

8 **Subdivision C—The Auditing and Assurance Standards Board**  
9 **and the Office of the Auditing and Assurance**  
10 **Standards Board**

11 **227AA The Office of the Auditing and Assurance Standards Board**

12 (1) The Office of the Auditing and Assurance Standards Board is  
13 established.

14 (2) The Office of the AUASB consists of:

- 15 (a) the Chair of the AUASB; and  
16 (b) the other members of the AUASB; and  
17 (c) the staff of the Office of the AUASB.

18 Note: The Office of the AUASB does not have a legal identity separate from  
19 the Commonwealth.

20 **227AB Office of the AUASB’s functions and powers**

21 (1) The Office of the AUASB has the following functions:

- 22 (a) to make such arrangements as are necessary to give effect to  
23 the decisions of the AUASB;  
24 (b) to provide technical services to the AUASB;  
25 (c) to provide administrative services to the AUASB;  
26 (d) to provide information to the AUASB;  
27 (e) to advise the AUASB about the performance of any of the  
28 AUASB’s functions;  
29 (f) to make resources and facilities (including meeting facilities,  
30 communication facilities and secretariat services) available to  
31 the AUASB;
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- 1 (g) such other functions as are conferred on the Office by this  
2 Act;
- 3 (h) to do anything incidental to, or conducive to, the performance  
4 of any of the above functions.
- 5 (2) The Office of the AUASB has power to:
- 6 (a) establish committees, advisory panels and consultative  
7 groups; and
- 8 (b) receive money contributed towards its or the AUASB's  
9 operating costs; and
- 10 (c) do anything else that is necessary for, or reasonably  
11 incidental to, the performance of its functions.

12 **16 Subsection 227A(1)**

13 Omit "(1)".

14 **17 Subsections 227A(2) and (3)**

15 Repeal the subsections.

16 **18 Subsection 227B(2)**

17 Repeal the subsection, substitute:

18 *Power to establish committees etc.*

- 19 (2) The AUASB has power to establish committees, advisory panels  
20 and consultative groups.

21 **19 Subsection 231(1) (note)**

22 Omit "227(3)", substitute "227(4)".

23 **20 Section 232**

24 Repeal the section, substitute:

25 **232 FRC views**

26 In performing its functions, the AASB must follow the broad  
27 strategic direction determined by the FRC under paragraph  
28 225(2)(c).

29 **21 Section 234C**

1 Repeal the section, substitute:

2 **234C FRC views**

3 In performing its functions, the AUASB must follow the broad  
4 strategic direction determined by the FRC under paragraph  
5 225(2A)(c).

6 **22 Paragraph 235B(1)(a)**

7 Repeal the paragraph, substitute:

8 (a) the operations of the FRC and its committees and advisory  
9 groups; and

10 **23 Subsections 235B(2) and (2A)**

11 Repeal the subsections, substitute:

12 (2) The report must include details of any advice or feedback that the  
13 FRC gave under paragraph 225(2)(b) or (ba) or (2A)(b) or (ba)  
14 during the year that ended on that 30 June.

15 **24 After Subdivision A of Division 3 of Part 12**

16 Insert:

17 **Subdivision AA—The Office of the AASB**

18 **235D Duties of the Chair of the AASB**

19 (1) The Chair of the AASB, under the Minister, is responsible for  
20 managing the Office of the AASB.

21 (2) In particular, the Chair of the AASB is responsible for approving:

22 (a) the AASB's priorities, business plans and procedures; and

23 (b) the Office of the AASB's budgets and staffing arrangements  
24 (including level, structure and composition of staffing).

25 (3) If the Chair of the AASB takes action that is inconsistent with any  
26 advice the FRC has given under paragraph 225(2)(b) or (ba), he or  
27 she must:

28 (a) make a written record of his or her reasons for not following  
29 the advice; and

- 1 (b) give a copy of the advice and of his or her reasons to the  
2 Minister; and  
3 (c) include a copy of the advice and of his or her reasons in the  
4 annual report under section 235J.

5 **235E Staff of the Office of the AASB**

6 *Employment of staff*

- 7 (1) The Chair of the AASB may, on behalf of the Commonwealth,  
8 employ such staff under written agreements as the Chair thinks  
9 necessary to employ to assist the Office of the AASB in the  
10 performance of its functions and the exercise of its powers.  
11 (2) The terms and conditions of staff employed under subsection (1)  
12 are as determined in writing by the Chair.

13 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
14 *Interpretation Act 1901*.

15 *Office of the AASB Code of Conduct*

- 16 (3) The Chair of the AASB must determine, in writing, the Office of  
17 the AASB Code of Conduct.

18 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
19 *Interpretation Act 1901*.

- 20 (4) The Office of the AASB Code of Conduct applies to the Chair of  
21 the AASB and staff appointed under subsection (1).  
22 (5) An instrument made under subsection (3) is not a legislative  
23 instrument.

24 *Engagement of staff under the Public Service Act 1999*

- 25 (6) Without limiting subsections (1) and (2), staff of the Office of the  
26 AASB may be engaged under the *Public Service Act 1999*.  
27 (7) For the purposes of the *Public Service Act 1999*:  
28 (a) the Chair of the AASB and the staff of the Office of the  
29 AASB referred to in subsection (6) together constitute a  
30 Statutory Agency; and  
31 (b) the Chair of the AASB is the Head of that Statutory Agency.

1 **235F Consultants and persons seconded to the Office of the AASB**

2 (1) The Chair of the AASB may, on behalf of the Commonwealth,  
3 engage consultants to perform services for the Office of the AASB  
4 in connection with the performance of any of its functions.

5 (2) The terms and conditions of engagement are as determined in  
6 writing by the Chair.

7 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
8 *Interpretation Act 1901*.

9 (3) The Office of the AASB may also be assisted:

10 (a) by employees of Agencies (within the meaning of the *Public*  
11 *Service Act 1999*); and

12 (b) by officers and employees of authorities of the  
13 Commonwealth; and

14 (c) by employees of Commonwealth companies (within the  
15 meaning of the *Commonwealth Authorities and Companies*  
16 *Act 1997*);

17 whose services are made available to the Office of the AASB in  
18 connection with the performance of any of its functions.

19 **235G Office of the AASB to have regard to FRC's advice etc.**

20 The Office of the AASB must have regard to the advice and  
21 feedback about its budgets and staffing arrangements that the FRC  
22 gives under paragraph 225(2)(ba).

23 **235H Chair not subject to direction by the AASB on certain matters**

24 To avoid doubt, the Chair of the AASB is not subject to direction  
25 by the AASB in relation to the Chair's performance of functions,  
26 or exercise of powers, under the *Financial Management and*  
27 *Accountability Act 1997* or the *Public Service Act 1999* in relation  
28 to the Office of the AASB.

29 **235J Annual report**

30 The Chair of the AASB must, as soon as practicable after the end  
31 of each financial year, prepare and give to the Minister, for  
32 presentation to the Parliament, a report of the operations of the  
33 AASB and the Office of the AASB during the financial year.

1 **25 Subsection 236A(3)**

2 Repeal the subsection.

3 **26 After section 236A**

4 Insert:

5 **236AA AASB to have regard to FRC's advice etc.**

6 The AASB must have regard to the advice and feedback about its  
7 priorities, business plans and procedures that the FRC gives under  
8 paragraph 225(2)(b).

9 **27 At the end of Subdivision B of Division 3 of Part 12**

10 Add:

11 **236DA Disclosure of interests**

12 *Disclosure to Minister or Chair of AASB*

- 13 (1) If a member of the AASB has or acquires any direct or indirect  
14 pecuniary interest that conflicts or could conflict with the proper  
15 performance of the member's functions, the member must:  
16 (a) if the member is the Chair of the AASB—give written notice  
17 of the interest to the Minister; or  
18 (b) if the member is not the Chair of the AASB—give written  
19 notice of the interest to the Chair of the AASB.

20 *Disclosure to AASB*

- 21 (2) A member of the AASB who has a direct or indirect pecuniary  
22 interest in a matter being considered or about to be considered by  
23 the AASB must disclose the nature of the interest to a meeting of  
24 the AASB.  
25 (3) The disclosure under subsection (2) must be made as soon as  
26 possible after the relevant facts have come to the member's  
27 knowledge.  
28 (4) The disclosure under subsection (2) must be recorded in the  
29 minutes of the meeting of the AASB.  
30 (5) The member:

- 1 (a) must not be present during any deliberation by the AASB on  
2 the matter; and  
3 (b) must not take part in any decision of the AASB with respect  
4 to the matter;  
5 unless the Minister (if the member is the Chair of the AASB) or the  
6 Chair of the AASB (if the member is not the Chair of the AASB)  
7 otherwise determines.

8 **28 After Subdivision B of Division 3 of Part 12**

9 Insert:

10 **Subdivision BAA—The Office of the AUASB**

11 **236DB Duties of the Chair of the AUASB**

- 12 (1) The Chair of the AUASB, under the Minister, is responsible for  
13 managing the Office of the AUASB.
- 14 (2) In particular, the Chair of the AUASB is responsible for approving:  
15 (a) the AUASB's priorities, business plans and procedures; and  
16 (b) the Office of the AUASB's budgets and staffing  
17 arrangements (including level, structure and composition of  
18 staffing).
- 19 (3) If the Chair of the AUASB takes action that is inconsistent with  
20 any advice the FRC has given under paragraph 225(2A)(b) or (ba),  
21 he or she must:  
22 (a) make a written record of his or her reasons for not following  
23 the advice; and  
24 (b) give a copy of the advice and of his or her reasons to the  
25 Minister; and  
26 (c) include a copy of the advice and of his or her reasons in the  
27 annual report under section 236DG.

28 **236DC Staff of the Office of the AUASB**

29 *Employment of staff*

- 30 (1) The Chair of the AUASB may, on behalf of the Commonwealth,  
31 employ such staff under written agreements as the Chair thinks

1 necessary to employ to assist the Office of the AUASB in the  
2 performance of its functions and the exercise of its powers.

3 (2) The terms and conditions of staff employed under subsection (1)  
4 are as determined in writing by the Chair.

5 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
6 *Interpretation Act 1901*.

7 *Office of the AUASB Code of Conduct*

8 (3) The Chair of the AUASB must determine, in writing, the Office of  
9 the AUASB Code of Conduct.

10 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
11 *Interpretation Act 1901*.

12 (4) The Office of the AUASB Code of Conduct applies to the Chair of  
13 the AUASB and staff appointed under subsection (1).

14 (5) An instrument made under subsection (3) is not a legislative  
15 instrument.

16 *Engagement of staff under the Public Service Act 1999*

17 (6) Without limiting subsections (1) and (2), staff of the Office of the  
18 AUASB may be engaged under the *Public Service Act 1999*.

19 (7) For the purposes of the *Public Service Act 1999*:

20 (a) the Chair of the AUASB and the staff of the Office of the  
21 AUASB referred to in subsection (6) together constitute a  
22 Statutory Agency; and

23 (b) the Chair of the AUASB is the Head of that Statutory  
24 Agency.

25 **236DD Consultants and persons seconded to the Office of the**  
26 **AUASB**

27 (1) The Chair of the AUASB may, on behalf of the Commonwealth,  
28 engage consultants to perform services for the Office of the  
29 AUASB in connection with the performance of any of its  
30 functions.

31 (2) The terms and conditions of engagement are as determined in  
32 writing by the Chair.

1 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
2 *Interpretation Act 1901*.

- 3 (3) The Office of the AUASB may also be assisted:
- 4 (a) by officers and employees of Agencies (within the meaning  
5 of the *Public Service Act 1999*); and
  - 6 (b) by officers and employees of authorities of the  
7 Commonwealth; and
  - 8 (c) by employees of Commonwealth companies (within the  
9 meaning of the *Commonwealth Authorities and Companies*  
10 *Act 1997*);
- 11 whose services are made available to the Office of the AUASB in  
12 connection with the performance of any of its functions.

13 **236DE Office of the AUASB to have regard to FRC's advice etc.**

14 The Office of the AUASB must have regard to the advice and  
15 feedback about its budgets and staffing arrangements that the FRC  
16 gives under paragraph 225(2A)(ba).

17 **236DF Chair not subject to direction by the AUASB on certain**  
18 **matters**

19 To avoid doubt, the Chair of the AUASB is not subject to direction  
20 by the AUASB in relation to the Chair's performance of functions,  
21 or exercise of powers, under the *Financial Management and*  
22 *Accountability Act 1997* or the *Public Service Act 1999* in relation  
23 to the Office of the AUASB.

24 **236DG Annual report**

25 The Chair of the AUASB must, as soon as practicable after the end  
26 of each financial year, prepare and give to the Minister, for  
27 presentation to the Parliament, a report of the operations of the  
28 AUASB and the Office of the AUASB during the financial year.

29 **29 Subsection 236E(3)**

30 Repeal the subsection.

31 **30 After section 236E**

32 Insert:

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**236EA AUASB to have regard to FRC's advice etc.**

The AUASB must have regard to the advice and feedback about its priorities, business plans and procedures that the FRC gives under paragraph 225(2A)(b).

**31 At the end of Subdivision BA of Division 3 of Part 12**

Add:

**236J Disclosure of interests***Disclosure to Minister or Chair of AUASB*

- (1) If a member of the AUASB has or acquires any direct or indirect pecuniary interest that conflicts or could conflict with the proper performance of the member's functions, the member must:
- (a) if the member is the Chair of the AUASB—give written notice of the interest to the Minister; or
  - (b) if the member is not the Chair of the AUASB—give written notice of the interest to the Chair of the AUASB.

*Disclosure to AUASB*

- (2) A member of the AUASB who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the AUASB must disclose the nature of the interest to a meeting of the AUASB.
- (3) The disclosure under subsection (2) must be made as soon as possible after the relevant facts have come to the member's knowledge.
- (4) The disclosure under subsection (2) must be recorded in the minutes of the meeting of the AUASB.
- (5) The member:
- (a) must not be present during any deliberation by the AUASB on the matter; and
  - (b) must not take part in any decision of the AUASB with respect to the matter;

1 unless the Minister (if the member is the Chair of the AUASB) or  
2 the Chair of the AUASB (if the member is not the Chair of the  
3 AUASB) otherwise determines.

4 **32 Subsection 237(1)**

5 Omit “and the AUASB”, substitute “, the Office of the AASB, the  
6 AUASB and the Office of the AUASB”.

7 **33 Paragraph 237(2)(b)**

8 Omit “or the AUASB’s”, substitute “, the Office of the AASB’s, the  
9 AUASB’s or the Office of the AUASB’s”.

10 **34 Subdivision D of Division 3 of Part 12**

11 Repeal the Subdivision.

12 **35 Paragraphs 246(1)(i) and (j)**

13 Repeal the paragraphs, substitute:

14 (i) a person who is:

15 (i) a member of staff of the Office of the AASB engaged  
16 under section 235E; or

17 (ii) a consultant to the Office of the AASB engaged under  
18 section 235F; or

19 (iii) a person assisting the Office of the AASB under  
20 subsection 235F(3);

21 (j) a person who is:

22 (i) a member of staff of the Office of the AUASB engaged  
23 under section 236DC; or

24 (ii) a consultant to the Office of the AUASB engaged under  
25 section 236DD; or

26 (iii) a person assisting the Office of the AUASB under  
27 subsection 236DD(3);

28 **36 At the end of paragraph 246(2)(c)**

29 Add “or by the Office of the AASB”.

30 **37 At the end of paragraph 246(2)(d)**

31 Add “or by the Office of the AUASB”.

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2 **Schedule 2—Transitional provisions**

3 **Part 1—Definitions**

4 **1 Definitions**

5 In this Schedule:

6 *amend* includes repeal and remake.

7 *asset* means:

- 8 (a) any legal or equitable estate or interest in real or personal  
9 property, whether actual, contingent or prospective; or  
10 (b) any right, power, privilege or immunity, whether actual,  
11 contingent or prospective.

12 *assets official*, in relation to an asset other than land, means the person  
13 or authority who, under a law of the Commonwealth, a State or a  
14 Territory, under a trust instrument or otherwise, has responsibility for  
15 keeping a register in relation to assets of the kind concerned.

16 *commencement time* means the time when this Schedule commences.

17 *guidance* means guidance formulated under paragraph 227B(1)(c) of  
18 the *Australian Securities and Investments Commission Act 2001*.

19 *instrument*:

- 20 (a) includes:  
21 (i) a contract, deed, undertaking or agreement; and  
22 (ii) a notice, authority, order or instruction; and  
23 (iii) an instrument made under an Act or regulations; and  
24 (iv) regulations; but  
25 (b) does not include an Act.

26 *land* means any legal or equitable estate or interest in real property,  
27 whether actual, contingent or prospective.

28 *land registration official*, in relation to land, means the Registrar of  
29 Titles or other proper officer of the State or Territory in which the land  
30 is situated.

31 *liability* means any liability, duty or obligation, whether actual,  
32 contingent or prospective.

33 *new law* means the *Australian Securities and Investments Commission*  
34 *Act 2001* as in force immediately after the commencement time.

**Schedule 2** Transitional provisions  
**Part 1** Definitions

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- 1            **old law** means the *Australian Securities and Investments Commission*  
2            *Act 2001* as in force immediately before the commencement time.
- 3            **standard** means:
- 4            (a) an accounting standard made under section 334 of the  
5            *Corporations Act 2001*; or
- 6            (b) an auditing standard made under section 336 of that Act; or
- 7            (c) a document that:
- 8            (i) deals with the interpretation of such an accounting  
9            standard; and
- 10           (ii) such an accounting standard requires to be applied; or
- 11           (d) an accounting standard formulated under paragraph 227(1)(c)  
12           of the *Australian Securities and Investments Commission Act*  
13           *2001*; or
- 14           (e) an auditing standard or assurance standard formulated under  
15           paragraph 227B(1)(b) of that Act.

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2 **Part 2—Assets, liabilities and legal proceedings**

3 **2 Vesting of AASB’s assets and liabilities**

4 (1) At the commencement time, the assets of the AASB immediately before  
5 the commencement time:

- 6 (a) cease to be the assets of the AASB; and
- 7 (b) become assets of the Commonwealth without any  
8 conveyance, transfer or assignment; and
- 9 (c) are taken to be held by the Office of the AASB for and on  
10 behalf of the Commonwealth.

11 The Commonwealth becomes the successor in law in relation to these  
12 assets.

13 (2) At the commencement time, the liabilities of the AASB immediately  
14 before the commencement time:

- 15 (a) cease to be the liabilities of the AASB; and
- 16 (b) become liabilities of the Commonwealth without any  
17 conveyance, transfer or assignment.

18 The Commonwealth becomes the successor in law in relation to these  
19 liabilities.

20 **3 Vesting of AUASB’s assets and liabilities**

21 (1) At the commencement time, the assets of the AUASB immediately  
22 before the commencement time:

- 23 (a) cease to be the assets of the AUASB; and
- 24 (b) become assets of the Commonwealth without any  
25 conveyance, transfer or assignment; and
- 26 (c) are taken to be held by the Office of the AUASB for and on  
27 behalf of the Commonwealth.

28 The Commonwealth becomes the successor in law in relation to these  
29 assets.

30 (2) At the commencement time, the liabilities of the AUASB immediately  
31 before the commencement time:

- 32 (a) cease to be the liabilities of the AUASB; and
- 33 (b) become liabilities of the Commonwealth without any  
34 conveyance, transfer or assignment.

1           The Commonwealth becomes the successor in law in relation to these  
2           liabilities.

#### 3           **4 Certificates relating to vesting of land**

4           If:

- 5                   (a) land vests in the Commonwealth under this Schedule; and  
6                   (b) there is lodged with a land registration official a certificate  
7                   that:  
8                         (i) is signed by the Minister; and  
9                         (ii) identifies the land, whether by reference to a map or  
10                         otherwise; and  
11                         (iii) states that the land has become vested in the  
12                         Commonwealth under this Schedule;

13           the land registration official may:

- 14                   (c) register the matter in a way that is the same as, or similar to,  
15                   the way in which dealings in land of that kind are registered;  
16                   and  
17                   (d) deal with, and give effect to, the certificate.

18           Note:        Certificates under paragraph (b) are presumed to be authentic: see  
19                   item 22 of this Schedule.

#### 20           **5 Certificates relating to vesting of assets other than land**

21           If:

- 22                   (a) any asset other than land vests in the Commonwealth under  
23                   this Schedule; and  
24                   (b) there is lodged with an assets official a certificate that:  
25                         (i) is signed by the Minister; and  
26                         (ii) identifies the asset; and  
27                         (iii) states that the asset has become vested in the  
28                         Commonwealth under this Schedule;

29           the assets official may:

- 30                   (c) deal with, and give effect to, the certificate as if it were a  
31                   proper and appropriate instrument for transactions in relation  
32                   to assets of that kind; and  
33                   (d) make such entries in a register as are necessary having regard  
34                   to the effect of this Part.

35           Note:        Certificates under paragraph (b) are presumed to be authentic: see  
36                   item 22 of this Schedule.

1 **6 Substitution of Commonwealth as a party to pending**  
2 **proceedings**

3 If any proceedings to which the AASB or AUASB was a party were  
4 pending in any court or tribunal immediately before the commencement  
5 time, the Commonwealth is substituted for the AASB or AUASB, from  
6 the commencement time, as a party to the proceedings.

7 **7 Transfer of custody of AASB and AUASB records**

- 8 (1) Any records or documents that, immediately before the commencement  
9 time, were in the custody of the AASB are to be transferred into the  
10 custody of the Office of the AASB at or after the commencement time.
- 11 (2) Any records or documents that, immediately before the commencement  
12 time, were in the custody of the AUASB are to be transferred into the  
13 custody of the Office of the AUASB at or after the commencement  
14 time.

1

2 **Part 3—Reference to, and things done by or in**  
3 **relation to, the AASB or the AUASB**

4 **8 References in instruments**

5 *References to AASB or AUASB*

6 (1) If:

7 (a) an instrument (other than a standard or guidance) is in force  
8 immediately before the commencement time; and

9 (b) the instrument contains a reference to the AASB;

10 the instrument has effect from the commencement time as if the  
11 reference were a reference to the Office of the AASB.

12 (2) If:

13 (a) an instrument (other than a standard or guidance) is in force  
14 immediately before the commencement time; and

15 (b) the instrument contains a reference to the AUASB;

16 the instrument has effect from the commencement time as if the  
17 reference were a reference to the Office of the AUASB.

18 (3) However, if:

19 (a) an instrument (other than a standard or guidance) is in force  
20 immediately before the commencement time; and

21 (b) the instrument relates to assets or liabilities covered by item 2  
22 or 3 of this Schedule; and

23 (c) the instrument refers to the AASB or the AUASB;

24 the reference is to be read as a reference to the Commonwealth as  
25 necessary to give effect to item 2 or 3 of this Schedule, as the case  
26 requires.

27 *Minister and regulations may provide otherwise*

28 (4) The Minister may, by writing, determine that subitem (1), (2) or (3):

29 (a) does not apply in relation to a specified reference; or

30 (b) applies as if:

31 (i) in the case of subitem (1)—the reference in that subitem  
32 to the Office of the AASB were a reference to the  
33 Commonwealth; or

- 1 (ii) in the case of subitem (2)—the reference in that subitem  
2 to the Office of the AUASB were a reference to the  
3 Commonwealth; or  
4 (iii) in the case of subitem (3)—the reference in that subitem  
5 to the Commonwealth were a reference to the Office of  
6 the AASB or the Office of the AUASB (as the case  
7 requires).

8 A determination under this subitem has effect accordingly.

- 9 (5) The regulations may provide that an instrument (other than a standard  
10 or guidance) containing a reference specified in a determination under  
11 paragraph (4)(a) has effect from the commencement time as if:  
12 (a) in the case of an instrument covered by subitem (1)—the  
13 reference were a reference to a specified person or body,  
14 other than the AASB or the Office of the AASB; or  
15 (b) in the case of an instrument covered by subitem (2)—the  
16 reference were a reference to a specified person or body,  
17 other than the AUASB or the Office of the AUASB; or  
18 (c) in the case of an instrument covered by subitem (3)—the  
19 reference were a reference to a specified person or body,  
20 other than the Commonwealth or:  
21 (i) the AASB or the Office of the AASB; or  
22 (ii) the AUASB or the Office of the AUASB;  
23 as the case requires.

24 *Determinations are not legislative instruments*

- 25 (6) A determination under subitem (4) is not a legislative instrument.

## 26 **9 Operation of laws**

### 27 *Things done by AASB or AUASB*

- 28 (1) If, before the commencement time, a thing was done by, or in relation  
29 to, the AASB, then, for the purposes of the operation of any law of the  
30 Commonwealth after the commencement time, the thing is taken to  
31 have been done by, or in relation to, the Commonwealth.
- 32 (2) If, before the commencement time, a thing was done by, or in relation  
33 to, the AUASB, then, for the purposes of the operation of any law of the  
34 Commonwealth after the commencement time, the thing is taken to  
35 have been done by, or in relation to, the Commonwealth.

- 1 (3) For the purposes of subitems (1) and (2), a thing done before the  
2 commencement time under a provision that is amended by this Act has  
3 effect from that time as if it were done under that provision as amended.  
4 However, this is not taken to change the time at which the thing was  
5 actually done.

6 *Minister and regulations may provide otherwise*

- 7 (4) The Minister may, by writing, determine that subitem (1) or (2):  
8 (a) does not apply in relation to a specified thing done by, or in  
9 relation to, the AASB or the AUASB (as the case requires);  
10 or  
11 (b) applies as if the reference in that subitem to the  
12 Commonwealth were a reference to the Office of the AASB  
13 or the Office of the AUASB (as the case requires).

14 A determination under this subitem has effect accordingly.

- 15 (5) The regulations may provide for a thing specified in a determination  
16 under paragraph (4)(a) to be taken to have been done by, or in relation  
17 to, a specified person or body other than the Commonwealth or the  
18 Office of the AASB or Office of the AUASB (as the case requires).

19 *Meaning of doing*

- 20 (6) For the purposes of this item, *doing* a thing includes making an  
21 instrument, but does not include making a standard or formulating  
22 guidance.

23 *Determinations are not legislative instruments*

- 24 (7) A determination made under subitem (4) is not a legislative instrument.

25 **10 Reporting requirements of the AASB etc.**

26 *Future reporting requirements*

- 27 (1) If:  
28 (a) immediately before the commencement time, a law required  
29 the AASB, the Chair of the AASB or the members of the  
30 AASB to provide a report (whether financial statements or  
31 otherwise) for a period; and  
32 (b) the period ends after the commencement time;

1 the Chair of the AASB must provide the report, as required, for so much  
2 of the period as occurs before the commencement time.

3 (2) If:

4 (a) under subitem (1), the Chair of the AASB is required to  
5 provide a report for a part of a period; and

6 (b) the Chair of the AASB is also required to provide a similar  
7 report for the remainder of the period;

8 the Chair of the AASB may meet the requirements in a single report for  
9 the period.

#### 10 *Outstanding reporting requirements*

11 (3) If:

12 (a) a law required the AASB, the Chair of the AASB or the  
13 members of the AASB to provide a report (whether financial  
14 statements or otherwise) for a period that ended before the  
15 commencement time; and

16 (b) the report has not been provided by the commencement time;  
17 the Chair of the AASB must provide the report as required.

#### 18 *Application of law to Chair of the AASB*

19 (4) To avoid doubt, if, under this item, the Chair of the AASB is required to  
20 provide a report under a law, the law applies to the Chair of the AASB  
21 in respect of the report in the same way as the law would have applied  
22 to the AASB, the Chair of the AASB or the members of the AASB in  
23 respect of the report.

## 24 **11 Reporting requirements of the AUASB etc.**

### 25 *Future reporting requirements*

26 (1) If:

27 (a) immediately before the commencement time, a law required  
28 the AUASB, the Chair of the AUASB or the members of the  
29 AUASB to provide a report (whether financial statements or  
30 otherwise) for a period; and

31 (b) the period ends after the commencement time;

32 the Chair of the AUASB must provide the report, as required, for so  
33 much of the period as occurs before the commencement time.

**Schedule 2** Transitional provisions

**Part 3** Reference to, and things done by or in relation to, the AASB or the AUASB

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- 1 (2) If:  
2 (a) under subitem (1), the Chair of the AUASB is required to  
3 provide a report for a part of a period; and  
4 (b) the Chair of the AUASB is also required to provide a similar  
5 report for the remainder of the period;  
6 the Chair of the AUASB may meet the requirements in a single report  
7 for the period.

8 *Outstanding reporting requirements*

- 9 (3) If:  
10 (a) a law required the AUASB, the Chair of the AUASB or the  
11 members of the AUASB to provide a report (whether  
12 financial statements or otherwise) for a period that ended  
13 before the commencement time; and  
14 (b) the report has not been provided by the commencement time;  
15 the Chair of the AUASB must provide the report as required.

16 *Application of law to Chair of the AUASB*

- 17 (4) To avoid doubt, if, under this item, the Chair of the AUASB is required  
18 to provide a report under a law, the law applies to the Chair of the  
19 AUASB in respect of the report in the same way as the law would have  
20 applied to the AUASB, the Chair of the AUASB or the members of the  
21 AUASB in respect of the report.

22 **12 Reporting requirements of the FRC etc.**

23 *Future reporting requirements*

- 24 (1) If:  
25 (a) immediately before the commencement time, a law required  
26 the FRC, the Chair of the FRC or the members of the FRC to  
27 provide a report (whether financial statements or otherwise)  
28 relating to the AASB or the AUASB for a period; and  
29 (b) the period ends after the commencement time;  
30 the FRC must provide the report, as required, for so much of the period  
31 as occurs before the commencement time.  
32 (2) If:
-

- 1 (a) under subitem (1), the FRC is required to provide a report for  
2 a part of a period; and  
3 (b) the FRC is also required to provide a similar report for the  
4 remainder of the period;  
5 the FRC may meet the requirements in a single report for the period.

6 *Outstanding reporting requirements*

- 7 (3) If:  
8 (a) a law required the FRC, the Chair of the FRC or the members  
9 of the FRC to provide a report (whether financial statements  
10 or otherwise) relating to the AASB or the AUASB for a  
11 period that ended before the commencement time; and  
12 (b) the report has not been provided by the commencement time;  
13 the FRC must provide the report as required.

14 *Application of law to Chair of the FRC*

- 15 (4) To avoid doubt, if, under this item, the FRC is required to provide a  
16 report under a law, the law applies to the FRC in respect of the report in  
17 the same way as the law would have applied to the FRC, the Chair of  
18 the FRC or the members of the FRC in respect of the report.

19 **13 Continuing obligation to keep records**

- 20 (1) Section 20 of the *Commonwealth Authorities and Companies Act 1997*  
21 (as in force from time to time) continues to apply after the  
22 commencement time in relation to the accounting records kept by the  
23 AASB under that section before that time as if the Office of the AASB  
24 were subject to that Act in place of the AASB.
- 25 (2) Section 20 of the *Commonwealth Authorities and Companies Act 1997*  
26 (as in force from time to time) continues to apply after the  
27 commencement time in relation to the accounting records kept by the  
28 AUASB under that section before that time as if the Office of the  
29 AUASB were subject to that Act in place of the AUASB.

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2 **Part 4—Staff and consultants**

3 **14 Staff of the AASB**

- 4 (1) A person who was a member of the staff of the AASB immediately  
5 before the commencement time is taken, at the commencement time, to  
6 have been engaged by the Chair of the AASB as a member of the staff  
7 of the Office of the AASB.
- 8 (2) The person is taken:
- 9 (a) to have been engaged on the same terms and conditions as  
10 applied to the person immediately before the commencement  
11 time; and
- 12 (b) to have an entitlement to benefits, in connection with that  
13 engagement by the Chair of the AASB, that is equivalent to  
14 the person's entitlement, as a member of the staff of the  
15 AASB, immediately before the commencement time.
- 16 (3) The service of the person as a member of the staff of the Office of the  
17 AASB is taken, for all purposes, to have been continuous with the  
18 service, immediately before the commencement time, of the employee  
19 as a member of the staff of the AASB.
- 20 (4) The person is not entitled to receive any payment or other benefit  
21 merely because he or she stopped being a member of the staff of the  
22 AASB as a result of this Act.
- 23 (5) This item does not prevent the terms and conditions referred to in  
24 paragraph (2)(a) being varied after the commencement time.

25 **15 Staff of the AUASB**

- 26 (1) A person who was a member of the staff of the AUASB immediately  
27 before the commencement time is taken, at the commencement time, to  
28 have been engaged by the Chair of the AUASB as a member of the staff  
29 of the Office of the AUASB.
- 30 (2) The person is taken:
- 31 (a) to have been engaged on the same terms and conditions as  
32 applied to the person immediately before the commencement  
33 time; and

- 1 (b) to have an entitlement to benefits, in connection with that  
2 engagement by the Chair of the AUASB, that is equivalent to  
3 the person's entitlement, as a member of the staff of the  
4 AUASB, immediately before the commencement time.
- 5 (3) The service of the person as a member of the staff of the Office of the  
6 AUASB is taken, for all purposes, to have been continuous with the  
7 service, immediately before the commencement time, of the employee  
8 as a member of the staff of the AUASB.
- 9 (4) The person is not entitled to receive any payment or other benefit  
10 merely because he or she stopped being a member of the staff of the  
11 AUASB as a result of this Act.
- 12 (5) This item does not prevent the terms and conditions referred to in  
13 paragraph (2)(a) being varied after the commencement time.

## 14 **16 Consultants**

- 15 (1) A person in respect of whom an engagement as a consultant was in  
16 force under paragraph 227(3)(a) or 227B(2)(a) of the old law  
17 immediately before the commencement time is taken, at the  
18 commencement time, to have been engaged as a consultant under  
19 subsection 235F(1) or 236DD(1) (as the case requires) of the new law.
- 20 (2) The person is taken to have been engaged on the same terms and  
21 conditions as applied to the person immediately before the  
22 commencement time.
- 23 (3) This item does not prevent those terms and conditions being varied after  
24 the commencement time.

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2 **Part 5—Other matters**

3 **17 Accounting standards and auditing standards etc.**  
4 **unaffected**

5 To avoid doubt, this Act does not affect:

- 6 (a) the validity of accounting standards made or formulated by  
7 the AASB before the commencement time; or  
8 (b) the validity of auditing standards or guidance made or  
9 formulated by the AUASB before the commencement time.

10 **18 Membership of AASB and AUASB unaffected**

11 To avoid doubt, if, immediately before the commencement time, a  
12 person's appointment as a member of the AASB or AUASB is in force,  
13 this Act does not affect the continuation of the person's appointment  
14 after the commencement time.

15 **19 Liability for damages**

16 If:

- 17 (a) section 246 of the old law applied to a person in relation to an  
18 act done or omitted before the commencement time; and  
19 (b) section 246 of the new law would not (but for this item)  
20 apply to the person;

21 section 246 of the new law is taken to apply to the person in relation to  
22 the act or omission.

23 **20 Exemption from stamp duty and other State or Territory**  
24 **taxes**

25 No stamp duty or other tax is payable under a law of a State or Territory  
26 in respect of, or in respect of anything connected with:

- 27 (a) the transfer of an asset or liability under this Schedule; or  
28 (b) the operation of this Schedule in any other respect.

29 **21 Constitutional safety net—acquisition of property**

- 30 (1) If the operation of this Schedule would result in an acquisition of  
31 property from a person otherwise than on just terms, the  
32 Commonwealth is liable to pay a reasonable amount of compensation to  
33 the person.

1 (2) If the Commonwealth and the person do not agree on the amount of the  
2 compensation, the person may institute proceedings in a court of  
3 competent jurisdiction for the recovery from the Commonwealth of  
4 such reasonable amount of compensation as the court determines.

5 (3) In this item:  
6 *acquisition of property* has the same meaning as in paragraph 51(xxxi)  
7 of the Constitution.  
8 *just terms* has the same meaning as in paragraph 51(xxxi) of the  
9 Constitution.

## 10 **22 Certificates taken to be authentic**

11 A document that appears to be a certificate made or issued under a  
12 particular provision of this Schedule:

- 13 (a) is taken to be such a certificate; and  
14 (b) is taken to have been properly given;

15 unless the contrary is established.

## 16 **23 Delegation by Minister**

17 (1) The Minister may, by writing, delegate all or any of his or her powers  
18 and functions under this Schedule relating to the AASB or the Office of  
19 the AASB to:

- 20 (a) the Chair of the AASB; or  
21 (b) the Secretary of the Department; or  
22 (c) an SES employee or acting SES employee in the Department.

23 (2) The Minister may, by writing, delegate all or any of his or her powers  
24 and functions under this Schedule relating to the AUASB or the Office  
25 of the AUASB to:

- 26 (a) the Chair of the AUASB; or  
27 (b) the Secretary of the Department; or  
28 (c) an SES employee or acting SES employee in the Department.

29 (3) In exercising powers or performing functions under a delegation under  
30 this item, the delegate must comply with any directions of the Minister.

## 31 **24 Regulations**

32 (1) The Governor-General may make regulations prescribing matters:  
33 (a) required or permitted by this Schedule to be prescribed; or

**Schedule 2** Transitional provisions  
**Part 5** Other matters

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- 1 (b) necessary or convenient to be prescribed for carrying out or  
2 giving effect to this Schedule.
- 3 (2) The Governor-General may make regulations prescribing matters of a  
4 transitional nature (including prescribing any saving or application  
5 provisions) relating to the amendments or repeals made by Schedule 1  
6 to this Act.