

SECURITIES INDUSTRY (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 11, 1971.

An Act to provide for the appointment of two Assistant Commissioners for Corporate Affairs; to make further provisions with respect to dealing in securities; to provide for the administration of the Companies Act, 1961, and certain other Acts, by the Corporate Affairs Commission; for these and other purposes to amend the Securities Industry Act, 1970, the Companies Act, 1961, the Business Names Act, 1962, and the Companies (Transfer of Domicile) Act, 1968; and for purposes connected therewith. [Assented to, 14th May, 1971.]

BE

Securities Industry (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 11, 1971
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
follows :—

1. (1) This Act may be cited as the "Securities Industry Short title
and com-
mencement.
(Amendment) Act, 1971".

(2) This section shall commence on the day on which
this Act receives the Royal assent.

(3) Subject to subsection two of this section, this Act,
sections eleven and twelve excepted, shall commence in
accordance with subsection four of this section.

(4) The Governor may appoint, and notify by
proclamation published in the Gazette, the day upon which a
provision of this Act shall commence and may, at different
times, appoint different days for different provisions, and the
provision to which such a proclamation relates shall
commence as specified therein.

2. The Securities Industry Act, 1970, is amended— Amendment
of Act No.
35, 1970.

(a) by omitting from the matter relating to Part II in Sec. 3.
(Division
into Parts.)
section three the figure and letter "s. 5" and by
inserting in lieu thereof the figures and letters
"ss. 5-5F";

(b) (i) by inserting in subsection one of section four Sec. 4.
(Interpreta-
tion.)
next after the definition of "agent" the
following new definition :—

"Assistant Commissioner" means an Assis-
tant Commissioner appointed under
section five of this Act;

(ii)

Securities Industry (Amendment).

No. 11, 1971

- (ii) by inserting in the same subsection next after the definition of "corresponding law" the following new definition :—

"Court" has the meaning ascribed thereto in the Companies Act, 1961 ;

- (iii) by inserting in the definition of "dealing in securities" in the same subsection after the word "into" where secondly occurring the words "any agreement (other than an exempt agreement)";

- (iv) by omitting from the same definition the words "any agreement" wherever occurring;

- (v) by inserting next after the same definition the following new definition :—

"exempt agreement" means—

- (a) an agreement for or with a view to acquiring, disposing of, subscribing for or underwriting securities, or the purpose or pretended purpose of which is to secure a profit to any of the parties from the yield of securities or by reference to fluctuations in the value of securities, being an agreement that is made with—

(i) an exempt dealer ;

(ii) any government, local government authority or body corporate or unincorporate (not being an investment company) and relates

to

Securities Industry (Amendment).

to subscriptions for or No. 11, 1971
 the disposal or acquisition
 or redemption of
 securities of or in that
 government, authority
 or body; or

(iii) the underwriter of an
 issue of securities and
 relates only to the
 underwriting of the
 issue; and

(b) an agreement, or an agreement
 of a class, that is, under the
 regulations, an exempt agree-
 ment or an agreement of an
 exempt class;

(vi) by omitting from paragraph (a) of the
 definition of "investment adviser" in the same
 subsection the word "bank" and by inserting
 in lieu thereof the words "Rural Bank of New
 South Wales or a bank";

(vii) by omitting paragraph (f) of the same
 definition and by inserting in lieu thereof the
 following paragraph :—

(f) the proprietor or publisher of a bona
 fide newspaper or periodical generally
 available to the public otherwise than
 only on subscription who only in that
 bona fide newspaper or periodical
 advises others concerning securities, or
 issues or promulgates analyses or
 reports concerning securities, not being
 the proprietor or publisher of a news-
 paper or periodical whose principal or

only

No. 11, 1971

only object is to advise others concerning securities, or to issue or promulgate analyses or reports concerning securities;

(viii) by inserting next after the same definition the following new definition :—

“investment company” means a body corporate or unincorporate which carries on a business of investment in securities or real property or both (whether by acquisition and disposal or otherwise), the funds invested being funds subscribed directly or indirectly by the public (within the meaning of that expression in the Companies Act, 1961) on terms that the funds subscribed would be so invested;

(ix) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection :—

(2) The regulations may provide that, subject to any terms and conditions prescribed, all the provisions of Part IV, Part IVA and Part V of this Act, or such of them as are specified in the regulations—

(a) shall not have effect in relation to any specified person or to any person who is a member of a specified class of persons—

(i) who is or may be a dealer or investment adviser by reason only of his doing anything that is incidental to another business;

(ii)

Securities Industry (Amendment).

- (ii) who does not deal in securities No. 11, 1971 for or on behalf of any other person; or
- (iii) who is a dealer or investment adviser by reason only of his entering into any specified transaction or class of transactions; or
- (b) shall not have effect in relation to a representative of a person in respect of whom a regulation may be made under paragraph (a) of this subsection;
- (c) shall have effect, in relation to any person in respect of whom a regulation may be made under paragraph (a) or (b) of this subsection, to such extent as is prescribed; or
- (d) shall not have effect in relation to a specified transaction or class of transactions entered into by a specified person or class of persons.

- (c) by inserting next after the same section the following New sec. 4A. new section :—

4A. (1) Subject to this section, a person has an Interests in securities. interest in securities for the purposes of sections 5B, 20B and seventy-two of this Act if he has authority (whether formal or informal or express or implied) to dispose of, or to exercise control over the disposal of, those securities.

(2) It is immaterial for the purposes of subsection one of this section that the authority of a person to dispose of, or to exercise control over the disposal of, particular securities ~~is~~, or is capable of being made subject to, restraint or restriction.

(3)

Securities Industry (Amendment).

No. 11, 1971

(3) For the purposes of subsection one of this section, a person shall not be deemed not to have authority to dispose of, or to exercise control over the disposal of, particular securities by reason only that his authority is exercisable jointly with another person.

(4) For the purposes of subsection one of this section, where a body corporate has authority (whether formal or informal or express or implied) to dispose of or to exercise control over the disposal of securities and—

- (a) the body corporate is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions of a person in relation to those securities; or
- (b) a person, or an associate of a person, has a controlling interest in the body corporate,

that person shall be deemed to have authority to dispose of, or to exercise control over the disposal of, those securities.

(5) For the purposes of subsection one of this section, where a body corporate that has not more than twenty members has authority (whether formal or informal or express or implied) to dispose of, or to exercise control over the disposal of, securities, a person who is a member of the body corporate and an associate of such a person shall be deemed to have authority to dispose of, or to exercise control over the disposal of, those securities.

(6)

Securities Industry (Amendment).

(6) For the purposes of subsections four No. 11, 1971 and five of this section, and of subsection two of section seventy-two, a person is an associate of another person if the first-mentioned person is—

- (a) a corporation that, by virtue of subsection five of section six of the Companies Act, 1961, or of the corresponding provision of the law of another State or of a Territory of the Commonwealth is deemed to be related to that other person;
- (b) a person in accordance with whose directions that other person is accustomed or is under an obligation, whether formal or informal, to act in relation to the securities referred to in those subsections;
- (c) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions of that other person in relation to those securities;
- (d) a body corporate that is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions of that other person in relation to those securities; or
- (e) a body corporate in accordance with the directions of which, or of the directors of which, that other person is accustomed or under an obligation, whether formal or informal, to act in relation to those securities.

(7)

Securities Industry (Amendment).

No. 11, 1971

(7) Where a person—

- (a) has entered into a contract to purchase securities;
- (b) has a right to have securities transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not; or
- (c) has the right to acquire securities, or an interest in securities, under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not,

that person shall, to the extent to which he could do so on completing the contract, enforcing the right or exercising the option, be deemed to have authority to dispose of, or to exercise control over the disposal of, those securities.

(8) There shall be disregarded—

- (a) for the purposes of section 20B, an interest in securities of a person whose ordinary business includes the lending of money if he holds the interest only by way of security for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;
- (b) where securities referred to in subsection two of section seventy-two are subject to a trust, the interest of a trustee in those securities

Securities Industry (Amendment).

securities if a person who is not a trustee No. 11, 1971
has an interest in those securities by virtue
of paragraph (b) of subsection seven of this
section; and

- (c) for the purposes of any prescribed provision
of section 5B, 20B or seventy-two, a
prescribed interest in securities, being an
interest of such person, or of the persons
included in such class of persons, as is
prescribed.

- (d) by inserting at the end of section five the following Sec. 5.
new subsections :— (Constitu-
tion and
powers of
Corporate
Affairs
Commis-
sion.)

(17) The Governor may, under and subject to
the Public Service Act, 1902, appoint not more than
two Assistant Commissioners for Corporate Affairs
who, as officers of the Commission, shall assist the
Commission in the exercise and discharge of its
powers, authorities, duties and functions.

(18) The Governor may—

- (a) by order published in the Gazette,
authorise a specified Assistant Com-
missioner to exercise and discharge
the powers, authorities, duties and
functions of the Commission during
any period when the Commissioner
is absent from duty and during any
period when there is a vacancy in
the office of Commissioner; and
- (b) by the same order, or by a different
order so published, authorise the
other Assistant Commissioner to

exercise

Securities Industry (Amendment).

No. 11, 1971

exercise and discharge the same powers in the same circumstances where the first-mentioned Assistant Commissioner is absent from duty or has vacated his office.

(19) An Assistant Commissioner may, if the Governor thinks fit, be paid such allowances while he acts in the place of the Commissioner pursuant to an order under subsection eighteen of this section as the Governor may determine.

(20) No person shall be concerned to enquire whether any occasion has arisen requiring or authorising an Assistant Commissioner to act in the place of the Commissioner and all acts or other things done or omitted to be done by an Assistant Commissioner in the course of so acting shall be deemed to have been done or omitted to be done by the Commissioner.

(21) The official seal of the Commission may be affixed to an instrument or a class of instruments by any officer or employee of the Commission authorised in that behalf by the Commissioner either generally or for a particular purpose.

(22) Except where otherwise expressly provided by or under this or any other Act, any power, authority, duty or function conferred or imposed by or under this or any other Act on the Commission may be exercised or discharged by any officer or employee of the Commission authorised by the Commissioner to exercise or discharge that power, authority, duty or function.

(23)

Securities Industry (Amendment).

(23) Any act done by an officer or employee of the Commission that purports to have been done pursuant to an authorisation of the Commissioner under subsection twenty-one or twenty-two of this section shall be deemed to have been done by the Commission. No. 11, 1971

(24) The Commission shall as and when required by the Minister furnish reports with respect to the policy it is pursuing or proposes to pursue in the exercise or discharge of any of its powers, authorities, duties and functions.

(25) The Minister may issue directions to the Commission on matters of policy and the Commission shall observe and carry out the directions so given.

(e) by inserting next after the same section the following new sections :— New secs.
5A-5F.

5A. (1) Except where otherwise expressly provided by or under this or any other Act, all moneys payable to the Commission under this or any other Act shall be collected and received by it on account of, and shall be paid into, the Consolidated Revenue Fund. Disposal
of moneys
by Com-
mission.

(2) The accounts of the Commission shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on the Auditor-General by any law for the time being in force relating to the audit of public accounts, and

the

Securities Industry (Amendment).

No. 11, 1971

the Audit Act, 1902, shall apply to the Commissioner and the officers and employees of the Commission in the same manner as it applies to accounting officers of public departments.

Unlawful
use of
information,
&c.

5B. (1) Subject to this section, a person appointed or employed for the purposes of this Act, or authorised to discharge any function of the Commission or any function on behalf of the Commission shall not, except to the extent necessary to perform his official duties, or discharge such a function, either directly or indirectly, or before or after he ceases to be so appointed, employed or authorised, make a record of, or divulge or communicate to any person, any confidential, non-public or official information that is gained by or conveyed to him through his connection with the Commission, or make use of any such information, for any purpose other than the discharge of his official duties or the discharge of that function.

Penalty : Two thousand dollars or imprisonment for six months, or both.

(2) Nothing in subsection one of this section shall preclude a person bound thereby from producing any document to any court or from divulging or communicating to any court any matter or thing coming under his notice in the performance of his official duties or in discharging a function referred to in that subsection.

(3) Where the regulations prescribe for the purposes of this section an office held under the law of the State or of the Commonwealth or of

another

Securities Industry (Amendment).

another State or a Territory of the Commonwealth, No. 11, 1971
it shall not be a contravention of subsection one of
this section to communicate to the holder of that
office information connected with the duties of the
office.

(4) Subject to subsection five of this section, the Commissioner shall not, nor shall any officer or employee of the Commission, directly or indirectly effect or cause to be effected on his own account or for the account of any other person any transaction in any securities which are, or are of a class which to his knowledge is, subject to investigation or proceedings by the Commission or otherwise under consideration by the Commission, or in respect of which a prospectus is, to his knowledge, being considered by the Commission for registration.

(5) Subsection four of this section does not apply to or in respect of any right of the holder of a security by virtue of being that holder—

- (a) to exchange the security or convert it to another form of security;
- (b) to participate in a scheme of arrangement approved by the Court under the Companies Act, 1961, or approved in accordance with the law of another State, or of a Territory of the Commonwealth, which corresponds to that Act;
- (c) to subscribe for other securities or dispose of a right to subscribe for other securities;
- (d) to charge or pledge the security to secure the repayment of money;

(e)

Securities Industry (Amendment).

No. 11, 1971

- (e) to realise the security for the purpose of repaying money referred to in paragraph (d) of this subsection; or
- (f) to realise the security in the course of discharging a duty imposed by law.

(6) An officer or employee of the Commission who, in the course of his official duties, is required to consider any matter relating to—

- (a) a body in securities of which he has an interest;
- (b) securities of the same class as securities in which he has an interest; or
- (c) a person or body—
 - (i) with whom, or with which, he has been employed or associated; or
 - (ii) of whom, or of which, he is or has been a client; or
 - (iii) who was, or which was, a client of a person or body with whom, or with which, he was employed or associated,

shall forthwith so inform the Commission.

Inspection of
books and
records of
licensee and
others.

5c. (1) For the purpose of ascertaining whether the holder of a licence has complied with the provisions of this Act applicable to him in that capacity, and any conditions or restrictions subject

Securities Industry (Amendment).

to which the licence was granted or renewed, the Commission may inspect and make copies of or take extracts from—

- (a) any document, record or matter required by or under this Act or the conditions of the licence to be kept by the holder of that licence; and
- (b) any banker's books, or the books of a dealer, in so far as they relate to the business of the holder of that licence.

(2) In subsection one of this section "banker's books" includes any cheques, bills of exchange, promissory notes, orders for payment of money made or given by the holder of a licence, and securities held by a banker by way of pledge or otherwise in relation to the holder of a licence.

(3) The holder of a licence, any banker, and the servants and agents of those persons shall, on being required by the Commission so to do, produce any document, record or matter referred to in subsection one of this section.

(4) No person shall obstruct or hinder the Commission in the exercise of any of its powers under subsection one or three of this section or obstruct any person in the exercise of any of those powers that he is duly authorised to exercise.

5D. (1) The Commission may require—

- (a) the holder of a dealer's licence; or
- (b) an authorized trustee corporation within the meaning of the Marketable Securities Act, 1970,

Powers of Commission to investigate certain matters.

to

Securities Industry (Amendment).

No. 11, 1971

to disclose to it in relation to any purchase or sale of securities the name of the person from or to or through whom or on whose behalf the securities were bought or sold and the nature of the instructions given to the dealer or authorized trustee corporation in respect of that purchase or sale.

(2) Where the Commission has reason to suspect that any person has contravened a provision of this Act or has been guilty of any fraud or offence against this or any other Act or law with respect to trading or dealing in securities, the Commission may make such investigation as it thinks expedient for the due administration of this Act.

(3) A requirement under subsection one of this section shall be complied with by the licence holder or authorized trustee corporation to whom or to which it is addressed and by the servants and agents of the licence holder or authorized trustee corporation.

(4) No person shall obstruct or hinder the Commission in the exercise of its powers under subsection one or two of this section or obstruct any person in the exercise of any of those powers that he is duly authorised to exercise.

(5) If, on an application made to the Court by the Commission, there is shown to be reasonable cause to believe that any person has committed any offence in connection with trading or dealing in securities and that evidence of the commission of the offence is to be found in any books or papers of or under the control of a dealer or investment adviser (including banker's books as defined in subsection two of section 5c of this

Act,

Securities Industry (Amendment).

Act, whether or not those books relate to the business of the dealer or investment adviser) an order may be made—

- (a) authorising the Commission to inspect those books or papers or any of them and make copies thereof or take extracts therefrom for the purpose of investigating and obtaining evidence of the offence; or
- (b) requiring the dealer or investment adviser or such other person as is named in the order to produce those books or papers or any of them to a person named in the order at a place so named.

(6) An appeal shall not lie to the Court of Appeal from an order or decision of the Court on or in relation to an application under this section except by leave of the Court of Appeal.

(7) Notwithstanding anything in this section, the Minister may, where it appears to him in the public interest so to do, appoint any person as an inspector to investigate any matters concerning trading or dealing in securities and to report thereon in such manner as the Minister directs.

(8) The provisions of section one hundred and seventy-eight (subsection one excepted) and section one hundred and seventy-nine of the Companies Act, 1961, apply, with such modifications as may be necessary, to and in respect of an inspector appointed under subsection seven of this section, and to the investigation to be made by him, as if he were an inspector appointed under, and the investigation were an investigation to be made under, subsection one of section one hundred and seventy-eight of that Act and shall so apply as if references therein to shares were references to securities.

Securities Industry (Amendment).

No. 11, 1971

(9) The powers of an inspector appointed under subsection seven of this section include—

- (a) a power to examine on oath or affirmation (which the inspector is hereby authorised to administer) in relation to the matters being investigated any person whom the inspector is authorised by the operation of subsection eight of this section to require to appear before him; and
- (b) the power conferred by subsection four of section one hundred and seventy-seven of the Companies Act, 1961, on an inspector appointed under subsection one of that section.

Reciprocity
of powers,
&c.

5E. (1) In subsection two of this section “proclaimed State or Territory” means another State or a Territory of the Commonwealth in respect of which an order is in force under subsection four of this section.

(2) Where, by instrument in writing, the Commission authorises—

- (a) a person who, under a law in force in a proclaimed State or Territory, has powers, authorities, duties and functions similar to those vested by this Act in the Commission; or
- (b) a person duly authorised, in accordance with that law, to act for that person under this section,

to exercise, in a particular case and for the purposes of that law, any one or more of the powers of inspection and investigation which the Commission may exercise under section 5C or 5D of this Act, the person so authorised may exercise the power or powers referred to in the instrument as if he were the Commission.

(3)

Securities Industry (Amendment).

(3) The Court may, on the application of No. 11, 1971 a person authorised by the Commission for any purpose under subsection two of this section, make an order under subsection five of section 5D of this Act as if the applicant were the Commission.

(4) Where the Minister is satisfied that a law in force in another State or in a Territory of the Commonwealth has a similar effect to the effect of this section, the Governor may, by order published in the Gazette declare that State or Territory to be a proclaimed State or, as the case may be, a proclaimed Territory, for the purposes of this section.

5F. (1) Where, on the application of the Commission, it appears to the Court that a person has contravened this Act or any other Act or law in force with respect to trading or dealing in securities or any conditions of a licence he holds or is about to do an act with respect to trading or dealing in securities that, if done, would be such a contravention, the Court may, without prejudice to any orders it would be entitled to make otherwise than pursuant to this section, make one or more of the following orders :—

- (a) in the case of persistent or continuing breaches of the Act or law or of the conditions of a licence he holds, an order restraining a person from carrying on a business of dealing in securities, acting as an investment adviser or as a dealer's representative or investment representative, or from holding himself out as so carrying on business or acting;
- (b) an order restraining a person from acquiring, disposing of or otherwise dealing with any securities specified in the order;

(e)

Securities Industry (Amendment).

No. 11, 1971

- (c) an order appointing a receiver of the whole or any part of the property of a dealer;
- (d) an order declaring a contract relating to securities to be void or voidable;
- (e) for the purpose of securing compliance with any other order under this section, an order directing a person to do or refrain from doing a specified act; or
- (f) any ancillary order deemed to be desirable in consequence of the making of an order under paragraph (a), (b), (c), (d) or (e) of this subsection.

(2) The Court shall, before making an order under subsection one of this section, satisfy itself, so far as it can reasonably do so, that the order would not unfairly prejudice any person.

(3) The Court may, before making an order under subsection one of this section, direct that notice of the application be given to such persons as it thinks fit or direct that notice of the application be published in such manner as it thinks fit, or both.

(4) A person shall not contravene or fail to comply with an order under subsection one of this section that is applicable to him.

Penalty : Two thousand dollars or imprisonment for six months, or both.

(5) Subsection four of this section does not affect the powers of the Court in relation to the punishment of contempts of the Court.

(6)

Securities Industry (Amendment).

(6) The Court may rescind, vary or discharge an order made by it under this section or suspend the operation of such an order. **No. 11, 1971**

(f) by omitting from section forty-six the definition of "Court". **Sec. 46.**
(Interpretation.)

3. The Securities Industry Act, 1970, is further amended by omitting from paragraph (a) of section seven the word "twenty" and by inserting in lieu thereof the word "ten". **Further amendment of Act No. 35, 1970.**

Sec. 7.
(Power for Minister to approve as stock exchange.)

4. The Securities Industry Act, 1970, is further amended— **Further amendment of Act No. 35, 1970.**

(a) by omitting from the matter relating to Part IV in section three the figures "20" and by inserting in lieu thereof the figures and letter "20G"; **Sec. 3.**
(Division into Parts.)

(b) by inserting next after section fifteen the following new section :— **New sec. 15A.**

15A. A person who in connection with an application for a licence or renewal of a licence wilfully makes a statement false or misleading in a material particular knowing it to be false or misleading or wilfully omits to state any matter or thing without which the application is misleading in a material respect shall be guilty of an offence against this Act. **False, &c., statements in application.**

Penalty : One thousand dollars or imprisonment for one year, or both.

(c)

Securities Industry (Amendment).

No. 11, 1971

Sec. 16.
(Conditions
of, and re-
strictions
applicable
to, a
licence.)

(c) (i) by inserting in subsection one of section sixteen after the word "may" the words "subject to such conditions or restrictions as may be prescribed,";

(ii) by inserting next after the same subsection the following new subsection :—

(1A) The regulations may prescribe conditions or restrictions applicable to and in respect of a specified class of licence, being conditions or restrictions relating to—

(a) the holding of a policy of indemnity insurance in a specified amount; or

(b) terms upon which specified services are rendered.

New sec.
17A.

(d) by inserting next after section seventeen the following new section :—

Change of
address,
&c.

17A. (1) The holder of a dealer's licence or investment adviser's licence shall, upon any change in the address of the principal place of business at which he carries on the business in respect of which the licence is held, forthwith notify the Commission of the new address in the prescribed form and, upon ceasing to carry on that business, shall forthwith so notify the Commission in the prescribed form.

(2) The holder of a representative's licence who ceases to be a representative of the dealer or investment adviser in relation to whom the representative's licence was issued shall forthwith so notify the Commission in the prescribed form.

(e)

Securities Industry (Amendment).

- (e) by inserting next after section eighteen the following No. 11, 1971
new section :—

New sec.
18A.

18A. (1) The Commission shall keep in such ^{Register} form as it thinks fit a register of the holders of ^{of} current licences, specifying— ^{licensees.}

- (a) in relation to each holder of a dealer's or investment adviser's licence—

- (i) his name;
- (ii) the address of the principal place of business at which he carries on the business in respect of which the licence is held; and
- (iii) where the business is carried on under a name or style other than the name of the holder of the licence, the name or style under which the business is carried on; and

- (b) in relation to each holder of a representative's licence—

- (i) his name;
- (ii) the name of the dealer or investment adviser in relation to whom the licence was issued; and
- (iii) where the business of that dealer or investment adviser is carried on under a name or style other than the name of the dealer or investment adviser, the name or style under which that business is carried on.

(2)

Securities Industry (Amendment).

No. 11, 1971

(2) Any person may, upon payment of the prescribed fee, peruse and take extracts from the register kept under subsection one of this section.

(3) Except as provided in subsection two of this section, the power of inspection conferred by paragraph (a) of subsection two of section twelve of the Companies Act, 1961, shall not apply in respect of a document filed or lodged with the Commission under this Act.

Part IV.
(Licences.)

(f) by inserting in the heading to Part IV after the word "LICENCES." the words "DIVISION 1.—*Licences.*";

Part IV.
New
Division 2.

(g) by inserting next after section twenty the following new Division :—

DIVISION 2.—*Records.*Application
of section
and inter-
pretation.

20A. (1) This Division applies to a person who is—

- (a) a dealer;
- (b) a dealer's representative;
- (c) an investment adviser;
- (d) an investment representative; or
- (e) a financial journalist—

but does not apply to a person who is resident in another State or in a Territory of the Commonwealth and who is required to comply with the provisions of a law of that State or Territory which corresponds to this Division.

(2) In this Division "financial journalist" means a person who in the course of his business or employment contributes advice concerning securities or prepares analyses or reports concerning securities for publication in a bona fide newspaper or periodical.

(3)

Securities Industry (Amendment).

(3) In this Division a reference to securities is a reference to securities of a corporation which is a public company under the law of any State or a Territory of the Commonwealth and to securities which are quoted or dealt in at a stock market in Australia. No. 11, 1971

20B. (1) A person to whom this Division applies shall maintain a register in the form of the securities in which he has an interest. Certain persons to maintain prescribed register.

(2) Particulars of the securities in which a person to whom this Division applies has an interest and particulars of his interest in those securities shall be entered by that person in the register within fourteen days after he becomes aware of the acquisition of the interest or after the commencement of section four of the Securities Industry (Amendment) Act, 1971, whichever is the later.

(3) Where there is a change (not being a prescribed change) in the interest or interests of a person to whom this Division applies in securities he shall enter in the register, within fourteen days after he becomes aware of the change, full particulars of the change including the date of the change and the circumstances by reason of which that change has occurred.

(4) For the purposes of this section, a person shall, in the absence of proof to the contrary, be presumed to have been aware at a particular time of a fact or occurrence of which a servant or agent of the person, being a servant or agent having duties or acting in relation to his master's or principal's interest or interests in the securities concerned, was aware at the time.

Penalty : One thousand dollars.

20c.

Securities Industry (Amendment).

No. 11, 1971

Certain
notices to
be given.

20c. (1) A person to whom this Division applies shall give notice to the Commission in the prescribed form containing particulars of the place at which he will keep the register of his interests in securities and, where he is a financial journalist, particulars of his employer, if any, and of the newspapers and periodicals to which he contributes.

(2) The notice shall be given—

(a) in the case of a person who is required by this Act to hold a licence—as part of his application for the licence or renewal of the licence; or

(b) in the case of any other person—

(i) if the person is a person to whom this Division applies at the commencement of section four of the Securities Industry (Amendment) Act, 1971—within twenty-eight days after that commencement; or

(ii) if the person becomes a person to whom this Division applies after that commencement—within fourteen days after becoming such a person.

(3) A notice given under paragraph (b) of subsection two of this section shall be given notwithstanding that the person has ceased to be a person to whom this Division applies before the expiration of the period referred to in that paragraph.

(4)

Securities Industry (Amendment).

(4) A person to whom this Division No. 11, 1971 applies shall keep the register of his interests in securities at the place specified in the notice given under subsections one and two of this section unless he gives a subsequent notice to the Commission in the prescribed form to the effect that the register is kept at some other place specified in the subsequent notice, in which case he shall keep the register—

- (a) where only one such subsequent notice has been given—at the other place specified in that notice; or
- (b) where more than one such subsequent notice has been given—at the other place specified in the later or latest of those notices.

Penalty : Two hundred and fifty dollars.

20D. A financial journalist who ceases to be a person to whom this Division applies shall give notice to the Commission of his so ceasing in the prescribed form within fourteen days of his so ceasing. Division ceasing to apply to financial journalist.

Penalty : Two hundred and fifty dollars.

20E. (1) The Commission or any person authorised by it in that behalf may require any person to whom this Division applies to produce for inspection the register required to be kept by him pursuant to section 20B of this Act and the Commission or any person so authorised may make copies of, or take extracts from, the register. Commission may require production of register.

(2)

*Securities Industry (Amendment).***No. 11, 1971**

(2) A person is guilty of an offence against this Act if—

- (a) he is a person to whom this Division applies and he fails to produce a register when required so to do under subsection one of this section; or
- (b) whether or not he is a person to whom this Division applies, he hinders or obstructs the making of copies or the taking of extracts as authorised by that subsection.

Certain information to be supplied to Commission.

20F. (1) The Commission or any person authorised by it in that behalf may by notice in writing require the proprietor or publisher of a newspaper or periodical to supply it with—

- (a) the name and address of the financial journalist who contributed any advice specified in the notice or prepared any analysis or report so specified; or
- (b) the names and addresses of all financial journalists who, during a period specified in the notice, contributed any advice, or prepared any analysis or report,

being advice, or an analysis or report, published in a newspaper owned or published by that proprietor or publisher.

(2) A proprietor or publisher of a newspaper or periodical who wilfully fails to comply with a notice under subsection one of this section shall be guilty of an offence against this Act.

Commission may supply copy of register.

20G. Subject to this section, the Commission may supply a copy of a register required to be kept pursuant to section 20B of this Act or of any extract from such a register to any person who in

the

Securities Industry (Amendment).

the opinion of the Commission should in the public interest be informed of the matters disclosed in the register or extract. No. 11, 1971

5. The Securities Industry Act, 1970, is further amended— Further amendment of Act No. 35, 1970.

(a) by inserting in section three next after the matter relating to Part IV the following new matter :— Sec. 3. (Division into Parts.)

PART IVA.—CONDUCT OF SECURITIES
BUSINESS—ss. 20H–20L.

(b) by inserting next after Part IV the following new Part :— New Part IVA.

PART IVA.

CONDUCT OF SECURITIES BUSINESS.

20H. No person who is the holder of a licence shall represent or imply or knowingly permit to be represented or implied in any manner to any person that his abilities or qualifications have in any respect been approved by the Commission otherwise than by a representation that he is the holder of that licence. Certain representations prohibited.

20I. (1) A dealer shall, in respect of a transaction of sale or purchase of securities (not being a transaction entered into in the ordinary course of business at a stock market between stockbrokers who are members of the stock exchange maintaining that stock market) forthwith issue a contract note that complies with subsection two of this section to the purchaser or vendor with or for whom he contracts whether as principal or agent. Issue of contract notes.

(2)

Securities Industry (Amendment).

No. 11, 1971

(2) A contract note issued by a dealer under subsection one of this section shall include—

- (a) the name or style under which the dealer carries on his business as a dealer and the address of the principal place at which he so carries on business;
- (b) where the dealer is dealing as principal with a person who is not the holder of a dealer's licence, a statement that he is dealing as principal;
- (c) the name of the person with or for whom the dealer has contracted;
- (d) the day on which the transaction took place and whether or not it took place in the ordinary course of business at a stock market;
- (e) the number or amount and description of the securities which are the subject of the contract;
- (f) the price per unit of the securities;
- (g) the amount of the consideration;
- (h) if any commission is charged, the amount thereof and, in the case of a dealer who is not a stockbroker, the rate of commission;
- (i) the amounts of all stamp or other duties and taxes payable; and
- (j) if any amount is to be added to or deducted from the settlement amount in respect of the right to a benefit purchased or sold together with the securities, that amount and the nature of the benefit.

(3)

Securities Industry (Amendment).

(3) A dealer shall not knowingly include ^{No. 11, 1971} in a contract note issued under subsection one of this section, as the name of the person with or for whom he has contracted, a name other than the true name of that person.

20J. (1) Where, in a letter, circular or other communication issued by him to more than one person, a dealer or investment adviser refers to securities or a class of securities issued or made available or proposed to be issued or made available, he shall cause to be included in the letter, circular or other communication, in type not less legible than that used in the body thereof, a concise statement of any financial or other interest that he knows or has reasonable grounds for believing that he has, either directly or indirectly, in those securities or in the sale or purchase thereof, being—

Certain persons to disclose interest in certain securities.

- (a) the ownership, beneficial or otherwise, of the securities and, except where a particular parcel of securities is offered for sale, of any securities issued or made available by the same corporation or person;
- (b) any option held in respect of the securities referred to in paragraph (a) of this subsection and the terms thereof;
- (c) any agreement under which he has received or may expect to receive any commission or other remuneration from any dealer or otherwise in connection with the issue of, making available of, or dealing in the securities; or
- (d) any financial arrangement made with any dealer relating to the securities or the sale or purchase thereof.

(2)

Securities Industry (Amendment).

No. 11, 1971

(2) For the purposes of subsection one of this section, but without affecting the generality thereof, a dealer or investment adviser shall be deemed to have in securities an interest of a kind referred to in paragraph (a), (b), (c) or (d) of subsection one of this section if—

- (a) where he carries on business in partnership, he and his partners or any of them together have an interest in those securities of the kind so referred to;
- (b) where he carries on business in partnership and he and his partners or any of them together have a controlling interest in a corporation that has an interest in those securities of the kind so referred to; or
- (c) he has a controlling interest in a corporation that has an interest in those securities of the kind so referred to.

Dealings
as
principal.

20K. (1) A dealer shall not, as principal, deal in any securities with a person who is not the holder of a dealer's licence unless he first informs the person with whom he is dealing that he is acting in the transaction as principal and not as agent.

(2) For the purposes of subsection one of this section dealings as principal include dealings on behalf of a corporation in which the dealer has and, where the dealer carries on the business of dealing in partnership, the dealer and his partners together have, a controlling interest.

(3) Where a dealer has failed to comply with subsection one of this section in respect of a contract for the sale of securities by him, the
purchaser

Securities Industry (Amendment).

purchaser of the securities may, if he has not ^{No. 11, 1971} disposed of them, rescind the contract by a notice of rescission, in writing, given to the dealer within seven days after the receipt of the contract note and, where a dealer has failed to comply with that subsection in respect of a contract for the purchase of securities by him, the vendor of the securities may, in the like manner, rescind the contract.

20L. (1) Except to the extent that the regula-^{Short} tions otherwise prescribe, a person shall not sell ^{selling.} securities unless, at the time he sells them—

- (a) he has or, where he is selling as agent, his principal has; or
- (b) he reasonably and honestly believes that he has or, where he is selling as agent, that his principal has,

a presently exercisable and unconditional right to vest the securities in the purchaser thereof.

Penalty: For a first offence, two thousand dollars or imprisonment for six months and, on conviction on indictment of any subsequent offence, four thousand dollars or imprisonment for two years, or both.

(2) For the purposes of subsection one of this section—

- (a) a person shall be deemed to be selling securities if he—
 - (i) purports to sell the securities;
 - (ii) offers to sell the securities;
 - (iii)

Securities Industry (Amendment).

No. 11, 1971

(iii) holds himself out as entitled to sell the securities; or

(iv) instructs a dealer to sell the securities;

(b) a person who, at a particular time has a presently exercisable and unconditional right to have securities vested in himself or in accordance with his directions shall be deemed to have at that time a presently exercisable and unconditional right to vest the securities in a purchaser thereof; and

(c) a right of a person to vest securities in a purchaser thereof shall not be deemed not to be unconditional by reason only of the fact that the securities are charged or pledged in favour of some other person to secure the repayment of money.

Further
amendment
of Act No.
35, 1970.

6. The Securities Industry Act, 1970, is further amended—

Sec. 22.
(Accounts
to be kept
by dealers.)

(a) by inserting next after subsection two of section twenty-two the following new subsection:—

(2A) Subject to section nine of the Evidence (Reproductions) Act, 1967, a dealer shall retain, for a period of not less than seven years, the records referred to in subsection one of this section, every contract note received by him and a copy of every contract note issued by him.

(b)

Securities Industry (Amendment).

- (b) by inserting in paragraph (a) of section twenty-four after the word "thereto" the words "or in accordance with the directions of that person";
- No. 11, 1971
Sec. 24.
(Purposes for which money may be withdrawn from trust account.)
- (c) by omitting section twenty-eight and by inserting in lieu thereof the following section :—
- Subst. sec. 28.

28. (1) In this section—

Auditor's report.

"financial year" in relation to a dealer means—

- (a) where the dealer is not a corporation, the year ending on the thirtieth day of June; or
- (b) where the dealer is a corporation, the financial year of the corporation within the meaning of the Companies Act, 1961;

"prescribed day" in relation to a financial year of a dealer means—

- (a) where the dealer is not a corporation, the day that is two months after the end of that financial year; or
- (b) where the dealer is a corporation, the day that is three months after the end of that financial year,

or where in either of those cases an extension of time is approved pursuant to subsection three of this section, the day on which the extended time expires.

(2)

Securities Industry (Amendment).

No. 11, 1971

(2) A dealer shall, in respect of the financial year for the dealer beginning on or before and ending after, or beginning before and ending on or after—

- (a) the day on which section six of the Securities Industry (Amendment) Act, 1971, commences; or
- (b) the day on which the dealer commences to carry on business as a dealer,

whichever is the later day, and in respect of each financial year for the dealer thereafter, lodge with the relevant authority for the dealer, before the prescribed day for that financial year, an auditor's report containing the prescribed information.

(3) An extension of the period of two months or, as the case may require, the period of three months, referred to in the definition of "prescribed day" in subsection one of this section may be approved—

(a) by the relevant authority, where—

- (i) application for the extension is made by the dealer;
- (ii) the reasons for requiring the extension are special and exceptional; and
- (iii) the extension does not exceed one month; or

(b) by the Commission where—

- (i) the maximum extension has been approved pursuant to paragraph (a) of this subsection; and

(ii)

Securities Industry (Amendment).

- (ii) application for the extension is made No. 11, 1971 by the dealer and his auditor with the concurrence, in the case of a dealer who is a stockbroker, of the relevant authority,

and any such approval may be given subject to conditions.

(4) If a dealer fails to comply with the provisions of subsection two of this section, the relevant authority for the dealer shall forthwith report the matter to the Minister.

7. The Securities Industry Act, 1970, is further amended—

- Further
amendment
of Act No.
35, 1970.
Sec. 39.
(Interpre-
tation.)
- (a) (i) by omitting from the definition of "prescribed day" in section thirty-nine the words "first day of July" where firstly and thirdly occurring and by inserting in lieu thereof the words "quarter day";
- (ii) by omitting from the same definition the words "that first day of July" wherever occurring and by inserting in lieu thereof the words "the day next following that quarter day";
- (iii) by inserting next after the same definition the following new definition :—
"quarter day" means the last day of the months of March, June, September and December;
- (iv) by omitting from the definition of "relevant period" in the same section the words "twelve months ending on the thirtieth day of June" wherever occurring and by inserting in lieu thereof the words "three months ending on the quarter day";

(b)

Securities Industry (Amendment).

No. 11, 1971

Sec. 40.
(Certain
moneys to
be deposited
with stock
exchange.)

(b) (i) by omitting from paragraph (b) of subsection one of section forty the words "twelve months ending on the thirtieth day of June" and by inserting in lieu thereof the words "three months ending on a quarter day";

(ii) by omitting from subparagraph (i) of the same paragraph the words "period of twelve months ending on the immediately preceding thirtieth day of June" and by inserting in lieu thereof the words "immediately preceding period of three months ending on a quarter day";

Sec. 44.
(Accounts
of
deposits.)

(c) by omitting subsection four of section forty-four.

Further
amendment
of Act No.
35, 1970.

Sec. 54.
(Provisions
if fund
exceeds
\$2,000,000.)

8. The Securities Industry Act, 1970, is further amended by omitting from paragraph (a) of subsection one of section fifty-four the word "two" and by inserting in lieu thereof the word "four".

Further
amendment
of Act No.
35, 1970.

9. The Securities Industry Act, 1970, is further amended—

Sec. 72.
(Affecting
market
price by
fictions.)

(a) by omitting subsections three and four of section seventy-two;

Sec. 76.
(Regu-
lations.)

(b) by omitting paragraph (a) of subsection one of section seventy-six and by inserting in lieu thereof the following new paragraphs :—

(a) regulating the publication of advertisements offering the services of dealers or investment advisers, or offering securities for purchase or sale, and the form and content of those advertisements;

(a1)

Securities Industry (Amendment).

- (a1) the preparation by dealers of balance-sheets and profit and loss accounts and the form and content thereof; No. 11, 1971
- (c) by inserting next after section seventy-eight the following new sections :— New secs. 79 and 80.

79. (1) If, in New South Wales, a person does an act or omits to do an act and that person would, if he had done that act or had omitted to do that act in another State or in a Territory of the Commonwealth, have been guilty of an offence against the law of that State or Territory that corresponds to a provision of this Act, that person is guilty of an offence against that provision of this Act. Reciprocity in relation to offences.

(2) Where an act or omission constitutes an offence both under this Act and a law of another State or a Territory of the Commonwealth that corresponds to a provision of this Act and the offender has been punished under that law, he is not liable to be punished in respect of the offence against this Act.

80. (1) In any proceedings for an offence against this Act, any information, charge, complaint or application may be laid and made— Proceedings, how and when taken.

- (a) in the name of the Commission where not required to be laid or made on oath;
- (b) by the Commissioner or an officer or employee of the Commission authorised in that behalf by the Commissioner; or
- (c) with the consent of the Minister, by any person.

except where this Act otherwise provides.

(2) Notwithstanding anything in any Act, proceedings for an offence against this Act that is punishable on summary conviction may be brought within the period of three years next succeeding the commission of the alleged offence.

Securities Industry (Amendment).

No. 11, 1971 **10.** The Securities Industry Act, 1970, is further amended—

Further amendment of Act No. 35, 1970.

Sec. 3.
(Division into Parts.)

- (a) by inserting in section three next after the matter relating to Part VIII the following new matter :—

PART VIIIA.—INSIDER TRADING—s. 75A.

New sec. 75A.

- (b) by inserting next after section seventy-five the following new heading and section :—

PART VIIIA.

INSIDER TRADING.

Insider trading.

75A. (1) Where, through his association with a corporation or body, a person has knowledge of specific information relating to the corporation or body or to securities issued or made available by the corporation or body and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of those securities, he is guilty of an offence against this Act if he—

- (a) deals, directly or indirectly, in those securities for the purpose of gaining an advantage for himself by the use of that information; or
- (b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in those securities.

Penalty : Two thousand dollars.

(2) Where an offence under subsection one of this section is committed and an advantage referred to in that subsection is gained from a dealing in securities to which the offence relates, any person

Securities Industry (Amendment).

person who gained that advantage is, whether or No. 11, 1971
not any person has been prosecuted for or convicted
of that offence—

- (a) liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage; or
- (b) liable to the corporation or body that issued or made available those securities for any profit that accrued to him by reason of the gaining of that advantage.

(3) Where a loss or profit referred to in subsection two of this section is incurred by reason of an advantage gained from a dealing in securities, the amount of the loss or profit is the difference between—

- (a) the price at which the dealing was effected; and
- (b) the price that, in the opinion of the court before which it is sought to recover the amount of the loss or profit, would have been the market price of the securities at the time of the dealing if the specific information used to gain that advantage had been generally known at that time.

(4) The Commission may, if it considers it to be in the public interest so to do, bring an action in the name of and for the benefit of a corporation or other body or person for recovery of a loss or profit referred to in subsection two of this section.

(5) An action to recover a loss or profit referred to in subsection two of this section may not be brought after—

- (a) the expiration of the period of two years next succeeding the dealing in securities to which the action relates; or

(b)

Securities Industry (Amendment).

No. 11, 1971

- (b) the expiration of the period of six months next succeeding the discovery of the relevant facts by the person who suffered the loss or seeks to recover the profit,

whichever first occurs.

(6) For the purposes of subsection one of this section, a person is associated with a corporation or other body—

- (a) if, in the case of a corporation, he is an officer of the corporation or of a related corporation within the meaning of the Companies Act, 1961;
- (b) if, in the case of a body other than a corporation, he bears to that body a relationship analogous to the relationship borne to a corporation by an officer of the corporation;
- (c) if he acts, or has acted, as banker, solicitor, auditor or professional adviser, or in any other capacity, for the corporation or body;
- (d) if he has a beneficial interest in one or more shares in the corporation or body and the nominal amount of that share, or the aggregate of the nominal amounts of those shares is not less than one-tenth of the aggregate of the nominal amounts of all the issued shares of the corporation or body; or
- (e) where the person so associated by virtue of paragraph (c) or (d) of this subsection is a corporation, if he is a director, manager or secretary of that corporation.

Securities Industry (Amendment).

- 11.** (1) The Companies Act, 1961, is amended— **No. 11, 1971**
 Amendment
 of Act No.
 71, 1961.
- (a) (i) by omitting from paragraph (b) of subsection one of section one hundred and twenty-two the word “or”; **Sec. 122.**
 (Power to restrain certain persons from managing companies.)
- (ii) by omitting from paragraph (c) of the same subsection the word “three,” and by inserting in lieu thereof the following words :—
 three; or
- (d) of an offence under subsection (1) of section 75A of the Securities Industry Act, 1970,;
- (b) by inserting in subsection four of section one hundred and twenty-four after the word “company” the words “, but a person is not liable to the company under this section, or guilty of an offence against this Act, in respect of a breach of the provisions of this section that is an offence under section 75A of the Securities Industry Act, 1970”. **Sec. 124.**
 (As to duty and liability of officers.)
- (2) This section commences on the day on which section ten of this Act commences.
- 12.** (1) The Securities Industry Act, 1970, is further amended by omitting subsection sixteen of section five. **Further amendment of Act No. 35, 1970.**
- (2) This section commences on the day on which section thirteen of this Act commences. **Sec. 5.**
 (Constitution and powers of Corporate Affairs Commission.)

Securities Industry (Amendment).

- No. 11, 1971 **13.** The Companies Act, 1961, is further amended—
- Further amendment of Act No. 71, 1961.
- Sec. 5. (Interpretation.)
- (a) (i) by inserting in subsection one of section five next after the definition of “Charge” the following new definitions :—
- “Commission” means the Corporate Affairs Commission constituted under the Securities Industry Act, 1970.
- “Commissioner.” means the Commissioner for Corporate Affairs appointed under the Securities Industry Act, 1970.
- (ii) by omitting from the same subsection the definition of “Registrar”;
- Sec. 7. (Administration of Act.)
- (b) (i) by omitting subsection one of section seven and by inserting in lieu thereof the following subsection :—
- (1) The Commission shall have the general administration of this Act.
- (ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection :—
- (2) The Commission shall maintain an office at which documents may be submitted for lodgment or registration under this Act.
- (iii) by omitting subsections three and four of the same section;
- (iv) by inserting in subsection five of the same section after the word “Registrar-General” the words “or the Registrar of Companies”;
- (v) by omitting from the same subsection the words “Registrar of Companies” and by inserting in lieu thereof the word “Commission”;
- (vi)

Securities Industry (Amendment).

- (vi) by inserting next after the same subsection No. 11, 1971 the following new subsection :—

(5A) The Commission may incorporate with the registers kept by it under this Act such documents, instruments and registers kept by the Registrar of Companies and the Registrar-General under this Act or any corresponding previous enactment as it thinks fit.

- (vii) by omitting from subsection eight of the same section the words “A person” and by inserting in lieu thereof the words “Subject to this section, a person”;
- (viii) by inserting next after the same subsection the following new subsection :—

(8A) Where the regulations prescribe for the purposes of this section an office held under the law of the State or of the Commonwealth or of another State or a Territory of the Commonwealth, it shall not be a contravention of subsection (8) of this section to communicate to the holder of that office information connected with the duties of the office.

- (c) (i) by omitting from section forty-two the word “Registrar” where firstly, secondly, thirdly, fourthly, sixthly and seventhly occurring and by inserting in lieu thereof the word “Commission”;

Sec. 42.
(Registration of prospectus.)

- (ii) by omitting from the same section the words “the Registrar of Companies in that other State or Territory” wherever occurring and by inserting in lieu thereof the words “the person in that other State or Territory who exercises, under a law in force in that other State or Territory that corresponds to this section, functions similar to those exercised by the Commission under this section”;

(d)

Securities Industry (Amendment).

- No. 11, 1971**
Sec. 310.
 (Outstanding assets of defunct company to vest in Commission.)
- (d) by inserting next after subsection one of section three hundred and ten the following new subsection :—
- (1A) Where, immediately before the commencement of section thirteen of the Securities Industry (Amendment) Act, 1971, there remained vested in the Registrar of Companies any property vested in him by the operation of this section before that commencement or there remained vested in the Registrar-General any property vested in him by the operation of any corresponding previous enactment, that property is hereby vested in the Commission which may, in respect of that property, make all claims, and exercise all rights and remedies, that might have been made or exercised by the Registrar of Companies or the Registrar-General had section eleven of the Securities Industry (Amendment) Act, 1971, not been enacted.
- Sec. 311.**
 (Outstanding interests in property how disposed of.)
- (e) (i) by omitting from subsection one of section three hundred and eleven the words “or by operation of any corresponding previous enactment”;
- (ii) by inserting in the same subsection after the word “may” the words “get in.”;
- Sec. 312.**
 (Liability of Commission and Crown as to property vested in Commission.)
- (f) by omitting from section three hundred and twelve the words “or by operation of any corresponding previous enactment”;
- Sec. 370.**
 (Inspection of registers.)
- (g) by inserting in subsection two of section three hundred and seventy after the word “corporation” wherever occurring the words “or banking corporation”;

(h)

Securities Industry (Amendment).

(h) by omitting subsection one of section three hundred and eighty-one and by inserting in lieu thereof the following subsection :—

No. 11, 1971
Sec. 381.
(Proceedings
how and
when taken.)

(1) In any proceedings for an offence against this Act, any information, charge, complaint or application may be laid and made—

- (a) in the name of the Commission where not required to be laid or made on oath;
- (b) by the Commissioner, or by an officer or employee of the Commission authorised by the Commissioner in that behalf; or
- (c) with the consent of the Minister, by any person,

except where this Act otherwise provides.

14. A prospectus that, under the Companies Act, 1961, is registered by the Commission or acceptable for registration by the Commission shall be deemed to have been registered or, as the case may be, to be acceptable for registration, by the holder of an office having the title "Registrar of Companies".

Further
amendment
of Act No.
71, 1961.

15. (1) The Companies Act, 1961, is further amended by omitting from the provisions of the Companies Act, 1961, specified in the First Schedule to this Act the word "Registrar" wherever occurring and by inserting in lieu thereof the word "Commission".

Further
amendment
of Act No.
71, 1961.

(2) The Companies Act, 1961, is further amended by omitting from the heading to the Second Schedule and from Items 5, 11, 14, 15, 16, 17, 29A, 29B, 32, 33, 34, 35, 35A, 35B, 37, 38, 42, 43 and 44 of that Schedule the word "Registrar" wherever occurring and by inserting in lieu thereof the word "Commission".

(3) The Companies Act, 1961, is further amended—

- (a) by omitting from paragraph 1 of Part II of the Sixth Schedule the word "Registrar" and by inserting in lieu thereof the word "Commission";

(b)

Securities Industry (Amendment).

No. 11, 1971 (b) by omitting from subparagraph (2) of paragraph 2 of the same Part the word "Registrar" and by inserting in lieu thereof the word "Commission".

(4) The Companies Act, 1961, is further amended—

(a) by omitting from paragraphs 4, 5 and 6 of Part I of the Eighth Schedule the word "Registrar" wherever occurring and by inserting in lieu thereof the word "Commission";

(b) by omitting from Part II of the same Schedule the words "Registrar of Companies" and by inserting in lieu thereof the word "Commission".

Further amendment of Act No. 71, 1961.

16. A provision of the Companies Act, 1961, specified in the First Column of the Second Schedule to this Act is amended in the manner specified opposite that provision in the Second Column of that Schedule.

Further amendment of Act No. 71, 1961.

17. The Companies Act, 1961, is further amended—

Sec. 11. (Official liquidators.)

(a) (i) by omitting from subsection one of section eleven the word "Minister" and by inserting in lieu thereof the word "Commission";

(ii) by omitting from the same subsection the word "he" and by inserting in lieu thereof the words "the Commission";

Sec. 27. (Default in complying with requirements as to proprietary companies.)

(b) by omitting from subsection one of section twenty-seven the word "Minister" and by inserting in lieu thereof the word "Commission";

(c)

Securities Industry (Amendment).

- (c) (i) by omitting from subsection seven of section No. 11, 1971 thirty-eight the word "Governor" where firstly and secondly occurring and by inserting in lieu thereof the word "Commission"; Sec. 38. (As to invitations to the public to lend money to or to deposit money with a corporation.)
- (ii) by omitting from subsection eight of the same section the word "Governor" and by inserting in lieu thereof the word "Commission";
- (d) by omitting from subsection three of section forty-four the word "Minister" and by inserting in lieu thereof the word "Commission"; Sec. 44. (Allotment of shares and debentures where prospectus indicates application to list on stock exchange.)
- (e) (i) by omitting from paragraph (e) of subsection one of section seventy-four the word "Minister" and by inserting in lieu thereof the word "Commission"; Sec. 74. (Qualifications of trustee for debenture holders.)
- (ii) by omitting from subsection (1A) of the same section the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";
- (f) by omitting from section 74D the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 74D. (Duties of trustees.)
- (g) by omitting from paragraph (c) of subsection four of section 74F the word "Governor" wherever occurring and by inserting in lieu thereof the word "Commission"; Sec. 74F. (Obligations of borrowing corporation.)
- (h) (i) by omitting from paragraph (b) of section seventy-seven the word "Minister" and by inserting in lieu thereof the word "Commission"; Sec. 77. (Approved deeds.)
- (ii) by omitting from the same paragraph the word "his" and by inserting in lieu thereof the word "its";

Securities Industry (Amendment).

- No. 11, 1971
Sec. 79.
(Approval of trustees.)
- (i) (i) by omitting from subsection one of section seventy-nine the word "Minister" and by inserting in lieu thereof the word "Commission";
(ii) by omitting from the same subsection the word "he" and by inserting in lieu thereof the words "the Commission";
(iii) by omitting from the same subsection the word "his" and by inserting in lieu thereof the word "its";
(iv) by omitting from subsection two of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";
(v) by omitting from the same subsection the word "him" and by inserting in lieu thereof the words "the Commission";
- Sec. 84.
(Register of interest holders.)
- (j) by omitting from subsection three of section eighty-four the word "Governor" and by inserting in lieu thereof the word "Commission";
- Sec. 88.
(Power to exempt from compliance with Division and non-application of Division in certain circumstances.)
- (k) (i) by omitting from subsection one of section eighty-eight the word "Minister" and by inserting in lieu thereof the word "Commission";
(ii) by omitting from the same subsection the word "he" and by inserting in lieu thereof the words "the Commission";
- Sec. 117.
(Undischarged bankrupts acting as directors.)
- (l) by omitting from subsection two of section one hundred and seventeen the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";
- Sec. 122.
(Power to restrain certain persons from managing companies.)
- (m) (i) by omitting from subsection two of section one hundred and twenty-two the word "Minister" and by inserting in lieu thereof the word "Commission";

(ii)

Securities Industry (Amendment).

(ii) by omitting from subsection three of the same section the word "Minister" and by inserting in lieu thereof the word "Commission"; No. 11, 1971

(n) by omitting from subsection two of section one hundred and sixty the word "Governor" and by inserting in lieu thereof the word "Commission"; Sec. 160. (Exemption of certain companies.)

(o) (i) by omitting from subsection one of section three hundred and six the word "Minister" and by inserting in lieu thereof the word "Commission"; Sec. 306. (Prosecution of delinquent officers and members of company.)

(ii) by omitting from subsection two of the same section the word "Minister" wherever occurring and by inserting in lieu thereof the word "Commission";

(iii) by omitting from the same subsection the word "him" and by inserting in lieu thereof the words "the Commission";

(iv) by omitting from the same subsection the words "he may" and by inserting in lieu thereof the words "the Commission may";

(v) by omitting from subsection four of the same section the words "Minister may, if he" wherever occurring and by inserting in lieu thereof the words "Commission may, if the Commission";

(vi) by omitting from the same subsection the word "him" where firstly, secondly and thirdly occurring and by inserting in lieu thereof the words "the Commission";

(vii) by omitting from the same subsection the words "proceedings ought to be taken by him he" and by inserting in lieu thereof the words "the Commission ought to take proceedings, the Commission";

(viii) by omitting from subsection five of the same section the word "Minister" and by inserting in lieu thereof the word "Commission";

(ix)

Securities Industry (Amendment).

No. 11, 1971

- (ix) by omitting from subsection six of the same section the words "Minister or Registrar" wherever occurring and by inserting in lieu thereof the word "Commission";
- (x) by omitting from the same subsection the word "he" where firstly and secondly occurring and by inserting in lieu thereof the words "the Commission";
- (xi) by omitting from subsection eight of the same section the words "Minister or Registrar" and by inserting in lieu thereof the word "Commission";

Sec. 334.
(Interpre-
tation.)

- (p) (i) by omitting from the definition of "Investment company" in subsection one of section three hundred and thirty-four the word "proclamation" and by inserting in lieu thereof the words "order published in the Gazette";
- (ii) by omitting from subsection two of the same section the words "Governor may by proclamation" and by inserting in lieu thereof the words "Commission may, by order published in the Gazette,";

Sec. 368.
(Production
and inspec-
tion of
books
where
offence sus-
pected.)

- (q) by omitting from subsection one of section three hundred and sixty-eight the word "Minister" and by inserting in lieu thereof the word "Commission";

Sec. 374.
(Restriction
on offering
shares,
debentures,
&c., for
subscription
or pur-
chase.)

- (r) (i) by omitting from subsection two of section three hundred and seventy-four the word "Governor" wherever occurring and by inserting in lieu thereof the word "Commission";
- (ii) by omitting from the same subsection the words "on the recommendation of the Minister";

Fifth
Schedule.

- (s) by omitting from subparagraph (2) of paragraph 20 of the Fifth Schedule the word "Minister" and by inserting in lieu thereof the word "Commission".

Securities Industry (Amendment).

18. The Business Names Act, 1962, is amended— **No. 11, 1971**

Amendment
of Act No.
11, 1962.

- (a) by inserting next after the definition of “Christian name” in subsection one of section four the following new definitions :— **Sec. 4.**
(Interpreta-
tion.)

“Commission” means the Corporate Affairs Commission constituted under the Securities Industry Act, 1970.

“Commissioner” means the Commissioner for Corporate Affairs appointed under the Securities Industry Act, 1970.

- (b) by omitting from the same subsection the definition of “Registrar”.

19. A provision of the Business Names Act, 1962, specified in the Third Schedule to this Act is amended by omitting therefrom the word “Registrar” wherever occurring and by inserting in lieu thereof the word “Commission”. **Further amendment of Act No. 11, 1962.**

20. A provision of the Business Names Act, 1962, specified in the First Column of the Fourth Schedule to this Act is amended in the manner specified opposite thereto in the Second Column of that Schedule. **Further amendment of Act No. 11, 1962.**

21. The Companies (Transfer of Domicile) Act, 1968, is amended— **Amendment of Act No. 15, 1968.**

- (a) by omitting from section five the word “Registrar” and by inserting in lieu thereof the word “Commission”; **Sec. 5.**
(Powers of Commission.)

(b)

Securities Industry (Amendment).

-
- No. 11, 1971
Sec. 7.
(Application.)
- (b) (i) by omitting from section seven the word "Registrar" wherever occurring and by inserting in lieu thereof the word "Commission";
- (ii) by omitting from the same section the word "him" and by inserting in lieu thereof the words "the Commission";
- Sec. 8.
(Registration.)
- (c) (i) by omitting from section eight the word "Registrar" and by inserting in lieu thereof the word "Commission";
- (ii) by omitting from the same section the word "he" and by inserting in lieu thereof the words "the Commission";
- (iii) by omitting from the same section the words "his hand and";
- Sec. 11.
(Removal from register of foreign companies.)
- (d) (i) by omitting from section eleven the word "Registrar" and by inserting in lieu thereof the word "Commission";
- (ii) by omitting from the same section the word "he" and by inserting in lieu thereof the words "the Commission";
- Sec. 25.
(Obligatory alteration of constitution.)
- (e) (i) by omitting from subsection three of section twenty-five the word "Registrar" wherever occurring and by inserting in lieu thereof the word "Commission";
- (ii) by omitting from subsection six of the same section the word "Registrar" wherever occurring and by inserting in lieu thereof the word "Commission";
- Sec. 29.
(Regulations.)
- (f) by omitting from subsection two of section twenty-nine the word "Registrar" wherever occurring and by inserting in lieu thereof the word "Commission".

Securities Industry (Amendment)

22. After the commencement of section thirteen of this Act, a reference to the Registrar as defined by the Companies Act, 1961, immediately before that commencement shall, in any Act, by-law, regulation, ordinance, statutory instrument or other instrument be read and construed as a reference to the Corporate Affairs Commission constituted under the Securities Industry Act, 1970.

No. 11, 1971

Construction of certain Acts, &c.

23. In so far as a regulation—

Saving of regulations.

- (a) made under an Act amended by a provision of this Act; and
- (b) in force immediately before the commencement of that provision,

could have been made had that Act, as amended by that provision, been in force immediately before that commencement the regulation shall be deemed to have been made, at that commencement, under that Act, as amended by that provision.

24. (1) The exercise or performance by the Governor, the Minister, the Registrar of Companies or a Deputy Registrar of Companies before the commencement of section thirteen of this Act of a power or function that is required or authorised by the Companies Act, 1961, the Business Names Act, 1962, or the Companies (Transfer of Domicile) Act, 1968, as amended by sections thirteen to twenty-one, both inclusive, of this Act, to be exercised or performed after that commencement by the Corporate Affairs Commission constituted under the Securities Industry Act, 1970, shall, for the purposes of those Acts, as so amended, be deemed to have been an exercise of that power, or a performance of that function, by that Commission.

Transitional provision.

(2)

Securities Industry (Amendment)

No. 11, 1971 (2) An action, suit or proceeding that, but for the amendments made by this Act, might have been commenced or continued by or against the Registrar of Companies may be commenced or continued by or against the Commission.

SCHEDULES.

Securities Industry (Amendment).

SCHEDULES.

No. 11, 1971

FIRST SCHEDULE.

Sec. 15.

(COMPANIES ACT, 1961.)

Section	Subsection	Section	Subsection	Section	Subsection
7	(6)	39	(1)	134	(6)
7	(9)	40	(6)	134	(7)
7	(10)	46	(5)	134	(9)
7	(11)	50	(1)	135	(5)
9	(4)	51	(2)	136	(2)
12	(1)	52	(1)	140	(7)
12	(2)	52	(2)	146	(1)
12	(3)	52	(3)	151	(2)
12	(4)	54	(1)	152	(2)
12	(5)	54	(4)	153	(3)
12	(6)	58	(1)	155	(3)
12	(7)	58	(3)	156	(4)
12	(8)	58	(5)	157	(2)
13	(1)	61	(8)	158	(4)
13	(2)	62	(4)	159	(1)
13	(3)	63	..	159	(2)
13	(4)	64	(7)	160	(1)
13	(5)	65	(5)	161A	(2)
13	(7)	70	(2)	161A	(3)
16	(1)	74A	(6)	161A	(5)
16	(2)	74F	(1)	161A	(6)
16	(3)	74F	(4)	161A	(7)
21	(2)	74F	(5)	161A	(8)
21	(3)	74F	(6)	161A	(9)
21	(4)	74H	(3)	161A	(10)
21	(5)	77	..	161A	(11)
21	(6)	78	(1)	161A	(12)
22	(1)	78	(2)	161A	(13)
22	(7)	78	(3)	162	(2)
22	(8)	80	(2)	162	(15)
22	(9)	82	(2)	177	(5)
22	(10)	82	(3)	181	(4)
23	(1)	83	(3)	183	(4)
23	(2)	83	(5)	184	(10)
23	(3)	84	(3)	186	(5)
24	(2)	85	(1)	191	(1)
24	(5)	85	(2)	191	(2)
25	(1)	85	(3)	193	(1)
25	(2)	100	(1)	195	(1)
25	(3)	100	(5)	195	(2)
26	(1)	102	(1)	195	(3)
26	(2)	103	(1)	199	(1)
27	(2)	103	(2)	199	(7)
27	(3)	105	(1)	199	(15)
28	(8)	105	(2)	202	(2)
28	(9)	108	..	202	(6)
29	(5)	112	(1)	202B	(1)
34	(3)	115	(1)	202B	(2)
37	(1)	115	(3)	203A	(1)
38	(1)	115	(4)	203A	(2)

Securities Industry (Amendment).

No. 11, 1971

FIRST SCHEDULE—*continued.*
(COMPANIES ACT, 1961.)—*continued.*

Section	Subsection	Section	Subsection	Section	Subsection
203A	(7)	282	(1)	346	(9)
203A	(8)	286	(2)	346	(10)
203C	(4)	287	(1)	347	(1)
206	(9)	287	(2)	347	(2)
211A	(1)	296	(6)	347	(3)
211A	(2)	306	(3)	348	(1)
212	(5)	307	(2)	348	(2)
214	(3)	308	(1)	348	(4)
230	(1)	308	(2)	348	(6)
230	(2)	308	(3)	348	(7)
233	(2)	308	(4)	349	(1)
234	(3)	308	(5)	349	(2)
240	(2)	308	(6)	349	(3)
240	(6)	309	(1)	352	(1)
243	(3)	309	(2)	352	(2)
254	(2)	310	(1)	352	(2A)
257	(3)	310	(2)	352	(5)
259	(4)	311	(1)	352	(6)
272	(3)	311	(2)	353	(1)
272	(5)	311	(3)	353	(2)
272	(7)	311	(4)	354	(6)
278	(2)	312	..	354	(7)
280	(1)	313	(1)	371	(1)
280	(2)	346	(1)	372	..
281	(1)	346	(2)	385	(1)
281	(2)	346	(6)	385	(1B)

Sec. 16.

SECOND SCHEDULE.
(COMPANIES ACT, 1961.)

First Column		Second Column
Section	Subsection	
7	(6)	Omit "him"; insert "the Commission".
12	(1)	Omit "he" wherever occurring; insert "the Commission".
12	(3)	Omit "hand and".
12	(4)	Omit "hand and".
12	(5)	Omit "him"; insert "the Commission".
12	(5)	Omit "he" wherever occurring; insert "the Commission".
12	(7)	Omit "his opinion"; insert "the opinion of the Commission".
12	(8)	Omit "him"; insert "the Commission".
13	(2)	Omit "he"; insert "the Commission".
13	(3)	Omit "he"; insert "the Commission".

SECOND

*Securities Industry (Amendment).*SECOND SCHEDULE—*continued.*
(COMPANIES ACT, 1961.)—*continued.*

No. 11, 1971

First Column		Second Column
Section	Subsection	
13	(5)	Omit "him"; insert "the Commission".
16	(2)	Omit "he"; insert "the Commission".
16	(3)	Omit "under his hand and seal"; insert "under the seal of the Commission".
21	(3)	Omit "him"; insert "the Commission".
22	(8)	Omit "he"; insert "the Commission".
22	(9)	Omit "he"; insert "the Commission".
23	(3)	Omit "his"; insert "its".
25	(2)	Omit "his"; insert "the Commission's".
25	(3)	Omit "him"; insert "the Commission".
51	(2)	Omit "him"; insert "the Commission".
77	..	Omit "his" where firstly occurring; insert "its".
78	(1)	Omit "his"; insert "its".
78	(2)	Omit "his"; insert "its".
82	(3)	Omit "under his hand".
83	(5)	Omit "his"; insert "its".
136	(2)	Omit "he"; insert "the Commission".
161A	(5)	Omit "he"; insert "the Commission".
161A	(8)	Omit "he"; insert "the Commission".
162	(2)	Omit "he"; insert "the Commission".
195	(2)	Omit "his"; insert "its".
195	(3)	Omit "he"; insert "the Commission".
278	(2)	Omit "his or".
306	(3)	Omit "him"; insert "the Commission".
308	(1)	Omit "he"; insert "the Commission".
308	(2)	Omit "he"; insert "the Commission".
308	(3)	Omit "he"; insert "the Commission".
309	(2)	Omit "or sign".
309	(2)	Omit "he"; insert "the Commission".
309	(2)	Omit "or signature".
310	(2)	Omit "himself"; insert "itself".
311	(1)	Omit "him"; insert "the Commission".
311	(1)	Omit "he"; insert "the Commission".
311	(2)	Omit "he" wherever occurring; insert "the Commission".
311	(2)	Omit "sign".
311	(3)	Omit "upon him".
311	(4)	Omit "him"; insert "the Commission".
313	(1)	Omit "coming to his hand or under his control or to his knowledge vested in him"; insert "got in by the Commission or under the control of the Commission or, to the knowledge of the Commission, vested in the Commission".
313	(1)	Omit "his dealings"; insert "the dealings of the Commission".
346	(9)	Omit "his hand and seal"; insert "the seal of the Commission".
348	(2)	Omit "he is".
349	(1)	Omit "he"; insert "the Commission".
372	..	Omit "hand and".

THIRD

Securities Industry (Amendment).

No. 11, 1971

THIRD SCHEDULE.
(BUSINESS NAMES ACT, 1962.)

Sec. 19.

Section	Subsection	Section	Subsection	Section	Subsection
6	(1)	12	(1)	17	
7	(1)	12	(2)	18	(1)
7	(3)	12	(3)	18	(2)
7	(4)	12	(4)	19	(1)
7	(5)	12	(5)	19	(2)
7	(6)	12	(6)	19	(3)
7	(7)	12	(7)	19	(5)
8	(2)	12	(8)	21	(1)
9	(1)	12	(9)	21	(2)
10	(1)	12	(10)	21	(4)
10	(2)	12	(11)	22	(1)
10	(3)	12A	(1)	22	(2)
10	(4)	12A	(2)	23	(1)
11	(1)	13	(1)	23	(2)
11	(3)	13	(2)	25	(1)
11	(4)	15	(1)	25	(2)
11	(5)	15	(2)	31	(1)
11	(6)	16	..	32	(2)

Sec. 20.

FOURTH SCHEDULE.
(BUSINESS NAMES ACT, 1962.)

First Column		Second Column
Section	Subsection	
6	(1)	Omit "he"; insert "the Commission".
7	(7)	Omit "he"; insert "the Commission".
10	(1)	Omit "he"; insert "the Commission".
10	(1)	Omit "his reasons"; insert "the reasons of the Commission".
10	(2)	Omit "his"; insert "its".
11	(5)	Omit "he"; insert "the Commission".
16	..	Omit "he"; insert "the Commission".
16	..	Omit "him"; insert "the Commission".
18	(1)	Omit "he"; insert "the Commission".
18	(2)	Omit "he"; insert "the Commission".
18	(2)	Omit "him"; insert "the Commission".
19	(1)	Omit "him"; insert "the Commission".
19	(2)	Omit "he"; insert "the Commission".
19	(2)	Omit "him"; insert "the Commission".
19	(5)	Omit "him"; insert "the Commission".
19	(5)	Omit "he"; insert "the Commission".
21	(1)	Omit "him"; insert "the Commission".
23	(1)	Omit "under his hand" wherever occurring.
25	(1)	Omit "his opinion"; insert "the opinion of the Commission".

UNOFFICIAL

THEATRES