

Act No. 35 of 1989

CORPORATE AFFAIRS COMMISSION (AUDITORS AND LIQUIDATORS) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Public Accountants Registration (Repeal and Amendment) Bill 1989.

The object of this Bill is to amend the Corporate Affairs Commission Act 1981—

- (a) to rename that Act as the Companies (Administration) Act 1981; and
- (b) to make provision for the constitution and functions of the Companies Auditors and Liquidators Disciplinary Board that is currently constituted under the Public Accountants Registration Act 1945 (proposed to be repealed by the cognate Bill); and
- (c) to provide that it is an offence for a person to act as an auditor when not a registered company auditor if a law requires that the audit be carried out by a registered company auditor; and
- (d) to enact savings and transitional provisions consequent on the proposed Act and the proposed repeal of the Public Accountants Registration Act 1945.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Principal Act.

SCHEDULE 1—AMENDMENTS

Act renamed etc.

Schedule 1 (3) changes the short title of the Principal Act to the Companies (Administration) Act 1981 to reflect the fact that the Act will now contain provisions that do not concern the Corporate Affairs Commission. Schedule 1 (1) changes the long title of the Principal Act for that purpose also. Schedule 1 (2), (5) and (7) divide the Principal Act into Parts.

Corporate Affairs Commission (Auditors and Liquidators) Amendment 1989

Companies Auditors and Liquidators Disciplinary Board

Schedule 1 (6) constitutes the Companies Auditors and Liquidators Disciplinary Board, currently constituted under the Public Accountants Registration Act 1945, to exercise certain disciplinary functions conferred on it by the Companies (New South Wales) Code.

Schedule 1 (9) provides for the membership and procedure of the Board. The Board will consist of 3 members appointed by the Minister—a barrister or solicitor of not less than 5 years standing, a person selected from a panel of 3 persons nominated by the Institute of Chartered Accountants in Australia and a person selected from a panel of 3 persons nominated by the Australian Society of Accountants. The Minister may appoint a deputy member to act during the illness or absence of a member. Other provisions concern such matters as the term of office of members, vacancies, remuneration of members and quorums and voting at meetings.

Schedule 1 (4) makes a consequential amendment.

Offence—unqualified auditors

Schedule 1 (8) makes it an offence (maximum penalty \$500) for a person who is not a registered company auditor to carry out an audit required by any law to be carried out by a registered company auditor. Such an offence is currently provided for in respect of audits by registered public accountants by the Public Accountants Registration Act 1945.

Savings and transitional provisions

Schedule 1 (10) enacts savings and transitional provisions that will require references in Acts, regulations etc. to a registered public accountant to be read as references to a registered company auditor and references to the old Companies Auditors and Liquidators Disciplinary Board to be read as references to the new Board.

Hearings commenced by the old Board will be able to be completed and the actions of the old Board will be regarded as the actions of the new Board.

A six month transition period is provided for in which persons who are currently registered public accountants can continue to perform audit functions.
