

# Companies (Administration) Act 1981 No 64

[1981-64]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 January 2000 to 30 June 2008 (accessed 25 November 2024 at 11:38)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
Corporate Affairs Commission Act 1981
- **Repeal**  
The Act was repealed by Sch 4 to the [Statute Law \(Miscellaneous Provisions\) Act 2008 No 62](#) with effect from 1.7.2008.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Companies (Administration) Act 1981 No 64



New South Wales

An Act relating to the constitution of the Corporate Affairs Commission and the office of Commissioner for Corporate Affairs and to the constitution and functions of the Companies Auditors and Liquidators Disciplinary Board.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Companies (Administration) Act 1981*.

### 2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**Board** means the Companies Auditors and Liquidators Disciplinary Board constituted by Part 3.

**Commission** means the Corporate Affairs Commission constituted by this Act.

**Commissioner** means the person holding office or acting as Commissioner for Corporate Affairs.

**Commonwealth Act** means the *National Companies and Securities Commission Act 1979* of the Commonwealth as amended and in force for the time being.

**functions** includes duties.

**power** includes an authority.

**securities** has the same meaning as in the Commonwealth Act.

- (2) A reference in this Act to an officer or employee of the Commission is a reference to:
- (a) an officer or employee referred to in section 8 (1),
  - (b) an officer, employee or servant referred to in section 8 (2) whose services are being made use of under that subsection, or
  - (c) an officer referred to in section 8 (3).

## **Part 2 Corporate Affairs Commission**

### **4 Constitution of Commission**

- (1) There is constituted by this Act a corporation under the corporate name of the "Corporate Affairs Commission".
- (2) The Commission:
- (a) has perpetual succession,
  - (b) shall have a seal,
  - (c) may take proceedings and be proceeded against in its corporate name,
  - (d) may, for the purpose of enabling it to perform or exercise its functions and powers, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property, and
  - (e) may do and suffer all other things that bodies corporate may, by law, do and suffer and that are necessary for, or incidental to, the performance or exercise of its functions and powers.
- (3) The Commission is, for the purposes of any Act, a statutory body representing the Crown.

### **5 Commissioner for Corporate Affairs**

- (1) The Governor may appoint a person to hold office as Commissioner for Corporate Affairs.
- (2) Schedule 1A has effect with respect to the Commissioner.

### **6 Seal of Commission**

- (1) Judicial notice shall be taken of the seal of the Commission.
- (2) The seal of the Commission may be affixed to a document by the Commissioner or by an officer or employee of the Commission authorised to do so either generally or in any particular case or class of cases.

- (3) The Commissioner or the officer or employee affixing the seal of the Commission shall attest by signature the fact of the affixing of the seal.
- (4) In any legal proceedings, the seal of the Commission, when affixed to a document, shall, until the contrary is proved, be presumed to have been duly affixed to the document.

## **7 (Repealed)**

## **8 Staff of the Commission**

- (1) Except as provided by this section, such officers and employees as may be necessary for the performance or exercise by the Commission of its functions and powers shall be appointed and employed under and subject to the *Public Service Act 1979*.
- (2) For the purposes of the performance or exercise by the Commission of its functions and powers, the Commission may, with the approval of the Minister and of the body or person concerned and on such terms and conditions as may be approved by the Public Service Board, make use of the services of any of the officers, employees or servants of the body or person.
- (3) The Commission may, with the approval of the Public Service Board and on such terms and conditions as may be approved by that Board, appoint persons to be officers of the Commission for the purpose of conducting or assisting in the conduct of investigations or inspections pursuant to any law relating to the regulation of companies or the securities industry.
- (4) The maximum term for which a person may be appointed by the Commission under subsection (2) is 3 years, but the person is, if otherwise qualified, eligible for further appointment under that subsection.
- (5) An officer referred to in subsection (3) is not, in his or her capacity as such, an officer within the meaning of the *Public Service Act 1979*, but, if the terms and conditions on which the officer is appointed so provide, any specified provisions of that Act or the regulations thereunder, whether with or without specified modifications, apply to and in respect of the officer as if the officer were a temporary employee within the meaning of that Act.
- (6) The Commission may:
  - (a) with the approval of the Minister, and
  - (b) on such terms and conditions as may be approved by the Public Service Board, appoint persons having suitable qualifications and experience as consultants to the Commission.

## 9 Performance of functions of Commission

- (1) The affairs of the Commission shall be managed by the Commissioner.
- (2) A function or power of the Commission may be performed or exercised in the name of, or on behalf of, the Commission by:
  - (a) the Commissioner, or
  - (b) an officer or employee of the Commission with the authority of, and on behalf of, the Commissioner.
- (3) Functions and powers of the Commission may also be performed or exercised in accordance with a delegation under this Act.
- (4) A function or power of the Commission may be performed or exercised either with or without the seal of the Commission, as appropriate.

## 10 Functions of Commission

- (1) The Commission shall have and may perform and exercise such functions and powers as may be conferred or imposed upon it by or under this or any other Act or any law of the Commonwealth, a Territory of the Commonwealth or another State.
- (2) The Commission shall, as and when directed by the Minister so to do, report to the Minister with respect to the policy the Commission is pursuing or proposes to pursue in the performance or exercise of its functions and powers or such of them as are specified by the Minister when giving the direction.
- (3) Except as to the contents of a report or recommendation by the Commission or the Commissioner, the Commission and the Commissioner are, in the performance or exercise of functions and powers under this Act or any other Act or law (other than those performed or exercised as an inspector pursuant to any law relating to the regulation of companies or the securities industry) subject to the control and direction of the Minister.
- (4) The provisions of this section do not have effect or operation to the extent of any inconsistency with the Agreement.
- (5) In this section, **Agreement** means the agreement made on 22 December 1978 between the Commonwealth and the States in relation to a proposed scheme for the co-operative regulation of companies and the securities industry or, if that agreement is or has been amended or affected by another agreement, that agreement as so amended or affected.

## 11 Disposal of money by Commission

- (1) Except where otherwise expressly provided by or under this or any other Act or law,

all money payable to the Commission shall be collected and received by the Commission on account of, and shall be paid into, the Consolidated Revenue Fund.

(2) (Repealed)

### **11A Fees**

The Commission may, for and on behalf of the State:

- (a) waive or reduce, in a particular case or classes of cases, any fees that would otherwise be payable to the Commission for and on behalf of the State, or
- (b) refund in whole or in part, in a particular case or classes of cases fees paid to the Commission for and on behalf of the State.

### **12 (Repealed)**

### **13 Delegation by Commission**

- (1) Except as otherwise expressly provided by this or any other Act, the Commission may, either generally or as otherwise provided by the instrument of delegation, by writing under its seal, delegate to any person any functions or powers that are conferred on the Commission by or under any Act (other than functions or powers the delegation of which is prohibited by the Act) or otherwise conferred on the Commission.
- (2) The Commission may, by writing under its seal, revoke, wholly or in part, any delegation under subsection (1).
- (3) A delegation under subsection (1) may be to:
  - (a) a specified person (whether a natural person or a body corporate), or
  - (b) the person for the time being holding a specified office under an Act or the person for the time being occupying a position in the Public Service, being a position that is specified in the instrument of delegation.
- (4) Except in so far as the instrument of delegation otherwise provides, a person to whom a function or power has been delegated under subsection (1) may:
  - (a) in the case of a natural person—by writing under his or her hand, or
  - (b) in the case of a body corporate—by writing under its common or official seal,authorise another person to perform the function or exercise the power so delegated and may, in like manner, revoke, wholly or in part, any such authority.
- (5) An authority under subsection (4) may be given to:
  - (a) a specified person, or



- (b) the person for the time being holding a specified office under an Act or the person for the time being holding a position in the Public Service, being a position that is specified in the instrument by which the authority is given.
- (6) Any act or thing done in the performance of a function or the exercise of a power by a person to whom that function or that power has been delegated by the Commission under subsection (1) or by a person authorised by a delegate of the Commission under subsection (4) to perform that function or exercise that power has the same force and effect as if it had been done by the Commission.
- (7) Where, under any Act that confers functions or powers on the Commission, the performance of a function or the exercise of a power by the Commission is dependent upon the opinion, belief or state of mind of the Commission in relation to a matter and that function or power has been delegated under subsection (1), that function or power may be performed or exercised by the delegate or by a person authorised by the delegate under subsection (4) upon the opinion, belief or state of mind of the delegate or of the authorised person, as the case may be, in relation to that matter.
- (8) A delegation under subsection (1) does not prevent the performance of a function or the exercise of a power by the Commission.
- (9) The giving of an authority under subsection (4) does not prevent the performance of a function or the exercise of a power by the person by whom the authority was given.
- (10) Where a person purports to perform a function or exercise a power conferred on the Commission by or under an Act, it shall be presumed, unless the contrary is established, that the person is duly authorised as a delegate of the Commission or as a person duly authorised by such a delegate to perform the function or exercise the power.
- (11) A document purporting to be signed by a person as a delegate of the Commission shall be deemed, unless the contrary is established, to have been signed by such a delegate and to have been so signed pursuant to the performance of a function or the exercise of a power duly delegated to the person by the Commission.
- (12) A document purporting to be signed by a person authorised by a delegate of the Commission to sign the document shall be deemed, unless the contrary is established, to have been signed by a person so authorised and to have been so signed pursuant to the performance of a function or the exercise of a power that the person is duly authorised by such a delegate to perform or exercise.
- (13) A delegation or authority under this section may be made or given subject to such conditions or such limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstances, as may be specified in the instrument of delegation or authority.

- (14) Nothing in this section applies to a function or power that the Commission has by virtue of a delegation from the National Companies and Securities Commission.

#### **14 Directions by Commission**

Where the Commission has delegated a function or power to a person under section 13:

- (a) the Commission may give directions to the delegate with respect to the performance of that function or the exercise of that power, and
- (b) if the delegate has, under section 13 (4), authorised another person to perform that function or exercise that power, the delegate:
  - (i) shall, if the Commission has given a direction to the delegate under paragraph (a) with respect to the performance of that function or the exercise of that power, give a corresponding direction to the other person, and
  - (ii) may, subject to any direction given to the delegate by the Commission under paragraph (a), give directions to the other person with respect to the performance of that function or the exercise of that power.

#### **15 Secrecy**

- (1) Subject to this section, a person who is, or has at any time been, the Commissioner or a person appointed for the purposes of this Act or of any other Act that confers functions or powers on the Commission or authorised to perform or exercise any function or power of the Commission under this or any other Act or any such function or power on behalf of the Commission shall not, except to the extent necessary to perform his or her official duties, or to perform or exercise such a function or power, either directly or indirectly, make a record of, or divulge or communicate to any person, any information that is or was acquired by the person by reason of his or her being or having been so appointed or authorised, or make use of any such information, for any purpose other than the performance of his or her official duties or the performance or exercise of that function or power.

Maximum penalty: 50 penalty units or imprisonment for 1 year, or both.

- (2) Nothing in subsection (1) precludes a person from:
- (a) producing a document to a court in the course of criminal proceedings or in the course of any proceedings under any prescribed Act,
  - (b) divulging or communicating to a court in the course of any proceedings referred to in paragraph (a) any matter or thing coming under the person's notice in the performance of the person's official duties or in the performance of a function or the exercise of a power referred to in that subsection,
  - (c) producing a document or divulging or communicating information to a person to

whom, in the opinion of the Commission, it is in the public interest that the document be produced or the information be divulged or communicated, or

(d) producing a document or divulging or communicating information that is required or permitted by any Act, or any Act of the Commonwealth or of another State, to be produced, divulged or communicated, as the case may be.

(3) This section does not apply in circumstances where section 15 of the *National Companies and Securities Commission (State Provisions) Act 1981* applies.

## **16 Restrictions on dealings in securities**

(1) A person who is, or has at any time been, the Commissioner or a person appointed for the purposes of this Act or any other Act that confers functions or powers on the Commission or authorised to perform or exercise any function or power of the Commission or the Commissioner under this or any other Act or any such function or power on behalf of the Commission or the Commissioner and has, by reason that the person is, or has at any time been, the Commissioner or so appointed or authorised, information that is not generally available but, if it were, would be likely materially to affect the price of any securities, shall not deal in, or cause or procure any other person to deal in, those securities.

Maximum penalty: 200 penalty units or imprisonment for 5 years.

(2) Where a person to whom subsection (1) applies has information as mentioned in that subsection and deals in any securities in contravention of that subsection, the person is liable to compensate any other party to the transaction for any loss sustained by that party by reason of any difference between the price at which the securities were dealt in in that transaction and the price at which they would be likely to have been dealt in in such a transaction at the time the first-mentioned transaction took place if the information had been generally available.

(3) The amount of compensation for which a person is liable under subsection (2) is:

(a) in a case to which paragraph (b) does not apply—the amount of the loss sustained by the person claiming the compensation, or

(b) if the first-mentioned person has been found by a court to be liable to pay an amount or amounts to any other person or persons under subsection (2) or under any other Act by reason of the same act or transaction—the amount of that loss less the amount or the sum of the amounts that the first-mentioned person has been so found to be liable to pay.

(4) For the purposes of subsection (3), the onus of proving that the liability of a person to pay an amount to another person arose from the same act or transaction from which another liability arose lies on the person liable to pay the amount.

- (5) An action under this section for recovery of compensation for a loss shall not be commenced after the expiration of 2 years after the date of completion of the transaction in which the loss occurred.
- (6) The Commission or the Minister may, if the Commission or the Minister considers it to be in the public interest to do so, bring an action in the name of and for the benefit of a person for recovery of compensation for a loss referred to in subsection (2).
- (7) Nothing in subsection (2) affects any liability that a person may incur under any other law.
- (8) This section does not apply in circumstances where section 16 of the *National Companies and Securities Commission (State Provisions) Act 1981* applies.

## **17 Notification of interests**

- (1) The Commissioner or a person who is appointed for the purposes of this Act or of any other Act that confers functions or powers on the Commission or is authorised to perform or exercise any function or power of the Commission conferred on the Commission by an Act or any such function or power on behalf of the Commission and who, in the course of his or her official duties or the performance or exercise of the function or power, is required to consider any matter relating to:
  - (a) a body corporate in securities of which he or she has a relevant interest,
  - (b) securities in which he or she has a relevant interest,
  - (c) securities of the same class as securities in which he or she has a relevant interest,
  - (d) a person or body:
    - (i) by whom or by which he or she is employed or has been employed at any time during the immediately preceding 3 years, or
    - (ii) with whom or with which he or she is associated, or
  - (e) a body corporate that is related to a body corporate by which he or she is employed or has been employed at any time during the immediately preceding 3 years,shall forthwith in writing so inform the Commission or, if he or she is the Commissioner, the Minister.
- (2) It is a defence to a prosecution for an offence against this section in respect of a failure by a person to inform the Commission or the Minister that the person is required to consider a matter relating to a particular body corporate, a particular person or particular securities if the person establishes that, at the time when the

person was required to consider the matter, the person was not aware of a fact or matter the existence of which obliged the person to inform the Commission or the Minister that the person was required to consider the first-mentioned matter.

- (3) The questions whether a person has a relevant interest in securities, whether a person is associated with a person or body and whether 2 bodies corporate are related to each other for the purposes of this section shall be determined as prescribed under the Commonwealth Act for the purposes of section 49 (4) of that Act.

Maximum penalty: 50 penalty units or imprisonment for 1 year, or both.

### **18 References in other Acts etc**

On and from the day appointed and notified under section 2 (2), a reference (however expressed) in any Act, by-law, regulation, ordinance, statutory instrument or other instrument to:

- (a) the Registrar, as defined by the *Companies Act 1961*, immediately before the commencement of section 13 of the *Securities Industry (Amendment) Act 1971*,
- (b) the Corporate Affairs Commission constituted by the *Securities Industry Act 1970*,
- (c) the Commissioner for Corporate Affairs appointed under, or the Corporate Affairs Commission constituted by, the *Securities Industry Act 1975*, before the commencement of the *Securities Industry (Corporate Affairs Commission) Amendment Act 1979*, or
- (d) the Corporate Affairs Commission constituted by the *Securities Industry Act 1975*, or by Part 12 of that Act,

shall be construed as a reference to the Corporate Affairs Commission constituted by this Act.

## **Part 3 Companies Auditors and Liquidators Disciplinary Board**

### **18A Board constituted for purposes of Companies Code**

For the purposes of the *Companies (New South Wales) Code*, there shall be a Companies Auditors and Liquidators Disciplinary Board.

### **18B Functions of Board**

The Board shall have and may perform and exercise the functions and powers conferred on it under Division 2 of Part 2 of the *Companies (New South Wales) Code* and by or under any other law.

### **18C Membership, procedure etc of Board**

Schedules 1B and 1C have effect.

## Part 4 Miscellaneous

### 18D Unqualified auditors—offence

A person who accepts or holds appointment as, or who acts as, an auditor in respect of any matter in contravention of a requirement made by or under any law that any such auditor be a registered company auditor is guilty of an offence.

Penalty: 5 penalty units.

### 19 Proceedings for offences

- (1) Proceedings for an offence against a provision of this Act may be taken before a Local Court constituted by a Magistrate sitting alone.
- (2) Proceedings for an offence against a provision of this Act may be taken by the Commission or, with the consent of the Minister, by any other person.
- (3) Notwithstanding anything in any Act, proceedings for an offence against a provision of this Act may be instituted within a period of 5 years after the act or omission alleged to constitute the offence or, with the consent of the Minister, at any later time.

### 20 Repeals

Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of Schedule 1, repealed.

### 21 Savings and transitional provisions

Schedule 2 has effect.

### 22 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## Schedule 1 Repeals

(Section 20)

Column 1		Column 2
Year and number of Act	Short title of Act	Extent of repeal
1976 No 3	<i>Securities Industry Act 1975</i>	So much of section 2 as relates to Part 12. Sections 7 (1) and (2), 13, 14 and 15. Part 12.
1978 No 40	<i>Securities Industry (Amendment) Act 1978</i>	Schedule 1 (3)

1979 No 108	<i>Securities Industry (Corporate Affairs Commission) Amendment Act 1979</i>	Schedule 1 (2), (5)–(7) and (11)–(16).
1979 No 176	<i>Futures Markets Act 1979</i>	Section 8.
1979 No 181	<i>Securities Industry (Fidelity Funds) Amendment Act 1979</i>	Schedule 1 (1), (6) and (7).
1980 No 187	<i>Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act 1980</i>	So much of Schedule 1 as relates to the <i>Securities Industry Act 1975</i> .

## Schedule 1A Provisions relating to the Commissioner

(Section 5 (2))

### 1A Employment of Commissioner

The employment of the Commissioner is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act.

### 1, 2 (Repealed)

### 3 Acting Commissioner

- (1) The Minister may, from time to time, appoint a person to act in the office of the Commissioner during the illness or absence of the Commissioner.
- (2) The person, while so acting, shall have and may perform and exercise all the functions and powers of the Commissioner and shall be deemed to be the Commissioner.
- (3) The Minister may remove any person appointed to act under this clause.
- (4) A person while acting under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause, a vacancy in the office of Commissioner shall be deemed to be an absence from office of the Commissioner.

### 4–12 (Repealed)

## Schedule 1B Provisions relating to the membership etc of the Board

(Section 18C)

### 1 Membership of Board

- (1) The Board shall consist of 3 members appointed by the Minister, of whom:
  - (a) one shall be a barrister or solicitor of the Supreme Court of not less than 5 years standing (in either or both capacities) who is nominated by the Attorney General, and

(b) one shall be selected from a panel of 3 persons nominated by the Institute of Chartered Accountants in Australia, and

(c) one shall be selected from a panel of 3 persons nominated by the Australian Society of Accountants.

(2) The member referred to in subclause (1) (a) shall be the Chairperson of the Board.

(3) If a body fails to nominate a panel of persons for the purposes of subclause (1) (b) or (c) within a reasonable time after being requested to do so, the Minister may appoint a person of the Minister's own choice.

## **2 Deputy members**

(1) The Minister may, from time to time, appoint a person to be the deputy of any member of the Board.

(2) During the illness or absence of a member, the deputy of the member may act in the office of the member and while so acting has all the functions and powers of the member and shall be taken to be the member.

(3) A person appointed to be the deputy of the Chairperson must be a barrister or solicitor of the Supreme Court of not less than 5 years standing (in either or both capacities).

(4) The Minister may, at any time, remove a person from any office to which the person was appointed under this clause.

(5) For the purposes of this clause, a vacancy in the office of a member shall be taken to be an absence from office of the member.

## **3 Term of office**

Subject to this Schedule, a member of the Board shall hold office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

## **4 Vacancy in office of member**

(1) The office of a member becomes vacant if the member:

(a) is absent from 3 consecutive meetings of the Board without leave of the Board, or

(b) becomes an insolvent under administration within the meaning of the *Companies (New South Wales) Code*, or

(c) is convicted of an offence involving fraud or dishonesty punishable on conviction by imprisonment for 3 months or more, or



- (d) becomes incapable by reason of mental infirmity of managing his or her affairs, or
- (e) is removed from office under this clause or under Part 8 of the *Public Sector Management Act 1988*, or
- (f) resigns or dies.

(2) The Minister may remove a member from office for incapacity, incompetence or misbehaviour.

## **5 Filling of vacancy**

If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

## **6 Remuneration**

The members and deputies of members of the Board are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

## **7 Effect of other Acts**

- (1) The *Public Sector Management Act 1988* does not apply to the appointment of a member of the Board and a member is not, as a member, subject to that Act (except Part 8).
- (2) If by or under any other Act provision is made:
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member of the Board or from accepting and retaining any remuneration payable to the person under this Schedule.

- (3) The office of a member of the Board is not, for the purposes of any Act, an office or place of profit under the Crown.

# **Schedule 1C Provisions relating to procedure of the Board**

(Section 18C)

## **1 General procedure**

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Schedule, be as determined by the Board.

## 2 Quorum

The quorum for a meeting of the Board is 2 members of whom one must be the Chairperson.

## 3 Presiding member

(1) The Chairperson shall preside at a meeting of the Board.

(2) At meetings of the Board, the Chairperson has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## 4 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

## 5 Minutes

The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

## 6 First meeting

The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

# Schedule 2 Savings and transitional provisions

(Section 21)

## Part 1 Provisions consequent on the enactment of this Act

1 In this Schedule, **appointed day** means the day appointed and notified under section 2 (2).

2 Notwithstanding the enactment of this Act:

(a) the corporation constituted by this Act is the same legal entity as the corporation continued by clause 5 of Schedule 2 to the [Securities Industry \(Corporate Affairs Commission\) Amendment Act 1979](#), and

(b) the corporation so continued further continues as the corporation constituted by this Act,

and a reference in any Act, by-law, regulation, order, statutory instrument or other instrument to the Corporate Affairs Commission continued in existence by this Act shall accordingly be construed as a reference to the Corporate Affairs Commission constituted by this Act.

## 3-5 (Repealed)

6 A person who, immediately before the appointed day, held office under section 137 (3) of the [Securities Industry Act 1975](#):

- (a) shall be deemed to have been duly appointed on that day under section 8 (3),
- (b) shall be deemed to have been so appointed:
  - (i) upon the same terms and conditions as those applicable to him immediately before that day, and
  - (ii) for the residue of the term of office for which he was appointed, and
- (c) is eligible for appointment under section 8 (3) with effect from the expiration of that term of office or from any subsequent time.

7 The amendments made by sections 143 and 144 of the *Securities Industry Act 1975* continue to have force and effect as if those sections had not been repealed by this Act.

## 8 (Repealed)

## Part 2 Provisions consequent on the *Corporate Affairs Commission (Amendment) Act 1987*

### 9 Definition

In this Part, **the old Commission** means the Corporate Affairs Commission constituted in accordance with this Act as in force before the commencement of the *Corporate Affairs Commission (Amendment) Act 1987*.

### 10 Continuity of Commission

- (1) The corporation constituted by this Act, as amended by the *Corporate Affairs Commission (Amendment) Act 1987*, is a continuation of and the same legal entity as the corporation continued by this Act as originally enacted.
- (2) A reference in any Act, by-law, regulation, order, statutory or other instrument to the Corporate Affairs Commission continued in existence by this Act shall, after the commencement of the *Corporate Affairs Commission (Amendment) Act 1987*, be construed as a reference to the Corporate Affairs Commission constituted by this Act, as in force after that commencement.

### 11 Former Commissioners

- (1) A person who, immediately before the commencement of the *Corporate Affairs Commission (Amendment) Act 1987*, held office as a Commissioner of the old Commission:
  - (a) shall cease to hold office as such on that commencement, and
  - (b) is not entitled to be paid any remuneration or compensation by reason of ceasing to hold that office.
- (2) A reference in this Act to a person appointed for the purposes of this Act includes a

reference to a Commissioner of the old Commission.

- (3) A reference in any Act, by-law, regulation, order or statutory or other instrument to a Commissioner or member, or the Chairman, of the old Commission shall be construed as a reference to the Commissioner for Corporate Affairs.

## 12 Former Chairman

- (1) The person who, immediately before the commencement of the *Corporate Affairs Commission (Amendment) Act 1987*, held office as the Chairman of the old Commission:
- (a) shall be deemed to have been duly appointed on the date of that commencement as the Commissioner for Corporate Affairs,
  - (b) shall be deemed to have been so appointed:
    - (i) on the same terms and conditions as those applicable to the person immediately before that commencement, and
    - (ii) for the residue of the term of office for which the person was appointed, and
  - (c) is eligible for appointment under this Act with effect from the expiration of that term of office or from any later time.
- (2) For the purposes of the application of clauses 10 and 11 (1) of Schedule 1A to the person so deemed to have been appointed as Commissioner for Corporate Affairs:
- (a) previous service in any full-time office constituted by an Act shall be treated as service as Commissioner for Corporate Affairs, and
  - (b) a reference in those provisions to appointment as Commissioner for Corporate Affairs includes a reference to any previous appointments to any such full-time positions.

## Part 3 Provisions consequent on the *Corporate Affairs Commission (Auditors and Liquidators) Amendment Act 1989*

### 13 Definitions

In this Part:

**new Board** means the Board constituted under Part 3 of this Act.

**old Board** means the Companies Auditors and Liquidators Disciplinary Board constituted under the repealed Act immediately before its repeal.

**repealed Act** means the *Public Accountants Registration Act 1945* as in force immediately before its repeal.

#### **14 Six month transition period**

- (1) A provision in any Act that requires anything to be done by a registered company auditor shall be regarded as also permitting that thing to be done by a person who was, immediately before the repeal of the repealed Act, a registered public accountant under the repealed Act.
- (2) This clause applies:
  - (a) only for 6 months after the repeal of the repealed Act, and
  - (b) only if the thing required to be done was, immediately before that repeal, required to be done by a registered public accountant.

#### **15 Construction of obsolete references**

After the repeal of the repealed Act, a reference in any other Act, in any instrument made under an Act or in any other instrument of any kind to:

- (a) a registered public accountant shall be read as a reference to a registered company auditor within the meaning of the *Companies (New South Wales) Code*, or
- (b) the Companies Auditors and Liquidators Disciplinary Board constituted under the *Public Accountants Registration Act 1945* shall be read as a reference to that Board constituted under this Act.

#### **16 Completion of hearings**

- (1) A hearing by the old Board commenced but not completed immediately before the repeal of the repealed Act may be completed by the old Board as if the repealed Act had not been repealed and this Act had not been enacted.
- (2) A decision of the old Board in such a hearing shall be regarded as a decision of the new Board.

#### **17 Actions of old Board**

Any action taken by or in relation to the old Board under any law before the repeal of the repealed Act shall, on that repeal, be regarded as having been taken by or in relation to the new Board.