



# Corporations (Administrative Actions) Act 2001

Reprinted as in force on 3 August 2001

Reprint No. 1\*

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the Office of the Queensland Parliamentary Counsel  
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\* Minor differences in presentation between this reprint and another reprint with the same number are due to the conversion to new styles. The content has not changed.

# Information about this reprint

This Act is reprinted as at 3 August 2001.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit the enacting words (s 42A).

This page is specific to this reprint. A table of reprints is included in the endnotes.

**Also see endnotes for information about when provisions commenced.**

## **Spelling**

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, 'lodgement' has replaced 'lodgment').



Queensland

# Corporations (Administrative Actions) Act 2001

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# Corporations (Administrative Actions) Act 2001

[reprinted as in force on 3 August 2001]

**An Act relating to administrative actions taken by Commonwealth authorities or officers of the Commonwealth under certain State laws relating to corporations**

## **1 Short title**

This Act may be cited as the *Corporations (Administrative Actions) Act 2001*.

## **2 Commencement**

This Act comes into operation immediately before the *Corporations Act 2001* (Cwlth), as originally enacted, comes into operation.

## **3 Definitions**

In this Act—

***administrative action*** means an act or omission of an administrative or legislative nature, and includes any act or omission of an administrative nature that is done or omitted in the course of or ancillary to or preliminary to or subsequent to judicial proceedings (civil or criminal).

***commencement time*** means the time when this Act comes into operation under section 2.

***Commonwealth authority*** means an authority or body (whether incorporated or not) that is established or continued in existence by or under an Act of the Commonwealth, but does not include the Federal Court of Australia, the Family Court of Australia or the Federal Magistrates Court.

*confer* includes impose.

*function* includes a duty.

*invalid administrative action* means an administrative action of a Commonwealth authority or an officer of the Commonwealth taken, or purportedly taken, at or before the commencement time—

- (a) pursuant to a function or power conferred, or purportedly conferred, by or under a relevant State Act (the *relevant function or power*); and
- (b) in circumstances where the relevant function or power could not have been conferred on the authority or officer by a law of the Commonwealth the operation of which in the relevant respect was based on the legislative powers of the Parliament of the Commonwealth (including, for example, circumstances where the authority or officer was, or purportedly was, under an express or implied duty to perform the function or exercise the power);

that was invalid because of the circumstances referred to in paragraphs (a) and (b), whether or not it was also invalid on any other ground.

*liability* includes a duty or obligation.

*officer of the Commonwealth* has the same meaning as in section 75(v) of the Constitution of the Commonwealth.

*relevant function or power* means a function or power referred to in paragraph (a) of the definition *invalid administrative action*.

*relevant State Act* means—

- (a) the *Corporations (Queensland) Act 1990*; or
- (b) the *Companies (Application of Laws) Act 1981*; or
- (c) the *Companies (Acquisition of Shares) (Application of Laws) Act 1981*; or
- (d) the *Securities Industry (Application of Laws) Act 1981*; or

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- (e) the *Futures Industry (Application of Laws) Act 1986*; or
  - (f) the *Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act 1981*;

and includes any law applying as a law of the State by force of any such Act.

*right* includes an interest or status.

#### **4 Application and operation of Act**

- (1) This Act binds the Crown in right of Queensland and, in so far as the legislative power of the Parliament of Queensland permits, the Crown in all its other capacities.
- (2) This Act has effect despite any provision of the *Corporations (Queensland) Act 1990* or of the applicable provisions (as defined in that Act) of the State.
- (3) Subject to subsection (4), this Act extends to rights or liabilities arising between parties to proceedings initiated at or before the commencement time where an allegedly invalid administrative action is or was the subject of or relevant to the proceedings.
- (4) This Act does not affect rights or liabilities arising between parties to proceedings heard and finally determined at or before the commencement time to the extent to which those rights or liabilities arise from, or are affected by, an invalid administrative action.

#### **5 Legal effect of invalid administrative actions**

Every invalid administrative action has, and is deemed always to have had, the same force and effect for all purposes as it would have had if—

- (a) it had been taken, or purportedly taken, by a State authority or officer of the State; and
- (b) the relevant function or power had been duly conferred on that authority or officer.

## **6 Rights and liabilities declared in certain cases**

- (1) Without affecting the generality of section 5, the rights and liabilities of all persons are, by force of this Act, declared to be, and always to have been, for all purposes the same as if—
  - (a) every invalid administrative action had been taken, or purportedly taken, by a State authority or officer of the State; and
  - (b) the relevant function or power had been duly conferred on that authority or officer.
- (2) A right or liability conferred or affected by subsection (1)—
  - (a) is exercisable or enforceable; and
  - (b) is to be regarded as always having been exercisable or enforceable;

as if it were a right or liability conferred or affected by (or arising from) an administrative action of a State authority or officer of the State on which or on whom the relevant function or power had been duly conferred.

- (3) Any act or thing done or omitted to be done at or before the commencement time under or in relation to a right or liability conferred or affected by subsection (1)—
  - (a) has the same effect, and gives rise to the same consequences, for the purposes of any written or other law; and
  - (b) is to be regarded as always having had the same effect, and given rise to the same consequences, for the purposes of any written or other law;

as if it were done, or omitted to be done, to give effect to, or under the authority of, or in reliance on, an administrative action of a State authority or officer of the State on which or on whom the relevant function or power had been duly conferred.

## **7 Registration or incorporation of companies**

Without affecting the generality of sections 5 and 6, it is declared that those sections extend to the registration or

incorporation, or purported registration or incorporation, of companies by, or consequent on administrative action taken or purportedly taken by, Commonwealth authorities or officers of the Commonwealth at or before the commencement time.

## **8 This Act to apply to administrative actions as purportedly in force from time to time**

- (1) The purpose of this section is to ensure that this Act operates to give to an invalid administrative action that has subsequently been affected by another action or process no greater effect than it would have had if the administrative action, or any other relevant administrative action, had not been invalid on constitutional grounds (arising from the circumstances referred to in paragraphs (a) and (b) of the definition *invalid administrative action* in section 3).
- (2) If administrative action taken by a Commonwealth authority or an officer of the Commonwealth was affected (whether by way of revocation, modification or otherwise) at or before the commencement time by any later administrative action or by any judicial process or by any administrative review process, this Act applies to the administrative action as so affected from time to time.
- (3) In this section, a reference to administrative action taken includes a reference to administrative action purportedly taken, and a reference to administrative action affected in any way includes a reference to administrative action purportedly affected in that way.

## **9 Corresponding authorities or officers**

It is immaterial, for the purposes of this Act, that a Commonwealth authority or an officer of the Commonwealth does not have a counterpart in the State, or that the powers and functions of a counterpart State authority or a counterpart officer of the State do not correspond exactly or substantially with those of the Commonwealth authority or the officer of the Commonwealth.

**10 Act not to give rise to liability against the State**

- (1) The State is not liable to any action, liability, claim or demand arising from the enactment, commencement or operation of this Act.
- (2) Without limiting subsection (1), no proceedings lie against the State in respect of an administrative action affected by this Act, except to the extent that the proceedings would lie had this Act not been enacted.
- (3) In this section—

*proceedings* includes proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief.

*the State* includes any State authority or officer of the State, and also includes—

- (a) the Crown in right of the State; and
- (b) the Government of the State; and
- (c) a Minister of the Crown in right of the State; and
- (d) a statutory corporation, or other body, representing the Crown in right of the State.

## Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Corporations (Administrative Actions) Act 2001 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	15 July 2001	3 August 2001

## 5 List of legislation

### **Corporations (Administrative Actions) Act 2001 No. 44**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc publ Cwlth of Australia gaz 13 July 2001, No. S285)