

CORPORATIONS (CONSEQUENTIAL AMENDMENTS) ACT

No. 99 of 1990

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SCHEDULE

Queensland



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No. 99 of 1990

An Act to provide for amendment of certain Acts consequent upon the enactment of the Corporations (Queensland) Act 1990 and to provide for certain other amendments

[ASSENTED TO 12TH DECEMBER, 1990]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART 1—PRELIMINARY

1.1 Short title. This Act may be cited as the *Corporations (Consequential Amendments) Act 1990*.

1.2 Commencement. (1) Section 1.1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), the provisions of this Act commence on a day or days to be appointed by Proclamation.

PART 2—AMENDMENT OF BUSINESS NAMES ACT

2.1 Principal Act and citation as amended. (1) In this Part the *Business Names Act 1962-1979* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Business Names Act 1962-1990*.

2.2 Amendment of s. 3. Interpretation. Section 3 of the Principal Act is amended in subsection (1) by—

(a) inserting before the definition “Business” the following definition:—

““Australian Securities Commission” means the Australian Securities Commission established by the Australian Securities Commission Act 1989 of the Commonwealth;”;

(b) omitting the definition “Commissioner”;

(c) in the definition “Corporation”, omitting the words “*Companies (Queensland) Code*” and substituting the words “Corporations Law of Queensland”;

(d) inserting after the definition “Crown Law Officer” the following definition:—

““Data processor” means a mechanical, electronic or other device for the processing of data;”;

(e) inserting before the definition “Register” the following definition:—

““Principal executive officer”, in relation to a corporation, means the principal executive officer of the corporation for the time being, by whatever name called, and whether or not he or she is a director of the corporation;”;

(f) in the definition “Secretary”, omitting the words “Division 5 of Part XIII of the *Companies (Queensland) Code*” and substituting the words “Division 2 of Part 4.1 of the Corporations Law”.

2.3 Repeal of and new s. 4. Registrar of Business Names and Other Officers. The Principal Act is amended by repealing section 4 and substituting the following section:—

“4. Registrar and other staff. (1) A Registrar of Business Names and such number of Deputy Registrars of Business Names and other officers as may be necessary to provide for the administration of this Act may be appointed.

(2) Every such appointment is to be made under the *Public Service Management and Employment Act 1988-1990*.

(3) Anything by this Act appointed or required to be done or signed by the Registrar may be done or signed by a Deputy Registrar of Business Names.”

2.4 New ss. 4A, 4B and 4C. The Principal Act is amended by inserting after section 4 the following sections:—

“4A. Registrar may enter into arrangements with Australian Securities Commission. (1) The Registrar, with the prior consent of the Minister, may enter into an arrangement or agreement with the Australian Securities Commission in respect of the administration of this Act.

(2) An arrangement or agreement under subsection (1) may relate to the making available of information recorded under this Act to the Australian Securities Commission.

4B. Registrar may appoint clerk of the court as agent. The Registrar, with the prior approval of the chief executive of the department of the Government in which this Act is administered, may appoint a clerk of the court to be his or her agent in a Magistrates Court District for the purpose of enabling any person to search the register for information by means of a data processor situated at the office of the clerk of the court.

4C. Power of delegation. (1) The Registrar may, by instrument in writing, delegate to any person all or any of the Registrar’s powers, authorities, functions and duties except this power of delegation.

(2) A delegation may be made subject to such terms and limitations as the Registrar thinks fit.

(3) More than one delegation may be made in respect of the same power, authority, function or duty.

(4) A power, authority, function or duty, if exercised or discharged by a duly authorized delegate, must be exercised or discharged in accordance with the instrument of delegation and is deemed to have been exercised or discharged by the Registrar in accordance with this Act.

(5) A delegation is revocable, by instrument in writing, at the will of the Registrar, and does not prevent the exercise or discharge of the power, authority, function or duty by the Registrar.”

2.9 Repeal of s. 22 and new ss. 22, 22A and 22B. Inspection of statements. The Principal Act is amended by repealing section 22 and substituting the following sections:—

“22. Records. (1) A person may, on payment of the prescribed fee—

- (a) inspect any document lodged with the Registrar;
or
- (b) require a copy of or extract from any document that the person is entitled to inspect under paragraph (a) to be given, or given and certified, by the Registrar.

(2) A person is not entitled under subsection (1) (a) to require the production of the original of a document if the Registrar keeps by means of a mechanical, electronic or other device a record of information set out in the document and—

- (a) the Registrar produces to the person for inspection a writing that sets out what purports to be the contents of the document;
or
- (b) the Registrar causes to be displayed for the person what purports to be the contents of the document and, as at the time of the displaying, the person has not asked for the production of a writing of the kind referred to in paragraph (a).

(3) Where—

- (a) a person makes under paragraph (b) of subsection (1) a requirement that relates to a document;
and
- (b) the Registrar keeps by means of a mechanical, electronic or other device a record of information set out in the document;
and
- (c) pursuant to that requirement, the Registrar gives a writing or document that sets out what purports to be the contents of—
 - (i) the whole of the document;
or
 - (ii) a part of the document;

then, for the purposes of that paragraph, the Registrar is taken to have given, pursuant to that requirement—

- (d) if paragraph (c) (i) applies—a copy of the document;
or
- (e) if paragraph (c) (ii) applies—an extract from the document setting out that part of it.

(4) Where—

- (a) the requirement referred to in subsection (3) (a) includes a requirement that the copy or extract be certified;
and
- (b) pursuant to that requirement, the Registrar gives a writing or document as mentioned in subsection (3) (c);

then—

- (c) the Registrar may certify that the writing or document sets out the contents of the whole or part of the document, as the case requires;
and
- (d) the writing or document is, in any proceedings, admissible as prima facie evidence of the information contained in it.

22A. Obtaining information from register. (1) The Registrar may permit a person to search or inspect, otherwise than by using a data processor, the register.

(2) The Registrar may permit a person to search or inspect the register by using a data processor in order to obtain information from the register.

(3) The Registrar may make available to a person information (in the form of a document or otherwise) that the Registrar has obtained from the register by using a data processor.

(4) Nothing in this section limits—

- (a) a power or function that the Registrar has apart from this section;
or
- (b) a right that a person has apart from this section.

22B. Extract from register. (1) A person may, on payment of the prescribed fee, require an extract from the register to be given, or given and certified, by the Registrar.

(2) A requirement under subsection (1) may relate to a registered business name or to a business name the registration of which has expired or been cancelled.

(3) Where—

- (a) a person makes under subsection (1) a requirement;
and
- (b) the Registrar keeps the register by means of a mechanical, electronic or other device;
and
- (c) pursuant to that requirement, the Registrar gives a writing that sets out what purports to be the contents of a part of the register;

then, for the purposes of that subsection, the Registrar is taken to have given, pursuant to that requirement an extract from the register setting out that part of it.

(4) Where—

- (a) the requirement referred to in subsection (3) includes a requirement that the extract be certified;
and
- (b) pursuant to that requirement, the Registrar gives a writing as mentioned in subsection (3) (c);

then—

- (c) the Registrar may certify that the writing sets out the contents of part of the register;
and
- (d) the writing is, in any proceedings, admissible as prima facie evidence of the information contained in it.”.

2.10 Amendment of s. 23. Certificates of registration or non-registration. Section 23 of the Principal Act is amended in subsection (1) by omitting paragraph (a).

2.11 Repeal of s. 24 and new ss. 24 and 24A. Evidence of registration or non-registration. The Principal Act is amended by repealing section 24 and substituting the following sections:—

“**24. Evidentiary provisions.** A document purporting to be—

- (a) a certificate of registration issued under this Act;
or
- (b) a copy of or extract from any document lodged with the Registrar and certified by the Registrar;
or
- (c) an extract from the register certified by the Registrar;
or
- (d) a certificate issued under section 23 (1) (b) or (c);
or
- (e) a combination of any of the above;

is, in any proceedings, admissible as prima facie evidence of the information contained in the document.

24A. Provision of information. Where the form in which the register is kept enables the Registrar to do so, the Registrar may on the request of a person and payment of the prescribed fee make available to that person any of the following:—

- (a) a list of the business names registered under this Act on a particular day;
- (b) a list of the business names registered under this Act by reference to the types of business carried on under those names;

- (c) a list of business names registered under this Act by reference to any area where the businesses are carried on;
- (d) a list of business names registered under this Act by reference to the person or persons who carry on business under those names.”.

2.12 Amendment of s. 26. Invitations to the public to make deposits or loans. Section 26 of the Principal Act is amended, in subsection (2) (a), by omitting the words “*Companies (Queensland) Code*” and substituting the words “*Corporations Law of Queensland*”.

2.13 New s. 34. The Principal Act is amended by inserting after section 33 the following section:—

“34. **Transitional.** (1) An—

- (a) application made to the Commissioner under this Act as amended and in force before the prescribed date and not dealt with at that date may be dealt with by the Registrar as if it were an application made to the Registrar under this Act;
- (b) act or thing done by the Commissioner under this Act as amended and in force before the prescribed date has effect as if it had been done under and for the purposes of this Act.

(2) In this section—

“Commissioner” has the meaning ascribed to that term by this Act as amended and in force before the prescribed date;

“prescribed date” means the date on which section 2.13 of the *Corporations (Consequential Amendments) Act 1990* commenced”.

2.14 Miscellaneous amendments. The following sections of the Principal Act are amended by omitting the word “Commissioner” wherever it occurs and substituting in each case the word “Registrar”:—

6 (1), (4) and (5), 7 (1), (3), (4), (5), (6), (7) and (9), 8 (2), 9 (1), 10 (1), (2), (3) and (4), 11 (1), (3) and (4), 12 (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10), 12A(1), 13 (1) and (2), 15 (1) and (2), 16, 17, 18 (1) and (2), 19 (1), (2), (3) and (5), 21 (1) and (4), 23 (1) and (2), 25, 27 (5), 31 (1) and (2) and 32 (2).

PART 3—SCHEDULED AMENDMENTS

3.1 Amendments of Scheduled Acts. (1) An Act referred to in the Schedule is amended in the provision thereof specified in the first column of the Schedule as specified in the second column of the Schedule opposite that provision.

(2) An Act referred to in the Schedule as amended by this Act may be cited as specified in relation to that Act in the third column of the Schedule.

SCHEDULE

[s. 3.1]

Act and Provision Amended	Amendment	Citation
<i>Acts Interpretation Act 1954-1989</i>	s. 36	
	insert before the definition "Attorney-General" the following definition:—	
	<p style="margin-left: 2em;">““ASC Law” and “ASC Regulations”—Have the meaning provided for by Part 11 of the <i>Corporations (Queensland) Act 1990</i>;</p>	
	insert after the definition “Constitution of Queensland” the following definition:—	
	<p style="margin-left: 2em;">““Corporations Law” and “Corporations Regulations”—Have the meaning provided for by Part 3 of the <i>Corporations (Queensland) Act 1990</i>;</p>	<i>Acts Interpretation Act 1954-1990</i>
<i>Bills of Sale and Other Instruments Act 1955-1989</i>	s. 6 (1)	
	omit paragraph (b) of the definition “Registrar” and substitute the following paragraph:—	
	<p style="margin-left: 2em;">“(b) the Registrar of the Supreme Court at Townsville;”</p>	<i>Bills of Sale and Other Instruments Act 1955-1990</i>

SCHEDULE—*continued*

[s. 3.1]

Act and Provision Amended	Amendment	Citation
<p><i>Companies (Administration) Act 1981-1989</i></p>	<p>s. 14 omit the words “offices of the Commissioner at Brisbane, Rockhampton and Townsville” and substitute the words “an office of the Commissioner at Brisbane”</p>	<p><i>Companies (Administration) Act 1981-1990</i></p>
<p><i>Liens on Crops of Sugar Cane Act 1931-1981</i></p>	<p>s. 2 omit paragraph (b) of the definition “Registrar” and substitute the following paragraph:— “(b) the Registrar of the Supreme Court at Townsville.”</p>	<p><i>Liens on Crops of Sugar Cane Act 1931-1990</i></p>
<p><i>Mortgages (Secondary Market) Act 1984-1989</i></p>	<p>s. 4 omit the definition “Commissioner” and substitute the following definition:— ““Commissioner” means the chief executive of the department within which this Act is administered;”</p> <p>s. 42 (1) (a) omit the words “for Corporate Affairs” and substitute the words “within the meaning of section 4”</p>	

SCHEDULE—*continued*

[s. 3.1]

Act and Provision Amended	Amendment	Citation
<p><i>Mortgages</i> <i>(Secondary Market)</i> <i>Act 1984-1989—</i> <i>continued</i></p>	<p>s. 43 (2) (a), (3) and (4) omit the words “for Corporate Affairs” wherever they occur and substitute the words “within the meaning of section 4” in each case</p>	<p><i>Mortgages</i> <i>(Secondary Market)</i> <i>Act 1984-1990</i></p>
<p><i>Pay-roll Tax Act</i> <i>1971-1990</i></p> <p>s. 25</p>	<p>omit subsections (6) and (7) and substitute the following subsections:—</p> <p>“(6) Notwithstanding anything contained in this section, provision, which in the opinion of the Commissioner is proper, may be made for the costs and expenses referred to in paragraph (a) of section 556 of the Corporations Law of Queensland and debts of a class referred to in any other paragraph of that section may be paid out of the assets of the company in priority to any tax payable in respect of the company.</p> <p>(7) Nothing in this section limits the liability of a liquidator under section 42 of this Act or his liability as a trustee under Part IVA.”</p>	<p><i>Pay-roll Tax Act</i> <i>1971-1990</i></p>

SCHEDULE—*continued*

[s. 3.1]

Act and Provision Amended	Amendment	Citation
<i>Stamp Act 1894-1990</i>		
s. 31GA(2)	insert after the words “or company incorporated” the words “or taken to be incorporated”	
s. 31H(1)	insert after the words “A company incorporated” the words “or taken to be incorporated”	
s. 31J(2)	insert after the words “incorporated in Queensland” the words “or taken to be incorporated in Queensland”	
s. 56B(1)	omit the definition “stock exchange” and substitute the following definition:— ““stock exchange” means the Australian Stock Exchange Limited;” in the definition “unit trust scheme” omit the words “from time to time,” and substitute the words “from time to time which has been offered to the public and”	
s. 56C(1)	omit the definition “stock exchange” and substitute the following definition:— ““stock exchange” has the same meaning as it has in Chapter 6 of the Corporations Law of Queensland by reason of the definition of the term “stock exchange” in section 9 of that Law.”	

SCHEDULE—*continued*

[s. 3.1]

Act and Provision Amended	Amendment	Citation
<i>Stamp Act 1894-1990—continued</i>		
s. 56FL(1) (a)	omit the words “recognized stock exchange, within the meaning of the Securities Industry (Queensland) Code” and substitute the words “stock exchange that is such for the purposes of Part 7.12 of the Corporations Law of Queensland by reason of the definition of the term “stock exchange” in section 9 of that Law”	
s. 59F	omit subsection (2) and substitute the following subsection:— “(2) In this section, “stock exchange” has the same meaning as it has in Part 7.12 of the Corporations Law of Queensland by reason of the definition of the term “stock exchange” in section 9 of that Law.”	
s. 61B(1)	insert after the words “a unit trust scheme” the words “offered to the public”	
s. 67A(3) (b)	insert after the words “company incorporated” the words “or taken to be incorporated”	

SCHEDULE—*continued*

[s. 3.1]

Act and Provision Amended	Amendment	Citation
<i>Stamp Act 1894-1990—continued</i>		
First Schedule	in paragraph (3) (before subparagraph (a)) under the heading “CONVEYANCE OR TRANSFER” omit the words “in Queensland or which being” and substitute the words “or taken to be incorporated in Queensland or which being or being taken to be”	<i>Stamp Act 1894-1990</i>
<i>Tobacco Products (Licensing) Act 1988</i>		
s. 4 (1)	omit the definition “corporation” and substitute the following definition:— ““corporation” means any body corporate, whether formed or incorporated within or outside the State;”	<i>Tobacco Products (Licensing) Act 1988-1990</i>