

Queensland



**EQUITY AND FAIR  
TRADING  
(MISCELLANEOUS  
PROVISIONS) ACT 2000**

**Act No. 24 of 2000**



Queensland



**EQUITY AND FAIR TRADING  
(MISCELLANEOUS PROVISIONS) ACT  
2000**

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Queensland



**Equity and Fair Trading (Miscellaneous  
Provisions) Act 2000**

**Act No. 24 of 2000**

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**An Act to amend Acts administered by the Minister for Aboriginal  
and Torres Strait Islander Policy and Minister for Women's  
Policy and Minister for Fair Trading**

*[Assented to 27 June 2000]*

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The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Equity and Fair Trading (Miscellaneous Provisions) Act 2000*.

## PART 2—AMENDMENT OF ASSOCIATIONS INCORPORATION ACT 1981

### Act amended in pt 2

2. This part amends the *Associations Incorporation Act 1981*.

### Replacement of s 18 (Person may inspect register etc.)

3. Section 18—

*omit, insert—*

#### ‘Inspecting register

‘18.(1) On payment of the fee prescribed under a regulation, a person may inspect the register or get a copy of details in the register—

- (a) at the department’s Brisbane office when the office is open to the public; or
- (b) by using a computer.

‘(2) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.

‘(3) In this section—



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“**computer**” means a mechanical, electronic or other device for the processing of data.’.

#### **Amendment of s 48 (Application to register amendment of rules)**

##### **4. Section 48—**

*insert—*

‘**(8)** The amendment does not take effect if it is not registered by the chief executive under section 49.’.

#### **Amendment of s 59 (Audit and statement)**

##### **5. Section 59(1)(b)(i) and (ii)—**

*omit, insert—*

- ‘(i) a person registered as an auditor under the Corporations Law; or
- (ii) a member of CPA Australia or the Institute of Chartered Accountants in Australia; or
- (iii) a member of the National Institute of Accountants, other than an associate, who has satisfactorily completed an auditing component of a course of study in accountancy of at least 3 years duration at a tertiary level conducted by a prescribed university or other prescribed institution under section 1280(2)(a)(ii) of the Corporations Law; or
- (iv) a person who the chief executive considers has appropriate qualifications; and’.

#### **Amendment of s 61A (Eligibility for election to a management committee)**

##### **6. Section 61A—**

*insert—*

‘**(1A)** Also, a person is not eligible to be elected as a member of an incorporated association’s management committee if—

- (a) under the *Bankruptcy Act 1966* (Cwlth) or the law of an external territory or another country, the person is an undischarged bankrupt; or
- (b) the person has executed a deed of arrangement under the *Bankruptcy Act 1966* (Cwlth), part X or a corresponding law of an external territory or another country and the terms of the deed have not been fully complied with; or
- (c) the person's creditors have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part X or a corresponding law of an external territory or another country and a final payment has not been made under the composition.'.

## **PART 3—AMENDMENT OF AUCTIONEERS AND AGENTS ACT 1971**

### **Act amended in pt 3**

7. This part amends the *Auctioneers and Agents Act 1971*.

### **Omission of s 7 (Exemptions)**

8. Section 7—

*omit.*

### **Amendment of s 19 (Corporation licence)**

9.(1) Section 19(3)(b), 'a director of the corporation is resident in this State and, where'—

*omit, insert—*

'if'.

(2) Section 19(3)(b)(i) and (ii), 'that director'—

*omit, insert—*

‘a director of the corporation’.

(3) Section 19(4), definition “**working director**”, ‘, resident in Queensland or within 65 km of the boundary of Queensland,’—

*omit.*

### **Amendment of s 22 (Each separate place of business to be in the charge of licensee or licensed manager)**

**10.(1)** Section 22(7)(a)—

*omit.*

(2) Section 22(7)(b), ‘21’—

*omit, insert—*

‘18’.

(3) Section 22(7)(b) to (e)—

*renumber* as section 22(7)(a) to (c).

### **Amendment of s 39 (General auctioneers’ licences)**

**11.(1)** Section 39(1)(a)—

*omit.*

(2) Section 39(1)(b), ‘21’—

*omit, insert—*

‘18’.

(3) Section 39(1)(b) to (e)—

*renumber* as section 39(1)(a) to (d).

### **Amendment of s 41 (Restricted auctioneers’ licences)**

**12.(1)** Section 41(4)(a)—

*omit.*

(2) Section 41(4)(b), ‘21’—

*omit, insert—*

‘18’.

(3) Section 41(4)(b) to (e)—

*renumber* as section 41(4)(a) to (d).

### **Amendment of s 45 (Real estate agents’ licences)**

**13.(1)** Section 45(1)(a)—

*omit.*

(2) Section 45(1)(b), ‘21’—

*omit, insert—*

‘18’.

(3) Section 45(1)(b) to (e)—

*renumber* as section 45(1)(a) to (d).

### **Amendment of s 49 (Commercial agents’ licences)**

**14.(1)** Section 49(1)(a)—

*omit.*

(2) Section 49(1)(b), ‘21’—

*omit, insert—*

‘18’.

(3) Section 49(1)(b) to (e)—

*renumber* as section 49(1)(a) to (d).

### **Amendment of s 57 (Motor dealers’ licences)**

**15.(1)** Section 57(1)(a)—

*omit.*

(2) Section 57(1)(b), ‘21’—

*omit, insert—*

‘18’.

(3) Section 57(1)(b) to (e)—

*renumber* as section 57(1)(a) to (d).

### **Amendment of s 62 (Each place of business to be approved)**

16. Section 62, ‘57(1)(d)’—

*omit, insert—*

‘57(1)(c)’.

### **Amendment of s 78 (Offence to demand excess or improper remuneration)**

17.(1) Section 78—

*insert—*

‘(1A) Subsection (1) does not prevent the auctioneer, real estate agent, commercial agent or motor dealer charging, in addition to the prescribed fee, charge, commission, reward or other remuneration, an amount for GST payable in relation to the supply of the service or the transaction.’.

(2) Section 78—

*insert—*

‘(4) In this section—

“GST” has the same meaning as it has in the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

“supply” has the same meaning as it has in the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).’.

### **Amendment of s 119 (Application of fund)**

18.(1) Section 119—

*insert—*

‘(4A) A person may claim against the fund by giving the registrar written notice of the substance of the claim.’.

(2) Section 119(5), from ‘No person’ to ‘period of’—’—

*omit, insert—*

‘The notice must be given within—’.

(3) Section 119—

*insert—*

‘(6A) Despite subsection (5), for a claim of the relevant limit or less, the registrar may accept a notice after the time that would otherwise apply under subsection (5) if the committee consents to considering the claim.’.

(4) Section 119—

*insert—*

‘(9) In this section—

“**relevant limit**” means the larger of the following amounts—

(a) \$7 500;

(b) an amount prescribed under a regulation.’.

### **Amendment of s 153 (Pastoral house director’s licence, pastoral house manager’s licence and pastoral house auctioneer’s licence)**

19.(1) Section 153(3)(a)—

*omit.*

(2) Section 153(3)(b), ‘21’—

*omit, insert—*

‘18’.

(3) Section 153(3)(b) to (e)—  
*renumber* as section 153(3)(a) to (d).

### **Insertion of new pt 10**

20. After section 174—

*insert—*

## **‘PART 10—TRANSITIONAL PROVISIONS FOR EQUITY AND FAIR TRADING (MISCELLANEOUS PROVISIONS) ACT 2000**

### **‘Continuation of Exemptions Regulation**

‘175.(1) Despite the repeal under the amending Act of section 7<sup>1</sup> of this Act, the Exemptions Regulation, other than the identified provisions—

- (a) is not repealed; and
- (b) continues to have effect, and may be amended or repealed, as if section 7 had not been repealed.

‘(2) However, amendment of the Exemptions Regulation—

- (a) must be limited to amendment necessary to accommodate changes of circumstances for the particular exemptions included in the regulation; and
- (b) must not provide for anything that would be, in substance, a new exemption.

‘(3) For the ongoing application of exemptions included in the Exemptions Regulation, a reference in the regulation to section 19(3)(b) of this Act is a reference to that provision as amended by the amending Act.

‘(4) In this section—

“**amending Act**” means the *Equity and Fair Trading (Miscellaneous Provisions) Act 2000*.

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<sup>1</sup> Repealed section 7 (Exemptions)

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**“Exemptions Regulation”** means the *Auctioneers and Agents (Exemptions) Regulation 1995*.

**“identified provisions”** means the following provisions of the Exemptions Regulation—

- (a) section 2;
- (b) sections 4 to 5C;
- (c) sections 5DA to 5DD;
- (d) sections 6 and 7;
- (e) schedule.’.

## **PART 4—AMENDMENT OF BILLS OF SALE AND OTHER INSTRUMENTS ACT 1955**

### **Act amended in pt 4**

21. This part amends the *Bills of Sale and Other Instruments Act 1955*.

### **Insertion of new s 56**

22. Part 6—

*insert—*

#### **‘Validation**

**‘56.(1)** It is declared that anything done between 23 April 1999 and 7 May 1999 that would have been validly done or effectual under this Act, had the amending Act commenced on 23 April 1999, is and always was as valid and effectual as if the amending Act had commenced on 23 April 1999.

**‘(2)** In this section—

**“amending Act”** means the *Bills of Sale and Other Securities Amendment Act 1999*, part 2 and the schedule.



“done” includes, made, applied for, registered, discharged, renewed, given, exercised, charged, established, changed and omitted to be done.’.

## **PART 5—AMENDMENT OF BUSINESS NAMES ACT 1962**

### **Act amended in pt 5**

**23.** This part amends the *Business Names Act 1962*.

### **Amendment of s 22 (Records)**

**24.** Section 22—

*insert—*

‘(1A) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.’.

### **Amendment of s 22B (Extract from register)**

**25.** Section 22B—

*insert—*

‘(1A) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.’.

### **Amendment of s 23 (Certificates of registration or non-registration)**

**26.** Section 23—

*insert—*

‘(1A) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.’.

**Amendment of s 24A (Provision of information)**

27. Section 24A—

*insert—*

‘(2) A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.’.

**PART 6—AMENDMENT OF CHARITABLE FUNDS ACT 1958****Act amended in pt 6**

28. This part amends the *Charitable Funds Act 1958*.

**Amendment of s 24 (Audit)**

29. Section 24(2)(c)(i) and (ii)—

*omit, insert—*

- ‘(i) a person registered as an auditor under the Corporations Law; or
- (ii) a member of CPA Australia or the Institute of Chartered Accountants in Australia; or
- (iii) a member of the National Institute of Accountants, other than an associate, who has satisfactorily completed an auditing component of a course of study in accountancy of at least 3 years duration at a tertiary level conducted by a prescribed university or other prescribed institution under section 1280(2)(a)(ii) of the Corporations Law; or
- (iv) a person who the chief executive considers has appropriate qualifications.’.

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## **PART 7—AMENDMENT OF COLLECTIONS ACT 1966**

### **Act amended in pt 7**

**30.** This part amends the *Collections Act 1966*.

### **Amendment of s 29 (Constitution of charity etc.)**

**31.** Section 29(4)—

*omit, insert—*

‘(4) The constitution of each charity registered under this Act, and of each association whose objects are a community purpose that is sanctioned under this Act, must provide that—

- (a) income and property of the charity or association must be applied in promotion of its objects and not distributed among members; and
- (b) dividends must not be paid to members.

‘(5) Subsection (4) does not apply to a charity listed in the schedule.’.

### **Amendment of s 31 (Financial statements and audit)**

**32.** Section 31(1)(f)(i) and (ii)—

*omit, insert—*

- ‘(i) a person registered as an auditor under the Corporations Law; or
- (ii) a member of CPA Australia or the Institute of Chartered Accountants in Australia; or

- (iii) a member of the National Institute of Accountants, other than an associate, who has satisfactorily completed an auditing component of a course of study in accountancy of at least 3 years duration at a tertiary level conducted by a prescribed university or other prescribed institution under section 1280(2)(a)(ii) of the Corporations Law; or
- (iv) a person who the chief executive considers has appropriate qualifications.’.

**Amendment of s 47 (Regulations)**

**33.** Section 47(3)(zp)—

*omit.*

**Insertion of new schedule**

**34.** After section 47—

*insert—*

**‘SCHEDULE****‘SECTION 29(5) REGISTERED CHARITIES**

section 29(5)

Earth Share Australia Limited (ACN 078 168 297)’.

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## **PART 8—AMENDMENT OF COOPERATIVES ACT 1997**

### **Act amended in pt 8**

**35.** This part amends the *Cooperatives Act 1997*.

### **Amendment of s 440 (Inspection of register)**

**36.** Section 440—

*insert—*

‘**(1A)** The person may do so—

(a) for subsection (1)(a), (b), (c) and (e)—

(i) at an office of the department when the office is open to the public; or

(ii) by using a computer; or

(b) for subsection (1)(d)—at the department’s Brisbane office when the office is open to the public.

‘**(1B)** A person may pay the fee, in advance or in arrears, under an arrangement approved by the chief executive.’.

## **PART 9—AMENDMENT OF FAIR TRADING ACT 1989**

### **Act amended in pt 9**

**37.** This part amends the *Fair Trading Act 1989*.

**Amendment of s 63 (Prohibited hours)**

**38.** Section 63(c)(ii), ‘8.00 p.m.’—

*omit, insert—*

‘6.00 p.m.’.

**PART 10—AMENDMENT OF LIENS ON CROPS OF SUGAR CANE ACT 1931****Act amended in pt 10**

**39.** This part amends the *Liens on Crops of Sugar Cane Act 1931*.

**Insertion of new s 24**

**40.** After section 23D—

*insert—*

**‘Validation**

‘**24.(1)** It is declared that anything done between 23 April 1999 and 7 May 1999 that would have been validly done or effectual under this Act, had the amending Act commenced on 23 April 1999, is and always was as valid and effectual as if the amending Act had commenced on 23 April 1999.

‘**(2)** In this section—

“**amending Act**” means the *Bills of Sale and Other Securities Amendment Act 1999*, part 3.

“**done**” includes, made, applied for, registered, discharged, renewed, given, exercised, charged, established, changed and omitted to be done.’.

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## PART 11—AMENDMENT OF QUEENSLAND BUILDING SERVICES AUTHORITY ACT 1991

### Act amended in pt 11

41. This part amends the *Queensland Building Services Authority Act 1991*.

### Insertion of new s 42A

42. After section 42—

*insert—*

#### ‘Exemption from s 42 for up to 6 months

‘42A.(1) This section applies if—

- (a) on or after 1 July 2000, a class of licence (the “**new class of licence**”) is established under this Act; and
- (b) immediately before the establishment of the new class of licence a person (the “**relevant person**”) was carrying on a business that included carrying out work (“**relevant work**”) within the scope of work for the new class of licence; and
- (c) either of the following applied immediately before the establishment of the new class of licence—
  - (i) no relevant work was building work;
  - (ii) some relevant work was building work, but its carrying out was incidental to the carrying out of all other relevant work.

‘(2) The relevant person does not contravene section 42(1) in carrying out, or undertaking to carry out, relevant work unless—

- (a) an application by the relevant person for the new class of licence is granted or refused; or
- (b) 6 months have elapsed since the new class of licence was established.’.

## **PART 12—AMENDMENT OF QUEENSLAND BUILDING TRIBUNAL ACT 2000**

### **Act amended in pt 12**

**43.** This part amends the *Queensland Building Tribunal Act 2000*.

### **Amendment of s 21 (Registrar’s functions and powers)**

**44.** Section 21—

*insert—*

‘**(5)** In addition to the registrar’s functions and powers under subsections (1) to (4), it is the duty of the registrar to exercise powers delegated to the registrar under the *Retirement Villages Act 1999*.

‘**(6)** In exercising a power delegated to the registrar under the *Retirement Villages Act 1999*, the registrar is subject to the chief executive of the department in which that Act is administered and not the chairperson.’.

## **PART 13—AMENDMENT OF RETIREMENT VILLAGES ACT 1999**

### **Act amended in pt 13**

**45.** This part amends the *Retirement Villages Act 1999*.

### **Amendment of s 98 (Amount of maintenance reserve fund)**

**46.** Section 98(1), after ‘maintenance’—

*insert—*

‘and repair’.



**Amendment of s 99 (Maintenance reserve fund budget)**

**47.** Section 99(2), example, ‘capital replacement’—  
*omit, insert—*  
‘maintenance reserve’.

**Insertion of new s 227A**

**48.** After section 227—  
*insert—*

**‘Delegation of chief executive’s powers**

‘**227A.(1)** The chief executive may delegate the chief executive’s powers under this Act to an appropriately qualified public service officer.

‘**(2)** In this section—

“**appropriately qualified**” means having qualifications, experience or standing appropriate to exercise the power.

*Example of ‘standing’—*

A person’s classification level in the public service.’.

**PART 14—AMENDMENT OF RETURNED &  
SERVICES LEAGUE OF AUSTRALIA (QUEENSLAND  
BRANCH) ACT 1956****Act amended in pt 14**

**49.** This part amends the *Returned & Services League of Australia (Queensland Branch) Act 1956*.

**Insertion of new ss 3A–3C**

**50.** After section 3—

*insert—*

**‘Vesting of property after incorporation under Associations Act**

**‘3A.(1)** This section applies if a district branch or sub-branch (the **“branch”**) that has adopted this Act under section 3(1) becomes incorporated under the Associations Act.

**‘(2)** On the branch’s incorporation, sections 3(1), 4 and 7 no longer apply to the branch.

**‘(3)** However, for applying section 22(1)(b) of the Associations Act to the branch’s property, the trust mentioned in that provision includes the trusts, purposes and conditions stated in the rules and by-laws, as amended from time to time, governing the branch.

**‘(4)** In this section—

**“Associations Act”** means the *Associations Incorporation Act 1981*.

**“branch’s property”** means the property that, immediately before the branch’s incorporation, was vested in the trustees of the branch under section 3(1).

**‘Vesting of property after registration of incorporated association under Corporations Law**

**‘3B.(1)** This section applies if a district branch or sub-branch (the **“branch”**) that is an incorporated association under the *Associations Incorporation Act 1981* becomes registered as a company under the Corporations Law.

**‘(2)** The provisions of a trust that applied to property of the branch immediately before its registration as a company continue to apply for the holding of the property by the company.

**‘(3)** For applying subsection (2), the trust mentioned in the subsection includes the trusts, purposes and conditions stated in the rules and by-laws, as amended from time to time, governing the branch.

**‘Vesting of property after registration of company**

**‘3C.(1)** This section applies if—

- (a) a company is registered under the Corporations Law; and
- (b) property that, under section 3(1), is vested in the trustees of a district branch or sub-branch (the “**branch**”) is transferred to the company by the trustees; and
- (c) before the trustees transfer the property, the authorised representative certifies to the trustees that the authorised representative is satisfied the company is a suitable entity for assuming, for all practical purposes, responsibility for the branch’s property.

**‘(2)** When the transfer is completed—

- (a) sections 3(1), 4 and 7 no longer apply to the branch, or the trustees of the branch, to the extent that the provisions relate to the property the subject of the transfer; and
- (b) the provisions of a trust that applied to the property immediately before the trustees transferred the property to the company continue to apply for the holding of the property by the company.

**‘(3)** For applying subsection (2)(b), the trust mentioned in that provision includes the trusts, purposes and conditions stated in the rules and by-laws, as amended from time to time, governing the branch.’.

## **PART 15—AMENDMENT OF SECURITY PROVIDERS ACT 1993**

### **Act amended in pt 15**

**51.** This part amends the *Security Providers Act 1993*.

**Amendment of s 3 (Definitions)**

**52.** Section 3, definition “**accountant**”—

*omit, insert—*

‘**“accountant”** means—

- (a) a person registered as an auditor under the Corporations Law; or
- (b) a member of CPA Australia or the Institute of Chartered Accountants in Australia; or
- (c) a member of the National Institute of Accountants, other than an associate, who has satisfactorily completed an auditing component of a course of study in accountancy of at least 3 years duration at a tertiary level conducted by a prescribed university or other prescribed institution under section 1280(2)(a)(ii) of the Corporations Law.’.