

Queensland



Subordinate Legislation 2003 No. 83

Cooperatives Act 1997

COOPERATIVES AMENDMENT REGULATION (No. 1) 2003

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1 Short title

This regulation may be cited as the *Cooperatives Amendment Regulation (No. 1) 2003*.

2 Regulation amended

This regulation amends the *Cooperatives Regulation 1997*.

3 Amendment of s 3 (Documents that are not debentures)

Section 3(c), ‘Corporations Law’—

omit insert—

‘Corporations Act’.

4 Omission of ss 4 and 11

Sections 4 and 11—

omit.

5 Replacement of s 12 (Requirements for accounts and accounting records)

Section 12—

omit, insert—

‘12 Requirements for financial records and financial reports

‘For the Act, section 232(1)(j), the following changes to the Corporations Act, chapter 2M are prescribed—

- (a) *omit* ‘this Act’ and *insert* ‘the Act’; and
- (b) the changes in schedule 1, part 1.’.

6 Amendment of s 23 (Charges required to be registered)

Section 23(c), ‘, other than section 24’—

omit.

7 Amendment of s 32 (Application for transfer)

Section 32, 'section 300(g)'—

omit, insert—

'section 300(d)'.

8 Replacement of s 34 (Application of Corporations Law to winding-up)

Section 34—

omit, insert—

'34 Application of Corporations Act to winding-up

'For the Act, section 308, the changes to the Corporations Act, sections 461, 464 and 542 stated in schedule 1, part 2 are prescribed.'

9 Amendment of s 47 (Inspection of register)

Section 47(c)—

omit, insert—

(c) a document given to the registrar under any of the following provisions of the Corporations Act as applied by the Act—

- section 311
- section 438D
- section 533'.

10 Replacement of sch 1 (Changes to Corporations Law provisions)

Schedule 1—

omit, insert—

‘SCHEDULE 1

‘CHANGES TO CORPORATIONS ACT PROVISIONS

sections 12 and 34

‘PART 1—CHANGES FOR THE ACT, SECTION 232

1 Section 324(1)(f) and (2)(g) and (h), ‘except where the company is a proprietary company,’—

omit.

2 Section 324—

insert—

‘(2A) Despite subsection (2)(d), if at least 1 member of a firm is—

- (a) ordinarily resident in Australia; and
- (b) a person who the registrar considers is suitably qualified or experienced; and
- (c) approved by the registrar for the purposes of the Act in relation to the audit of the cooperative’s financial reports;

the firm may be appointed as auditor of the cooperative, subject to any terms and conditions stated in the approval.

‘(2B) A firm appointed as auditor under subsection (2A) is, in relation to the auditing of the cooperative’s financial reports, if any, taken to have at least 1 member who is a registered company auditor who is ordinarily resident in Australia.

‘(2C) Subsection (2B) applies subject to any terms and conditions of the approval.’.

3 Section 324(12), from ‘Where’ to ‘business’—

omit, insert—

‘Despite subsection (1)(d)’.

4 Section 324(14) and (15)—

omit, insert—

‘(13A) A person who, immediately before 1 September 1997, was the cooperative’s auditor and continues to be the auditor is taken, for the cooperative, to be a registered company auditor.

‘(13B) A firm that, immediately before 1 September 1997, was the cooperative’s auditor and continues to be the auditor is taken, for the cooperative, to have at least 1 member who is a registered company auditor who is ordinarily resident in Australia.

‘(14) If a person approved by the registrar under subsection (12) is acting as auditor of a cooperative, the registrar may at any time, by notice in writing given to the cooperative amend or revoke the terms and conditions of the registrar’s approval.

‘(15) If a member of a firm is approved by the registrar for the purposes of the Act in relation to the audit of the cooperative’s financial reports and the firm is acting as auditor of a cooperative, the registrar may, at any time, by written notice to the cooperative amend or revoke the terms and conditions of the registrar’s approval.’

5 Section 329(1A), note—

omit.

6 Section 329—

insert—

‘(1B) Despite subsection (1A), the cooperative may pass the resolution only if at least 21 days notice of the meeting has been given.’

7 Section 329(8), ‘Subject to subsection (9), the’—

omit, insert—

‘The’.

8 Section 329(9)—

omit.

9 Section 330(b)—

omit, insert—

- ‘(b) a certificate winding-up the cooperative is given by the registrar;
or
- (c) if paragraph (a) or (b) does not apply—an order is made by the Court for the winding-up of the cooperative.’.

‘PART 2—CHANGES FOR THE ACT, SECTION 308**10 Section 461(h), ‘ASIC has stated in a report prepared under Division 1 of Part 3 of the ASIC Act that, in its opinion:’—**

omit, insert—

‘the registrar has, because of an inquiry held under the Act, part 15, division 2 or 4, stated that—’.

11 Section 464, ‘Where ASIC is investigating, or has investigated, under Division 1 of Part 3 of the ASIC Act:’—

omit, insert—

‘If the registrar is holding or has held an inquiry under the Act, part 15, division 2 or 4 in relation to—’.

12 Section 542(3)—

insert—

‘(d) for a winding-up on a certificate of the registrar under the *Cooperatives Act 1997*, section 306—with the consent of the registrar.’.’

11 Omission of sch 4 (Corporations Law provisions applying to accounts and audit)

Schedule 4—

omit.

12 Amendment of sch 5 (Undesirable matter for names)

(1) Schedule 5, item 1(a), ‘Corporations Law, part 4.2’—

omit, insert—

‘Corporations Act’.

(2) Schedule 5, item 11, sixth dot point—

omit.

13 Amendment of sch 7 (Provisions of Act and regulation applying to participating and non-participating cooperatives)

Schedule 7, part 1, item 4, ‘Corporations Law’—

omit insert—

‘Corporations Act’.

14 Amendment of sch 8 (Holders of prescribed offices)

(1) Schedule 8, item 3, ‘the Australian Securities Commission under the *Australian Securities Commission Act 1989* (Cwlth)’—

omit, insert—

‘ASIC’.

(2) Schedule 8, item 3, second dot point, ‘corporations and securities panel’—

omit, insert—

‘takeovers panel’.

(3) Schedule 8, item 4—

relocate to entry for Australian Capital Territory.

(4) Schedule 8, item 6, ‘*Administration and Probate Ordinance 1929 and the*’—

omit.

(5) Schedule 8, item 11, ‘*Mental Health Act 1958*’—

omit, insert—

‘*Protected Estates Act 1983*’.

(6) Schedule 8, item 22, ‘*Probate and Administration Act 1919*’—

omit, insert—

‘*Public Trustee Act 1995*’.

(7) Schedule 8, item 27, ‘*Office*’—

omit.

(8) Schedule 8, items 31 and 32—

omit, insert—

‘**31.** State Trustees Limited ACN 064 593 148

32. Master under the *Supreme Court Act 1986 (Vic)*’.

15 Amendment of sch 9 (Fees)

(1) Schedule 9, item 58—

omit.

(2) Schedule 9, items 59 and 60—

renumber as schedule 9, items 58 and 59.

16 Amendment of attachment (Model rules 1997)

(1) Attachment not forming part of the *Cooperatives Regulation 1997*, rules of a non-trading cooperative without share capital registered under the Cooperatives Act 1997 (Qld), sections 20(5) and 29(5), ‘19’—

omit, insert—

‘20’.

(2) Attachment not forming part of the *Cooperatives Regulation 1997*, rules of a non-trading cooperative with share capital registered under the Cooperatives Act 1997 (Qld), sections 18(3), 30(5) and 39(5)‘19’—

omit, insert—

‘20’.

(3) Attachment not forming part of the *Cooperatives Regulation 1997*, rules of a trading cooperative with share capital registered under the Cooperatives Act 1997 (Qld), sections 18(3), 30(6) and 39(5)‘19’—

omit, insert—

‘20’.

ENDNOTES

1. Made by the Governor in Council on 8 May 2003.
2. Notified in the gazette on 9 May 2003.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Office of Fair Trading.