

Queensland



**FINANCIAL SERVICES
REFORM (CONSEQUENTIAL
AMENDMENTS) BILL 2002**

Queensland



**FINANCIAL SERVICES REFORM
(CONSEQUENTIAL AMENDMENTS)
BILL 2002**

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2002

A BILL

FOR

**An Act to amend various Acts as a consequence of the Commonwealth
enacting the *Financial Services Reform Act 2001* (Cwlth), and for
other purposes**

*Financial Services Reform (Consequential
Amendments) Bill 2002*

The Parliament of Queensland enacts— 1

PART 1—PRELIMINARY 2

Clause 1 Short title 3

This Act may be cited as the *Financial Services Reform (Consequential
Amendments) Act 2002*. 4
5

**PART 2—AMENDMENT OF BUSINESS NAMES ACT
1962** 6
7

Clause 2 Act amended in pt 2 8

This part amends the *Business Names Act 1962*. 9

Clause 3 Amendment of s 3 (Definitions) 10

Section 3, definition “**Australian Securities Commission**”— 11
omit. 12

PART 3—AMENDMENT OF COOPERATIVES ACT 1997 13

Clause 4 Act amended in pt 3 14

This part amends the *Cooperatives Act 1997*. 15

Clause 5 Amendment of s 10 (Excluded matter) 16

(1) Section 10(2)(h), ‘the futures industry’— 17

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<i>omit, insert—</i>	1
‘derivatives’.	2
(2) Section 10(2)(i), ‘participants in the securities industry;’—	3
<i>omit, insert—</i>	4
‘—	5
(i) financial service licensees whose licence covers dealing in, or providing advice about, securities; or	6 7
(ii) regulated principals when dealing in, or providing advice about, securities as authorised by the Corporations Act, part 10.2, division 1, subdivision D; ¹ .	8 9 10
(3) Section 10(2)(j), ‘conduct of securities business’—	11
<i>omit, insert—</i>	12
‘carrying on of a financial services business relating to securities’.	13
(4) Section 10(2)(k), ‘dealers’ financial statements and audit;’—	14
<i>omit, insert—</i>	15
‘financial statements, and audit of financial statements, of—	16
(i) financial service licensees whose licence covers dealing in, or providing advice about, securities; or	17 18
(ii) regulated principals when dealing in, or providing advice about, securities as authorised by the Corporations Act, part 10.2, division 1, subdivision D;’.	19 20 21
(5) Section 10(2)(l), ‘dealers’ clients;’—	22
<i>omit, insert—</i>	23
‘clients of—	24
(i) financial service licensees whose licence covers dealing in, or providing advice about, securities; or	25 26

1 Corporations Act, part 10.2 (Transitional provisions relating to the Financial Services Reform Act 2001), division 1 (Transitional provisions relating to the phasing-in of the new financial services regime), subdivision D (Treatment of people who carry on financial services businesses and their representatives)

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	(ii) regulated principals when dealing in, or providing advice about, securities as authorised by the Corporations Act, part 10.2, division 1, subdivision D;’.	1 2 3
	(6) Section 10(3)(d), ‘7.11.’ and footnote—	4
	<i>omit, insert—</i>	5
	‘7.10. ² ’.	6
Clause 6	Amendment of s 256 (Application of Corporations Act to issues of debentures)	7 8
	Section 256(1), ‘7.11,’ and footnote—	9
	<i>omit, insert—</i>	10
	‘7.10, ³ ’.	11
 PART 4—AMENDMENT OF CORPORATIONS (ANCILLARY PROVISIONS) ACT 2001		 12 13
Clause 7	Act amended in pt 4	14
	This part amends the <i>Corporations (Ancillary Provisions) Act 2001</i> .	15
Clause 8	Amendment of s 23 (Power to amend certain statutory instruments)	16 17
	Section 23(2)—	18
	<i>insert—</i>	19
	‘(f) an Act amending an Act referred to in paragraph (d) or (e).’.	20

2 Corporations Act, part 1.2A (Disclosing entities), chapter 2L (Debentures), chapter 6D (Fundraising) and part 7.10 (Market misconduct and other prohibited conduct relating to financial products and financial services)

3 Corporations Act, part 1.2A (Disclosing entities), chapter 2L (Debentures), chapter 6D (Fundraising) and part 7.10 (Market misconduct and other prohibited conduct relating to financial products and financial services)

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Clause 9	Insertion of new s 23A	1
	After section 23—	2
	<i>insert—</i>	3
	‘23A Power to make interim regulations construing certain references in Acts	4
		5
	‘(1) The Governor in Council may make a regulation providing that an affected reference in any Act is to be construed as set out in the regulation.	6
		7
	‘(2) The Minister may recommend the making of a regulation under subsection (1) only if he or she considers that—	8
		9
	(a) each substantive provision of the proposed regulation is necessary as a consequence of the enactment, or proposed enactment, by the Parliament of the Commonwealth of an Act amending the new ASIC Act or the new Corporations Act; and	10
		11
		12
		13
	(b) subject to subsection (3), the proposed regulation does not deal with any other matter.	14
		15
	‘(3) A regulation made under this section may deal with matters of a transitional nature (including matters of an application or savings nature) consequent on the enactment of the amending Act referred to in subsection (2)(a).	16
		17
		18
		19
	<i>Note—</i>	20
	Section 27(7) and (8) enable a provision of the regulation made under this section to have effect from a time that is earlier than the day on which it is made.	21
		22
	‘(4) A regulation made under this section has effect according to its tenor.	23
		24
	‘(5) A regulation made under this section expires 1 year after it is made.	25
	‘(6) In this section—	26
	“affected reference” means—	27
	(a) a reference in an Act to a provision of the new ASIC Act or the new Corporations Act; or	28
		29
	(b) a reference in an Act to a term, expression or concept defined or used in the new ASIC Act or the new Corporations Act;	30
		31
	that is, or is to be, affected in any way by the enactment or proposed enactment by the Parliament of the Commonwealth of an Act amending the new ASIC Act or the new Corporations Act.’.	32
		33
		34

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Clause 10	Amendment of s 27 (Regulation-making power)	1
	Section 27(7), after ‘relevant time’—	2
	<i>insert—</i>	3
	‘or, in the case of a regulation made under section 23(2)(f) or 23A, ⁴ the time when the amending Act (or the relevant provision of that Act) comes into operation or is taken to come into operation.’	4 5 6
Clause 11	Insertion of new pt 5	7
	After part 4—	8
	<i>insert—</i>	9
	‘PART 5—VALIDATION PROVISIONS CONSEQUENTIAL ON FINANCIAL SERVICES REFORM ACT 2001 (CWLTH)’	10 11 12
	‘29 Validation	13
	‘(1) Anything done or omitted to be done by a person or body during the relevant period that would have been valid and lawful had the amending Act been in operation at the time at which the thing was done or omitted, must be taken to be, and to have always been, valid and lawful.	14 15 16 17
	‘(2) Anything done or omitted to be done by a person or body during the relevant period that would have been valid and lawful had none of the provisions of the <i>Financial Services Reform Act 2001</i> (Cwlth) been in operation at the time at which the thing was done or omitted, must be taken to be, and to have always been, valid and lawful.	18 19 20 21 22
	‘(3) In this section—	23
	“ amending Act ” means the <i>Financial Services Reform (Consequential Amendments) Act 2002</i> .	24 25
	“ relevant period ” means the period—	26
	(a) starting on the commencement of the <i>Financial Services Reform Act 2001</i> (Cwlth), schedule 1, part 1; and	27 28

4 Section 23 (Power to amend certain statutory instruments) or 23A (Power to make interim regulations construing certain references in Acts)

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- (b) ending immediately before the date of assent of the amending Act.’. 1
2

**PART 5—AMENDMENT OF INDUSTRIAL RELATIONS
ACT 1999** 3
4

- Clause 12 Act amended in pt 5** 5
This part amends the *Industrial Relations Act 1999*. 6

- Clause 13 Amendment of s 635 (Registration of property transferred under pt 15)** 7
8
Section 635(4), ‘7.13.’ and footnote— 9
omit, insert— 10
‘7.11.⁵’. 11

**PART 6—AMENDMENT OF QUEENSLAND LAW
SOCIETY ACT 1952** 12
13

- Clause 14 Act amended in pt 6** 14
This part amends the *Queensland Law Society Act 1952*. 15

- Clause 15 Amendment of s 50 (Confidentiality)** 16
(1) Section 50(4), after ‘Securities’— 17
insert— 18
‘and Investments’. 19

5 Corporations Act, section 268 (Assignment and variation of charges) or chapter 7 (Financial services and markets), part 7.11 (Title and transfer)

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(2) Section 50(4)(b)(ii), ‘Corporations Law, section 1084(2).’— 1
omit, insert— 2
‘Corporations Act, section 601QA.⁶.’ 3

**PART 7—AMENDMENT OF SUGAR INDUSTRY ACT
1999** 4
5

Clause 16 Act amended in pt 7 6
This part amends the *Sugar Industry Act 1999*. 7

**Clause 17 Amendment of s 141 (Meaning of “moved out of the control of the
Queensland sugar industry”)** 8
9
(1) Section 141(1)(e)(i), ‘the Australian Stock Exchange’— 10
omit, insert— 11
‘a prescribed financial market’. 12
(2) Section 141(2)— 13
insert— 14
‘“**prescribed financial market**” see Corporations Act, section 9.’. 15

PART 8—AMENDMENT OF TRAVEL AGENTS ACT 1988 16

Clause 18 Act amended in pt 8 17
This part amends the *Travel Agents Act 1988*. 18

6 Corporations Act, section 601QA (ASIC’s power to make exemption and modification orders)

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Clause 19	Amendment of s 6 (Definitions)	1
	Section 6, definition “ officer ”—	2
	<i>omit, insert—</i>	3
	‘ “officer” of a corporation, see the Corporations Act, section 9.’	4
Clause 20	Amendment of s 18 (Determination of application)	5
	(1) Section 18(1)(c)(ii), ‘body corporate’—	6
	<i>omit, insert—</i>	7
	‘corporation’.	8
	(2) Section 18(5)(b), ‘body corporate’—	9
	<i>omit, insert—</i>	10
	‘corporation’.	11
Clause 21	Amendment of s 19 (Duration of licence)	12
	Section 19(1)(b), ‘body corporate, is’—	13
	<i>omit, insert—</i>	14
	‘corporation, is wound-up or’.	15
Clause 22	Amendment of s 24 (Notice to show cause)	16
	Section 24(4), ‘body corporate’—	17
	<i>omit, insert—</i>	18
	‘corporation’.	19
Clause 23	Amendment of s 35 (Employment of disqualified person)	20
	Section 35(1)(d), ‘body corporate’—	21
	<i>omit, insert—</i>	22
	‘corporation’.	23

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Clause	24	Amendment of s 42 (Compensation scheme trustees to have certain rights by subrogation and otherwise) Section 42(4) and (5), ‘body corporate’— <i>omit, insert—</i> ‘corporation’.	1 2 3 4 5
Clause	25	Amendment of s 52 (Offences by bodies corporate) (1) Section 52, heading, ‘bodies corporate’— <i>omit, insert—</i> ‘corporations’. (2) Section 52, ‘body corporate’— <i>omit, insert—</i> ‘corporation’.	6 7 8 9 10 11 12
PART 9—AMENDMENT OF TRUSTS ACT 1973			13
Clause	26	Act amended in pt 9 This part amends the <i>Trusts Act 1973</i> .	14 15
Clause	27	Amendment of s 54 (Power to employ agents) (1) Section 54(1), ‘stockbroker’— <i>omit, insert—</i> ‘financial services licensee, regulated principal’. (2) Section 54— <i>insert—</i> ‘(6) In this section—	16 17 18 19 20 21 22

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- “financial services licensee”** means a financial services licensee, defined 1
under the Corporations Act, section 761A, whose licence covers 2
dealing in, or providing advice about, securities. 3
- “regulated principal”** means a regulated principal— 4
- (a) defined under the Corporations Act, section 1430; and 5
 - (b) dealing in, or providing advice about, securities as authorised by 6
the Corporations Act, part 10.2, division 1, subdivision D.⁷. 7
- 8

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⁷ Corporations Act, part 10.2 (Transitional provisions relating to the Financial Services Reform Act 2001), division 1 (Transitional provisions relating to the phasing-in of the new financial services regime), subdivision D (Treatment of people who carry on financial services businesses and their representatives)