

Western Australia

**Corporations (Consequential Amendments) Act
(No. 3) 2003**

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No. 21 of 2003

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Western Australia

**Corporations (Consequential Amendments) Act
(No. 3) 2003**

No. 21 of 2003

**An Act to amend various Acts as a consequence of the
Commonwealth enacting the *Financial Services Reform Act 2001*, and
for related purposes.**

[Assented to 23 April 2003]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Corporations (Consequential Amendments) Act (No. 3) 2003*.

2. Commencement

- (1) If this Act receives the Royal Assent before the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act comes into operation at the same time as that Schedule comes into operation.
- (2) If this Act receives the Royal Assent on or after the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act is deemed to have come into operation at the same time as that Schedule comes into operation.

3. Interpretation

In this Part —

“**Financial Services Reform Act**” means the *Financial Services Reform Act 2001* of the Commonwealth;

“**FSR commencement time**” means the time when Schedule 1 to the Financial Services Reform Act comes into operation;

“**statutory rule**” means a regulation, rule or by-law.

4. Validation

- (1) This section applies if this Act comes into operation under section 2(2).
- (2) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent that could have been done if this Act had received the Royal Assent before the FSR commencement time is taken to be as valid and lawful, and to always have been as valid and lawful, as it

would have been if this Act had received the Royal Assent before the FSR commencement time.

- (3) Anything done or omitted to have been done by a person after the FSR commencement time and before this Act received the Royal Assent that would have been valid and lawful if the Financial Services Reform Act had not commenced, is taken to be valid and lawful.
- (4) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent —
 - (a) that could only have been validly and lawfully done or omitted because this Act received the Royal Assent after the FSR commencement time; and
 - (b) that could not have been validly and lawfully done or omitted if this Act had received the Royal Assent before the FSR commencement time,

is taken not to be valid, and to never have been valid.

5. Power to amend certain statutory rules

- (1) The Governor, on the recommendation of the Minister, may make regulations amending a statutory rule made by the Governor in the exercise of a power conferred by an Act.
- (2) The Minister may make a recommendation under subsection (1) only if he or she considers that each amendment proposed to be made by the regulations is consequential on the enactment of the Financial Services Reform Act.
- (3) Nothing in this section prevents a statutory rule from being amended in accordance with the Act under which it is made.

6. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are

necessary or convenient to be prescribed for giving effect to the purposes of this Act.

- (2) Without limiting subsection (1), the regulations may deal with matters of a transitional nature (includes matters of an application or savings nature) relating to the transition from the application of the *Corporations Act 2001* of the Commonwealth as in force immediately before the FSR commencement time to the application of that Act as in force after the FSR commencement time.

7. Retrospective effect of regulations and statutory rules

- (1) A regulation made under section 5(1) or 6(1) may be expressed to take effect from a time that is earlier than the beginning of the day on which it is published in the *Gazette*, but not earlier than immediately before the FSR commencement time.
- (2) If an Act confers a power on a person, other than the Governor, to make statutory rules, then, for the purposes of amending those statutory rules as a consequence of the enactment of the Financial Services Reform Act, the power is taken to include a power to provide that those amendments may be expressed to take effect from a time that is earlier than the beginning of the day on which the statutory rules are published in the *Gazette*, but not earlier than immediately before the FSR commencement time.
- (3) Subsections (1) and (2) have effect if, and only if, regulations (made under section 5(1) or 6(1)) and statutory rules (referred to in subsection (2)) are published in the *Gazette* within the 3 months after the day on which this Act receives the Royal Assent.
- (4) To the extent to which a regulation (made under section 5(1) or 6(1)) or a statutory rule (referred to in subsection (2)) takes effect from a time that is earlier than the beginning of the day on which the regulation or statutory rule is published in the

Gazette, the regulation or statutory rule does not operate so as —

- (a) to prejudicially affect the rights of a person (other than the State or an authority of the State) existing before the day on which the regulation or statutory rule is published in the *Gazette*; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day on which the regulation or statutory rule is published in the *Gazette*.

Part 2 — Country Housing Act 1998

8. The Act amended

The amendments in this Part are to the *Country Housing Act 1998**.

[* *Act No. 4 of 1998.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 97 and Acts Nos. 10 and 12 of 2001.]

9. Section 3 amended

Section 3 is amended as follows:

- (a) in the definition of “farming company” in paragraph (a) by deleting “listed on a stock exchange” and inserting instead —
“ quoted on a financial market ”;
- (b) in the definition of “farming company” in paragraph (b)(ii)(I) by deleting “listed on the stock exchange” and inserting instead —
“ quoted on a financial market ”;
- (c) by inserting the following definition in the appropriate alphabetical position —

“

“**financial market**” has the same meaning as in Chapter 7 of the *Corporations Act 2001* of the Commonwealth;

”.

10. Section 24 amended

Section 24(2)(a) is amended by deleting “listed on a stock exchange” and inserting instead —

“ quoted on a financial market ”.

Part 3 — *Declarations and Attestations Act 1913*

11. *Declarations and Attestations Act 1913* amended

Schedule item 16 of the *Declarations and Attestations Act 1913** is deleted and the following items are inserted instead —

“

16. A financial services licensee (within the meaning of the *Corporations Act 2001* of the Commonwealth), who is, in effect, authorised to carry on the business of an insurance broker.
- 16A. A regulated principal (within the meaning of section 1430 of the *Corporations Act 2001* of the Commonwealth), who is authorised to carry on the business of an insurance broker under Part 10.2 Division 1 Subdivision D of that Act.

”.

[* *Reprinted as at 10 September 1992.*
For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 116 and Act No. 10 of 2001.]

Part 4 — *Electricity Corporation Act 1994*

12. *Electricity Corporation Act 1994* amended

Section 84(1)(a)(xi) of the *Electricity Corporation Act 1994** is amended by deleting “within the meaning of the Corporations Act”.

[* *Reprinted as at 4 January 2000.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 134 and Acts Nos. 43 of 2000 and 10 of 2001.]

Part 5 — Finance Brokers Control Act 1975

13. Finance Brokers Control Act 1975 amended

Section 5(1)(d) of the *Finance Brokers Control Act 1975** is deleted and the following paragraphs are inserted instead —

“

- (d) a financial services licensee (within the meaning of the *Corporations Act 2001* of the Commonwealth), when dealing in securities (within the meaning of section 92 of that Act) that he or she is authorised to deal in by that licence;
- (da) a regulated principal (within the meaning of section 1430 of the *Corporations Act 2001* of the Commonwealth), who held a dealers licence under the *Corporations Act 2001* of the Commonwealth immediately before the commencement of Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth, when dealing in securities that he or she is authorised to deal in by Part 10.2 Division 1 Subdivision D of that Act;

”.

[* *Reprinted as at 3 March 2000.*

For subsequent amendments see Acts Nos. 10 and 12 of 2001.]

Part 6 — Grain Marketing Act 1975

14. Grain Marketing Act 1975 amended

Section 19(2)(b) of the *Grain Marketing Act 1975** is amended by deleting “(within the meaning of the *Corporations Act 2001* of the Commonwealth)”.

[* *Reprinted as at 19 November 1999.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 188 and Act No. 10 of 2001.]

Part 7 — Local Government Act 1995

15. Local Government Act 1995 amended

- (1) The amendments in this Part are to the *Local Government Act 1995**.

[* *Reprinted as at 18 February 2000.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 257 and Act No. 10 of 2001.]

- (2) Section 5.84(1)(c) is amended by deleting “listed for quotation on a stock market” and inserting instead —

“ quoted on a prescribed financial market ”.

- (3) Section 5.84(2) is repealed and the following subsection is inserted instead —

“

- (2) In this section —

“**interest**” means a relevant interest (within the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth) in any securities (within the meaning given by section 92 of that Act) issued or made available by the corporation;

“**prescribed financial market**” has the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth.

”.

Part 8 — *Members of Parliament (Financial Interests) Act 1992*

**16. *Members of Parliament (Financial Interests) Act 1992*
amended**

- (1) The amendments in this Part are to the *Members of Parliament (Financial Interests) Act 1992**.

[* *Act No. 44 of 1992.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 276 and Act No. 10 of 2001.]

- (2) Section 11(1)(c) is amended by deleting “listed for quotation on a stock market” and inserting instead —

“ quoted on a prescribed financial market ”.

- (3) Section 11(2) is repealed and the following subsection is inserted instead —

“

- (2) In this section —

“**interest**” means a relevant interest (within the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth) in any securities (within the meaning given by section 92 of that Act) issued or made available by the corporation;

“**prescribed financial market**” has the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth.

”.

Part 9 — *Mental Health Act 1996*

17. *Mental Health Act 1996* amended

Section 193 of the *Mental Health Act 1996** is amended as follows:

- (a) in the definition of “related person” in paragraphs (b) and (c) by deleting “stock exchange” and inserting instead —

“ prescribed financial market ”;

- (b) by inserting the following definition in the appropriate alphabetical position —

“

“prescribed financial market” has the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth;

”;

- (c) in the definition of “relevant interest” by inserting after “has the meaning given by” —

“ section 9 of ”.

[* *Act No. 68 of 1996.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 276 and Act No. 10 of 2001.]

Part 10 — *Osteopaths Act 1997*

18. *Osteopaths Act 1997* amended

Schedule 2 clause 5 to the *Osteopaths Act 1997** is amended by inserting after “as defined in” (in the second place where it occurs) —

“ section 92 of ”.

[* *Act No. 58 of 1997.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 315 and Act No. 10 of 2001.]

Part 11 — *Port Authorities Act 1999*

19. *Port Authorities Act 1999* amended

Section 87(1)(a)(xi) of the *Port Authorities Act 1999** is amended by deleting “within the meaning of the Corporations Act”.

[* *Act No. 22 of 1999.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 353 and Acts Nos. 43 of 2000 and 10 of 2001.]

Part 12 — Real Estate and Business Agents Act 1978

20. Real Estate and Business Agents Act 1978 amended

Section 4(4) of the *Real Estate and Business Agents Act 1978** is amended as follows:

- (a) after paragraph (a) by deleting “or”;
- (b) by deleting paragraph (b) and inserting the following paragraphs instead —

“

- (b) a financial services licensee (within the meaning of the *Corporations Act 2001* of the Commonwealth), when dealing in securities (within the meaning of section 92 of that Act) that he or she is authorised to deal in by that licence; or
- (c) a regulated principal (within the meaning of section 1430 of the *Corporations Act 2001* of the Commonwealth), when dealing in securities that he or she is authorised to deal in by Part 10.2 Division 1 Subdivision D of that Act.

”.

[* Reprinted as at 9 March 2000.

For subsequent amendments see Acts Nos. 10 and 12 of 2001.]

Part 13 — Settlement Agents Act 1981

21. The Act amended

The amendments in this Part are to the *Settlement Agents Act 1981**.

[* *Reprinted as at 3 November 2000.*

For subsequent amendments see Act No. 10 of 2001.]

22. Section 4 amended

Section 4(1) is amended as follows:

- (a) after paragraph (aa) by deleting “and”;
- (b) by deleting paragraph (b) and inserting the following paragraphs instead —

“

- (b) financial services licensees (within the meaning of the *Corporations Act 2001* of the Commonwealth), when dealing in securities (within the meaning of section 92 of that Act) that he or she is authorised to deal in by that licence; and
- (c) regulated principals (within the meaning of section 1430 of the *Corporations Act 2001* of the Commonwealth), when dealing in securities that he or she is authorised to deal in by Part 10.2 Division 1 Subdivision D of that Act.

”.

23. Section 36 amended

- (1) Section 36(3)(a) is amended by deleting “listed for quotation on the stock market of a stock exchange” and inserting instead —

“ quoted on a prescribed financial market ”.

s. 23

(2) After section 36(3) the following subsection is inserted —

“

(4) In this section —

“**prescribed financial market**” has the meaning given
by section 9 of the *Corporations Act 2001* of the
Commonwealth.

”.

Part 14 — Stamp Act 1921

24. The Act amended

The amendments in this Part are to the *Stamp Act 1921**.

[* Reprinted as at 3 August 2001.]

25. Section 4 amended

(1) Section 4(1) is amended as follows:

- (a) by inserting the following definitions in the appropriate alphabetical positions —

“

“**financial market**” has the same definition as in Chapter 7 of the Corporations Act;

“**recognised financial market**” means a financial market prescribed for the purposes of this definition;

”;

- (b) in the definition of “marketable security” in paragraph (c)(i) by deleting “stock exchange prescribed by the Minister by notice published in the *Government Gazette*” and inserting instead —

“ recognised financial market ”;

- (c) in the definition of “overseas transfer” in paragraph (a) by deleting “stock exchange” in both places where it occurs and inserting instead —

“ financial market ”;

- (d) by deleting the definition of “recognized stock exchange”.

(2) Section 4(3) is repealed.

26. Section 73E amended

Section 73E(1) is amended in the definition of “share” by deleting “stock exchange” and inserting instead —

“ financial market ”.

27. Section 75D amended

Section 75D(1) is amended as follows:

(a) in the definition of “farming company” in paragraph (a) by deleting “stock exchange” and inserting instead —

“ financial market ”;

(b) in the definition of “farming company” in paragraph (b)(ii)(I) by deleting “the stock exchange” and inserting instead —

“ a financial market ”.

28. Sections 75JA, 76AI and 76AP amended

(1) Sections 75JA(1a)(c), 76AI(1)(a) and (1a)(a) and 76AP(1)(d) and (1a)(a) are amended by deleting “stock exchange” and inserting instead —

“ financial market ”.

(2) Sections 76AI(1a)(b) and 76AP(1a)(b) are amended by deleting “exchange’s”.

(3) Sections 76AI(1a)(d) and (e) and 76AP(1a)(d) and (e) are amended by deleting “exchange” and inserting instead —

“ market ”.

29. Section 112B amended

(1) Section 112B(1)(a) and (3) are amended by deleting “1085(3)” and inserting instead —

“ 1070A(4) ”.

(2) After section 112B(4) the following subsection is inserted —

“

(4a) Subsections (1)(a) and (3) are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the Corporations Act in relation to section 1070A(4) of that Act.

”.

30. Section 112BA amended

Section 112BA(3) is amended in the definition of “unlisted marketable security” by deleting “stock exchange” and inserting instead —

“ financial market ”.

31. Section 112C amended

Section 112C(1a)(b) is amended by deleting “stock exchange” and inserting instead —

“ financial market ”.

32. Section 121 inserted

After section 120 the following section is inserted —

“

121. Application of section 1070A of the Corporations Act limited

The following matter is declared to be an excluded matter for the purposes of section 5F of the Corporations Act in relation to section 1070A(1)(a) of that Act — interests in registered schemes within the meaning of that Act.

”.

s. 33

33. Second Schedule amended

The Second Schedule is amended in items 4A(1)(fa) and 6(d) by deleting “stock exchange” and inserting instead —

“ financial market ”.

Part 15 — State Superannuation Act 2000

34. State Superannuation Act 2000 amended

Schedule 2 clause 9(2)(e) of the *State Superannuation Act 2000** is amended by deleting “an Australian stock exchange” and inserting instead —

“

a prescribed financial market (within the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth) in Australia

”.

[* *Act No. 42 of 2000.*

For subsequent amendments see Act No. 10 of 2001.]

Part 16 — *Water Corporation Act 1995*

35. *Water Corporation Act 1995* amended

Section 82(1)(a)(xi) of the *Water Corporation Act 1995** is amended by deleting “within the meaning of the Corporations Act”.

[* *Reprinted as at 4 May 2001.*

For subsequent amendments see Act No. 10 of 2001.]

Part 17 — *Western Australian Treasury Corporation Act 1986*

36. *Western Australia Treasury Corporation Act 1986* amended

Section 10(2)(fa)(xi) of the *Western Australian Treasury Corporation Act 1986** is amended by deleting “within the meaning of the *Corporations Act 2001* of the Commonwealth”.

[* *Reprinted as at 5 January 2001.*

For subsequent amendments see Acts Nos. 10 and 12 of 2001.]

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