

Serial 46
Corporations (Financial Services Reform Amendments) Bill 2002
Dr Toyne

**A BILL
for
AN ACT**

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

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NORTHERN TERRITORY OF AUSTRALIA
CORPORATIONS (FINANCIAL SERVICES REFORM AMENDMENTS)
ACT 2002

No. of 2002

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NORTHERN TERRITORY OF AUSTRALIA

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

[Assented to 2002]
[Second reading 2002]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

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

2. Commencement

This Act is taken to have come into operation at the same time as Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth comes into operation.

3. Validation

(1) In this section –

"relevant period" means the period –

- (a) starting on the commencement of Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth and

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- (b) ending immediately before the Administrator's assent to this Act is declared.

(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 this Act been in operation at the time at which the thing was done or omitted, is taken to be, and to have always been, valid and lawful.

(3) 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 *Financial Services Reform Act 2001* of the Commonwealth been in operation at the time at which the thing was done or omitted, is taken to be, and to have always been, valid and lawful.

(4) Anything done or omitted to be done by a person or body during the relevant period –

- (a) that could only have been validly and lawfully done or omitted because this Act commenced after Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth commenced; and
- (b) that could not have been validly and lawfully done or omitted if this Act had commenced at the same time as Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth commenced,

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

4. Power to amend certain statutory rules

(1) The Administrator, may make regulations amending a regulation made in the exercise of a power conferred by an Act.

(2) The Administrator may make regulations 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 2001* of the Commonwealth.

(3) Nothing in this section prevents a regulation from being amended in accordance with the Act under which it is made.

5. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Regulations may deal with matters of a transitional nature (including matters of an application or savings nature) relating to the transition from the application of the Corporations Act 2001 as in force immediately before Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth commenced to the application of that Act as in force after Schedule 1 commences.

6. Retrospective effect of regulations and statutory rules

(1) A regulation made under section 4(1) or 5(1) may be expressed to take effect from a time that is earlier than the beginning of the day on which notification of the making of the regulation is published in the *Gazette* but not earlier than immediately before Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth commences.

(2) If an Act confers a power on a person, other than the Administrator, to make regulations, then, for the purposes of amending those regulations as a consequence of the enactment of the *Financial Services Reform Act 2001* of the Commonwealth, 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 notification of the making of the regulations are published in the *Gazette*, but not earlier than immediately before Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth commenced.

(3) To the extent to which a regulation (made under section 4(1) or 5(1) or referred to in subsection (2)) takes effect from a time that is earlier than the beginning of the day on which the regulation is published in the *Gazette*, the regulation does not operate so as –

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

7. Consequential amendments

(1) The *Co-operatives Act* is amended –

- (a) by omitting from section 9(2)(h) "the futures industry" and substituting "derivatives";

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- (b) by omitting section 9(2)(i) and substituting the following:
 - "(i) provision relating to –
 - (i) financial services licensees (as defined in section 761A of the Corporations Act 2001) whose licence covers dealing in, or providing advice about, securities; or
 - (ii) regulated principals (as defined in section 1430 of the Corporations Act 2001) when dealing in, or providing advice about securities as authorised by Part 10.2 Division 1 Subdivision D of that Act;"
- (c) by omitting from section 9(2)(j) "conduct of securities business" and substituting "carrying on of a financial services business (as defined in section 761A of the Corporations Act 2001) relating to securities";
- (d) by omitting section 9(2)(k) and (i) and substituting the following:
 - "(k) provisions relating to financial statements, and audits of financial statements, of –
 - (i) financial services licensees (as defined in section 761A of the Corporations Act 2001) whose licence covers dealing in, or providing advice about, securities; or
 - (ii) regulated principals (as defined in section 1430 of the Corporations Act 2001) when dealing in, or providing advice about, securities as authorised by Part 10.2 Division 1 Subdivision D of that Act;
 - (i) provisions relating to money and scrip of clients of –
 - (i) financial services licensees (as defined in section 761A of the Corporations Act 2001) whose licence covers dealing in , or providing advice about, securities; or
 - (ii) regulated principals (as defined in section 1430 of the Corporations Act 2001) when dealing in, or providing advice, about securities as authorised by Part 10.2 Division 1 Subdivision D of that Act;"
- (e) by omitting from section 9(3)(d) "7.11 (Conduct in relation to securities)" and substituting "7.10 (Market misconduct)";
- (f) by omitting from section 258(1) "7.11" and substituting "7.10"; and
- (g) by omitting from section 311 "and 5.6, Chapter 5A and Part" and substituting "5.6, 5A.1 and".

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(2) The *Taxation (Administration) Act* is amended by inserting after the definition of "execute" in section 4(1) the following:

"'financial market' has the same meaning as in section 767A of the Corporations Act 2001;".

(3) The Acts and Regulations specified in the Schedule are amended as specified in the Schedule.

(4) A regulation as amended as set out in the Schedule may be amended or repealed by a regulation as if the amendment had been made by a regulation.

SCHEDULE

Section 7

Provision	Amendment	
	omit	substitute
<i>Agents Licensing Act</i>		
Section 121A(6)(a)	the Australian Stock Exchange	a prescribed financial market (as defined in section 9 of the Corporations Act 2001)
<i>Corporations Reform (Northern Territory) Act</i>		
Section 23(1)(c)	section 17	section 18
<i>Taxation (Administration) Act</i>		
Section 4(1)		
– definition of "marketable security"	stock exchange (all references)	financial market
– definition of "recognised stock exchange"	recognised stock exchange (all references)	recognised financial market
	a stock exchange	a financial market

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Section 44B(2)	the <i>Insurance (Agents and Brokers) Act 1984</i> of the Commonwealth	section 761A of the Corporations Act 2001
Section 56N(1)	stock exchange	financial market
Taxation (Administration) Regulations		
Regulation 11(1)	a stock exchange	a financial market
	recognised stock exchange	recognised financial market
Regulation 11(2)	recognised stock exchanges	recognised financial markets
	a stock exchange	a financial market

ALTERATION TO REGULATION HEADING

On the day on which the Taxation (Administration) Regulations are amended by this Act the heading to regulation 11 of the Taxation (Administration) Regulations is altered by omitting "**stock exchanges**" and substituting "**financial markets**".
