

Financial Services Reform (Consequential Amendments) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

(a) to amend the *Corporations (Ancillary Provisions) Act 2001* to enable the Governor to make regulations that:

(i) specify how references in State Acts to provisions of, or terms, concepts or expressions used in, the Corporations legislation of the Commonwealth are to be construed when they are amended by the Commonwealth, and

(ii) amend references in regulations to such amended provisions, terms, concepts or expressions,

(b) to update certain references in Acts and Regulations to concepts and provisions of the Corporations legislation amended by the *Financial Services Reform Act 2001* and the *Financial Services Reform (Consequential Provisions) Act 2001* of the Commonwealth,

(c) to repeal the *State Owned Corporations (National Electricity Market) Regulation 1996*,

(d) to amend the *Minors (Property and Contracts) Act 1970* and the *Property (Relationships) Act 1984* to make it clear that certain legal practitioners are not required to give financial advice under those Acts for which they would need to be licensed under the Corporations legislation (as amended by the *Financial Services Reform Act 2001* and the *Financial Services Reform (Consequential Provisions) Act 2001* of the Commonwealth),

(e) to make other amendments to certain Acts and Regulations in the nature of statute law revision.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act (except for Schedule 2.8 and 2.9) on its date of assent. Schedule 2.8 and 2.9 (which amend the *Minors (Property and Contracts) Act 1970* and the *Property (Relationships) Act 1984*) will commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Corporations (Ancillary Provisions) Act 2001* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the Acts and Regulations set out in Schedules 2 and 3.

Clause 5 repeals the *State Owned Corporations (National Electricity Market) Regulation 1996*. Currently, clause 3 of the *State Owned Corporations (National Electricity Market) Regulation 1996* applies the provisions of Chapter 8 of the *Corporations Act 2001* of the Commonwealth relating to the futures industry (as in force before its repeal by the *Financial Services Reform Act 2001* of the Commonwealth) as a State law.

Clause 6 provides that the matter appearing under the heading "Explanatory note" in any of the Schedules does not form part of the proposed Act.

Schedule 1 Amendment of Corporations (Ancillary Provisions) Act 2001

Schedule 1 [1] amends section 22 of the Act to enable the Governor to make regulations under that section that amend references in other statutory rules that refer to provisions of, or terms, concepts or expressions used in, the *Corporations Act 2001* or the *Australian Securities and Investments Commission Act 2001* of the Commonwealth that have been, or are to be amended, by another Act of the Parliament of the Commonwealth.

Schedule 1 [2] inserts a new section 22A in the Act. The new section will enable the Governor to make regulations that specify how references in State Acts to provisions of, or terms, concepts or expressions used in, the *Corporations Act 2001* or the *Australian Securities and*

Investments Commission Act 2001 of the Commonwealth that have been, or are to be amended, by another Act of the Parliament of the Commonwealth are to be construed.

Schedule 1 [3] makes an amendment to section 25 that is consequential on the amendments made by Schedule 1 [1] and [2].

Schedule 1 [4] and **[5]** insert provisions of a savings and transitional nature that are consequent on the enactment of the proposed Act. In particular, a provision is inserted in a new Schedule 4 to the Act that validates certain acts and omissions of persons and bodies done or omitted to be done on or after the commencement of Part 1 of Schedule 1 to the *Financial Services Reform Act 2001* of the Commonwealth but before the date of assent to the proposed Act.

Schedule 2 Amendment of references in other Acts

Schedule 2 makes amendments to various Acts that contain references to provisions of, or terms, concepts or expressions used in, the *Corporations Act 2001* or the *Australian Securities and Investments Commission Act 2001* of the Commonwealth that are affected by amendments made to those Acts by the *Financial Services Reform Act 2001* or the *Financial Services Reform (Consequential Provisions) Act 2001* of the Commonwealth. It also makes certain other amendments in the nature of statute law revision.

Schedule 2 also amends the *Minors (Property and Contracts) Act 1970* and the *Property (Relationships) Act 1984* to make it clear that certain legal practitioners are not required to give financial advice under those Acts for which they would need to be licensed under the Corporations legislation (as amended by the *Financial Services Reform Act 2001* and the *Financial Services Reform (Consequential Provisions) Act 2001* of the Commonwealth).

The amendments to each Act are explained in detail in the explanatory note relating to the Act concerned set out in Schedule 2.

Schedule 3 Amendment of references in Regulations

Schedule 3 makes amendments to various Regulations that contain references to provisions of, or terms, concepts or expressions used in, the *Corporations Act 2001* or the *Australian Securities and Investments Commission Act 2001* of the Commonwealth that are affected by amendments made to those Acts by the *Financial Services Reform Act 2001* or the *Financial Services Reform (Consequential Provisions) Act 2001* of the Commonwealth. It also makes certain other amendments in the nature of statute law revision.

The amendments to each Regulation are explained in detail in the explanatory note relating to the Regulation concerned set out in Schedule 3.