FEDERATION OF PARENTS AND CITIZENS ASSOCIATIONS OF NEW SOUTH WALES INCORPORATION (AMENDMENT) ACT 1991 No. 19

NEW SOUTH WALES



TABLE OF PROVISIONS

- 1. Short title
- 2. Commencement
- Amendment of Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 No. 50
- 4. Consequential amendment of Education Reform Act 1990 No. 8, section 115 (Constitution of associations and district councils)

SCHEDULE 1—AMENDMENT RELATING TO INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS
SCHEDULE 2—OTHER AMENDMENTS

FEDERATION OF PARENTS AND CITIZENS ASSOCIATIONS OF NEW SOUTH WALES INCORPORATION (AMENDMENT) ACT 1991 No. 19

NEW SOUTH WALES



Act No. 19, 1991

An Act to amend the Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 to enable parents and citizens associations to be incorporated under that Act; to make a consequential amendment to the Education Reform Act 1990; and for other purposes. [Assented to 3 May 1991]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Federation of Parents and Citizens Associations of New South Wales Incorporation (Amendment) Act 1991.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 No. 50

3. The Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 is amended as set out in Schedules 1 and 2.

Consequential amendment of Education Reform Act 1990 No. 8, section 115 (Constitution of associations and district councils)

- **4.** The Education Reform Act 1990 is amended by inserting after section 115 (1) the following subsection:
 - (1A) Any such parents and citizens association may be incorporated under the Parents and Citizens Associations Incorporation Act 1976 or under the Associations Incorporation Act 1984.

SCHEDULE 1—AMENDMENT RELATING TO INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS

(Sec. 3)

After section 12, insert:

PART 3—INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS

Incorporation of parents and citizens associations

13. (1) A parents and citizens association constituted under the Education Reform Act 1990 may, if it is not incorporated, apply to the Minister for incorporation under this Act.

- (2) The application is to be in writing and signed by the officers of the association.
- (3) The Minister may, by notice published in the Gazette, declare that the association is incorporated under this Act. The Minister may reject the application if satisfied that the association will not comply with the requirements of this Part.
- (4) On the publication of the notice (or on a later date specified in the notice), a body corporate with the name of the association is constituted and the unincorporated body with that name is dissolved.
- (5) The members of the incorporated association are the persons who become members in accordance with its rules. The persons who were members of the association immediately before its incorporation become members on its incorporation if qualified under the rules of the incorporated association.

Transfer of assets and liabilities on incorporation

- 14. When a parents and citizens association is incorporated under this Act:
 - (a) the trustees of any real or personal property who, immediately before the incorporation, held that property for or on behalf of the unincorporated association are authorised to vest the property in the incorporated association freed and discharged from the trusts on which they held that property; and
 - (b) any money or liquidated or unliquidated claim that, immediately before the incorporation, was payable to, or recoverable by, the unincorporated association becomes money payable to, or a claim recoverable by, the incorporated association; and
 - (c) any debt due or money payable by, and any claim, liquidated or unliquidated, recoverable against, the unincorporated association or any person for or on behalf of the unincorporated association (being a debt, money or a claim due, payable or recoverable immediately before the incorporation) becomes a debt due or money payable by, or a claim recoverable against, the incorporated association; and

- (d) any proceeding that, immediately before the incorporation, was pending at the suit or on the application of the unincorporated association or any person for or on behalf of the unincorporated association becomes a proceeding pending at the suit or on the application of the incorporated association; and
- (e) any contract, agreement or undertaking entered into with, and any security given to or by any person for or on behalf of, the unincorporated association and in force immediately before the incorporation becomes a contract, agreement or undertaking entered into with, and a security given to or by, the incorporated association; and
- (f) the incorporated association may enforce and realise any security or charge in favour of the unincorporated association, or any person for or on behalf of the unincorporated association, as if it were a security or charge in favour of the incorporated association.

Rules of incorporated associations

- 15. (1) The rules for the conduct of the business and affairs of a parents and citizens association incorporated under this Act are the relevant standard or model rules published by the Minister under section 117 of the Education Reform Act 1990.
- (2) On incorporation under this Act, a parents and citizens association is taken to have adopted the relevant rules so published, as amended from time to time.

Names of parents and citizens associations

- 16. (1) The name of a parents and citizens association incorporated under this Act is "[name of government school in connection with which the association is constituted] Parents and Citizens Association".
- (2) A change in the name of the government school concerned effects a corresponding change in the name of the incorporated association.

Incorporated associations to be members of Federation

17. A parents and citizens association incorporated under this Act is required to be a member of the Federation of

Parents and Citizens Associations of New South Wales constituted under this Act.

Members and officers of incorporated association not liable for debts etc. of association

18. A member or officer of a parents and citizens association incorporated under this Act is not, by reason only of being such a member or officer, liable to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association.

Public liability insurance

- 19. (1) A parents and citizens association incorporated under this Act must effect and maintain approved public liability insurance, unless the association is covered by such insurance effected and maintained by the Federation of Parents and Citizens Associations of New South Wales constituted under this Act.
 - (2) In this section:
 - "approved public liability insurance" means public liability insurance which an association incorporated under the Associations Incorporation Act 1984 is required by Part 6 of that Act to effect and maintain.

Financial reports

20. A parents and citizens association incorporated under this Act must make such financial reports about its affairs (including reports of its auditors) as are required by its rules or (subject to its rules) by the Minister.

Cancellation of incorporation

- 21. (1) The Minister may, by notice published in the Gazette, cancel the incorporation of a parents and citizens association incorporated under this Act:
 - (a) if the Minister has reasonable cause to believe that the association is not complying with this Act or the rules of the association; or
 - (b) if the association has ceased to be a member of the Federation of Parents and Citizens Associations of New South Wales constituted under this Act; or

- (c) if the association is constituted in connection with a government school that has been closed; or
- (d) if the Minister has other good cause for doing so.
- (2) If the incorporation of the association is so cancelled and the winding up of the association had not commenced before the cancellation, the property of the association vests in the Minister. The debts and liabilities of that association are to be paid, its property is to be distributed and its affairs are to be wound up in accordance with the directions of the Minister.
- (3) Nothing in this Act affects the winding up under any other law of a parents and citizens association incorporated under this Act.

Service of documents on association

- 22. (1) A document may be served on a parents and citizens association incorporated under this Act by leaving it at the office of, or by sending it by post to, the government school in connection with which the association is constituted.
 - (2) Nothing in this section affects:
 - (a) the power of a court to authorise a document to be served on the association in a manner not provided for by this section; or
 - (b) the operation of any law or rules of court authorising a document to be served on the association in a manner not provided for by this section.

Regulations

23. The regulations may make provision for or with respect to the transfer of incorporation to this Act of a parents and citizens association incorporated under the Associations Incorporation Act 1984.

SCHEDULE 2—OTHER AMENDMENTS

(Sec. 3)

(1) Long title:

At the end of the long title, insert "; and to provide for the incorporation of parents and citizens associations".

(2) Part 1, heading:

Before section 1, insert:

PART 1—PRELIMINARY

(3) Section 1:

Omit section, insert instead:

Short title

1. This Act may be cited as the Parents and Citizens Associations Incorporation Act 1976.

(4) Part 2, heading:

After section 1, insert:

PART 2—INCORPORATION OF FEDERATION OF PARENTS AND CITIZENS ASSOCIATIONS OF NEW SOUTH WALES

- (5) Section 2 (Definitions):
 - (a) Omit "Act" where firstly occurring, insert instead "Part".
 - (b) From the definition of "association", omit "Education and Public Instruction Act 1987 or any Act repealed in consequence of the enactment of that Act", insert instead "Education Reform Act 1990".
- (6) Section 5A:

After section 5, insert:

Transfer of records to Minister

5A. As soon as practicable after the commencement of this section, the documents relating to the corporation that were lodged at the office of the Corporate Affairs Commission under this Act are to be lodged with the Minister by the person or body having the custody of those documents.

(7) Section 6:

Omit the section, insert instead:

Amendment of constitution of corporation

6. An amendment of the constitution of the corporation does not take effect until an instrument certified under the seal of the corporation to be a true copy of the resolution effecting the amendment has been lodged with the Minister.

(8) Section 8:

Omit the section, insert instead:

Notification of change of address

8. The corporation must, within 14 days after it changes the address of its principal office, lodge with the Minister an instrument specifying the new address.

Maximum penalty: 1 penalty unit.

(9) Section 10:

Omit the section, insert instead:

Service of documents on the corporation

- 10. (1) A document may be served on the corporation by leaving it at, or by sending it by post to, the office or one of the offices of the corporation.
- (2) The offices of the corporation for the purposes of this section include the office last notified by the corporation under this Act.
 - (3) Nothing in this section affects:
 - (a) the power of a court to authorise a document to be served on the corporation in a manner not provided for by this section; or
 - (b) the operation of any law or rules of court authorising a document to be served on the corporation in a manner not provided for by this section.

(10) Part 4:

After Part 3 (as inserted by Schedule 1 to this Act), insert:

PART 4—MISCELLANEOUS

Regulations

24. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this

Act is required or permitted to be prescribed, or that is necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

[Minister's second reading speech made in— Legislative Assembly on 11 April 1991 Legislative Council on 13 March 1991]

FEDERATION OF PARENTS AND CITIZENS ASSOCIATIONS OF NEW SOUTH WALES INCORPORATION (AMENDMENT) BILL 1991

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 so as to enable parents and citizens associations to become incorporated under that Act.

The Bill also:

- (a) recognises the incorporation of parents and citizens associations under the Associations Incorporations Act 1984; and
- (b) transfers to the Minister certain registry functions relating to the incorporation of the Federation.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Clause 3 gives effect to the 2 Schedules of amendments to the Principal Act.

Clause 4 makes a consequential amendment to section 115 of the Education Reform Act 1990 so that parents and citizens associations established under that Act at government schools may be incorporated under the Principal Act or under the Associations Incorporation Act 1984.

SCHEDULE 1—AMENDMENT RELATING TO INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS

Schedule 1 inserts proposed Part 3 into the Principal Act, consisting of proposed sections 13-23.

Proposed section 13 provides that the Minister may (on application) incorporate an unincorporated parents and citizens association by notice published in the Gazette.

Proposed section 14 provides that the assets and liabilities of the unincorporated association are transferred to the incorporated association on incorporation.

Federation of Parents and Citizens Associations of New South Wales Incorporation (Amendment) 1991

- Proposed section 15 provides that the rules for the conduct of the business and affairs of a parents and citizens association incorporated under the Principal Act are the relevant standard or model rules published by the Minister under the Education Reform Act 1990.
- Proposed section 16 deals with the name of a parents and citizens association incorporated under the Principal Act.
- Proposed section 17 requires parents and citizens associations incorporated under the Principal Act to be members of the Federation of Parents and Citizens Associations of New South Wales.
- Proposed section 18 ensures that members or officers of a parents and citizens association incorporated under the Principal Act are not liable for the debts and liabilities of the association.
- Proposed section 19 requires a parents and citizens association incorporated under the Principal Act to obtain the same public liability insurance as is required by associations incorporated under the Associations Incorporation Act 1984. It is sufficient if the association is covered by an appropriate policy obtained by the Federation.
- Proposed section 20 obliges a parents and citizens association incorporated under the Principal Act to make such financial reports about its affairs as are required by its rules or the Minister.
- Proposed section 21 enables the Minister to cancel the incorporation of a parents and citizens association incorporated under the Principal Act if the school in respect of which it is constituted closes, or if the Minister has reasonable cause to believe that the association is not complying with the Principal Act or the association's rules, or if the association ceases to be a member of the Federation, or for other good cause.
- Proposed section 22 specifies the way in which a document may be served on a parents and citizens association incorporated under the Principal Act.
- Proposed section 23 empowers the making of regulations providing for the transfer of incorporation of a parents and citizens association incorporated under the Associations Incorporation Act 1984.

SCHEDULE 2—OTHER AMENDMENTS

Schedule 2 (1) and (3) make consequential amendments to the long and short titles of the Principal Act.

Schedule 2 (2) and (4) insert headings into the Principal Act.

Schedule 2 (5) amends the definition of "association" in the Principal Act as a consequence of the enactment of the Education Reform Act 1990.

Schedule 2 (6)–(9) transfer certain registry functions under the Principal Act relating to the incorporation of the Federation from the Managing Director of the Department of Business and Consumer Affairs, the successor to the Corporate Affairs Commission, to the Minister for School Education and Youth Affairs.

Schedule 2 (10) inserts proposed Part 4, which permits the making of regulations.

FEDERATION OF PARENTS AND CITIZENS ASSOCIATIONS OF NEW SOUTH WALES INCORPORATION (AMENDMENT) BILL 1991

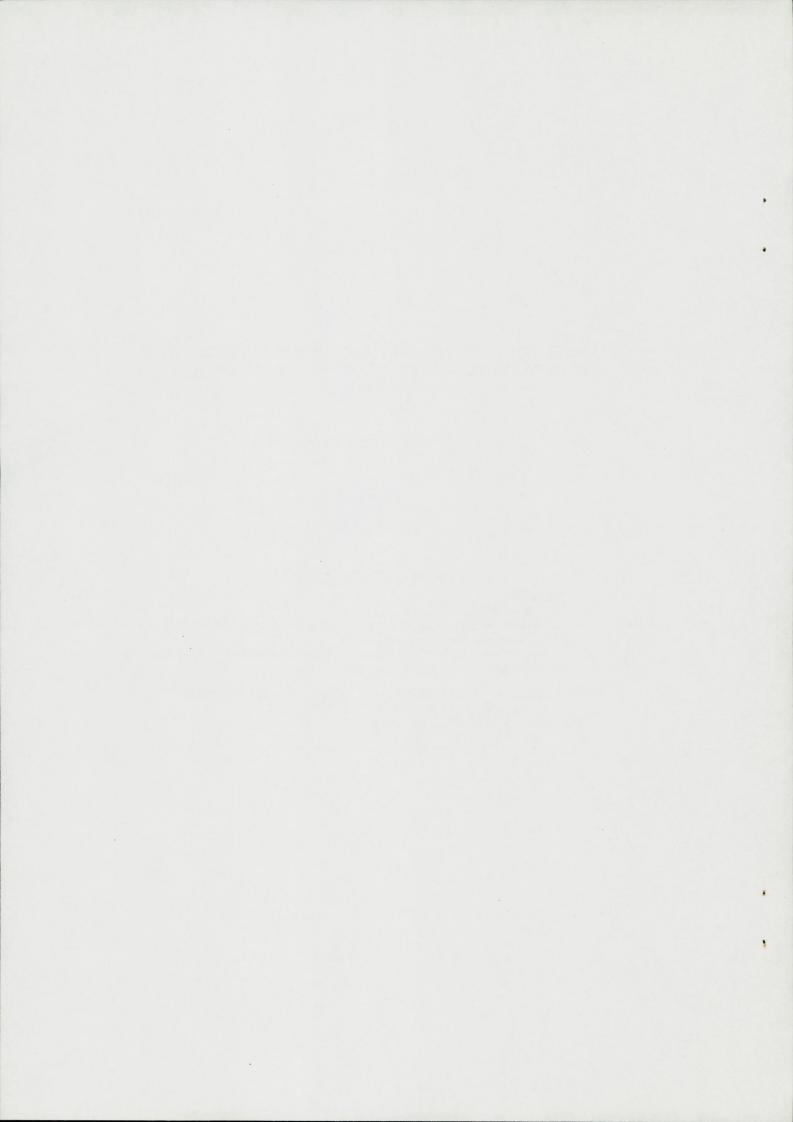
NEW SOUTH WALES



TABLE OF PROVISIONS

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- 4. Consequential amendment of Education Reform Act 1990 No. 8, section 115 (Constitution of associations and district councils)

SCHEDULE 1—AMENDMENT RELATING TO INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS SCHEDULE 2—OTHER AMENDMENTS



FEDERATION OF PARENTS AND CITIZENS ASSOCIATIONS OF NEW SOUTH WALES INCORPORATION (AMENDMENT) BILL 1991

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to amend the Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 to enable parents and citizens associations to be incorporated under that Act; to make a consequential amendment to the Education Reform Act 1990; and for other purposes.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Federation of Parents and Citizens Associations of New South Wales Incorporation (Amendment) Act 1991.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 No. 50

3. The Federation of Parents and Citizens Associations of New South Wales Incorporation Act 1976 is amended as set out in Schedules 1 and 2.

Consequential amendment of Education Reform Act 1990 No. 8, section 115 (Constitution of associations and district councils)

- 4. The Education Reform Act 1990 is amended by inserting after section 115 (1) the following subsection:
 - (1A) Any such parents and citizens association may be incorporated under the Parents and Citizens Associations Incorporation Act 1976 or under the Associations Incorporation Act 1984.

SCHEDULE 1—AMENDMENT RELATING TO INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS

(Sec. 3)

After section 12, insert:

PART 3—INCORPORATION OF PARENTS AND CITIZENS ASSOCIATIONS

Incorporation of parents and citizens associations

13. (1) A parents and citizens association constituted under the Education Reform Act 1990 may, if it is not incorporated, apply to the Minister for incorporation under this Act.

- (2) The application is to be in writing and signed by the officers of the association.
- (3) The Minister may, by notice published in the Gazette, declare that the association is incorporated under this Act. The Minister may reject the application if satisfied that the association will not comply with the requirements of this Part.
- (4) On the publication of the notice (or on a later date specified in the notice), a body corporate with the name of the association is constituted and the unincorporated body with that name is dissolved.
- (5) The members of the incorporated association are the persons who become members in accordance with its rules. The persons who were members of the association immediately before its incorporation become members on its incorporation if qualified under the rules of the incorporated association.

Transfer of assets and liabilities on incorporation

- 14. When a parents and citizens association is incorporated under this Act:
 - (a) the trustees of any real or personal property who, immediately before the incorporation, held that property for or on behalf of the unincorporated association are authorised to vest the property in the incorporated association freed and discharged from the trusts on which they held that property; and
 - (b) any money or liquidated or unliquidated claim that, immediately before the incorporation, was payable to, or recoverable by, the unincorporated association becomes money payable to, or a claim recoverable by, the incorporated association; and
 - (c) any debt due or money payable by, and any claim, liquidated or unliquidated, recoverable against, the unincorporated association or any person for or on behalf of the unincorporated association (being a debt, money or a claim due, payable or recoverable immediately before the incorporation) becomes a debt due or money payable by, or a claim recoverable against, the incorporated association; and

- (d) any proceeding that, immediately before the incorporation, was pending at the suit or on the application of the unincorporated association or any person for or on behalf of the unincorporated association becomes a proceeding pending at the suit or on the application of the incorporated association; and
- (e) any contract, agreement or undertaking entered into with, and any security given to or by any person for or on behalf of, the unincorporated association and in force immediately before the incorporation becomes a contract, agreement or undertaking entered into with, and a security given to or by, the incorporated association; and
- (f) the incorporated association may enforce and realise any security or charge in favour of the unincorporated association, or any person for or on behalf of the unincorporated association, as if it were a security or charge in favour of the incorporated association.

Rules of incorporated associations

- 15. (1) The rules for the conduct of the business and affairs of a parents and citizens association incorporated under this Act are the relevant standard or model rules published by the Minister under section 117 of the Education Reform Act 1990.
- (2) On incorporation under this Act, a parents and citizens association is taken to have adopted the relevant rules so published, as amended from time to time.

Names of parents and citizens associations

- 16. (1) The name of a parents and citizens association incorporated under this Act is "[name of government school in connection with which the association is constituted] Parents and Citizens Association".
- (2) A change in the name of the government school concerned effects a corresponding change in the name of the incorporated association.

Incorporated associations to be members of Federation

17. A parents and citizens association incorporated under this Act is required to be a member of the Federation of

Parents and Citizens Associations of New South Wales constituted under this Act.

Members and officers of incorporated association not liable for debts etc. of association

18. A member or officer of a parents and citizens association incorporated under this Act is not, by reason only of being such a member or officer, liable to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association.

Public liability insurance

- 19. (1) A parents and citizens association incorporated under this Act must effect and maintain approved public liability insurance, unless the association is covered by such insurance effected and maintained by the Federation of Parents and Citizens Associations of New South Wales constituted under this Act.
 - (2) In this section:
 - "approved public liability insurance" means public liability insurance which an association incorporated under the Associations Incorporation Act 1984 is required by Part 6 of that Act to effect and maintain.

Financial reports

20. A parents and citizens association incorporated under this Act must make such financial reports about its affairs (including reports of its auditors) as are required by its rules or (subject to its rules) by the Minister.

Cancellation of incorporation

- 21. (1) The Minister may, by notice published in the Gazette, cancel the incorporation of a parents and citizens association incorporated under this Act:
 - (a) if the Minister has reasonable cause to believe that the association is not complying with this Act or the rules of the association; or
 - (b) if the association has ceased to be a member of the Federation of Parents and Citizens Associations of New South Wales constituted under this Act; or

- (c) if the association is constituted in connection with a government school that has been closed; or
- (d) if the Minister has other good cause for doing so.
- (2) If the incorporation of the association is so cancelled and the winding up of the association had not commenced before the cancellation, the property of the association vests in the Minister. The debts and liabilities of that association are to be paid, its property is to be distributed and its affairs are to be wound up in accordance with the directions of the Minister.
- (3) Nothing in this Act affects the winding up under any other law of a parents and citizens association incorporated under this Act.

Service of documents on association

- 22. (1) A document may be served on a parents and citizens association incorporated under this Act by leaving it at the office of, or by sending it by post to, the government school in connection with which the association is constituted.
 - (2) Nothing in this section affects:
 - (a) the power of a court to authorise a document to be served on the association in a manner not provided for by this section; or
 - (b) the operation of any law or rules of court authorising a document to be served on the association in a manner not provided for by this section.

Regulations

23. The regulations may make provision for or with respect to the transfer of incorporation to this Act of a parents and citizens association incorporated under the Associations Incorporation Act 1984.

SCHEDULE 2—OTHER AMENDMENTS

(Sec. 3)

(1) Long title:

At the end of the long title, insert "; and to provide for the incorporation of parents and citizens associations".

(2) Part 1, heading:

Before section 1, insert:

PART 1—PRELIMINARY

(3) Section 1:

Omit section, insert instead:

Short title

- 1. This Act may be cited as the Parents and Citizens Associations Incorporation Act 1976.
- (4) Part 2, heading:

After section 1, insert:

PART 2—INCORPORATION OF FEDERATION OF PARENTS AND CITIZENS ASSOCIATIONS OF NEW SOUTH WALES

- (5) Section 2 (Definitions):
 - (a) Omit "Act" where firstly occurring, insert instead "Part".
 - (b) From the definition of "association", omit "Education and Public Instruction Act 1987 or any Act repealed in consequence of the enactment of that Act", insert instead "Education Reform Act 1990".
- (6) Section 5A:

After section 5, insert:

Transfer of records to Minister

5A. As soon as practicable after the commencement of this section, the documents relating to the corporation that were lodged at the office of the Corporate Affairs Commission under this Act are to be lodged with the Minister by the person or body having the custody of those documents.

(7) Section 6:

Omit the section, insert instead:

Amendment of constitution of corporation

6. An amendment of the constitution of the corporation does not take effect until an instrument certified under the seal of the corporation to be a true copy of the resolution effecting the amendment has been lodged with the Minister.

(8) Section 8:

Omit the section, insert instead:

Notification of change of address

8. The corporation must, within 14 days after it changes the address of its principal office, lodge with the Minister an instrument specifying the new address.

Maximum penalty: 1 penalty unit.

(9) Section 10:

Omit the section, insert instead:

Service of documents on the corporation

- 10. (1) A document may be served on the corporation by leaving it at, or by sending it by post to, the office or one of the offices of the corporation.
- (2) The offices of the corporation for the purposes of this section include the office last notified by the corporation under this Act.
 - (3) Nothing in this section affects:
 - (a) the power of a court to authorise a document to be served on the corporation in a manner not provided for by this section; or
 - (b) the operation of any law or rules of court authorising a document to be served on the corporation in a manner not provided for by this section.

(10) Part 4:

After Part 3 (as inserted by Schedule 1 to this Act), insert:

PART 4—MISCELLANEOUS

Regulations

24. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed, or that is necessary or convenient to be prescribed, for carrying out or giving effect to this Act.