

HOUSE OF REPRESENTATIVES

(As read a first time)

**COMPANIES AND SECURITIES LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 1981**

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1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 10 September 1981

(Minister for Business and Consumer Affairs)

A BILL

FOR

An Act to amend laws relating to companies and securities and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

5 **1.** This Act may be cited as the *Companies and Securities Legislation (Miscellaneous Amendments) Act 1981*.

Commencement

2. (1) Part I shall come into operation on the day on which this Act receives the Royal Assent.

10 **(2)** Parts II, III, IV and VI shall come into operation on such date as is, or on such respective dates as are, fixed by Proclamation.

(3) Part V shall be deemed to have come into operation on the day on which the *Securities Industry (Fees) Act* 1980 came into operation.

(4) Parts VII, VIII, IX, X and XI shall come into operation on the day on which the *Companies Act* 1981 comes into operation.

PART II—NATIONAL COMPANIES AND SECURITIES COMMISSION ACT 1979

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Principal Act

3. The *National Companies and Securities Commission Act* 1979¹ is in this Part referred to as the Principal Act.

Delegation by Commission

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4. Section 45 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “all or” before “any functions”;
- (b) by omitting paragraph (3) (b) and substituting the following paragraph:

“(b) the person for the time being holding a specified office under an Act or a State Act or the person for the time being occupying a position in the Public Service of the Commonwealth or of a State, being a position that is specified in the instrument of delegation.”; and

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- (c) by omitting paragraph (5) (b) and substituting the following paragraph:

“(b) the person for the time being occupying a position in the Public Service of the Commonwealth or of a State, being a position that is specified in the instrument by which the authority is given.”.

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PART III—COMPANIES (ACQUISITION OF SHARES) ACT 1980

Principal Act

5. The *Companies (Acquisition of Shares) Act* 1980² is in this Part referred to as the Principal Act.

Schedule

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6. The Schedule to the Principal Act is amended—

- (a) by omitting paragraph 4 (f) of Part A and substituting the following paragraph:

“(f) any other information material to the making of a decision by an offeree whether or not to accept an offer, being information that is within the knowledge of the offeror and has not

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previously been disclosed to the holders of shares in the target company, unless—

- (i) the information would not be permitted to be included, without the consent of the Commission, in a statement referred to in section 37 or 38 that is made or issued to the public; and
- (ii) the Commission has refused to consent to the inclusion of the information in the Part A statement.”;

(b) by omitting paragraph 2 (k) of Part B and substituting the following paragraph:

“(k) any other information material to the making of a decision by an offeree whether or not to accept an offer, being information that is within the knowledge of—

- (i) in the case of a Part B statement that is signed as mentioned in paragraph 22 (2) (a)—any of the directors of the target company; or
- (ii) in the case of a Part B statement that is signed as mentioned in paragraph 22 (2) (b)—the liquidator or official manager, as the case requires,

and has not previously been disclosed to the holders of shares in the target company, unless—

- (iii) the information would not be permitted to be included, without the consent of the Commission, in a statement referred to in section 37 or 38 that is made or issued to the public; and
- (iv) the Commission has refused to consent to the inclusion of the information in the Part B statement.”;

(c) by omitting paragraph 4 (f) of Part C and substituting the following paragraph:

“(f) any other information material to the making of a decision by an offeree whether or not to accept an offer made by virtue of the take-over announcement, being information that is within the knowledge of the on-market offeror and has not previously been disclosed to the holders of shares in the target company, unless—

- (i) the information would not be permitted to be included, without the consent of the Commission, in a statement referred to in section 37 or 38 that is made or issued to the public; and
- (ii) the Commission has refused to consent to the inclusion of the information in the Part C statement.”; and

(d) by omitting paragraph 2 (j) of Part D and substituting the following paragraph:

- “(j) any other information material to the making of a decision by an offeree whether or not to accept an offer made by virtue of the take-over announcement, being information that is within the knowledge of—
- (i) in the case of a Part D statement that is signed as mentioned in paragraph 32 (2) (a)—any of the directors of the target company; or 5
 - (ii) in the case of a Part D statement that is signed as mentioned in paragraph 32 (2) (b)—the liquidator or official manager, as the case requires, 10
- and has not previously been disclosed to the holders of shares in the target company, unless—
- (iii) the information would not be permitted to be included, without the consent of the Commission, in a statement referred to in section 37 or 38 that is made or issued to the public; and 15
 - (iv) the Commission has refused to consent to the inclusion of the information in the Part D statement.”.

Other amendments

7. The Principal Act is amended as set out in Schedule 1. 20

PART IV—SECURITIES INDUSTRY ACT 1980

Principal Act

8. The *Securities Industry Act* 1980³ is in this Part referred to as the Principal Act.

9. Section 11 of the Principal Act is repealed and the following section substituted: 25

Privilege

“11. (1) Where—

- (a) the Commission, or a person authorized by the Commission, makes a requirement under section 8 or 9 of a duly qualified legal practitioner in respect of a book; and 30
- (b) the book contains a privileged communication made by or on behalf of or to the legal practitioner in his capacity as a legal practitioner,

the legal practitioner is entitled to refuse to comply with the requirement unless the person to whom or by or on behalf of whom the communication was made or, if the person is a body corporate that is under official management or is in the course of being wound up, the official manager or the liquidator, as the case may be, agrees to the legal practitioner complying with the requirement but, 35

where the legal practitioner so refuses to comply with a requirement, he shall forthwith furnish, in writing, to the Commission or authorized person—

- (c) if he knows the name and address of the person to whom or by or on behalf of whom the communication was made—that name and address; and
- (d) sufficient particulars to identify the book, or the part of the book, containing the communication.

“(2) Where—

- (a) under section 8 or 9, the Commission, or a person authorized by the Commission, requires a duly qualified legal practitioner to make a statement providing an explanation as to any matter relating to the compilation of books or as to any matter to which books relate; and
- (b) the legal practitioner is not able to make that statement without disclosing a privileged communication made by or on behalf of or to the legal practitioner in his capacity as a legal practitioner,

the legal practitioner is entitled to refuse to comply with the requirement, except to the extent that he is able to comply with the requirement without disclosing any privileged communication referred to in paragraph (b), unless the person to whom or by or on behalf of whom the communication was made or, if the person is a body corporate that is under official management or is in the course of being wound up, the official manager or the liquidator, as the case may be, agrees to the legal practitioner complying with the requirement but, where the legal practitioner so refuses to comply with a requirement, he shall forthwith furnish, in writing, to the Commission or authorized person—

- (c) if he knows the name and address of the person to whom or by or on behalf of whom the communication was made—that name and address; and
- (d) if the communication was made in writing—sufficient particulars to identify the document containing the communication.

Penalty: \$1,000 or imprisonment for 3 months, or both.”

Disclosure to Commission

10. Section 12 of the Principal Act is amended by omitting sub-section (3C) and substituting the following sub-sections:

“(3C) A person is not excused from disclosing information to the Commission pursuant to a requirement made of him under sub-section (3A) on the ground that the disclosure of the information might tend to incriminate him.

“(3CA) Where a person claims, before making an oral statement disclosing information that he is required to disclose by a requirement made of him under sub-section (3A), that the statement might tend to incriminate him, evidence of that statement is not admissible in evidence against him in criminal proceedings other than proceedings under this section.”

Power of Court to make certain orders

11. Section 14 of the Principal Act is amended by omitting sub-section (7).

Change of principals of representative

12. Section 50 of the Principal Act is amended by omitting sub-paragraph (2) (a) (i) and substituting the following sub-paragraph: 5

“(i) if the Commission does not have any reason to believe that the applicant will not perform efficiently, honestly and fairly the duties of a holder of a representatives licence on behalf of the holder of that dealers licence or investment advisers licence or the holders of those dealers licences or investment advisers licences—the Commission shall vary the licence by including that name or those names; or”.

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Power of Court to prohibit payment or transfer of moneys, securities or other property

13. Section 147 of the Principal Act is amended by adding at the end thereof the following sub-section: 15

“(4) A person shall not contravene or fail to comply with an order by the Court under this section that is applicable to him.

Penalty: \$2,500 or imprisonment for 6 months, or both.”.

14. After section 149 of the Principal Act the following section is inserted: 20

Power of Court to punish for contempt of Court

“149A. Nothing in a provision of this Act that provides—

(a) that a person shall not contravene or fail to comply with an order of the Court; or

(b) that a person who contravenes or fails to comply with an order of the Court is guilty of an offence, 25

affects the powers of the Court in relation to the punishment of contempts of the Court.”.

Other amendments

15. The Principal Act is amended as set out in Schedule 2. 30

PART V—SECURITIES INDUSTRY (FEES) ACT 1980

Principal Act

16. The *Securities Industry (Fees) Act 1980*⁴ is in this Part referred to as the Principal Act.

Interpretation

17. Section 3 of the Principal Act is amended by adding at the end thereof the following sub-section: 35

“(2) The *Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980* applies to this Act.”.

PART VI—COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS PROVISIONS) ACT 1980

5 **Principal Act**

18. The *Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980*⁵ is in this Part referred to as the Principal Act.

Lodging of documents and references to office of Commission

10 **19.** Section 14 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:

15 “(1A) A document that is required by a relevant Act to be given or sent to the Commission shall be delivered or sent to the office of the Corporate Affairs Commission for the Territory and any such document that is delivered or sent to that office shall be deemed to have been given or sent, as the case may be, to the Commission.”.

Indictable offences and summary offences

20. Section 35 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(6) In this section, ‘indictment’ does not include information.”.

20 **PART VII—COMPANIES ACT 1981**

Principal Act

21. The *Companies Act 1981*⁶ is in this Part referred to as the Principal Act.

Interpretation

25 **22.** Section 5 of the Principal Act is amended—

- (a) by adding “or” at the end of paragraph (a) of the definition of “banking corporation” in sub-section (1);
- (b) by omitting paragraph (b) of the definition of “banking corporation” in sub-section (1); and
- 30 (c) by inserting “in right of the Commonwealth, in right of a State or in right of a Territory” after “Crown” in sub-paragraph (a) (iii) of the definition of “foreign company” in sub-section (1).

23. Section 16 of the Principal Act is repealed and the following section substituted:

Privilege

“16. (1) Where—

(a) the Commission, or a person authorized by the Commission, makes a requirement under section 12 or 13 of a duly qualified legal practitioner in respect of a book; and 5

(b) the book contains a privileged communication made by or on behalf of or to the legal practitioner in his capacity as a legal practitioner,

the legal practitioner is entitled to refuse to comply with the requirement unless the person to whom or by or on behalf of whom the communication was made or, if the person is a body corporate that is under official management or in the course of being wound up, the official manager or the liquidator, as the case may be, agrees to the legal practitioner complying with the requirement but, where the legal practitioner so refuses to comply with a requirement, he shall forthwith furnish, in writing, to the Commission or authorized person— 10 15

(c) if he knows the name and address of the person to whom or by or on behalf of whom the communication was made—that name and address; and

(d) sufficient particulars to identify the book, or the part of the book, containing the communication. 20

“(2) Where—

(a) under section 12 or 13, the Commission, or a person authorized by the Commission, requires a duly qualified legal practitioner to make a statement providing an explanation as to any matter relating to the compilation of books or as to any matter to which any books relate; and 25

(b) the legal practitioner is not able to make that statement without disclosing a privileged communication made by or on behalf of or to the legal practitioner in his capacity as a legal practitioner, 30

the legal practitioner is entitled to refuse to comply with the requirement, except to the extent that he is able to comply with the requirement without disclosing any privileged communication referred to in paragraph (b), unless the person to whom or by or on behalf of whom the communication was made or, if the person is a body corporate that is under official management or in the course of being wound up, the official manager or the liquidator, as the case may be, agrees to the legal practitioner complying with the requirement but, where the legal practitioner so refuses to comply with a requirement, he shall forthwith furnish, in writing, to the Commission or authorized person— 35

(c) if he knows the name and address of the person to whom or by or on behalf of whom the communication was made—that name and address; and 40

(d) if the communication was made in writing—sufficient particulars to identify the document containing the communication.

Penalty: \$1,000 or imprisonment for 3 months, or both.”.

Registration of auditors

5 **24.** Section 18 of the Principal Act is amended by omitting from paragraph (3) (a) “or under any provision of a law, or a previous law, of a State or Territory” and substituting “, under a corresponding provision of a previous law of the Territory or under any provision of a law, or a previous law, of a State or of another Territory”.

10 **Registration of liquidators**

15 **25.** Section 20 of the Principal Act is amended by omitting from paragraph (4) (a) “or under any provision of a law, or a previous law, of a State or Territory” and substituting “, under a corresponding provision of a previous law of the Territory or under any provision of a law, or a previous law, of a State or of another Territory”.

Security to be given by liquidators

20 **26.** Section 22 of the Principal Act is amended by omitting from sub-section (3) “Commission” (twice occurring) and substituting “local authority”.

25 **Cancellation or suspension of registration**

27. Section 27 of the Principal Act is amended—

(a) by inserting in sub-paragraphs (4) (a) (iii) and (5) (a) (iii) “, under a corresponding provision of a previous law of the Territory” after “section 562”;

(b) by omitting from sub-paragraph (6) (a) (i) “this”; and

(c) by inserting in sub-paragraph (6) (a) (iii) “, under a corresponding provision of a previous law of the Territory” after “section 562”.

Registers

30 **28.** Section 31 of the Principal Act is amended by inserting in sub-paragraph (2) (a) (ii) “or 26” after “section 25”.

Omission of “Limited” in names of charitable and other companies

29. Section 66 of the Principal Act is amended by omitting sub-section (6).

Certificate authorizing application for transfer of incorporation

35 **30.** Section 83 of the Principal Act is amended by omitting from paragraph (5) (a) “lodged” and substituting “filed”.

Application of this Act to corporations registered under this Division

31. Section 90 of the Principal Act is amended by omitting from sub-section (6) “1980” and substituting “1981”.

Invitations or offers in relation to borrowings by a corporation

32. Section 97 of the Principal Act is amended by omitting from sub-paragraph (5) (b) (ii) “a registered company auditor” and substituting “the registered company auditor who has made the report required to be included in the prospectus by paragraph 98 (1) (e)”.

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Contents of prospectuses

33. Section 98 of the Principal Act is amended—

(a) by omitting paragraph (1) (e) and substituting the following paragraphs:

“(e) shall contain a report by a registered company auditor (to be headed ‘Investigating Accountant’s Report’) containing the prescribed matters and such other matters as the Commission requires;

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(ea) shall set out the prescribed matters and contain the prescribed reports;

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(eb) shall set out such other matters as the Commission requires and contain such other reports as the Commission requires;”;

(b) by omitting from sub-section (3) “paragraph (1) (e)” and substituting “sub-section (1)”;

(c) by inserting after sub-section (3) the following sub-section:

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“(3A) A report contained in a prospectus in accordance with sub-section (1) or in accordance with a requirement made by the Commission under that sub-section shall either—

(a) indicate by way of note any adjustments as respects the figures of any profit or loss or assets and liabilities dealt with by the report that appear necessary to the person or persons making the report; or

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(b) make those adjustments and indicate by way of note that adjustments have been made and the nature of those adjustments.”; and

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(d) by omitting sub-section (4) and substituting the following sub-section:

“(4) Without limiting the generality of sub-section (1), the Commission may require that a report that is required, pursuant to sub-section (1) or pursuant to a requirement made under that sub-section, to be contained in a prospectus shall contain accounts that comply with the requirements set out in the regulations in force for the time being under sub-section 269 (8) or with such of those requirements as are specified by the Commission.”.

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Retention of over-subscriptions in debenture issues

34. Section 102 of the Principal Act is amended by omitting from sub-section (2) “98 (1) (e)” and substituting “98 (1) (ea)”.

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Rights of holders of classes of shares

35. Section 125 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(9) Nothing in section 73 or 76 affects the operation of this section.”.

5 **Rights of holders of shares**

36. Section 126 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(9) Nothing in section 73 or 76 affects the operation of this section.”.

Rights of classes of members

10 37. Section 127 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(8) Nothing in section 73 or 76 affects the operation of this section.”.

Register of options

15 38. Section 131 of the Principal Act is amended by inserting after sub-section (5) the following sub-section:

20 “(5A) A company shall keep, at the place where the register referred to in sub-section (1) is kept, a copy of every instrument by which an option to take up unissued shares in the company is granted and, for the purposes of sub-sections (4) and (5), those copies shall be deemed to be part of the register referred to in sub-section (1).”.

Qualifications of trustee for debenture holders

39. Section 152 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “in those debentures or”; and
- (b) by omitting from sub-section (4) “in any debentures or” and “these”.

25 **Retirement of trustees**

40. Section 153 of the Principal Act is amended by omitting from sub-sections (2) and (3) “in the debentures or”.

Contents of trust deed

41. Section 154 of the Principal Act is amended—

- 30 (a) by omitting paragraph (1) (a) and substituting the following paragraph:
 - “(a) in the Territory, invites the public to subscribe for or purchase debentures or offers debentures to the public for subscription or purchase; or”;
- 35 (b) by omitting from sub-section (1) “, or the debentures do not,” and “or debentures”;

- (c) by omitting from sub-section (2) “, or the debentures to which the trust deed relates do not,” and “or debentures”;
- (d) by omitting from sub-section (5) “neither the debenture nor the trust deed relating to the issue of the debenture expressly contains” and substituting “the trust deed relating to the issue of the debenture does not expressly contain”; and 5
- (e) by omitting from sub-section (6) “neither the debenture nor the trust deed relating to the issue of the debenture expressly contains the covenant” and substituting “the trust deed relating to the issue of the debenture does not expressly contain the covenants”. 10

Obligations of borrowing corporation

42. Section 158 of the Principal Act is amended—

- (a) by omitting from sub-section (18) “within the prescribed time,” and substituting “within the period, or at the date, specified in the sub-section concerned,”; and 15
- (b) by inserting in sub-section (19) “inclusive,” after “(16),”.

Statement to be issued

43. Section 170 of the Principal Act is amended by omitting sub-sections (1), (2) and (3) and substituting the following sub-sections:

“(1) A company or an agent of a company shall not issue to the public, offer to the public for subscription or purchase, or invite the public to subscribe for or purchase, any prescribed interest unless a statement in writing in relation to that prescribed interest has been registered by the Commission under Division 1. 20

“(2) For the purposes of the registration of the statement referred to in sub-section (1), and for all other purposes, the statement shall be deemed to be a prospectus issued by a company. 25

“(3) Subject to sub-sections (4) and (5), all provisions of this Act and rules of law relating to—

- (a) prospectuses; 30
 - (b) the offering or intended offering to the public of shares for subscription or purchase;
 - (c) the inviting or intended inviting of the public to subscribe for or purchase shares; and
 - (d) the issuing or intended issuing of forms of application for shares, 35
- shall, with such adaptations as are necessary, apply and have effect in relation to prescribed interests as if—
- (e) the prescribed interests were shares that were offered or intended to be offered to the public for subscription or purchase or that the public were invited or intended to be invited to subscribe for or purchase; 40

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- (f) persons accepting any offers or making offers pursuant to any invitation in respect of, or subscribing for or purchasing, any such prescribed interests were subscribers for shares;
- (g) the references in paragraph 99 (4) (a) to the corporation were references to the financial or business undertaking or scheme, the common enterprise or the investment contract to which the statement relates;
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- (h) the reference in sub-paragraph 99 (4) (a) (iv) to the directors of the corporation were a reference to the management company for the prescribed interest and the directors of that company; and
- (j) the reference in sub-paragraph 99 (4) (a) (vi) to debentures were a reference to prescribed interests and the reference in that sub-paragraph to the trustee for the debenture holders were a reference to the trustee for, or representative of, the holders of the prescribed interests.”
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Certain charges void against liquidator or official manager

44. Section 205 of the Principal Act is amended—

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- (a) by omitting from paragraph (1) (c) “, 202 or 206” and substituting “or 202”;
- (b) by inserting in paragraph (1) (d) “(other than a notice under section 206)” after “in respect of the charge”;
- (c) by adding at the end of paragraph (2) (b) “or”;
- (d) by omitting from paragraph (2) (c) “; or”;
- (e) by omitting paragraph (2) (d);
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- (f) by inserting after sub-section (2) the following sub-section:

“(2A) Where, after there has been a variation in the terms of a registrable charge on property of a company having the effect of increasing the amount of the debt or increasing the liabilities (whether present or prospective) secured by the charge—

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(a) an order is made, or a resolution is passed, for the winding up of the company; or

(b) an official manager is appointed in respect of the company, the registrable charge is void as a security on that property to the extent that it secures the amount of the increase in that debt or liability unless—

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(c) a notice in respect of the variation was lodged with the Commission under section 206—

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- (i) within the period of 45 days specified in sub-section 206 (2) or that period as extended by the Court under sub-section (3) of this section; or

- (ii) not later than 6 months before the commencement of the winding up or the appointment of the official manager, as the case may be; or
- (d) the period of 45 days specified in sub-section 206 (2), or that period as extended by the Court under sub-section (3) of this section, has not expired at the commencement of the winding up or at the time of the appointment of the official manager and the notice is lodged before the expiration of that period.”; 5
- (g) by inserting in sub-section (3) “, or in respect of a variation in the terms of a charge,” after “charge”; 10
- (h) by inserting in sub-section (5) “or (2A)” after “(1)”; and
- (j) by adding at the end thereof the following sub-section:
 - “(6) The onus of proving that a person purchased property in good faith and without notice of any of the matters referred to in paragraphs (5) (a), (b) and (c) is on the person asserting that the property was so purchased.”. 15

Company to keep documents relating to charges and register of charges

45. Section 209 of the Principal Act is amended by omitting paragraph (2) (b) and substituting the following paragraph:

- “(b) a short description of the liability (whether present or prospective) secured by the charge;” 20

46. Section 212 of the Principal Act is repealed and the following section substituted:

Power of Court to rectify Register, &c.

“212. Where the Court is satisfied— 25

- (a) that a particular with respect to a registrable charge on property of a company has been omitted from, or mis-stated in, the Register or a memorandum referred to in section 207; and
- (b) that the omission or mis-statement—
 - (i) was accidental or due to inadvertence or to some other sufficient cause; or 30
 - (ii) is not of a nature to prejudice the position of creditors or shareholders,

or that on other grounds it is just and equitable to grant relief, the Court may, on the application of the company or any person interested and on such terms and conditions as seem to the Court just and expedient, order that the omission or mis-statement be rectified.”. 35

Notice of address of registered office and office hours

47. Section 217 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section: 40

“(1) On the lodging of the memorandum of a proposed company for registration, there shall be lodged with the Commission notice in the prescribed form of the address of the proposed registered office of the company.”; and

- 5 (b) by omitting from sub-section (3) “of address” and substituting “in the situation”.

Certain persons not to manage corporations

48. Section 227 of the Principal Act is amended by omitting from sub-sections (1) and (2) “act as” and substituting “be”.

10 **Provisions indemnifying officers or auditors**

49. Section 237 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(4) For the purposes of this section, ‘officer’, in relation to a company, means—

- 15 (a) a director, secretary, executive officer or employee of the company;
(b) a receiver, or receiver and manager, of the property or part of the property of the company;
(c) an official manager or deputy official manager of the company;
(d) a liquidator of the company; and
20 (e) a trustee or other person administering a compromise or arrangement made between the company and another person or other persons.”.

Statutory meeting and statutory report

50. Section 239 of the Principal Act is amended by inserting in sub-section (2) “a copy of” after “send”.

25 **Officer or other person failing to comply with requirement of this Part**

51. Section 297 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “or another person” after “corporation” (second occurring); and
(b) by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) Where an inspector gives a certificate under sub-section (1) in relation to an officer of a corporation or another person, the Court may inquire into the case and—

- 35 (a) order the officer or the other person, as the case may be, to comply with the requirement of the inspector within such period as is fixed by the Court; or
(b) if the Court is satisfied that the officer or the other person, as the case may be, failed, without reasonable excuse, to comply with the requirement of the inspector, punish him in like

manner as if he had been guilty of contempt of the Court and, if it sees fit, also make an order pursuant to paragraph (a).

“(3) The powers of the Court under this section may be exercised in relation to an officer or another person notwithstanding that the officer or other person has been convicted of an offence in relation to the matters in respect of which the powers are to be exercised.”.

5

Power to compromise with creditors and members

52. Section 315 of the Principal Act is amended—

- (a) by omitting from paragraph (11) (a) “326 (2) and (3)” and substituting “326 (1A) and (2)”; and
- (b) by omitting sub-section (21) and substituting the following sub-section:

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“(21) The Court shall not approve a compromise or arrangement under this section unless—

- (a) it is satisfied that the compromise or arrangement has not been proposed for the purpose of enabling any person to avoid the operation of any of the provisions of the *Companies (Acquisition of Shares) Act 1980*; or
- (b) there is produced to the Court a statement in writing by the Commission stating that the Commission has no objection to the compromise or arrangement,

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but the Court is not required to approve a compromise or arrangement by reason only that a statement by the Commission stating that the Commission has no objection to the compromise or arrangement has been produced to the Court as mentioned in paragraph (b).”.

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Provisions for facilitating reconstruction and amalgamation of corporations

53. Section 317 of the Principal Act is amended by omitting sub-section (5).

Notification of appointment of receiver

54. Section 326 of the Principal Act is amended—

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- (a) by omitting from sub-section (1) “7” and substituting “14”;
- (b) by inserting after sub-section (1) the following sub-section:

“(1A) A person who has been appointed as a receiver of the property or part of the property of a company or registered foreign company shall, within 14 days after the date of his appointment, lodge with the Commission notice in the prescribed form of the address of his office and, in the event of a change in the situation of his office, shall, within 14 days after the change, lodge with the Commission notice in the prescribed form of the change.”;

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- (c) by omitting from sub-section (2) “under the powers contained in any instrument”;

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- (d) by omitting from sub-section (2) “7” and substituting “14”; and
- (e) by omitting sub-section (3).

Provisions as to information where receiver appointed

55. Section 328 of the Principal Act is amended—

- 5 (a) by omitting paragraph (1) (b) and substituting the following paragraph:

10 “(b) the persons who were, at the date of the receiver’s appointment, the directors and the secretary of the company shall, within 14 days after the company receives the notice referred to in paragraph (a), make out and submit to the receiver a report in the prescribed form as to the affairs of the company as at the date of the receiver’s appointment; and”;

- 10 (b) by omitting from paragraph (1) (c) “statement” (wherever occurring) and substituting “report”;

- 15 (c) by omitting sub-sections (2) and (3) and substituting the following sub-sections:

20 “(2) Where notice has been served on a company under paragraph (1) (a), the persons who were, at the date of the receiver’s appointment, the directors and the secretary of the company may, whether before or after the expiration of the period specified in paragraph (1) (b) for the submission of the report, apply to the receiver or to the Court for an extension of the period within which the report is to be submitted and—

- 25 (a) where application is made to the receiver—if the receiver believes that there are special reasons for so doing, he may, by notice in writing to those persons, extend that period until a specified date; and

- 30 (b) where application is made to the Court—if the Court believes that there are special reasons for so doing, the Court may, by order, extend that period until a specified date.

“ (3) Where, under sub-section (2), the persons who were, at the date of the receiver’s appointment, the directors and the secretary of a company are granted an extension of the period within which a report as to the affairs of the company is to be submitted—

- 35 (a) where the extension is granted by the receiver—the receiver shall forthwith lodge with the Commission a copy of the notice given by him to those persons; or

- 40 (b) where the extension is granted by the Court—the persons to whom an extension is granted shall forthwith lodge with the Commission a copy of the order of the Court.”; and

- (d) by omitting sub-section (6).

56. Section 329 of the Principal Act is repealed and the following section substituted:

Receiver may require reports

“329. (1) A receiver of the property or part of the property of a company may, by notice served personally or by post addressed to the last known address of the person, require one or more persons included in one or more of the following classes of persons to make out as required by the notice, verify by a statement in writing in the prescribed form, and submit to him, a report, containing such information as is specified in the notice as to the affairs of the company or as to such of those affairs as are specified in the notice, as at a date specified in the notice: 5 10

- (a) persons who are or have been officers of the company;
- (b) where the company was formed within one year before the date of the receiver’s appointment—persons who have taken part in the formation of the company; 15
- (c) persons who are in the employment of the company or have been in the employment of the company within one year before the date of the receiver’s appointment and are, in the opinion of the receiver, capable of giving the information required;
- (d) persons who are, or have been within one year before the date of the receiver’s appointment, officers of, or in the employment of, a corporation that is, or within that year was, an officer of the company to the affairs of which the report relates. 20

“(2) The receiver may, in a notice under sub-section (1), specify the information that he requires as to affairs of a company by reference to information required by this Act or the regulations to be included in any other report, statement or notice under this Act. 25

“(3) A person making a report and verifying it as required by sub-section (1) shall, subject to the regulations, be allowed, and shall be paid by the receiver (or his successor) out of his receipts, such costs and expenses incurred in and about the preparation and making of the report and the verification of the report as the receiver (or his successor) considers reasonable. 30

“(4) A person who fails to comply with a requirement made under sub-section (1) is guilty of an offence.

“(5) A reference in this section to the receiver’s successor shall be read as including a reference to a continuing receiver.”. 35

Lodging of accounts of receivers

57. Section 330 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “, subject to sub-section (2),” and “and verified by a statement in writing”; 40
- (b) by omitting sub-section (2); and

(c) by omitting sub-section (6) and substituting the following sub-section:

“(6) A receiver who fails to comply with a requirement made under this section is guilty of an offence.”.

Powers of company to call meeting of creditors to appoint official manager

5 **58.** Section 335 of the Principal Act is amended—

(a) by omitting from sub-section (4) “a statement of the affairs of the company in the prescribed form” and substituting “a report in the prescribed form as to the affairs of the company”;

10 (b) by omitting from sub-section (5) “the statement of the affairs of the company” and substituting “the report prepared in accordance with sub-section (4)”;

(c) by omitting from sub-section (6) “statement” and substituting “report”;

(d) by omitting sub-section (7) and substituting the following sub-section:

15 “(7) A director of a company shall not furnish a certificate under sub-section (5) concerning a report prepared in accordance with sub-section (4) unless he has made such enquiries as are reasonably necessary to determine whether the report does or does not give a true and fair view of the state of affairs of the company as at the date to which it is made up.”;

20 (e) by omitting from paragraph (10) (b) “statement” (wherever occurring) and substituting “report”;

(f) by omitting from sub-section (11) “statement of affairs” and substituting “report”;

25 (g) by omitting from sub-section (11) “statement” (last occurring) and substituting “report”; and

(h) by omitting from sub-section (15) “statement of affairs of the company” and substituting “report”.

30 **Report as to affairs of company to be submitted to meeting of creditors of company**

59. Section 336 of the Principal Act is amended by omitting from paragraph (2) (a) “statement of affairs of the company” and substituting “report”.

Notice of appointment and address of official manager

35 **60.** Section 340 of the Principal Act is amended by omitting from sub-section (1) “situation” (first occurring) and substituting “address”.

Duties of official manager

61. Section 347 of the Principal Act is amended—

(a) by omitting sub-section (5) and substituting the following sub-section:

“(5) The official manager shall lay before the meeting of creditors convened in accordance with sub-section (4) a report in the prescribed form as to the affairs of the company made up to a date that is not more than 30 days before the day for which the meeting is convened.”; and

(b) by omitting from sub-section (11) “statement” and substituting “report”.

Functions of committee of management and appointment of deputy official manager

62. Section 357 of the Principal Act is amended by omitting paragraph (7) (a) and substituting the following paragraphs:

“(a) a reference in any of those provisions to the committee of inspection or to the committee were a reference to the committee of management;

(aa) a reference in any of those provisions to a member of the committee were a reference to a member of the committee of management;”.

Report as to company’s affairs to be submitted to liquidator

63. Section 375 of the Principal Act is amended—

(a) by omitting from sub-section (1) “or secretaries of the company a statement (in this section referred to as a ‘relevant statement’)” and substituting “of the company a report in the prescribed form”;

(b) by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) The liquidator may, by notice in writing served personally or by post addressed to the last known address of the person, require one or more persons included in one or more of the following classes of persons to make out as required by the notice, verify by a statement in writing in the prescribed form, and submit to him, a report, containing such information as is specified in the notice as to the affairs of the company or as to such of those affairs as are specified in the notice, as at a date specified in the notice:

(a) persons who are or have been officers of the company;

(b) where the company was formed within one year before the date of the winding up order—persons who have taken part in the formation of the company;

(c) persons who are in the employment of the company or have been in the employment of the company within one year before the date of the winding up order and are, in the opinion of the liquidator, capable of giving the information required;

- (d) persons who are, or have been within one year before the date of the winding up order, officers of, or in the employment of, a corporation that is, or within that year was, an officer of the company to the affairs of which the report relates;
- (e) a person who was a provisional liquidator of the company.

“(3) The liquidator may, in a notice under sub-section (2), specify the information that he requires as to affairs of the company by reference to information required by this Act or the regulations to be included in any other report, statement or notice under this Act.”;

- (c) by omitting from sub-sections (4), (5) and (6) “relevant statement” and substituting “report”; and
- (d) by omitting from sub-sections (7) and (8) “relevant statement” (wherever occurring) and substituting “report”.

Preliminary report by liquidator

64. Section 376 of the Principal Act is amended by omitting “statement” and substituting “report”.

Delegation to liquidator of certain powers of Court

65. Section 389 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “or regulations” after “rules”;
- (b) by inserting in paragraph (1) (c) “among themselves and the distribution of any surplus among the persons entitled to it” after “contributories”; and
- (c) by omitting sub-section (2) and substituting the following sub-section:
- “(2) Notwithstanding anything contained in rules or regulations made for the purposes of sub-section (1), a liquidator shall not—
- (a) make any call without either the special leave of the Court or the sanction of the committee of inspection; or
- (b) distribute any surplus among the persons entitled to it without the special leave of the Court.”.

Declaration of solvency

66. Section 395 of the Principal Act is amended—

- (a) by omitting sub-section (3) and substituting the following sub-section:
- “(3) A declaration so made has no effect for the purposes of this Act unless—
- (a) the declaration is made at the meeting of directors referred to in sub-section (1);
- (b) the declaration is lodged with the Commission before the date on which the notices of the meeting at which the resolution for the winding up of the company is to be proposed are sent out or

such later date as the Commission, whether before, on or after the first-mentioned date, allows; and

- (c) the resolution for voluntary winding up is passed within the period of 5 weeks after the making of the declaration or within such further period after the making of that declaration as the Commission, whether before or after the expiration of that period of 5 weeks, allows.”; and

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- (b) by omitting sub-section (5) and substituting the following sub-section:

“(5) If the company is wound up pursuant to a resolution for voluntary winding up passed within the period of 5 weeks after the making of the declaration or, if pursuant to paragraph (3) (c) the Commission has allowed a further period after the expiration of that period of 5 weeks, within that further period, but its debts are not paid or provided for in full within the period stated in the declaration, it shall be presumed, unless the contrary is shown, that a director who made the declaration did not have reasonable grounds for his opinion.”.

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Meeting of creditors

67. Section 398 of the Principal Act is amended—

- (a) by omitting paragraph (5) (a) and substituting the following paragraph:

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“(a) cause to be laid before the meeting of creditors a report in the prescribed form, and verified by all the directors, as to the affairs of the company, made up to the latest practicable date before the notices of the meeting were sent; and”;

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- (b) by inserting after sub-section (6) the following sub-section:

“(6A) The directors of the company shall, not later than 7 days after the report referred to in paragraph (5) (a) is laid before the meeting of creditors as mentioned in that paragraph, lodge a copy of the report with the Commission.

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Penalty: \$1,000 or imprisonment for 3 months, or both.”.

Final meeting and dissolution

68. Section 411 of the Principal Act is amended by omitting sub-sections (5) and (6) and substituting the following sub-sections:

“(5) Subject to sub-section (6), on the expiration of the period of 3 months after the lodging of the return with the Commission the company is dissolved.

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“(6) On the application of the liquidator or of any other party who appears to the Court to be interested, the Court may, before the expiration of the period of 3 months referred to in sub-section (5), by order, declare that sub-section (5) is not to apply in relation to the company and specify the date on which the

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company is to be dissolved and, where the Court makes such an order, the company is dissolved on the date specified in the order.”.

Disqualification of liquidators

5 **69.** Section 417 of the Principal Act is amended by omitting from sub-section (5) “14” and substituting “7”.

Notice of appointment and address of liquidator

70. Section 421 of the Principal Act is amended by omitting from sub-section (1) “situation” (first occurring) and substituting “address”.

Unclaimed property to be paid to Minister

10 **71.** Section 427 of the Principal Act is amended by omitting from sub-section (3) “the prescribed certificate of receipt” and “that certificate” and substituting “a receipt” and “that receipt” respectively.

Disclaimer of onerous property

72. Section 454 of the Principal Act is amended—

- 15 (a) by omitting from sub-section (2) “or the committee of inspection” and “or the committee”;
- (b) by omitting from sub-section (4) “or committee of inspection”; and
- (c) by omitting from sub-section (4) “or committee” (second and third occurring).

Application of Act to no liability companies

20 **73.** Section 475 of the Principal Act is amended by omitting “section 378” and substituting “paragraphs 378 (1) (a) and (b), sub-sections 378 (2), (3) and (4)”.

Unregistered foreign company not to establish place of business or carry on business in the Territory

25 **74.** Section 512 of the Principal Act is amended—

- (a) by omitting paragraphs (2) (c) and (d) and substituting the following paragraphs:

30 “(c) a list of its directors or the members of its committee of management, council or other governing body by whatever name called, containing particulars with respect to those directors or members that are equivalent to the particulars that are required by this Act to be contained in the register of the directors, principal executive officers and secretaries of a company incorporated under this Act;

- 35 (d) where the list referred to in paragraph (c) includes directors, or members of a committee of management, council or other governing body, who are—

(i) resident in the Territory; and

- (ii) members of a local board of directors, committee of management, council or other governing body,
a memorandum duly executed by or on behalf of the foreign company stating the powers of those local directors or members;”;
- (b) by omitting from paragraph (2) (e) “(being a memorandum or power of attorney verified by a statement in writing)”;
- (c) by inserting after paragraph (2) (f) the following paragraph:
 - “(fa) notice of the address of its registered office or, if there is no registered office, of its principal place of business, in its place of incorporation or formation;”;
- (d) by omitting from paragraph (2) (g) “situation” and substituting “address”.

Agents

75. Section 514 of the Principal Act is amended by omitting from sub-section (1) “by a statement in writing in the prescribed form,” and substituting “, by a statement in writing in the prescribed form, to be a true copy,”.

Notice to be filed where documents, &c., altered

76. Section 515 of the Principal Act is amended by omitting from paragraph (2) (d) “address” and substituting “situation”.

Publication of name, &c., of foreign company

77. Section 517 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) If an officer of a foreign company, or any person on behalf of the foreign company—

- (a) issues or publishes in the Territory, or authorizes the issue or publication in the Territory, of any business letter, statement of account, order for goods, order for services, official notice or publication of the foreign company that does not comply with the requirements of sub-section (1); or
- (b) signs or issues in the Territory, or authorizes to be signed or issued in the Territory, on behalf of the foreign company any bill of exchange, promissory note, cheque or other negotiable instrument, indorsement on, or order in, a bill of exchange, promissory note, cheque or other negotiable instrument, or any receipt or letter of credit, that does not comply with the requirements of sub-section (1),

he is guilty of an offence.

Penalty: \$1,000.”.

Branch register of shares in foreign company

78. Section 521 of the Principal Act is amended—

- (a) by omitting sub-section (5); and
- (b) by inserting after sub-section (11) the following sub-section:

5 “(11A) If a registered foreign company fails to comply with sub-section (1), (2) or (11), the foreign company, any officer of the foreign company who is in default and any agent of the foreign company who is in default are each guilty of an offence.”.

79. After section 530 of the Principal Act the following section is inserted:

10 **Address of registered office, principal office, &c.**

“530A. Where a provision of this Act requires a notice to be lodged with the Commission of—

- (a) the address of an office of a corporation or person; or
- (b) a change in the situation of an office of a corporation or person,

15 the notice—

- (c) shall specify the full address, or the full new address, as the case requires, of the relevant office including, where applicable, the number of the room and of the floor or level of the building on which the office is situated; and

20 (d) where the notice relates to the address or situation of an office of a corporation and the address specified in accordance with paragraph (a) is the address of premises that are not to be occupied by the corporation—shall be accompanied by the consent, given in the prescribed form, by the person who is the occupier of those premises to
25 the specification of that address in that notice.”.

Power to grant relief

80. Section 535 of the Principal Act is amended by adding at the end thereof the following sub-section:

30 “(5) For the purposes of this section, ‘officer’ in relation to a corporation, means—

- (a) a director, secretary, executive officer or employee of the corporation;
- (b) a receiver, or receiver and manager, of the property or part of the property of the corporation;
- (c) an official manager or deputy official manager of the corporation;
- 35 (d) a liquidator of the corporation; and
- (e) a trustee or other person administering a compromise or arrangement made between the corporation and another person or other persons.”.

Location of registers

81. Section 547 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “, 256 or 521” and substituting “or 256”; and
- (b) by omitting from sub-section (2) “, 262 or 521” and substituting “or 262”.

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Translations of instruments

82. Section 548 of the Principal Act is amended—

- (a) by adding at the end of sub-section (1) “into the English language”; and
- (b) by adding at the end of sub-section (2) “into the English language”.

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Offences by officers of certain companies

83. Section 554 of the Principal Act is amended by inserting in paragraph (1) (d) “or report” after “statement”.

Certain rights not affected

84. Section 558 of the Principal Act is amended by omitting “Nothing” and substituting “Except as provided by sub-section 556 (4), nothing”.

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Court may disqualify person from acting as director, &c., in certain circumstances

85. Section 562 of the Principal Act is amended by omitting sub-section (5) and substituting the following sub-section:

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“(5) In this section, ‘company’ means—

- (a) a corporation; or
- (b) a body referred to in paragraph 469 (1) (b).”.

Regulations

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86. Section 577 of the Principal Act is amended—

- (a) by omitting paragraph (1) (g) and substituting the following paragraphs:

“(g) prescribing the manner in which a liquidator appointed by the Court may—

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- (i) exercise his powers and perform his functions under sub-section 378 (1); and
- (ii) exercise any powers conferred, and perform any duties imposed, on him by regulations made for the purposes of sub-section 389 (1);

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- (ga) prescribing the manner in which a liquidator in a voluntary winding up may exercise his powers and perform his functions under section 408;” and

(b) by inserting after sub-section (1) the following sub-section:

“(1A) Except as otherwise expressly provided in this Act, the regulations may be of general or specially limited application or may differ according to differences in time, locality, place or circumstance.”.

Other amendments

87. The Principal Act is amended as set out in Schedule 3.

PART VIII—COMPANIES (FEES) ACT 1981

Principal Act

88. The *Companies (Fees) Act 1981*⁷ is in this Part referred to as the Principal Act.

Interpretation

89. Section 3 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) The *Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980* applies to this Act.”.

PART IX—COMPANIES (TRANSITIONAL PROVISIONS) ACT 1981

Principal Act

90. The *Companies (Transitional Provisions) Act 1981*⁸ is in this Part referred to as the Principal Act.

Acts of Minister under Companies Ordinance deemed to be acts of Ministerial Council or Commission, &c.

91. Section 13 of the Principal Act is amended—

- (a) by omitting from sub-section (8) “152 (1) (g)” and substituting “152 (1) (h)”;
- (b) by adding at the end of sub-section (14) “and, for the purposes of section 176 of the Act, the notice shall be deemed to have been a notice published in the *Gazette* under sub-section 176 (1)”;
- (c) by inserting after sub-section (15) the following sub-sections:

“(15A) An order made by the Registrar under sub-section 162C (1) of the Ordinance and in force immediately before the commencement of the Act shall be deemed to be an order made by the Commission under sub-section 273 (1) of the Act relieving the directors of the company named in the order from compliance with the requirements

of the Act that correspond with the requirements of the Ordinance specified in the order and shall be deemed—

- (a) where the order required the directors to comply with other requirements relating to the form and content of accounts, group accounts or reports—to have been made on condition that the directors comply with those requirements; and
- (b) where the order made by the Registrar was limited to a specified period—to be limited to the same period.

“(15B) An order made by the Registrar under sub-section 162C (2) of the Ordinance in respect of a specified class of companies and in force immediately before the commencement of the Act shall be deemed to be an order made by the Commission under sub-section 273 (5) of the Act relieving the directors of companies included in the specified class of companies from compliance with the requirements of the Act that correspond with the requirements of the Ordinance specified in the order and shall be deemed—

- (a) where the order required the directors of companies included in the specified class of companies to comply with other requirements relating to the form and content of accounts, group accounts or reports—to have been made on condition that the directors comply with those requirements; and
- (b) where the order made by the Registrar was limited to a specified period—to be limited to the same period.”; and
- (d) by inserting in sub-section (21) “, by instrument in writing published in the *Gazette*,” after “Commission”.

Existing prospectuses and section 82 statements

92. Section 16 of the Principal Act is amended—

- (a) by omitting from sub-section (2) “as a prospectus” (first occurring); and
- (b) by omitting from sub-section (2) “be deemed to be a statement under section 170 of the *Companies Act* 1981 that has been registered as a prospectus under that Act” and substituting “be deemed to be a statement that has been registered under Division 1 of Part IV of the *Companies Act* 1981 as required by sub-section 170(1) of that Act”.

Registration of charges

93. Section 18 of the Principal Act is amended—

- (a) by inserting in sub-section (3) “on property of a company” after “relevant charge”; and
- (b) by omitting sub-section (9) and substituting the following sub-section:
“(9) Notwithstanding the repeals effected by section 4 of the *Companies Act* 1981, the provisions of Division 7 of Part IV of the *Companies Ordinance* 1962 as amended and in force immediately

before the commencement of this Act continue in force as if that Ordinance had not been repealed in relation to—

- (a) any charge created by a company before the commencement of the *Companies Act* 1981; or
- (b) any charge to which property acquired by a company before the commencement of the *Companies Act* 1981 was subject when the property was so acquired,

where—

- (c) the charge was required to be registered under Division 7 of Part IV of the *Companies Ordinance* 1962; and
- (d) if the charge had been created by the company, or the property subject to the charge had been acquired by the company, after the commencement of the *Companies Act* 1981, the charge would not have been required to be registered under Division 9 of Part IV of that Act.”.

Application of Companies Act to financial years ending before commencement of Act

94. Section 20 of the Principal Act is amended—

- (a) by inserting in sub-section (1) “, 273” after “268”; and
- (b) by inserting after sub-section (3) the following sub-section:

“(3A) For the purposes of this section, an order made by the Registrar under sub-section 162C (1) or (2) of the *Companies Ordinance* 1962 in relation to the directors of a company or the directors of companies included in a specified class of companies that is, by sub-section 13 (15A) or (15B) of this Act, deemed to be an order made by the Commission under sub-section 273 (1) or (5), as the case may be, of the *Companies Act* 1981 has the same effect, unless and until the order is revoked under sub-section 273 (8), in relation to accounts, group accounts and reports required, by the provisions of Division 2 of Part VI of the *Companies Act* 1981 as applied by sub-section (1) of this section, to be made out by those directors as the order has, by virtue of sub-section 13 (15A) or (15B), as the case may be, of this Act, in relation to accounts, group accounts and reports required to be made out in accordance with the provisions of that Division.”.

Special investigations

95. Section 22 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “(other than an investigation being carried out by an inspector or inspectors appointed under section 170 of that Ordinance)”; and
- (b) by omitting from paragraph (1) (b) “173 (1)” and substituting “170 (1)”.

Repeal of section 23

96. Section 23 of the Principal Act is repealed.

**PART X—COMPANIES (MISCELLANEOUS AMENDMENTS) ACT
1981**

Principal Act

5

97. The *Companies (Miscellaneous Amendments) Act 1981*⁹ is in this Part referred to as the Principal Act.

Repeal of Part IX

98. Part IX of the Principal Act is repealed.

Schedule

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99. The Schedule to the Principal Act is amended by omitting—

<p><i>“Industrial Research and Development Incentives Act 1976</i></p>	<p>Sub-section 4 (1) (paragraph (a) of definition of ‘eligible company’)</p>	<p>Omit ‘the law of a State or’, substitute ‘a law in force in a State or’ ”.</p>
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PART XI—AMENDMENTS OF OTHER ACTS

Amendments of other Acts

100. The Acts specified in Schedule 4 are amended as set out in that Schedule.

SCHEDULE 1

Section 7

AMENDMENTS OF COMPANIES (ACQUISITION OF SHARES) ACT 1980

Provision amended	Amendment
Sub-section 60 (6)	Omit "not" (last occurring), substitute "no".
Part D of the Schedule, sub-paragraph 1 (a) (i)	Omit "where", substitute "whether". Insert "of" after "acceptance" (first occurring).

SCHEDULE 2

Section 15

AMENDMENTS OF SECURITIES INDUSTRY ACT 1980

Provision amended	Amendment
Sub-section 16 (5)	Omit "power", substitute "powers".
Sub-paragraph 38 (2) (a) (iii)	Omit "in", substitute "on".
Sub-section 73 (6), penalty	Omit "one", substitute "1".

SCHEDULE 3

Section 87

AMENDMENTS OF COMPANIES ACT 1981

Provision amended	Amendment
Sub-section 5 (1), paragraph (d) of definition of "insolvent under administration"	Insert "than" after "other".
Sub-section 15 (3)	Omit "Commissioner or".
Section 50	Omit "provisions", substitute "provision".
Paragraph 158 (1) (b)	Omit "time", substitute "period".
Paragraph 205 (4) (a)	Insert "to" after "referred" (twice occurring).
Sub-section 521 (11)	Omit "14 days of", substitute "14 days after".
Table A of Schedule 3, paragraph 49 (b)	Omit "representative", substitute "representative".

SCHEDULE 4

Section 100

AMENDMENTS OF OTHER ACTS

Act	Provision	Amendments
<i>Aboriginal Councils and Associations Act 1976</i>	Section 62	Insert after paragraph (a) the following paragraph: “(aa) a reference to the Commission shall be read as a reference to the Registrar of Aboriginal Corporations;”.
	Paragraph 67 (d) . . .	Omit “principal place of business”, substitute “registered office”. After section 81, insert the following section: Foreign companies for purposes of Companies Act not to include Aboriginal corporations “81A. Notwithstanding anything in the <i>Companies Act 1981</i> , an Aboriginal corporation shall not be taken to be a foreign company for the purposes of that Act.”.
<i>Airlines Equipment (Loan Guarantee) Act 1981</i>	Sub-section 3 (4) . . .	Omit “ <i>Companies Ordinance 1962</i> of the Australian Capital Territory as amended and in force from time to time”, substitute “ <i>Companies Act 1981</i> ”.
<i>Broadcasting and Television Act 1942</i>	Sub-section 92FAB (4)	Omit “ <i>Companies Ordinance 1962</i> of the Australian Capital Territory as amended and in force for the time being”, substitute “ <i>Companies Act 1981</i> ”.
<i>Federal Proceedings (Costs) Act 1981</i>	Sub-section 14 (2) . . .	Omit “ <i>Companies Ordinance 1962</i> of the Australian Capital Territory”, substitute “ <i>Companies Act 1981</i> ”. Omit “that Ordinance”, substitute “that Act”.
<i>Petroleum Products Pricing Act 1981</i>	Sub-section 4 (3) . . .	Omit “ <i>Companies Ordinance 1962</i> of the Australian Capital Territory as amended and in force from time to time”, substitute “ <i>Companies Act 1981</i> ”.

NOTES

1. No. 173, 1979, as amended. For previous amendments, see No. 1, 1981.
2. No. 64, 1980, as amended. For previous amendments, see Nos. 2 and 94, 1981.
3. No. 66, 1980, as amended. For previous amendments, see Nos. 3 and 96, 1981.
4. No. 67, 1980, as amended. For previous amendments, see No. 97, 1981.
5. No. 68, 1980, as amended. For previous amendments, see Nos. 4 and 98, 1981.
6. No. 89, 1981.
7. No. 90, 1981.
8. No. 91, 1981.
9. No. 92, 1981.

