

Queensland



**CORPORATIONS  
(QUEENSLAND)  
AMENDMENT ACT 1991**

**Act No. 62 of 1991**

Queensland



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## **Corporations (Queensland) Amendment Act 1991**

**Act No. 62 of 1991**

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**An Act to amend the Corporations (Queensland) Act 1990, to repeal the National Companies and Securities Commission (State Provisions) Act 1981 and for other purposes**

*[Assented to 17 October 1991]*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Corporations (Queensland) Amendment Act 1991*.

### Commencement

2. (1) Part 1 and section 17 commence on the date of assent.

(2) Sections 4(1), 5, 14 and 15 are taken to have commenced on 1 January 1991.

(3) The remaining provisions commence on a day to be fixed by proclamation.

## PART 2—AMENDMENT OF THE CORPORATIONS (QUEENSLAND) ACT 1990

### Amended Act

3. The *Corporations (Queensland) Act 1990* is amended as set out in this Part.

### Amendment of s. 3 (Definitions)

4. (1) Section 3(1) (paragraph (e) of definition “**Commonwealth administrative laws**”)—

*omit, insert—*

‘(e) the *Privacy Act 1988* of the Commonwealth;

and the provisions of the regulations in force for the time being under those Acts;’.

(2) Section 3(1)—

*insert—*

- ‘ **“Family Court”** means the Family Court of Australia;
- ‘ **“Federal Court”** means the Federal Court of Australia;
- ‘ **“State Family Court”**, in relation to a State, means a court of that State to which section 41 of the *Family Law Act 1975* of the Commonwealth applies because of a Proclamation made under section 41(2) of that Act;’.

#### **Amendment of s. 30 (Application of Commonwealth laws in relation to offences against applicable provisions of other jurisdictions)**

5. Section 30(1)—

after ‘of the Commonwealth’, *insert* ‘and were not laws of that other jurisdiction’.

#### **Amendment of s. 41 (Interpretation)**

6. (1) Section 41(2)(a)(vii)—

*omit, insert—*

~~(vii)~~ of court made by the Supreme Court of Queensland because of a provision of this Act; and

~~(viii)~~ of court applied by the Federal Court, or the Family Court, because of a provision of this Act; and

~~(ix)~~ of court applied by the Supreme Court of another State, or of the Capital Territory, or a State Family Court of another State, when exercising jurisdiction conferred by this Division (including jurisdiction conferred by virtue of any previous application or applications of this subparagraph);’.

(2) Section 42(3)—

*omit* ‘of Australia’.

**Insertion of new s. 42A**

7. After section 42—

*insert—*

**‘Jurisdiction of Family Court and State Family Courts**

‘**42A. (1)** Jurisdiction is conferred on the Family Court with respect to civil matters arising under the Corporations Law of Queensland.

‘**(2)** Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth, as it applies as a law of Queensland, jurisdiction is conferred on each State Family Court with respect to civil matters arising under the Corporations Law of Queensland.

‘**(3)** The jurisdiction conferred on a State Family Court by subsection (2) is not limited by any limits to which any other jurisdiction of the State Family Court may be subject.’.

**Replacement of s. 43 (Appeals)**

8. Section 43—

*omit, insert—*

**‘Appeals**

‘**43.(1)** An appeal may not be instituted from a decision of a court of Queensland to a court of another State or of the Capital Territory or to the Federal Court or to the Family Court.

‘**(2)** An appeal may not be instituted from a decision of the Federal Court to a court of a State or of the Capital Territory or to the Family Court.

‘**(3)** An appeal may not be instituted from a decision of the Family Court to a court of a State or of the Capital Territory or to the Federal Court.

‘**(4)** An appeal may not be instituted from a decision of the Supreme Court of another State to the Federal Court or to the Family Court or to a court of any State or of the Capital Territory, except to the Full Court of that Supreme Court.

‘(5) An appeal may not be instituted from a decision of a court of the Capital Territory to a court of a State or to the Family Court.

‘(6) An appeal may not be instituted from a decision of a State Family Court of a State to the Federal Court, to a court of the Capital Territory or of another State, or (except in accordance with the law of the State under which the State Family Court is constituted) to the Supreme Court of that State.’.

### **Amendment of s. 44 (Transfer of proceedings)**

9. (1) Section 44 (heading to section)—

*omit, insert* ‘**Transfer of proceedings by the Federal Court and State and Territory Supreme Courts**’.

(2) Section 44(3), (4) and (5)—

*omit.*

### **Insertion of new ss. 44A, 44B, 44C and 44D**

10. After section 44—

*insert—*

### **‘Transfer of proceedings by Family Court and State Family Courts**

‘44A. (1) This section applies to a proceeding with respect to a civil matter arising under the Corporations Law of Queensland in a court (in this section called the “**first court**”) having jurisdiction under section 42A.

‘(2) If it appears to the first court that—

- (a) the proceeding arises out of, or is related to, another proceeding pending in the Federal Court, or in the Supreme Court of a State or of the Capital Territory, and that the court in which the other proceeding is pending is the most appropriate court to determine the first mentioned proceeding; or

(b) having regard to—

- (i) whether, in the first court’s opinion, apart from this Division or a law of another State or the Capital Territory corresponding to this Division, the proceeding, or a



substantial part of it, would have been incapable of being instituted in the first court; and

(ii) the extent to which, in the first court's opinion, the matters for determination in the proceeding are matters not within the first court's jurisdiction apart from this Division or such a law; and

(iii) the interests of justice;

the Federal Court, or the Supreme Court of a State or of the Capital Territory, is the most appropriate court to determine the proceeding; or

(c) it is otherwise in the interests of justice that the Federal Court, or the Supreme Court of a State or of the Capital Territory, determine the proceeding;

the first court must transfer the proceeding to the Federal Court, or to that Supreme Court, as the case may be.

**‘(3)** Subject to subsection (2), if it appears to the first court that—

(a) the proceeding arises out of, or is related to, another proceeding pending in another court having jurisdiction under section 42A in the matters for determination in the first mentioned proceeding, and that the other court is the most appropriate court to determine the first mentioned proceeding; or

(b) it is otherwise in the interests of justice that the proceeding be determined by another court having jurisdiction under section 42A in the matters for determination in the proceeding;

the first court must transfer the proceeding to the other court.

**‘(4)** If—

(a) the first court transfers the proceeding to another court; and

(b) it appears to the first court that—

(i) there is another proceeding pending in the first court that arises out of, or is related to, the first mentioned proceeding; and

- (ii) it is in the interests of justice that the other court also determine the other proceeding;

the first court must also transfer the other proceeding to the other court.

**‘Further matters for a court to consider when deciding whether to transfer a proceeding**

**‘44B.** In deciding whether to transfer under section 44 or 44A a proceeding or application, a court must have regard to—

- (a) the principal place of business of any body corporate concerned in the proceeding or application; and
- (b) the place or places where the events that are the subject of the proceeding or application took place.

**‘Transfer may be made at any stage**

**‘44C.** A court may transfer under section 44 or 44A a proceeding or application—

- (a) on the application of a party made at any stage; or
- (b) of the court’s own motion.

**‘Transfer of documents**

**‘44D.** Where, under section 44 or 44A, a court transfers a proceeding, or an application in a proceeding, to another court—

- (a) the Registrar or other proper officer of the first mentioned court must transmit to the Registrar or other proper officer of the other court all documents filed in the first mentioned court in respect of the proceeding or application, as the case may be; and
- (b) the other court must proceed as if—
  - (i) the proceeding had been originally instituted in the other court; and
  - (ii) the same proceedings had been taken in the other court as were taken in the first mentioned court; and

- (iii) in a case where an application is transferred—the application had been made in the other court.’.

### **Amendment of s. 45 (Conduct of proceedings)**

**11. (1)** Section 45(1)—

*omit ‘and 52’, insert ‘, 52 and 52A’.*

**(2)** Section 45(3) (paragraph (a) of definition “**relevant jurisdiction**”)—  
*omit ‘of Australia’, insert ‘or the Family Court’.*

**(3)** Section 45(3) (paragraph (b) of definition “**relevant jurisdiction**”)—  
*omit, insert—*

‘(b) jurisdiction conferred on the Federal Court or the Family Court with respect to civil matters arising under the Corporations Law of another State or the Capital Territory, being jurisdiction that is being exercised by the Federal Court or the Family Court, as the case may be, sitting in Queensland;’.

**(4)** Section 45(3) (paragraph (d) of definition “**relevant jurisdiction**”)—  
*after ‘Territory’, insert ‘, or a State Family Court,’.*

### **Amendment of s. 50 (Enforcement of judgments etc.)**

**12. (1)** Section 50(1)—

*after ‘Federal Court’, insert ‘, the Family Court’.*

**(2)** Section 50(2)(a)—

*omit ‘or the Supreme Court of Queensland or of another State or of the Capital Territory’,*

*insert ‘, the Family Court, the Supreme Court of Queensland or of another State or of the Capital Territory or a State Family Court’.*

**(3)** Section 50(2)—

*omit ‘or the Supreme Court of Queensland or of the other State or Territory’,*

*insert* ‘, the Family Court, the Supreme Court of Queensland or of the other State or Territory or that State Family Court’.

### **Insertion of new s. 52A**

**13.** After section 52—

*insert*—

#### **‘Rules of the Family Court or State Family Court**

**‘52A. (1)** When the Family Court is exercising jurisdiction with respect to matters arising under the Corporations Law of Queensland, being jurisdiction conferred by this Division, that Court must apply the rules of court made because of section 61A of the Corporations Act, with such alterations as are necessary.

**‘(2)** When a State Family Court of another State is exercising jurisdiction with respect to matters arising under the Corporations Law of Queensland, being jurisdiction conferred by this Division, that Court must apply the rules of court made under the law of the State corresponding to section 61A(1) of the Corporations Act, with such alterations as are necessary.

**‘(3)** In this section—

**“Corporations Law of Queensland”** does not include rules of court.’.

### **Amendment of s. 74 (Application of Commonwealth Crimes Act)**

**14.** Section 74(3)—

*omit, insert*—

**‘(3)** For the purposes of a national scheme law of Queensland—

- (a) an office under Part III of the *Crimes Act 1914* of the Commonwealth as applying because of subsection (1) in relation to an examination or hearing, is taken to be an offence against Part 3 of the ASC Law of Queensland; and
- (b) an offence under Part III of the *Crimes Act 1914* of the Commonwealth as applying, in relation to an examination or hearing held under the ASC Law of another jurisdiction, as a law

of that jurisdiction is taken to be an offence against Part 3 of the ASC Law of that jurisdiction.’.

**Amendment of s. 90 (References to co-operative scheme laws and regulations)**

**15.** Section 90(1) (definition “instrument”)—

*omit, insert—*

‘ **“instrument”** has the same meaning as in section 13, but does not include—

- (a) a co-operative scheme law; or
- (b) regulations under an Act that is such a law, or under this Act; or
- (c) Code regulations; or
- (d) a national scheme law of this jurisdiction, or the Corporations Regulations, or ASC Regulations, of Queensland.’.

**PART 3—ABOLITION OF NATIONAL COMPANIES  
AND SECURITIES COMMISSION**

**Repeal**

**16. (1)** The following Acts are repealed—

*National Companies and Securities Commission (State Provisions) Act 1981;*

*National Companies and Securities Commission (State Provisions) Act Amendment Act 1984;*

*National Companies and Securities Commission (State Provisions) Act Amendment Act 1987.*

**(2)** Part II of the *Companies (Consequential Amendments) Act 1981* is repealed.

**Reports and financial statements****17.** The Minister must cause—

- (a) a copy of each report of the operations of the National Companies and Securities Commission and the financial statements of the National Companies and Securities Commission prepared by the Australian Securities Commission in accordance with section 15(1), (7) or (8) of the *Corporations Legislation Amendment Act 1991* of the Commonwealth; and
- (b) a copy of the report of the Auditor-General for the Commonwealth on those financial statements;

being reports and financial statements copies of which have been submitted to the Minister by the Australian Securities Commission under section 15(3) of that Act, to be laid before the Legislative Assembly within 15 sitting days of the Legislative Assembly after its receipt by the Minister.