



National Companies and Securities Commission Amendment Act 1988

No. 136 of 1988

An Act to amend section 21 of the *National Companies and Securities Commission Act 1979*, and for related purposes

[Assented to 26 December 1988]

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

Short title etc.

1. (1) This Act may be cited as the *National Companies and Securities Commission Amendment Act 1988*.

(2) In this Act, "Principal Act" means the *National Companies and Securities Commission Act 1979*¹.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

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Divisions of Commission

3. (1) Section 21 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsections:

“(1) The Commission may, by resolution, direct that its functions or powers in relation to:

- (a) a matter;
- (b) any matter of a particular kind; or
- (c) a class of matters;

shall be performed or exercised by a Division of the Commission constituted by at least 2 specified members.

“(1AA) Where:

(a) before the commencement of this subsection, the Commission directed that its functions or powers in relation to:

- (i) any matter of a particular kind; or
- (ii) a class of matters;

be performed or exercised by a Division of the Commission; and

(b) the direction was not a valid direction under subsection (1) but would have been such a direction if that subsection, as in force immediately after that commencement, had been in force when the direction was given;

the direction shall be deemed always to have been such a direction, and this section as so in force shall be deemed to have had effect in relation to the direction at all times after it was given and before that commencement.

“(1AB) Where, before the commencement of subsection (1AA), the validity of a direction had been called in question, in proceedings (whenever begun) in a federal court or a court of a State or Territory, on the ground that the direction did not specify a matter, that subsection does not apply in relation to the direction for the purposes of the proceedings unless the court holds that it is just and equitable for the direction to be treated as valid.”;

- (b)** by omitting from subsection (2) all the words from and including “at any time” to and including “to the matter,”;
- (c)** by omitting from subsection (2) “complete the determination of the matter” and substituting “perform functions, and exercise powers, in relation to a matter in relation to which the Division as constituted before the change had begun but not yet completed the performance of functions or the exercise of powers”;
- (d)** by inserting in subsection (4) “, a matter of a kind specified, or a matter in a class specified,” before “in a direction”.

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(2) The amendments made by subsection (1) are for the avoidance of doubt only and shall not be taken to affect by implication the interpretation of section 21 of the Principal Act.

NOTE

1. No. 173, 1979, as amended. For previous amendments, see Nos. 1 and 153, 1981; No. 108, 1983; No. 63, 1984; No. 192, 1985; No. 74, 1986; and Nos. 6 and 141, 1987.

*[Minister's second reading speech made in—
House of Representatives on 24 March 1988
Senate on 21 April 1988]*