



Corporations Amendment Act (No. 1) 2005

No. 138, 2005

**An Act to amend the *Corporations Act 2001*, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
	Schedule 1—Liability of directors of corporate trustees	3
	<i>Corporations Act 2001</i>	3
	Schedule 2—Technical amendments	4
	<i>Corporations Act 2001</i>	4



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An Act to amend the *Corporations Act 2001*, and for related purposes

[Assented to 18 November 2005]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Corporations Amendment Act (No. 1) 2005*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	18 November 2005
2. Schedule 1	The day on which this Act receives the Royal Assent.	18 November 2005
3. Schedule 2	Immediately after the commencement of section 1462 of the <i>Corporations Act 2001</i> .	30 June 2004

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Liability of directors of corporate trustees

Corporations Act 2001

1 Subsection 197(1)

Repeal the subsection, substitute:

- (1) A person who is a director of a corporation when it incurs a liability while acting, or purporting to act, as trustee, is liable to discharge the whole or a part of the liability if the corporation:
- (a) has not discharged, and cannot discharge, the liability or that part of it; and
 - (b) is not entitled to be fully indemnified against the liability out of trust assets solely because of one or more of the following:
 - (i) a breach of trust by the corporation;
 - (ii) the corporation's acting outside the scope of its powers as trustee;
 - (iii) a term of the trust denying, or limiting, the corporation's right to be indemnified against the liability.

The person is liable both individually and jointly with the corporation and anyone else who is liable under this subsection.

Note: The person will not be liable under this subsection merely because there are insufficient trust assets out of which the corporation can be indemnified.

Schedule 2—Technical amendments

Corporations Act 2001

1 After subsection 1462(2)

Insert:

(2A) The following provisions of the old Act continue to apply to an audit of the financial report for a financial year, or an audit or review of the financial report for a half-year in a financial year, if the financial year begins before 1 July 2004:

- (a) subsections 324(1) to (6) (inclusive) (other than paragraphs 324(1)(d) and (2)(d) and (e));
- (b) subsection 324(11);
- (c) subsection 327(4);
- (d) section 331AA (other than paragraphs 331AA(1)(d) and (2)(d) and (e)).

Subsection 331AA(4) of the old Act continues to apply as if the references in that subsection to subsections 324(7), (8), (9), (10) and (16) were omitted.

*[Minister's second reading speech made in—
House of Representatives on 2 June 2005
Senate on 5 September 2005]*

(85/05)