



ANNO TRICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 27 of 1982

An Act to continue the Corporate Affairs Commission; to establish the Companies Auditors and Liquidators Disciplinary Board; and for other purposes.

[Assented to 25 March 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

<u>PART I</u>	PART I PRELIMINARY
Short title.	1. This Act may be cited as the "Companies (Administration) Act, 1982".
Commence- ment.	2. This Act shall come into operation on the day on which the Companies (Application of Laws) Act, 1982, comes into operation.
Arrangement of Act.	3. This Act is arranged as follows: PART I—PRELIMINARY PART II—THE CORPORATE AFFAIRS COMMISSION DIVISION I—THE CORPORATE AFFAIRS COMMISSION DIVISION II—THE COMMISSIONER, DEPUTY COMMISSIONER AND ASSISTANT COMMISSIONER PART III—THE COMPANIES AUDITORS AND LIQUIDATORS DISCIPLINARY BOARD.
Interpretation.	4. In this Act, unless the contrary intention appears— "the Board" means the Companies Auditors and Liquidators Disciplinary Board; "the Commission" means the Corporate Affairs Commission continued under this Act; "member" means a member of the Board and includes the deputy of a member.

PART I

5. (1) The Companies Act, 1962-1981, is amended by repealing sections 8 and 9 and Part XIII.

Repeal of certain provisions of Companies Act, 1962-1981.

(2) The Companies Act, 1962-1981, as amended by this section, may be cited as the "Companies Act, 1962-1982".

PART IIPART II

THE CORPORATE AFFAIRS COMMISSION

DIVISION I—THE CORPORATE AFFAIRS COMMISSION

DIVISION I

6. (1) The Commission, entitled the "Corporate Affairs Commission", established by Part XIII of the Companies Act, 1962-1981, shall continue in existence.

Corporate Affairs Commission.

(2) The Commission—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of suing and being sued;

(c) shall be capable of acquiring, holding, dealing with, and disposing of any interest in real or personal property;

(d) shall be capable of acquiring or incurring any other rights or liabilities;

(e) shall hold its property for and on behalf of the Crown;

and

(f) shall have the powers, authorities, functions and duties conferred, assigned or imposed upon it by or under this or any other Act, or any law of the Commonwealth, a Territory of the Commonwealth or another State.

(3) The Commission shall be constituted of—

(a) the Commissioner;

or

(b) the Deputy Commissioner.

(4) An apparently genuine document purporting to bear the common seal of the Commission shall be presumed in any legal proceedings, in the absence of proof to the contrary, to have been duly executed by the Commission.

7. (1) Except where otherwise provided by this or any other Act, the Commission may, by instrument in writing, delegate all or any of its powers, authorities, functions or duties (except this power of delegation) under this or any other Act to any person and those powers, authorities, functions or duties may be exercised or performed by that person accordingly.

Delegation.

PART II
DIVISION I

(2) The Commission may by instrument in writing revoke or vary any delegation given under subsection (1).

(3) The exercise or performance of any power, authority, function or duty by a delegate pursuant to subsection (1) shall not affect the exercise or performance of that power, authority, function or duty by the Commission.

Accounts.

8. (1) The Commission shall keep proper accounts of all moneys received or disbursed by the Commission.

(2) The Auditor-General may at any time, and shall at least once in each calendar year, audit the accounts of the Commission.

(3) The Auditor-General shall have in relation to the accounts and officers of the Commission the powers that are vested in the Auditor-General by the Audit Act, 1921-1981, in relation to public accounts and accounting officers.

DIVISION II DIVISION II—THE COMMISSIONER, DEPUTY COMMISSIONER AND ASSISTANT COMMISSIONER

Appointment of the Commissioner.

9. (1) There shall be a Commissioner for Corporate Affairs.

(2) The Commissioner shall be appointed, and shall hold office, subject to, and in accordance with, the Public Service Act, 1967-1981.

Deputy Commissioner for Corporate Affairs.

10. (1) There shall be a Deputy Commissioner for Corporate Affairs.

(2) The Deputy Commissioner shall be appointed, and shall hold office, subject to, and in accordance with, the Public Service Act, 1967-1981.

Assistant Commissioner for Corporate Affairs.

11. (1) There shall be an Assistant Commissioner for Corporate Affairs.

(2) The Assistant Commissioner shall be appointed, and shall hold office, subject to, and in accordance with, the Public Service Act, 1967-1981.

Officers of the Commission.

12. (1) There shall be such officers of the Commission as are necessary to enable it to perform its functions and duties and to exercise its powers and authorities.

(2) All such officers shall be appointed, and shall hold office, under the Public Service Act, 1967-1981.

(3) For the purposes of the exercise or discharge by the Commission of its powers, authorities, duties and functions, the Commission may, with the approval of the Minister and of the body or person concerned and on such terms and conditions as may be approved by the Public Service Board, make use of the services of any of the officers, employees or servants of any body or person.

(4) The Commission may, with the approval of the Public Service Board and on such terms and conditions as may be approved by the Board, appoint persons to be officers of the Commission for the purpose of conducting or assisting in the conduct of investigations or inspections under the *Companies (South Australia) Code* or under the *Securities Industry (South Australia) Code*.

(5) A person may be appointed to be an officer of the Commission pursuant to subsection (4) for a term not exceeding three years, and upon the expiration of that term, shall be eligible for reappointment.

(6) An officer referred to in subsection (3) is not (in his capacity as such) an officer within the meaning of the Public Service Act, 1967-1981, but, if the terms and conditions on which he is appointed so provide, any specified provisions of that Act or the regulations under that Act, whether with or without specified modifications, apply to and in respect of him as if he were an employee within the meaning of that Act.

PART III

PART III

THE COMPANIES AUDITORS AND LIQUIDATORS DISCIPLINARY BOARD

13. For the purposes of the *Companies (South Australia) Code* there shall be a Companies Auditors and Liquidators Disciplinary Board, which shall perform the functions and may exercise the powers conferred on it under Division 2 of Part II of that Code.

Companies
Auditors
and
Liquidators
Disciplinary
Board.

14. (1) The Board shall consist of three persons appointed by the Governor of whom—

Membership
of the Board.

(a) one shall be a duly qualified legal practitioner of not less than five years' standing who shall be the chairman of the Board;

(b) one shall be selected from a panel of three names nominated by the State Council of the Institute of Chartered Accountants in Australia;

and

(c) one shall be selected from a panel of three names nominated by the Council of the State Division of the Australian Society of Accountants.

(2) If a Council fails to submit a panel of names in accordance with paragraphs (b) or (c) of subsection (1) within a reasonable time after being requested to do so by the Minister, the Governor may appoint a person of his choice.

(3) The Governor may appoint a person to be the deputy of a member of the Board and that person may, in the absence of the member of whom he has been appointed a deputy, act as a member of the Board.

(4) A person appointed to be the deputy of the Chairman of the Board shall be a duly qualified legal practitioner of not less than five years' standing and shall act as Chairman of the Board in the absence of the Chairman.

(5) No act or proceeding of the Board shall be invalid by reason only of a vacancy in the office of a member, or a defect in the appointment of a member.

(6) A person who immediately before the commencement of this Act, was a member of the Companies Auditors Board constituted under the Companies Act, 1962-1981, shall, from the commencement of this Act, be a member of the Companies Auditors and Liquidators Disciplinary Board and shall be deemed to have been appointed to hold office for the period expiring on the date on which the period for which he was appointed under the Companies Act, 1962-1981, would have expired.

PART III

(7) A person who, immediately before the commencement of this Act, was the deputy of a member of the Companies Auditors Board constituted under the Companies Act, 1962-1981, shall be deemed to be the deputy of that member of the Companies Auditors and Liquidators Disciplinary Board under this Act.

Exercise
of powers
of Board.

15. Any two members of the Board shall have and may exercise all or any of the powers or authorities of the Board.

Term of
office.

16. A member shall hold office for such time not exceeding three years as is fixed by the terms of his appointment and shall be eligible for re-appointment but a member shall cease to hold office—

- (a) if, without leave of the Board, he is absent from three consecutive meetings of the Board;
- (b) if he becomes an insolvent under administration within the meaning of the *Companies (South Australia) Code*;
- (c) if he is convicted of an offence involving fraud or dishonesty punishable on conviction by imprisonment for three months or more;
- (d) if he becomes incapable by reason of mental infirmity of managing his affairs;

or

- (e) if he resigns or dies.

Remuneration.

17. Each member of the Board shall be entitled to such remuneration, allowances and expenses as are prescribed.

Companies
Auditors
Board to
continue in
existence.

18. (1) Notwithstanding the repeal of sections 8 and 9 of the Companies Act, 1962-1981, by this Act, the Companies Auditors Board established by the Companies Act, 1962-1981, continues in existence for such period as is necessary for the Companies Auditors Board to complete any inquiry under section 9 (9) of the Companies Act, 1962-1981, that had been commenced by the Companies Auditors Board but had not been completed before the repeal of sections 8 and 9 of the Companies Act, 1962-1981, and the Companies Auditors Board has, for the purposes of completing such an inquiry, all the powers that it would have had if those sections had not been repealed.

(2) Where, pursuant to subsection (1), the Companies Auditors Board completes an inquiry, the Companies Auditors Board shall not exercise any of the powers mentioned in section 9 (12) of the Companies Act, 1962-1981, but shall furnish to the National Companies and Securities Commission a report on the inquiry.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor