



Corporations Laws Amendment (2014 Measures No. 1) Regulation 2014

Select Legislative Instrument No. 33, 2014

I, Quentin Bryce AC CVO, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the Acts mentioned in section 3.

Dated 13 March 2014

Quentin Bryce
Governor-General

By Her Excellency's Command

Arthur Sinodinos AO
Assistant Treasurer

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1 Name of regulation

This regulation is the *Corporations Laws Amendment (2014 Measures No. 1) Regulation 2014*.

2 Commencement

This regulation commences on the day after it is registered.

3 Authority

This regulation is made under the following Acts:

- (a) the *Australian Securities and Investments Commission Act 2001*;
- (b) the *Competition and Consumer Act 2010*;
- (c) the *Corporations Act 2001*;
- (d) the *Payment Systems and Netting Act 1998*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Water trading exemptions

Australian Securities and Investments Commission Regulations 2001

1 After regulation 2BB

Insert:

2BC Specific things that are not financial products—certain tradeable water rights

- (1) For paragraph 12BAA(8)(p) of the Act, each of the following is not a financial product:
 - (a) tradeable water rights;
 - (b) an arrangement:
 - (i) under which a person (the *seller*) has, or may have, an obligation to sell tradeable water rights at a future date; and
 - (ii) under which another person (the *buyer*) has, or may have, an obligation to buy the tradeable water rights, or replacement water rights, at a future date; and
 - (iii) that does not permit the seller's obligations to be wholly settled by cash, or by set-off between the seller and the buyer, rather than by transfer of ownership of the tradeable water rights or replacement water rights; and
 - (iv) in relation to which neither usual market practice, nor the rules, allow the seller's obligations to be closed out by matching up the arrangement with another arrangement of the same kind under which the seller has offsetting obligations to buy the tradeable water rights or replacement water rights.

- (2) In subregulation (1):

replacement water rights means tradeable water rights that are granted, issued or authorised as a replacement for the seller's tradeable water rights, including as a result of transformation arrangements mentioned in subsection 97(1) of the *Water Act 2007*.

rules means the rules of:

- (a) a licensed market (as defined in section 761A of the Corporations Act); or
- (b) a licensed CS facility (as defined in section 761A of the Corporations Act).

tradeable water rights has the same meaning as in the *Water Act 2007*.

Corporations Regulations 2001

2 Subregulation 7.1.04(8)

Repeal the subregulation, substitute:

- (8) For paragraph 761D(3)(d) of the Act, each of the following is declared not to be a derivative for Chapter 7 of the Act:
 - (a) tradeable water rights;
 - (b) an arrangement:
 - (i) under which a person (the **seller**) has, or may have, an obligation to sell tradeable water rights at a future date; and
 - (ii) under which another person (the **buyer**) has, or may have, an obligation to buy the tradeable water rights, or replacement water rights, at a future date; and
 - (iii) that does not permit the seller's obligations to be wholly settled by cash, or by set-off between the seller and the buyer, rather than by transfer of ownership of the tradeable water rights or replacement water rights; and
 - (iv) in relation to which neither usual market practice, nor the rules, allow the seller's obligations to be closed out by matching up the arrangement with another arrangement of the same kind under which the seller has offsetting obligations to buy the tradeable water rights or replacement water rights.
 - (9) Subregulations (4) to (8) apply whether or not a matter mentioned in those subregulations is described in subsection 761D(1) of the Act.
 - (10) In subregulation (8):

replacement water rights means tradeable water rights that are granted, issued or authorised as a replacement for the seller's tradeable water rights, including as a result of transformation arrangements mentioned in subsection 97(1) of the *Water Act 2007*.

rules means the rules of:

- (a) a licensed market; or
- (b) a licensed CS facility.

tradeable water rights has the same meaning as in the *Water Act 2007*.

Schedule 2—Gas trading exchange

Corporations Regulations 2001

1 Subregulation 1.0.02(1)

Insert:

qualifying gas exchange product means an arrangement for the physical delivery of natural gas or related goods or services, including pipeline capacity.

qualifying gas trading exchange means a facility:

- (a) established by the Australian Energy Market Operator Limited (ACN 072 010 327) exercising its functions under subsection 91BRK(1) of the *National Gas Law* set out in the Schedule to the *National Gas (South Australia) Act 2008* (SA); and
- (b) through which persons may elect to buy and sell natural gas or related goods or services (including pipeline capacity).

2 At the end of subregulation 7.6.01(1)

Add:

- ; (z) a financial service provided by a person in the following circumstances:
 - (i) the person is:
 - (A) the operator of a qualifying gas trading exchange; or
 - (B) a participant in relation to a qualifying gas trading exchange;
 - (ii) the service is provided in relation to a qualifying gas exchange product traded on the qualifying gas trading exchange.

3 At the end of Part 7.10

Add:

7.10.03 Exemption for market participants of qualifying gas trading exchange

For paragraph 1045A(1)(a) of the Act, a person is exempt from Part 7.10 of the Act if the person:

- (a) is a participant in relation to a qualifying gas trading exchange; and
- (b) is engaging in trading activities in relation to qualifying gas exchange products on a qualifying gas trading exchange.

4 At the end of Chapter 9

Add:

9.12.05 Exemption from provisions of Chapter 7—gas trading exchange

- (1) For paragraph 1368(a) of the Act, section 791A of the Act does not have effect in relation to the operator of a qualifying gas trading exchange carrying out its role of operating a market in qualifying gas exchange products on the qualifying gas trading exchange.
- (2) For paragraph 1368(a) of the Act, section 820A of the Act does not have effect in relation to the operator of a qualifying gas trading exchange carrying out its role in relation to clearing and settlement arrangements for qualifying gas exchange products on the qualifying gas trading exchange.

Payments System and Netting Regulations 2001

5 After regulation 3

Insert:

3A Declaration under definition of *market netting contract*

- (1) For paragraph (b) of the definition of *market netting contract* in section 5 of the Act, a gas trading exchange agreement is declared to be a market netting contract for the purposes of the Act.
- (2) In this regulation:

AEMO means Australian Energy Market Operator Limited (ACN 072 010 327).

gas trading exchange means a facility:

- (a) established by AEMO exercising its functions under subsection 91BRK(1) of the *National Gas Law* set out in the Schedule to the *National Gas (South Australia) Act 2008* (SA); and
- (b) through which persons may elect to buy and sell natural gas or related goods or services (including pipeline capacity).

gas trading exchange agreement means an agreement:

- (a) that relates to participation in, and the operation and administration of, a gas trading exchange; and
- (b) to which AEMO, or a person appointed by AEMO to operate the gas trading exchange, and a person who becomes a member of the exchange, are parties.

Schedule 3—Professional standards schemes

Australian Securities and Investment Commission Regulations 2001

1 Regulation 3A (table)

Repeal the table, substitute:

Prescribed professional standards schemes		
Item	Scheme	
1	The New South Wales Bar Association Scheme, published in the New South Wales Government Gazette No. 84, 25 June 2010	
2	The Law Society of New South Wales Scheme, published in the New South Wales Government Gazette No. 78, 27 July 2012	
3	The Law Institute of Victoria Limited Scheme: (a) published in the Victorian Government Gazette No. G 10, 11 March 2010; and (b) amended by instrument published in the Victorian Government Gazette No. S 164, 1 May 2013; and (c) amended by instrument published in the Victorian Government Gazette No. G 36, 5 September 2013	
4	The Victorian Bar Professional Standards Scheme, consisting of: (a) the Victorian Bar Scheme published in the Victorian Government Gazette No. G 17, 24 April 2008; and (b) amended by: (i) instrument published in the Victorian Government Gazette No. G 10, 11 March 2010; and (ii) instrument published in the Victorian Government Gazette No. S 29, 7 February 2012	
5	The Queensland Law Society Scheme, published in the Queensland Government Gazette No. 64, 25 June 2010	
6	The South Australian Bar Association Inc. Scheme, published in the South Australian Government Gazette No. 76, 3 November 2011	
7	The Law Society of South Australia Professional Standards Scheme, published in the South Australian Government Gazette No. 76, 3 November 2011	
8	The Bar Association of Queensland Scheme, published in the Queensland	
8	<i>Corporations Laws Amendment (2014 Measures No. 1) Regulation 2014</i>	<i>No. 33, 2014</i>

Prescribed professional standards schemes

Item	Scheme
	Government Gazette No. 40, 24 June 2013

Competition and Consumer Regulations 2010**2 Subregulation 8A(1)**

Repeal the subregulation, substitute:

For paragraph 137(2)(a) of the Act, a scheme in the following table is prescribed.

Prescribed professional standards schemes

Item	Scheme
1	The ACS Limited Liability (NSW) Scheme, published in the New South Wales Government Gazette No. 51, 18 December 2009
2	The ATMA Scheme, prepared by the Association of Taxation and Management Accountants and published in the Victorian Government Gazette No. S 361 on 29 October 2012
3	The Australian Property Institute Valuers Limited Scheme, published in the New South Wales Government Gazette No. 108, 27 August 2010
4	The Australian Valuers Institute (NSW) Scheme, published in the New South Wales Government Gazette No. 83, 29 June 2007
5	The Bar Association of Queensland Scheme, published in the Queensland Government Gazette No. 40, 24 June 2013
6	The CPA Australia Limited Professional Standards Scheme: <ul style="list-style-type: none"> (a) published in the New South Wales Government Gazette No. 40, 4 October 2013; and (b) amended by instrument published in the New South Wales Government Gazette No. 13, 31 January 2014
7	The Engineers Australia (ACT) Scheme, approved on 17 December 2008
8	The Engineers Australia (NSW) Scheme: <ul style="list-style-type: none"> (a) published in the New South Wales Government Gazette No. 32, 16 February 2007; and (b) amended by instrument published in the New South Wales Government Gazette No. 157, 12 December 2008
9	The Engineers Australia South Australia Scheme, published in the South Australian Government Gazette No. 59, 20 August 2009

Schedule 3 Professional standards schemes

Prescribed professional standards schemes	
Item	Scheme
10	The Engineers Australia Tasmania Scheme, published in the Tasmanian Government Gazette No. 20 929, 1 April 2009
11	The Engineers Australia (Victoria) Scheme, published in the Victorian Government Gazette No. G 47, 19 November 2009
12	The Engineers Australia Western Australia Scheme, published in the Western Australian Government Gazette No. 207, 9 December 2008
13	The Institute of Chartered Accountants in Australia (ACT) Scheme, approved on 7 October 2013
14	The Institute of Chartered Accountants in Australia (NSW) Scheme, published in the New South Wales Government Gazette No. 40, 4 October 2013
15	The Institute of Chartered Accountants in Australia (NT) Scheme, published in the Northern Territory Government Gazette No. S50, 7 October 2013
16	The Institute of Chartered Accountants in Australia (Qld) Scheme, notified by the Queensland Government on 4 October 2013
17	The Institute of Chartered Accountants in Australia (SA) Scheme, published in the South Australian Government Gazette No. 63, 8 October 2013
18	The Institute of Chartered Accountants in Australia (Vic.) Scheme, published in the Victoria Government Gazette No. S 348, 7 October 2013
19	The Institute of Chartered Accountants in Australia (Western Australia) Scheme, published in the Western Australian Government Gazette No. 180, 4 October 2013
20	Engineers Australia Northern Territory Professional Standards Scheme, published in the Northern Territory Government Gazette No. S73, 23 December 2013
21	The Institution of Engineers Australia (Queensland) Scheme, published in the Queensland Government Gazette No. 111, 19 December 2008
22	The College of Investigative and Remedial Consulting Engineers Australia Professional Standards Scheme, published in the New South Wales Government Gazette No. 135, 28 December 2012
23	The Law Institute of Victoria Limited Scheme: (a) published in the Victorian Government Gazette No. G 10, 11 March 2010; and (b) amended by instrument published in the Victorian Government Gazette No. S 164, 1 May 2013; and (c) amended by instrument published in the Victorian Government Gazette No. G 36, 5 September 2013

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Prescribed professional standards schemes	
Item	Scheme
24	The Law Society of NSW (NSW) Scheme, published in the New South Wales Government Gazette No. 1, 10 November 2006
25	The Law Society of South Australia Professional Standards Scheme, published in the South Australian Government Gazette No. 76, 3 November 2011
26	The New South Wales Bar Association Scheme, published in the New South Wales Government Gazette No. 84, 25 June 2010
27	The Professional Surveyors Occupational Association Scheme published in the New South Wales Government Gazette No. 147, 1 November 2013
28	The Queensland Law Society Scheme, published in the Queensland Government Gazette No. 64, 25 June 2010
29	The South Australian Bar Association Inc. Scheme, published in the South Australian Government Gazette No. 76, 3 November 2011
30	The Victorian Bar Professional Standards Scheme, consisting of: <ul style="list-style-type: none"> (a) the Victorian Bar Scheme published in the Victoria Government Gazette No. G 17, 24 April 2008; and (b) amended by instrument published in the Victoria Government Gazette No. G 10, 11 March 2010; and (c) amended by instrument published in the Victorian Government Gazette No. S 29, 7 February 2012

Corporations Regulations 2001

3 Regulation 7.10.02 (table)

Repeal the table, substitute:

Prescribed professional standards schemes	
Item	Scheme
1	The New South Wales Bar Association Scheme, published in the New South Wales Government Gazette No. 84, 25 June 2010
2	The Law Society of New South Wales Scheme, published in the New South Wales Government Gazette No. 78, 27 July 2012
3	The Law Institute of Victoria Limited Scheme: <ul style="list-style-type: none"> (a) published in the Victorian Government Gazette No. G 10, 11 March 2010; and (b) amended by instrument published in the Victorian Government Gazette

Schedule 3 Professional standards schemes

Prescribed professional standards schemes	
Item	Scheme
	No. S 164, 1 May 2013; and
	(c) amended by instrument published in the Victorian Government Gazette No. G 36, 5 September 2013
4	The Victorian Bar Professional Standards Scheme, consisting of: (a) the Victorian Bar Scheme published in the Victorian Government Gazette No. G 17, 24 April 2008; and (b) amended by: (i) instrument published in the Victorian Government Gazette No. G 10, 11 March 2010; and (ii) instrument published in the Victorian Government Gazette No. S 29, 7 February 2012
5	The Queensland Law Society Scheme, published in the Queensland Government Gazette No. 64, 25 June 2010
6	The South Australian Bar Association Inc. Scheme, published in the South Australian Government Gazette No. 76, 3 November 2011
7	The Law Society of South Australia Professional Standards Scheme, published in the South Australian Government Gazette No. 76, 3 November 2011
8	The Bar Association of Queensland Scheme, published in the Queensland Government Gazette No. 40, 24 June 2013