An Act relating to the securities industry in South Australia.

[Assented to 19 March 1981]

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

PART I
PRELIMINARY

1. This Act may be cited as the "Securities Industry (Application of Laws) Act, 1981".

2. This Act shall come into operation on a day to be fixed by proclamation.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—APPLICATION OF LAWS

PART III—TRANSITIONAL PROVISIONS

4. (1) In this Act, unless the contrary intention appears—

"Agreement" means the agreement made on the twenty-second day of December, 1978, between the Commonwealth and the States in relation to a proposed scheme for the co-operative regulation of companies and the securities industry or, if that agreement is or has been amended or affected by another agreement, that agreement as so amended or affected:

"Commission" or "National Commission" means the National Companies and Securities Commission established by the National Companies and Securities Commission Act 1979 of the Commonwealth:
“Ministerial Council” means the Ministerial Council for Companies and Securities established by the Agreement:

“State Commission” means the Corporate Affairs Commission established by the Companies Act, 1962-1980:

“the applied provisions” means the provisions applying by reason of sections 6 and 7 of this Act:


(2) In this Act, a reference to a Commonwealth Act shall be construed as including a reference to that Act as amended and in force for the time being and to an Act passed in substitution for that Act.

PART II

APPLICATION OF LAWS

6. Subject to this Act, the provisions of the Commonwealth Act (other than sections 1, 2 and 3) apply—

(a) as if amended as set out in schedule 1 of this Act;

and

(b) subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981,

as laws of South Australia.

7. Subject to this Act, the provisions of regulations in force for the time being under the Commonwealth Act (other than provisions providing for the citation or commencement of the regulations) apply—

(a) as if amended as set out in schedule 2 of this Act;

and

(b) subject to and in accordance with the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981,

as regulations made under the provisions applying by reason of section 6 of this Act.

8. (1) There shall be paid to the State Commission, for and on behalf of the State, for or in respect of—

(a) the lodgment of documents with the National Commission under the applied provisions;

(b) the registration of documents under the applied provisions or the inspection or search of registers kept by, or documents in the custody of, the National Commission under the applied provisions;

(c) the production by the National Commission, pursuant to a subpoena, of any registers kept by, or documents in the custody of, the National Commission under the applied provisions;

(d) the issuing of documents or copies of documents, the granting of licences, consents or approvals or the doing of other acts or things by the Ministerial Council or the National Commission under the applied provisions;

and

(e) the making of inquiries of, or applications to, the Ministerial Council or the National Commission in relation to matters arising under the applied provisions,

such fees (if any) as are prescribed by regulations in force for the time being under the Securities Industry (Fees) Act 1980 of the Commonwealth and specified in the schedule to those regulations as if amended as set out in schedule 3 of this Act, and as if, unless the contrary intention appears, expressions used had the same respective meanings as in the applied provisions.
(2) Where a fee is payable to the State Commission for and on behalf of the State under subsection (1) of this section for or in respect of the lodgment of a document with the National Commission and the document is submitted for lodgment without payment of the fee, the document shall be deemed not to have been lodged until the fee has been paid.

(3) Where a fee is payable to the State Commission for and on behalf of the State under subsection (1) of this section for or in respect of any matter involving the doing of any act or thing by the Ministerial Council or the National Commission, the Ministerial Council or the National Commission shall not do that act or thing until the fee has been paid.

(4) This section has effect notwithstanding anything contained in the applied provisions.

(5) Nothing in this section prevents the State Commission for and on behalf of the State from—

(a) waiving or reducing in a particular case or classes of cases, fees that would otherwise be payable pursuant to this section;

or

(b) refunding in whole or in part in a particular case or classes of cases, fees paid pursuant to this section.

(6) In this section, unless the contrary intention appears, expressions used have the same respective meanings as in the applied provisions.

9. (1) Where, under the Agreement, the Ministerial Council approves a proposed amendment of regulations in force for the time being under the Commonwealth Act or the Securities Industry (Fees) Act 1980 of the Commonwealth and, upon the expiration of six months after the date on which the Ministerial Council so approved, the amendment has not been made or has been made and is subject to disallowance or has ceased to be in force by disallowance or, for any other reason, the Governor may make regulations in accordance with the proposed amendment approved by the Ministerial Council amending the provisions of regulations applying by reason of section 7 of this Act or the regulations referred to in section 8 of this Act, as the case may be.

(2) Regulations made by the Governor under subsection (1) of this section may amend schedule 2 or 3, as the case may be, of this Act and that schedule as so amended shall be schedule 2 or 3, as the case may be, of this Act.

(3) In this Act—

(a) a reference to provisions of regulations applying by reason of section 7 of this Act includes a reference to provisions as so applying as amended in accordance with this section;

and

(b) a reference to fees prescribed by regulations under the Securities Industry (Fees) Act 1980 of the Commonwealth includes a reference to those regulations as amended in accordance with this section.
10. (1) The Minister may from time to time authorize the publication by the Government Printer of the provisions of the Commonwealth Act (other than sections 1, 2 and 3), amended as set out in schedule 1 of this Act and in operation, or to come into operation, in South Australia.

(2) A document published under subsection (1) of this section—
(a) shall include the headings and sections set out in schedule 4 of this Act;
(b) shall include a notification of the date, or dates, on which the several provisions set out in the document came, or come, into operation in South Australia;
(c) shall include a statement of the date on which the Minister authorized the publication;
and
(d) may be cited as the Securities Industry (South Australia) Code.

(3) A document that is or purports to be a copy of the Securities Industry (South Australia) Code that has been, or purports to have been, published in accordance with this section is prima facie evidence of the provisions of the Commonwealth Act applying by reason of section 6 of this Act as in operation, or to come into operation, in South Australia as notified in the document in accordance with paragraph (b) of subsection (2) of this section.

11. (1) The Minister may from time to time authorize the publication by the Government Printer of the provisions of regulations under the Commonwealth Act (other than provisions providing for the citation or commencement of the regulations) amended as set out in schedule 2 of this Act and in operation, or to come into operation, in South Australia.

(2) A document published under subsection (1) of this section—
(a) shall include the headings and provisions set out in schedule 5 of this Act;
(b) shall include a notification of the date or dates on which the several provisions set out in the document came, or come, into operation in South Australia;
(c) shall include a statement of the date on which the Minister authorized the publication;
and
(d) may be cited as the Securities Industry (South Australia) Regulations.

(3) A document that is or purports to be a copy of the Securities Industry (South Australia) Regulations that has been, or purports to have been, published in accordance with this section is prima facie evidence of the provisions applying by reason of section 7 of this Act as in operation, or to come into operation, in South Australia as notified in the document in accordance with paragraph (b) of subsection (2) of this section.

12. (1) The Minister may from time to time authorize the publication by the Government Printer of the schedule to regulations prescribing fees under the Securities Industry (Fees) Act 1980 of the Commonwealth amended as set out in schedule 3 of this Act and in operation, or to come into operation, in South Australia.
(2) A document published under subsection (1) of this section—

(a) shall include the headings and provisions set out in schedule 6 of this Act;

(b) shall include a notification of the date or dates on which the several provisions set out in the document came, or come, into operation in South Australia;

(c) shall include a statement of the date on which the Minister authorized the publication;

and

(d) may be cited as the Securities Industry (Fees) (South Australia) Regulations.

(3) A document that is or purports to be a copy of the Securities Industry (Fees) (South Australia) Regulations that has been, or purports to have been, published in accordance with this section is prima facie evidence of the provisions of the schedule to regulations referred to in section 8 as in operation, or to come into operation, in South Australia as notified in the document in accordance with paragraph (b) of subsection (2) of this section.

13. (1) The Minister may from time to time authorize the publication by the Government Printer of a document setting out—

(a) provisions that by reason of—

(i) the enactment of an Act of the Commonwealth amending the Commonwealth Act;

and

(ii) the operation of section 6 (including the operation, if applicable, of schedule 1),

apply, or will apply, as laws of South Australia;

(b) provisions that by reason of—

(i) regulations under the Commonwealth Act;

and

(ii) the operation of section 7 (including the operation, if applicable, of schedule 2),

apply, or will apply, as regulations made under the provisions applying by reason of section 6;

or

(c) fees that by reason of—

(i) regulations under the Securities Industry (Fees) Act 1980 of the Commonwealth;

and

(ii) the operation of section 8 (including the operation, if applicable, of schedule 3),

are or will be, payable under that section.

(2) A document published under subsection (1) shall include a notification of the date, or dates, on which the provisions or fees set out in the document came, or come, into operation in South Australia.
14. (1) Unless the contrary intention appears, in this or any other Act or in a regulation or other instrument made under this or any other Act or in any other document made by or under the authority of, or for the purposes of, a law of South Australia—

(a) a reference to the *Securities Industry (South Australia) Code* is a reference to the provisions of the Commonwealth Act applying by reason of section 6 of this Act;

(b) a reference to a provision of that Code is a reference to the corresponding provision of the Commonwealth Act as so applying;

(c) a reference to the *Securities Industry (South Australia) Regulations* is a reference to the provisions of regulations in force under the Commonwealth Act applying by reason of section 7 of this Act;

(d) a reference to a provision of those regulations is a reference to the corresponding provision of the regulations in force under the Commonwealth Act as so applying;

(e) a reference to the *Securities Industry (Fees) (South Australia) Regulations* is a reference to the schedule to regulations prescribing fees under the *Securities Industry (Fees) Act* 1980 of the Commonwealth as referred to in section 8 of this Act; and

(f) a reference to a provision of that schedule is a reference to the corresponding provision of the schedule to regulations in force under that Act as referred to in section 8 of this Act.

(2) In subsection (1) of this section, "provision" includes Part, Division, section, subsection, paragraph, subparagraph, schedule, form, regulation clause, subclause or other division.

15. Where, under the Agreement, the Ministerial Council—

(a) approves—

(i) a proposed amendment of the Commonwealth Act;

(ii) regulations proposed to be made under the Commonwealth Act (whether or not amending other regulations);

(iii) a proposed amendment of the *Securities Industry (Fees) Act* 1980 of the Commonwealth; or

(iv) regulations proposed to be made under that Act (whether or not amending other regulations);

and

(b) approves proposed regulations to be made under this Act in connection with the operation of the proposed amendment or regulations referred to in paragraph (a) of this section, the Governor may make regulations amending schedule 1, 2 or 3 or section 8, as the case may be, of this Act, in accordance with that approval and that schedule or section as so amended shall be schedule 1, 2 or 3 or section 8, as the case may be, of this Act.

(2) The provisions of subsection (1) of this section do not, unless the contrary intention appears—

(a) revive anything not in force or existing at the time at which the exclusion of the provisions of the Securities Industry Act, 1979-1980, and the Companies Act, 1962-1980, takes effect;

(b) affect the previous operation of either of those Acts or anything duly done or suffered under either of those Acts;

(c) affect any right, privilege, obligation or liability acquired or incurred under either of those Acts;

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against either of those Acts;

or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if subsection (1) of this section had not been enacted.

(3) For the purposes of subsection (2)—

(a) the provisions of section 8 of the Securities Industry Act, 1979-1980, and of any regulations prescribing fees for the purposes of that Act;

and

(b) any other provisions of that Act that are necessary for the effectual operation of the provisions mentioned in paragraph (a), continue in force, but it is not a contravention of section 8 (3) of that Act as so continuing in force to divulge or communicate information to the Commission or to a person authorized by the Commission to receive the information.

17. Unless the contrary intention appears in this Act or in the Securities Industry (South Australia) Code—

(a) all persons, things and circumstances appointed or created by or under the Securities Industry Act, 1979-1980, or existing or continuing under that Act immediately before the commencement of this Act shall, under and subject to this Act, the Securities Industry (South Australia) Code and the Companies Act, 1962-1980, continue to have the same status, operation and effect as they respectively would have had if this Act had not been enacted;

PART III

(b) in particular and without affecting the generality of paragraph (a) of this section, this Act does not disturb the continuity of status, operation or effect of any order, rule, regulation, scale of fees, deed, agreement, direction, instrument, document, register, registration, right, priority, liability, duty, obligation, proceeding, matter or thing made, done, effected, given, issued, entered into, accrued, incurred, existing, pending or acquired by or under the Securities Industry Act, 1979-1980, before the commencement of this Act.

18. A reference in an Act or document to a provision of the Securities Industry Act, 1979-1980, shall, unless the contrary intention appears, be construed as a reference to the provision as contained with or without modification in the Securities Industry (South Australia) Code.

19. (1) Where, before the commencement of this Act, a proceeding under the Securities Industry Act, 1979-1980, had been commenced by or against the State Commission, the proceeding may be continued by or against the National Commission.

(2) Where, but for the enactment of this Act, a proceeding under the Securities Industry Act, 1979-1980, could have been commenced by or against the State Commission, the proceeding may be commenced by or against the National Commission.

(3) Where, but for the enactment of this Act, a proceeding could have been commenced in relation to an offence against section 51 of the Securities Industry Act, 1979-1980, the proceeding may, notwithstanding subsection (1) of section 127 of that Act, be commenced by the National Commission or, with the consent of the Ministerial Council, by any other person.

20. Where—

(a) the institution of the particular proceeding under the Securities Industry Act, 1979-1980, was subject to the consent of the Minister; and

(b) the proceeding was not instituted before the commencement of this Act but may be instituted after that commencement by reason of the operation of section 16 of this Act,

the enactment of this Act does not affect the power of the Minister to consent to the institution of the proceeding.

21. (1) Any register, fund, deposit or account kept immediately before the commencement of this Act under any provision of the Securities Industry Act, 1979-1980, shall be deemed to be part of a register, fund, deposit or account kept under the corresponding provision of the Securities Industry (South Australia) Code.

(2) Where, under subsection (1) of this section, a register is to be deemed to form part of a register kept under section 89 of the Securities Industry (South Australia) Code, the register shall, unless notice of change of place at which it is kept is given under section 90 of that Code, be kept at the place at which, under the Securities Industry Act, 1979-1980, it was required to be kept immediately before the commencement of this Act.
(3) A person to whom section 89 of the Securities Industry (South Australia) Code applies at the commencement of this Act who did not, immediately before that commencement, keep a register under Part VII of the Securities Industry Act, 1979-1980, shall—

(a) give the notice referred to in section 90 (2) of that Code within one month after that commencement;

and

(b) give the notice notwithstanding that during that time he has ceased to be a person to whom section 89 of that Code applies.

22. An order made by the Supreme Court under section 12 of the Securities Industry Act, 1979-1980, and in force immediately before the commencement of this Act shall be deemed to be an order made by the Supreme Court under section 14 of the Securities Industry (South Australia) Code.

23. (1) Division 2 of Part II of the Securities Industry (South Australia) Code applies to and in relation to an investigation to which Division II of Part II of the Securities Industry Act, 1979-1980, applied immediately before the commencement of this Act and so applies as if the inspector appointed to carry out the investigation was appointed, and the investigation is being carried out, pursuant to a direction given by the Minister in the exercise of a power under subsection (1) of section 16 of the Securities Industry (South Australia) Code otherwise than in response to a request made by the Commission under subsection (4) of section 16 of that Code.

(2) Where, before the commencement of this Act, an act, matter or thing had been done or had arisen in the course of an investigation to which Division II of Part II of the Securities Industry Act, 1979-1980, applied immediately before that commencement, that act, matter or thing shall have the same status, operation and effect in relation to the completion of the investigation after that commencement as if that act, matter or thing had been done or had arisen after that commencement.

(3) In particular and without affecting the generality of subsection (2) of this section, an order, application, examination, deposition, writ, summons, proceeding, record, note or report made, effected, issued or given in relation to an investigation to which Division II of Part II of the Securities Industry Act, 1979-1980, applied immediately before the commencement of this Act shall have the same status, operation and effect in relation to the investigation after that commencement as if the order, application, examination, deposition, writ, summons, proceeding, record, note or report had been made, effected, issued or given after that commencement.

24. (1) A licence under Part IV of the Securities Industry Act, 1979-1980, and in force immediately before the commencement of this Act continues in force as if it were a licence issued by the National Commission under Part IV of the Securities Industry (South Australia) Code and, where the licence was so granted subject to a condition that the holder of the licence lodges with the State Commission a bond as referred to in section 40 (2) (c) of that Act, a bond so lodged and held by the State Commission immediately before the commencement of this Act shall be deemed to have been approved by the National Commission under section 51 (2) (d') of that Code and to be lodged with the local authority under that section, and that bond is a bond for the purposes of that Code and also continues to be subject to any claim in respect of it as if this Act had not been enacted.
PART III

(2) Where, before the commencement of this Act, a licence under the Securities Industry Act, 1979-1980, was suspended and the period of the suspension had not expired or been removed before that commencement, the licence shall, for the purpose of this Act, be deemed to be a licence issued under the Securities Industry (South Australia) Code and suspended by the National Commission under that Code for a period that, subject to this Act, expires at the time at which, immediately before the commencement of this Act, the first-mentioned suspension would have expired.

25. (1) A person who was the holder of a licence within the meaning of the Securities Industry Act, 1979-1980, shall, in relation to a prescribed year, lodge with the National Commission a statement in such form and containing such information as was prescribed for the purposes of section 44 of that Act by regulations in force under that Act immediately before the commencement of this Act.

(2) The statement referred to in subsection (1) of this section shall be lodged within the period of two months or in the case of a body corporate, three months after the commencement of this Act.

(3) In this section, "prescribed year" means, in relation to a person, the whole or part of a year ending before the commencement of this Act, being a year or part of a year which commenced on the date, or on the anniversary of the date, on which a licence was granted to the person under the Securities Industry Act, 1979-1980, and in respect of which the person did not lodge a statement under section 44 of that Act.

26. (1) A dealer within the meaning of the Securities Industry Act, 1979-1980, who carried on a business of dealing in securities before the commencement of this Act shall, in relation to a prescribed financial year—

(a) prepare a true and fair profit and loss account and balance sheet on the basis of such accounting principles (if any) and containing such information and matters as were prescribed in that regard for the purposes of subsection (2) of section 64 of the Securities Industry Act, 1979-1980, by regulations in force under that Act immediately before the commencement of this Act;

and

(b) lodge the account and balance sheet with the Commission within the period of two months (or, in the case of a body corporate, three months) after the commencement of this Act together with an auditor’s report containing the information and matters prescribed in that regard for the purposes of subsection (2) of section 64 of that Act by regulations in force under that Act immediately before the commencement of this Act.

(2) The Commission may, on application by a dealer and his auditor before the expiration of the period of two months or, as the case requires, the period of three months referred to in subsection (1) of this section or, if that period has been extended pursuant to an approval or approvals previously given under this subsection, before the expiration of the period as so extended, approve an extension or further extension of the period, and such an approval may be given subject to such conditions (if any) as the Commission imposes.

(3) Where an approval under subsection (2) of this section in relation to a dealer is given subject to conditions, the dealer shall comply with those conditions.
(4) In this section, "prescribed financial year" in relation to a dealer means—

(a) where the dealer is not a body corporate—a year ending on the thirtieth day of June before the commencement of this Act;

and

(b) where the dealer is a body corporate—a financial year of the body corporate within the meaning of the Companies Act, 1962-1980, that ended before the commencement of this Act, being a year or financial year during which the dealer carried on business as a dealer and in respect of which he would, but for the enactment of this Act, have been required to lodge a profit and loss account and balance sheet under the Securities Industry Act, 1979-1980, but did not so do before the commencement of this Act.

27. (1) A person who, by reason of section 24 of this Act, is the holder of an Annual fee. licence under the Securities Industry (South Australia) Code shall, in respect of a year commencing before, and expiring after, the commencement of this Act in respect of which, but for the enactment of this Act, he would have been required to pay a prescribed fee under section 43 of the Securities Industry Act, 1979-1980, pay that fee to the State Commission for and on behalf of the State at the time when, or during the period within which, he would, but for the enactment of this Act, have been required to pay that fee.

(2) Where a person pays a fee under subsection (1) of this section in respect of a year, he is not required to pay a fee in respect of the lodgment of a statement under section 56 of the Securities Industry (South Australia) Code in respect of that year.

(3) The State Commission may, in its discretion, extend, or further extend, the time for paying a fee under this section.

28. (1) An order made by the Supreme Court under section 69 of the Securities Industry Act, 1979-1980, and in force immediately before the commencement of this Act shall be deemed to be an order made by the Court under section 83 of the Securities Industry (South Australia) Code.

(2) Nothing in subsection (1) of this section requires a banker to disclose an account to the Commission, or permit the Commission to make a copy of, or take an extract from, an account where the banker has, under section 70 of the Securities Industry Act, 1979-1980, disclosed that account to the State Commission or permitted the State Commission to make a copy of, or take an extract from, that account.

29. (1) A deposit received by a stock exchange under section 81 of the Securities Industry Act, 1979-1980, and held by the stock exchange immediately before the commencement of this Act shall be deemed to have been received by the stock exchange under section 95 of the Securities Industry (South Australia) Code.

(2) Where, under section 83 of the Securities Industry Act, 1979-1980, an amount had been deposited with the Treasurer, that amount is repayable on demand.
30. (1) A stock exchange shall, within one month after the commencement of this Act, cause a balance sheet to be made out as at each prescribed quarter day in relation to the accounts of deposits received by it under Part VIII of the Securities Industry Act, 1979-1980.

(2) A registered company auditor within the meaning of the Companies Act, 1962-1980, appointed by the stock exchange to audit its accounts relating to deposits shall audit the accounts to which each balance sheet under subsection (1) of this section relates and shall cause a report on the accounts and balance sheet to be laid before the committee of the stock exchange not later than one month after the balance sheet is made out.

(3) A stock exchange shall give to the Commission a copy of each report laid before the committee of the stock exchange under this section and of the balance sheet to which the report relates within fourteen days after the report is so laid before the committee.

(4) In this section, “prescribed quarter day” means a quarter day within the meaning of the Securities Industry Act, 1979-1980, occurring before the commencement of this Act and in relation to which the stock exchange was required to give but did not give a report and balance sheet to the State Commission under section 84 of that Act.

31. (1) A stock exchange shall, within one month after the commencement of this Act, cause a balance sheet in respect of the accounts of its fidelity fund to be made out as at each prescribed day.

(2) A registered company auditor within the meaning of the Companies Act, 1962-1980, appointed by the stock exchange to audit the accounts of its fidelity fund shall audit the accounts to which each balance sheet under subsection (1) of this section relates and shall cause a report on the accounts and balance sheet to be laid before the committee of the stock exchange not later than one month after the balance sheet is made out.

(3) A stock exchange shall give to the Commission a copy of each report laid before the committee of the stock exchange under this section and of the balance sheet to which the report relates within fourteen days after the report is so laid before the committee.

(4) In this section, “prescribed day” means any thirtieth day of June occurring before the commencement of this Act and in relation to which the stock exchange was required to give but did not give a report and balance sheet to the State Commission under section 90 of the Securities Industry Act, 1979-1980.

32. (1) Where, immediately before the commencement of this Act, there is an amount in the fidelity fund of a stock exchange kept under Part IX of the Securities Industry Act, 1979-1980, that amount shall form part of the fidelity fund of the stock exchange under Part IX of the Securities Industry (South Australia) Code.

(2) Where the whole or any part of an amount referred to in subsection (1) of this section is, immediately before the commencement of this Act, invested under section 96 of the Securities Industry Act, 1979-1980, the amount, or part, shall be deemed to be invested under section 110 of the Securities Industry (South Australia) Code.
33. An order made by the Supreme Court under section 102 of the Securities Industry Act, 1979-1980, and in force immediately before the commencement of this Act shall be deemed to be an order made by the Court under section 116 of the Securities Industry (South Australia) Code.

34. (1) The provisions of section 136 (1) and (2) of the Securities Industry (South Australia) Code apply to and in relation to a register and an accounting or other record in relation to a business carried on by a person, being a register or record that the person was, before the commencement of this Act, required by section 120 of the Securities Industry Act, 1979-1980, to preserve for a specified period.

(2) Notwithstanding subsection (1) of this section, the provisions of section 136 (1) and (2) of the Securities Industry (South Australia) Code do not apply to or in relation to a contract note or copy of a contract note received or issued by a dealer who, at the time of the receipt or issue, was a member of a stock exchange if the matters referred to in subsection (2) of section 51 of the Securities Industry Act, 1979-1980, in relation to the contract note were recorded—

(a) by the stock exchange;

or

(b) subject to such conditions, if any, as the State Commission may have imposed, by the dealer,

in a manner approved by the State Commission and the record of those matters is retained for not less than five years.

(3) Notwithstanding subsection (1) of this section, the provisions of section 136 (1) and (2) of the Securities Industry (South Australia) Code do not apply in relation to an accounting record where the last day of the accounting period to which the record relates occurred at least five years before the commencement of this Act.

35. The provisions of sections 125, 126, 127 and 131 of the Securities Industry Act, 1979-1980, apply to and in respect of a contravention of or failure to comply with the provisions of sections 21, 25, 26, 27, 30 or 31 of this Act as if a reference in those first-mentioned sections to the Securities Industry Act, 1979-1980, were a reference to sections 21, 25, 26, 27, 30 or 31 of this Act.

36. (1) Where any difficulty arises in the application to a particular matter of any of the provisions of the Securities Industry (South Australia) Code or the Securities Industry Act, 1979-1980, by reason of the operation of this Part, the Court may on the application of an interested person, make such order as it thinks proper to resolve the difficulty.

(2) An order made under subsection (1) of this section has effect notwithstanding anything contained in the Securities Industry (South Australia) Code, the Securities Industry Act, 1979-1980, or this Act.

(3) In subsection (1) of this section “Court” means the Supreme Court or a judge of the Supreme Court.

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

K. D. SEAMAN, Governor
SCHEDULE 1

The provisions of the Commonwealth Act apply as if—

1. Unless inconsistent with another provision of this Schedule—

(a) for the expression "Companies Ordinance, 1962" in the Commonwealth Act (wherever occurring) there were substituted the words "Companies Act, 1962-1980";

(b) for the words "the Territory" in the Commonwealth Act (wherever occurring) there were substituted the words "South Australia";

(c) for the words "law of a State or of another Territory" in the Commonwealth Act (wherever occurring) there were substituted the words "law of a State other than South Australia or of a Territory";

(d) for the words "this Act" in the Commonwealth Act (wherever occurring except where occurring in conjunction with the words "commencement of") there were substituted the words "this Code";

and

(e) for the words "commencement of this Act" in the Commonwealth Act (wherever occurring) there were substituted the expression "commencement of the Securities Industry (Application of Laws) Act, 1981".

2. (1) In subsection (1) of section 4 of the Commonwealth Act—

(a) after the definition of "banker’s books" there were inserted the following definition:—

"Banking Act 1959" means the Banking Act 1959 of the Commonwealth as amended and in force for the time being;;

(b) after the definition of "banking corporation" there were inserted the following definition:—

"Bankruptcy Act 1966" means the Bankruptcy Act 1966 of the Commonwealth as amended and in force for the time being;;

(c) after the definition of "committee" there were inserted the following definition:—

"Commonwealth Minister" means the Minister of State for the Commonwealth for the time being administering the Securities Industry Act 1980 of the Commonwealth as amended and in force for the time being;;

(d) in the definition of "exempt dealer"—

(i) the word "or" at the end of paragraph (c) were repealed;

and

(ii) after paragraph (d) there were inserted the following word and paragraph:—

or

(e) a person who, as Public Trustee, carries on a business of dealing in securities by reason of his powers under the Administration and Probate Act, 1919-1980;;

(e) after the definition of "licensee" there were inserted the following definition:—

"Life Insurance Act 1945" means the Life Insurance Act 1945 of the Commonwealth as amended and in force for the time being;;

(f) after the definition of "member firm" there were inserted the following definitions:—

"Minister" means the Minister of State for South Australia for the time being administering the Securities Industry (Application of Laws) Act, 1981;

"National Companies and Securities Commission Act 1979" means the National Companies and Securities Commission Act 1979 of the Commonwealth as amended and in force for the time being;;

(g) after the definition of "registered company auditor" there were inserted the following definition:—

"regulations" means the provisions applying as regulations made under this Code by reason of section 7 of the Securities Industry (Application of Laws) Act, 1981;;

(h) after the definition of "securities" there were inserted the following definition:—

"Securities Industry (South Australia) Code" or "Code" means the provisions applying by reason of section 6 of the Securities Industry (Application of Laws) Act, 1981;;

(i) for the definition of "stock exchange" there were substituted the following definition:—

"stock exchange" means the Stock Exchange of Adelaide Limited or any other body corporate that is approved by the Ministerial Council under section 38;;

and

(j) for the definition of "trust account" there were substituted the following definition:—

"trust account" means a trust account opened and maintained under section 73 of this Code, or under section 59 of the Securities Industry Act, 1979-1980, or under a corresponding previous enactment;;

(2) In subsection (7) of section 4 of the Commonwealth Act for the words "that Ordinance" there were substituted the words "that Act".

3. In section 8 (1a) of the Commonwealth Act—

(a) for the purpose of the performance of a function or the exercise of a power by the Commission under a Code that is a relevant Code for the purposes of the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981; or;
for subparagraph (i) of paragraph (b) there were substituted the following subparagraph:—
(i) a contravention of, or failure to comply with, a provision of a relevant Code referred to in paragraph (a);
or.
4. In subsection (1) of section 9 of the Commonwealth Act for the words "Australian Federal Police" there were substituted the words "police force of South Australia".
5. In section 12 (3A) (d) and (e) of the Commonwealth Act for the expression "Act 1980" there were substituted the words "(South Australia) Code".
6. For paragraph (a) of the definition of "relevant authority" in section 15 (1) of the Commonwealth Act there were substituted the following paragraphs:—
(a) in the case of a direction given by the Commonwealth Minister other than a direction that has been approved by the Ministerial Council under subsection 16 (6)—the Commonwealth Minister;
or
(aa) in the case of a direction given by the Minister other than a direction that has been approved by the Ministerial Council under subsection 16 (6)—the Minister; or.
7. In section 16 of the Commonwealth Act—
(a) in subsection (2) for the words "the Minister" (twice occurring) there were substituted the words "the Commonwealth Minister";
and
(b) in subsections (4) and (6) for the words "the Minister" there were substituted the words "the Minister or the Commonwealth Minister".
8. In subsections (6) and (8) of section 17 of the Commonwealth Act after the word "Gazette" there were inserted the words "and Government Gazette".
9. Subsection (2) of section 19 of the Commonwealth Act were repealed.
10. Section 20 of the Commonwealth Act were repealed.
11. In section 30 of the Commonwealth Act—
(a) in subsection (4) for the word "Commonwealth" there were substituted the word "State";
and
(b) for paragraph (b) of subsection (5) there were substituted the following paragraph:—
(b) the Ministerial Council or the Minister, as the case may be, receives—
(i) a certificate of the Attorney-General stating that the publication of the report would be prejudicial to the administration of justice in the State;
(ii) a certificate of the Attorney-General of the Commonwealth stating that the publication of the report would be prejudicial to the administration of justice in a Territory (not being the Northern Territory) specified in the certificate;
or
(iii) a certificate of the Attorney-General of another State or of the Northern Territory stating that the publication of the report would be prejudicial to the administration of justice in that State or Territory.
12. After subsection (9) of section 30 of the Commonwealth Act there were inserted the following subsection:—
(10) Nothing in this section operates to diminish the protection afforded to witnesses by the Evidence Act, 1929-1979.
13. In subsection (1) of sections 43 and 45 of the Commonwealth Act and in sections 44 and 46 of the Commonwealth Act for the words "After the expiration of 3 months after the date of commencement of this Act, a person" there were substituted the words "A person".
14. For subsection (10) of section 51 of the Commonwealth Act there were substituted the following subsection:—
(10) In this section, "local authority" means the Corporate Affairs Commission of South Australia.
15. After subsection (6) of section 54 of the Commonwealth Act there were inserted the following subsection:—
(7) The particulars that, immediately before the commencement of the Securities Industry (Application of Laws) Act, 1981, were in, or were deemed to form part of, the register kept under section 41 of the Securities Industry Act, 1979-1980, shall be deemed to form part of the Register of Licence Holders.
16. For subsection (5) of section 60 of the Commonwealth Act there were substituted the following subsection:—
(5) A person disqualified or deemed to be disqualified, either permanently or for a period, from holding a licence—
(a) by reason of an order of the Court under section 47 of the Securities Industry Act, 1979-1980;
(b) under the corresponding law of a State other than South Australia or of a Territory by reason of an order of a court under that corresponding law or by reason of the operation of a provision of that corresponding law, shall, while he is so disqualified or deemed to be disqualified, be deemed to be disqualified from holding a licence under this Code.

17. In paragraph (c) of subsection (2), paragraph (c) of subsection (3) and subsection (6) of section 75 of the Commonwealth Act for the words "this Act" there were substituted the words "this Code or Part III of the Securities Industry (Application of Laws) Act, 1981".

18. The present contents of section 101 of the Commonwealth Act were designated as subsection (1) and the following subsection were inserted in that section:—

(2) The Minister may exempt a stock exchange from compliance with subsection (1)(a) if he is satisfied that the stock exchange has entered into a contract in a form approved by the Minister with an insurer approved by the Minister under which the insurer undertakes to supplement the fund in the event of a claim being made on the fund so that the total amount available to satisfy the claim will be not less than one hundred thousand dollars.

19. In section 107 of the Commonwealth Act—

(a) for the symbol and figures "$2,000,000" in subsection (1) there were substituted the symbol and figures "$1,000,000";

(b) after the word "fund" in subsection (1)(a) (ii) there were inserted the words "(whether under this Part or Part IX of the Securities Industry Act, 1979-1980)";

(c) for the symbol and figures "$1,000,000" in subsection (4) there were substituted the symbol and figures "$500,000".

and

(d) there were added at the end thereof the following subsections:—

(6) Subject to subsections (1) and (4) the Governor in Council—

(a) may by Order in Council prescribe amounts for the purposes of those subsections;

and

(b) may, by like Order, vary or revoke any Order made under this subsection.

(7) The power of the Governor in Council to make, vary or revoke an Order under subsection (6) shall be exercised only in accordance with advice that is consistent with resolutions of the Ministerial Council.

(8) For the purposes of this section regulations made for the purposes of sections 93 (1) and (4) of the Securities Industry Act, 1979-1980, and in force immediately prior to the commencement of the Securities Industry (Application of Laws) Act, 1981—

(a) shall with all necessary adaptations be given effect to as though the provisions thereof were contained in an Order in Council made under subsection (6);

and

(b) shall continue to be given such effect until an Order in Council is made under that subsection.

20. In paragraph (a) of subsection (2) of section 112 of the Commonwealth Act for the words "this Act" there were substituted the words "Part IX of the Securities Industry Act, 1979-1980".

21. In subsection (1) of section 114 of the Commonwealth Act—

(a) for the words "any State or other Territory" there were substituted the words "any State other than South Australia or in any Territory";

and

(b) for the words "that State or other Territory" there were substituted the words "that other State or Territory".

22. After subsection (2) of section 120 of the Commonwealth Act there were inserted the following subsection:—

(3) For the purposes of this section, the amount in a fidelity fund of a stock exchange shall be deemed to include the amount of any indemnity to which the stock exchange is entitled under a contract of insurance in respect of claims under this Part against the fund.

23. In section 145 of the Commonwealth Act for the words "a State or in another Territory" there were substituted the words "a State other than South Australia or in a Territory".

24. Section 150 of the Commonwealth Act were repealed.

25. Section 151 of the Commonwealth Act were repealed and the following section was inserted in its place:—

152. (1) The Governor in Council—

(a) may by Order in Council exempt a member of a stock exchange from compliance with all or any of the provisions of sections 73 and 74 subject to such terms and conditions as are specified in the Order;

and

(b) may, by like Order, vary or revoke any Order made under this subsection.
(2) A reference in this Code, other than in section 73 and 74, to a trust account shall, unless the contrary intention appears in an Order in Council made under subsection (1), be construed as extending to a trust account required to be maintained by the terms or conditions of such an Order.

(3) A person who contravenes or fails to comply with a term or condition of an Order in Council made under subsection (1) that is applicable to him is guilty of an offence.
Penalty: $5 000 or imprisonment for one year, or both.

(4) A person who, with intent to defraud, contravenes or fails to comply with a term or condition of an Order in Council made under subsection (1) that is applicable to him is guilty of an offence.
Penalty: $10 000 or imprisonment for two years, or both.

(5) The power of the Governor in Council to make, vary or revoke an Order under subsection (1) shall be exercised only in accordance with advice that is consistent with resolutions of the Ministerial Council.

SCHEDULE 2

The provisions of regulations in force for the time being under the Commonwealth Act apply as if in those regulations—

1. For the words "the Act" (wherever occurring) there were substituted the words "the Code".

2. For the expression "Securities Industry Act 1980" (wherever occurring) there were substituted the expression "Securities Industry (South Australia) Code".

3. For the expression "Companies Ordinance 1962" (wherever occurring) there were substituted the expression "Companies Act, 1962-1980".

4. For the words "Supreme Court of the Australian Capital Territory" (wherever occurring) there were substituted the words "Supreme Court of South Australia".

5. For the words "the Territory" (wherever occurring) there were substituted the words "South Australia".

SCHEDULE 3

The provisions of regulations in force for the time being under the Securities Industry (Fees) Act 1980 of the Commonwealth apply as if in those regulations—

1. For the words "the Act" (wherever occurring) there were substituted the words "the Securities Industry (South Australia) Code".

SCHEDULE 4

The following headings and sections shall be included in the publication of the provisions of the Commonwealth Act under section 10 of this Act:

SEcurities Industry (South Australia) Code
Relating to the Securities Industry in South Australia

PART I
PRELIMINARY

1. This Code may be cited as the Securities Industry (South Australia) Code.

2. This Code comes into operation on the day on which the Securities Industry (Application of Laws) Act, 1981, comes into operation.

3. This Code shall be read and construed together with the agreement made on the twenty-second day of December, 1978, between the Commonwealth and the States in relation to a proposed scheme for the co-operative regulation of companies and the securities industry or, if that agreement is or has been amended or affected by another agreement, that agreement as so amended or affected and has effect subject to and in accordance with—
   (a) the Securities Industry (Application of Laws) Act, 1981; and
   (b) the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981.

SCHEDULE 5

The following headings and provisions shall be included in the publication under section 11 of this Act of the provisions of regulations in force for the time being under the Commonwealth Act:

SEcurities Industry (South Australia) Regulations

1. (1) These regulations may be cited as the Securities Industry (South Australia) Regulations.

(2) These regulations shall come into operation on the day on which the Securities Industry (Application of Laws) Act, 1981, comes into operation.
Section 12.

The following headings and provisions shall be included in the publication under section 12 of this Act of the schedule to regulations in force for the time being prescribing fees under the Securities Industry (Fees) Act 1980 of the Commonwealth:

SECURITIES INDUSTRY (FEES) (SOUTH AUSTRALIA) REGULATIONS

1. These regulations may be cited as the Securities Industry (Fees) (South Australia) Regulations.

2. These regulations shall come into operation on the day on which the Securities Industry (Application of Laws) Act, 1981, comes into operation.

3. These regulations have effect subject to and in accordance with—
   (a) the Securities Industry (Application of Laws) Act, 1981;
   and
   (b) the Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Act, 1981.

4. The fees payable for the purposes of section 8 of the Securities Industry (Application of Laws) Act, 1981, are the fees specified in the schedule in relation to the respective matters so specified.

SCHEDULE

FEES