Close Corporations Bill 1988

Date Introduced: 25 May 1988
House: House of Representatives
Presented by: Hon. Lionel Bowen, MP, Attorney-General

Digest of Bill

Purpose
To provide a new simplified corporate structure for small business.

Background

Main Provisions

(a) Formation

A close corporation may be formed by an individual or not more than ten natural persons (Clause 16). The corporation is formed after the lodgement of a founding statement which contains basic information similar to a memorandum of association (Clause 19), together with an activities statement (Clause 25). The shares in a close corporation must be fully paid up (Clause 17), and a close corporation cannot act as a trustee (Clause 46) or a holding company (Clause 50). In addition, a close corporation is prohibited from offering its shares to the public (Clause 51).

(b) Internal Administration

Memorandum and articles of association will not be required. But the members of a close corporation may enter into a non-registrable, written association...
agreement (Clause 67). Under the association agreement, the members can
determine for themselves the relationship between them and how the corporation
is to be managed. Thus the formal distinction between shareholder and director
need not apply.

(c) Liability of Members

Limited liability will be maintained (Clauses 70 and 106). Each member of a
close corporation is an agent for the purposes of any business of the
corporation (Clause 85), however members of a close corporation may be
personally liable for debts in a number of circumstances, for example, if the
corporation has failed to comply with the accounts provisions (Clause 108).

(d) Accounting Records

A close corporation will be under a duty to keep such accounting records as
correctly record and explain the transactions of the corporation and its
financial position (Clause 82). But it will not be necessary for the
corporation to lodge its accounts. It must simply provide an annual
certificate of compliance (Clause 83). It must also file an annual activities
statement (Clause 84).

For further information, if required, contact the Law and Government Group.

18 July 1988

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be
consulted to determine the subsequent official status of the Bill.

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