COMPANIES AND SECURITIES LEGISLATION
(MISCELLANEOUS AMENDMENTS) BILL 1981

Date Introduced: 10 September, 1981
House: House of Representatives
Presented by: Hon. John Moore, M.P.,
Minister for Business and Consumer Affairs

Short Digest of Bill

Purpose

To make amendments to the laws which were passed to establish a national scheme for the regulation of companies and the security industry.

Background

The scheme for a national system of company law and a national securities industry is a co-operative one consisting of a Ministerial Council, a National Companies and Securities Commission, administration by existing State and Territory corporate affairs offices, and the adoption by each jurisdiction of the same legislative provisions.

Three legislative codes within the scheme framework have been operating throughout Australia since 1 July this year. These are:

- the Interpretation code
- the Share Acquisition code
- the Securities Industry code

The Companies code consisting of legislation passed by the Commonwealth Parliament in May this year is expected to come into operation on 1 January 1982 once all the State Parliaments have passed laws adopting the provisions of the Commonwealth legislation.

The purpose of the present Bill is to make changes to the legislation which comprises the various codes. The main changes are made to the Companies Code. This Code will then be adopted by the various state legislatures. Some consequential amendments have been made to other pieces of
Main Provisions

The Bill makes amendments to the following Acts:

National Companies and Securities Commission Act 1979
Companies (Acquisition of Shares) Act 1980
Securities Industry Act 1980
Securities Industry (Fees) Act 1980
Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980
Companies Act 1981
Companies (Fees) Act 1981
Companies (Transitional Provisions) Act 1981
Companies (Miscellaneous Amendments) Act 1981

There are also several other Commonwealth Acts set out in Schedule 4 which receive some very minor amendments.

The majority of amendments in the Bill are to the Companies Act 1981. The amendments to the various scheme Acts consist of editorial changes, minor amendments and refinements to existing provisions. There are no changes which could be considered as altering the policy behind the substantive laws.

Some examples of the amendments proposed by the Bill are as follows:

Clause 4

This clause amends the National Companies and Securities Commission Act 1979. It will facilitate the more efficient operation of the scheme by providing a more practical means for the Commission to delegate its powers and functions.
Clause 6

This clause amends the Companies (Acquisition of Shares) Act 1980. Its purpose is to remove a drafting ambiguity in the requirements of Part A Statements, issued in the course of a takeover.

Clause 9

This clause amends the Securities Industry Act 1980. The provision adds a further disclosure requirement where a legal practitioner refuses to produce a book on the grounds of privilege. Clause 23 makes a similar change to the Companies Act 1981.

Clause 33

This clause makes a practical change to the provision in the Companies Act 1981 which enables regulations to be made detailing the required contents of prospectuses. The power is made a general one, not tied to specific classes of prospectuses or shares.

Clauses 35-37

These clauses which amend the Companies Act 1981 are an example of provisions in the Bill which attempt to remove uncertainties caused by sometimes conflicting requirements in the Principal Acts.

Clause 52

This clause amends the Companies Act 1981 and is an example of a provision which attempts to reconcile the operation of two different codes within the scheme. The amendment eases the restriction of a Court not being able to approve a compromise or arrangement if the Court considers it was proposed as a means of avoiding the Share Acquisition Code. The amendment remedies an inflexibility between the two codes.

Part X

This Part amends the Companies (Miscellaneous Amendments) Act 1981 by removing references to a Commonwealth Act, the Industrial Research and Development Incentives Act 1976, which has since been repealed.

Schedules 1-3

These schedules correct typographical errors.
Schedule 4

This schedule makes minor alterations to a number of Commonwealth Acts for the purpose of updating references, chiefly in relation to the "Companies Act 1981".

For further information, if required, contact:

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