COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS PROVISIONS) BILL 1980

Date Introduced: 2 April 1980
House: House of Representatives
Presented by: Hon. R.V. Garland, Minister for Business and Consumer Affairs

Short Digest of Bill

Purpose

To assist the interpretation of all the Commonwealth legislation under the proposed co-operative companies and securities law.

Background

See Background in the digest of the Companies (Acquisition of Shares) Bill 1980.

Provisions

The Bill is divided into 5 Parts.

Part I - Preliminary (clauses 1-5)

Clause 2 provides that the Act shall come into operation on the Proclamation of the Companies (Acquisition of Shares) Act 1980. Clause 3 specifies the relevant Acts to which the Bill will apply, namely this Bill, the National Companies and Securities Commission Act 1979, the Companies (Acquisition of Shares) Act 1980, the Companies (Acquisition of Shares - Fees) Act 1980, any Act that contains a relevant application provision and any Act amending this Bill or any of the Acts referred to above. Clause 4 provides that the interpretation of the above Acts will be governed by A.C.T. laws governing the interpretation of Ordinances except where there is an express provision in a relevant Act, the matter is covered in Parts II and IV of this Bill or it comes within one of the sections of the Acts Interpretation Act specified in sub-clause 4(2).

Part II - Interpretation (clauses 6-33)

Part II of the Bill contains 5 Divisions: Division 1 - General (clauses 6-8), Division 2 - Words and References (clauses 9-20), Division 3 - Powers and Duties (clauses 21-24), Division 4 - Distance and Time (clauses 25-27) and
Division 5 - Effect of Repeal, Amendment or Expiration (clauses 28-33).

Many of the clauses are based on the Commonwealth Acts Interpretation Act. For example, every section has effect as a substantive enactment (clause 6), the method of citation (clause 8), a reference to a Minister (clause 12), service by post (clause 15), gender and number (clause 16), the exercise of powers and duties (clause 21), power to appoint includes power to remove or suspend (clause 23), the reckoning of time (clause 26), repealed provisions to remain in force until substituted provisions operate (clause 30) and the expiration of Acts (clause 32).

Other provisions relate more specifically to the co-operative scheme. Clause 9 sets out a series of definitions. Clause 11 provides that a reference in a relevant Act to a corresponding law of a particular State or Territory shall be construed as a reference to the provisions of the relevant Act as applied as part of the law of that State or Territory in accordance with the Formal Agreement. Clause 14 relates to the lodging of documents and provides that a document required to be lodged with the NCSC must be lodged with the A.C.T. Corporate Affairs Office and a document so lodged is deemed to have been lodged with the NCSC. The application legislation of each of the States will require documents and applications relating to the administration of the scheme in a particular jurisdiction to be handed to the local registering authority in that jurisdiction.

Part III - Offences and Penalties (clauses 34-38)

Clause 34 requires criminal proceedings under a relevant Act to be commenced within 5 years (or a later time with the consent of the Ministerial Council). Clause 35 deals with indictable and summary offences, clause 37 with double jeopardy and clause 38 aiding and abetting. Clause 36 provides that, unless a contrary opinion appears, proceedings may only be instituted by the NCSC, a delegate of the NCSC, a person authorized by a delegate of the NCSC, or a person authorized by Ministerial Council.

Part IV - Offences under National Companies and Securities Commission Act (clause 39)

Clause 39 provides that a penalty at the foot of a section or sub-section of the NCSC Act indicates that a contravention of the section or sub-section is an offence punishable on conviction by an amount not exceeding the penalty specified.
Part V - Instruments and Other Relevant Acts (clause 40)

The Bill will apply to all instruments (including regulations, rules and by-laws) provided for in a relevant Act.

17 April 1980

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