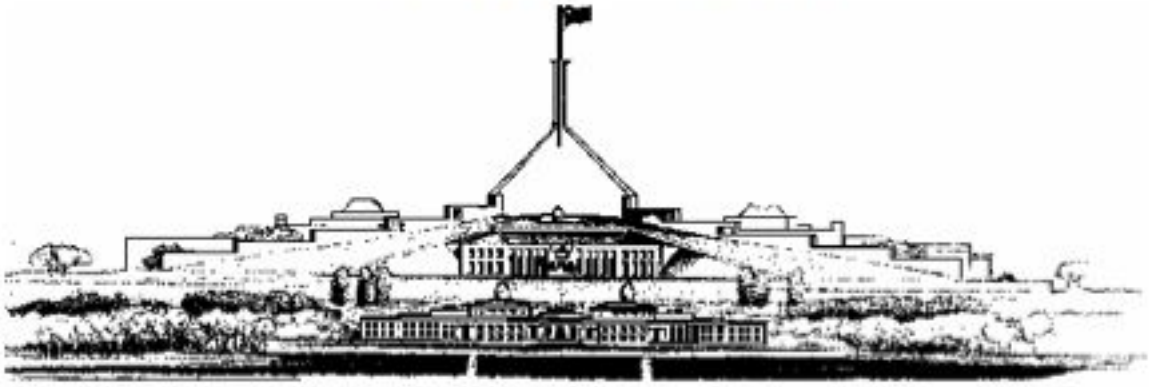
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



# HOUSE OF REPRESENTATIVES

# BILLS

# Corporations Legislation Amendment (Deregulatory and Other Measures) Bill 2014

# Second Reading

# SPEECH

**Wednesday, 22 October 2014**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

# SPEECH

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| **Questioner** | | **Responder** | |
| **Speaker** | McCormack, Michael, MP | **Question No.** | |

**Mr McCORMACK** (Riverina—Parliamentary Secretary to the Minister for Finance) (16:37): I move:

That this bill be now read a second time.

Today, I introduce a bill that will streamline and repeal provisions in the Corporations Act 2001 and the Australian Securities and Investments Commission Act 2001 to improve the operation of Australian businesses and government processes.

I am proud to introduce this bill today, on this the lead-up to the second repeal day and the introduction of legislation thereof, as it reinforces the government's commitment to reducing regulation on business. I cannot emphasise strongly enough how excessive and unnecessary regulation reduces productivity and investment, stifles job creation, creates uncertainty and damages investor confidence.

This bill reflects the paradigm shift that is currently underway in Australia's approach to regulation. Rather than introducing new standards, new rules and new compliance burdens as the default option, the government is taking the opportunity to identify regulation that can be done better, regulation that business has told us can be improved, regulation that can help Australian businesses provide the goods and services that the Australian people need.

This bill represents the whole-of-government approach to deregulation and a significant change in the culture of regulating businesses.

All of the amendments contained in the bill that I am introducing today have been carefully assessed to ensure that they are the most efficient way to regulate business, and that the benefits clearly outweigh the costs on business.

The amendments contained in this bill are collectively estimated to reduce business compliance costs by around $14 million per year.

Schedule 1 to this bill makes a number of amendments to the Corporations Act 2001 to reduce the costs and improve the efficiency of businesses operating in Australia.

Firstly, it seeks to strike a better balance between the interests of minority shareholders and shareholders as a whole.

Currently, directors of a company must arrange a general meeting, paid for by the company, at the request of shareholders with a total of five per cent of voting shares or 100 shareholders with voting rights.

In large corporations, 100 shareholders may represent a very small percentage of total shareholders. For large listed companies in particular, this often works out to be less than one per cent. Historically, resolutions proposed by 100 members have generally not come close to achieving the 50 per cent support needed for a successful vote at a general meeting.

The bill removes the ability for 100 shareholders with voting rights to call a general meeting. It is unacceptable that business and shareholders must continue to foot the bill for these general meetings.

The bill retains the right for shareholders with five per cent of voting rights to require a general meeting be called, ensuring that decisions of directors about the company remain subject to scrutiny.

Importantly, the bill does not alter the rights of 100 shareholders to put forward resolutions for the agenda of a general meeting or to circulate material to other shareholders. In this way, small shareholders can continue to have their voices heard but in a way that does not impose an unreasonable cost on the company or other shareholders.

Secondly, the bill improves the disclosure of executive remuneration information in Australia by ensuring that companies are only required to provide information that shareholders need, and by recognising that unlisted companies should not have to prepare a remuneration report.

Users of remuneration reports have indicated to government that the reports contained some information that was of limited or no use to shareholders or duplicated information found elsewhere in the annual report. This imposes costs on business for no benefit.

Currently, disclosing entities that are companies must provide information on the value and number of options that have lapsed in the current year, as well as the percentage value of remuneration that consists of options for all key management personnel.

Users of remuneration reports have indicated that information on the value of lapsed options is of limited use to shareholders. Information on the proportion of remuneration comprising of options can be deduced from information contained elsewhere in the company reports. Accordingly, these disclosures are not needed.

The bill removes the requirement for the remuneration report to include this information and will instead include the number of options granted to key management personnel that lapse during the financial year, and the year in which these options were granted.

Further, all disclosing entities that are companies are currently required to prepare a remuneration report, regardless of whether they are listed or unlisted.

The remuneration report is simply not relevant for unlisted disclosing entities. Unlike listed entities, they are not required to have their remuneration report adopted by shareholders through a non-binding resolution and are not subject to the 'two-strikes' test that allows shareholders concerned with executive remuneration to vote to 'spill' the board under certain circumstances.

Accordingly, this bill relieves unlisted disclosing entities from having to prepare a remuneration report.

Thirdly, the bill clarifies when entities, including companies, can change their year-end dates.

In 2010, amendments were made that were intended to make it easier for directors to change financial year-end dates. However, these amendments led to confusion about the situations in which this flexibility could be used.

The bill will put beyond doubt the conditions under which directors can determine that a financial year is to be shorter than 12 months by more than seven days.

Finally, schedule 1 to the bill removes the requirement for certain companies limited by guarantee to appoint an auditor.

Currently, all public companies are required to appoint an auditor even if they are not required to conduct a full audit of their financial reports.

This unnecessarily imposes a cost on business.

This change is expected to predominately benefit companies with a not-for-profit focus, including sports and recreation related organisations, community service organisations, education-related institutions and religious organisations. It will ensure that these organisations can focus on providing services for the community, rather than wasting money on needless red tape.

Schedule 2 to this bill amends the Australian Securities and Investments Commission Act 2001to improve the efficiency of government processes, reflecting the government's commitment to seeking opportunities to improve efficiencies in all spheres.

It firstly improves the efficiency of the operation of the Takeovers Panel.

The Takeovers Panel is the primary forum for resolving disputes about a takeover bid until the bid period has ended.

The current application provisions of the ASIC Act can be interpreted to mean that the Takeovers Panel can only operate if members are physically located in Australia.

Panel members typically hold senior roles in banks, law firms and significant corporations, and may be required to travel to fulfil their professional obligations. As a result, panel members may be prevented from performing panel functions whilst they are outside of Australia, potentially reducing the efficiency with which applications to the panel can be dealt with.

The bill will allow panel members to perform panel functions while in Australia as well as overseas. However, it will not alter the substantive powers of the panel.

Making government bodies operate more efficiently will assist business and, in this case, facilitate the speedy resolution of disputes.

Schedule 2 of the bill also extends the remuneration setting responsibility of the Remuneration Tribunal.

Currently the Assistant Treasurer, as the responsible minister for these provisions, must determine the remuneration, terms and conditions of the chairs and members of the Financial Reporting Council, and the chairs of the Australian Accounting Standards Board and the Auditing and Assurance Standards Board.

The remuneration, terms and conditions of the members of the standards setting boards are currently determined by the Financial Reporting Council.

The Remuneration Tribunal, however, is an independent, specialist body responsible for the remuneration setting of other public offices.

The bill extends the remuneration-setting responsibility of the Remuneration Tribunal to include the Financial Reporting Council, the Australian Accounting Standards Board and the Auditing and Assurance Standards Board. This ensures that the relevant remuneration, terms and conditions are consistent across government and that less taxpayer-funded time is spent on inefficient government processes.

In conclusion, this is an important package of amendments, with benefits that will be felt right across the community.

The amendments contained in this bill are collectively estimated to reduce business compliance costs by around $14 million per year.

There was extensive public and targeted consultation on the measures contained in this bill to ensure that we got these amendments right.

This bill received strong support when released for consultation.

Full details of these measures are contained in the explanatory memorandum.

Finally, I can inform the House that the Legislation and Governance Forum for Corporations was consulted in relation to the amendments and has approved them as required under the Corporations Agreement.

Debate adjourned.