

APPENDIX 2

Treasury's answers to written questions on notice

Question:

1. The committee would appreciate the Treasury commenting on provisions that were in the Exposure Draft of this bill, which would amend the definitions and mechanics of paying dividends. These provisions were omitted from the final bill, as was noted by some submitters to the inquiry:
 - The Australian Shareholders' Association (ASA) commented that its submission to the Exposure Draft process '...advised that ASA had no objections to the proposed changes to the definitions and mechanics of paying dividends. These have been deleted from the bill under consideration. The business and investment community would be interested in the reasons for this change'. (*Submission 2*, p. 1).
 - The Law Council also noted this omission, and submitted that reform of dividend law should be undertaken, as '...effective reform of Australia's highly unsatisfactory dividend law would have made a much greater contribution to efficient regulation and removal of red tape than any of the other reforms that have survived into the present bill'. (*Submission 11*, p. 1).

Answer:

Some stakeholders raised significant concerns that the proposed amendments to the test for the payment of dividends would not reduce the regulatory burden on businesses.

The provisions were omitted from the final bill to give the Government more time to consider alternative approaches which will balance the need for certainty and simplicity for business, protections for investors and the implications for the tax treatment of dividends.

Question:

2. The committee would appreciate the Treasury commenting on the following concerns raised by the Australian Charities and Not-for-Profits Commission (*Submission 7*, p. 2):
 - In order to fully achieve the policy intent of the proposed changes for Charitable CLGs, the ACNC recommends that an additional exemption be provided in sections 327A(1A) and 327B(1A) to account for CLGs that are (or will become) registered charities, and would or do fall within the definition of 'small' or 'medium' registered entity under the ACNC Act.

For example, the proposed section 327B(1A) could be amended to include two additional categories:

- (c) the company is a 'small registered entity' under the ACNC Act; or

(d) the company is a 'medium registered entity' under the ACNC Act.

This would ensure that Charitable CLGs benefit from the same red tape reduction as non-charitable CLGs.

Answer:

The additional exemption proposed by the ACNC does not seem to be inconsistent with the policy intent of the bill, however any amendment to the bill is a matter for the Government.

As the committee would be aware, prior to the 2013 election the Government made a commitment to abolish the ACNC. On 19 March 2014 the Government introduced the first of two bills to repeal the ACNC (the Australian Charities and Not-for-profits Commission (Repeal) (No.1) Bill 2014).

In July 2014 the Department of Social Services undertook a public consultation process on the proposed replacement arrangements for the ACNC. The Government is considering the results of that feedback.