



17 November, 2010
File: ER2007/00800

Ms Julie Dennett
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs

Dear Ms Dennett

CORPORATIONS AMENDMENT (SONS OF GWALIA) BILL 2010

I refer to my conversation today with Mr Owen Griffiths in relation to Treasury's submissions to the Senate Standing Committee on Legal and Constitutional Affairs inquiry into the Corporations Amendment (Sons of Gwalia) Bill 2010.

The Bill is listed for debate in the House of Representatives in week five of the current sittings.

Mr Griffiths has requested that Treasury advise on the effect of removing "a person" from section 563A, as reflected in the Bill that is currently before the committee.

Treasury agrees with the interpretation given to paragraph 563A(2)(b) by the Law Council of Australia when it suggests that the inclusion of 'a person' could refer to a claim by a person against a company arising from someone else dealing in shares.

If 'a person' was removed from paragraph 563A(2)(b), given paragraph 563A(2)(a) refers to claims made in relation to debts owed to members in the person's capacity as a member of the company, a Court would likely interpret paragraph 563A(2)(b) as referring only to claims by members in relation to shares in a company and not claims brought by another person in relation to a members' interest in shares.

As noted in our submission dated 12 November 2010, Treasury does not oppose the removal of 'a person' from paragraph 563A(2)(b).

Yours sincerely

Timothy Beale
Manager
Governance and Insolvency Unit