The purpose of the Bill: To provide Australia with a national companies law which will make provision for uniformity and the capacity to meet changing circumstances in the area of company law.

Summary: The Bill is a lengthy one which consists of 14 Parts comprising 590 clauses and 9 Schedules. The Bill is divided into Parts as follows:

- Part I: Preliminary (cl. 1–15)
- Part II: Administration (cl. 16–21)
- Part III: Constitution of Companies (Div. 1–5; cl. 22–62)
- Part IV: Administration of Companies (div. 1–5; cl. 63–106)
- Part V: Membership (Div. 1–3; cl. 107–137)
- Part VI: Disclosure (Div. 1–5; cl. 138–159)
- Part VII: Company Finance (Div. 1–12; cl. 160–266)
- Part VIII: Arrangements and Reconstructions (cl. 267–276)
- Part IX: Official Management (cl. 277–302)
- Part X: Winding Up (Div. 1–15; cl. 303–473)
- Part XI: Foreign Corporations (Div. 1–4.; cl. 474–501)
- Part XII: Unclaimed Moneys (Div. 1–3; cl. 502–509)
- Part XIII: Transitional (cl. 510–529)
- Part XIV: Offences (Div 1–4; cl. 530–548)
- Part XV: Miscellaneous. (Div. 1–3; cl. 549–590).

Part II of the Bill would provide that the Corporations and Exchange Commission, (for which provision has been made already in the Corporations and Securities Industry Bill, 1976) would have the responsibility for administering the proposed legislation.

Clause 22 of the Bill would provide for those companies that may be formed under the proposed legislation. Most companies in Australia will be covered by the proposals.

**Warning:**
This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments. This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.
Clause 25 would provide for the formation of companies by a person or several persons.

Clause 26 would provide that proprietary companies would be covered by the Bill.

Clause 27 and 28 would provide a new manner of formation of a company and for the registration and incorporation of a company respectively. Provision is made for a single document for a company, namely the company’s rules.

Clause 32 with respect to the capacity and powers of companies would provide that a new company would have in the furtherance of its objects all the powers of a natural person.

Division 1 of Part IV of the Bill would provide for restrictions on commencement of business.

Clause 65 of the Bill would provide for a prescribed minimum paid up capital to be held by a company before it could commence carrying on business.

Clause 74 would provide that a person is not capable of being a company director unless inter alia the person is a natural person.

Clauses 84, 85, 86, 87, 88, 89 provide with particularity for standards of integrity and care with which directors are required to comply.

Clause 91 would provide that companies have a social responsibility with respect to

(a) the interests of employees and former employees

(b) the interests of the public, and in particular, the interests of persons dealing with the company; and

(c) the effect of the acts of the company on the environment.

Clause 92 would provide that the approval of a company is required for disposal of the company’s business or property.

Part VI of the Bill with respect to disclosure is directed to proprietary companies which are subject to the accounting requirements set out.

Part X deals with proposed winding up provisions which correspond with provisions in the Bankruptcy Act.

Implications: The provisions of the Bill would operate nationally. The Bill would remove frustration of the business community in having to comply with 8 different pieces of legislation — one in each State as well as in the Australian Capital Territory and Northern Territory. State boundaries would become largely irrelevant with respect to the formation and operation of companies. The Commonwealth would be utilizing to the full its constitutional powers with respect to company law.

The Bill would provide not only for the incorporation of companies but also for their structural and internal management on a national scale.

The Bill would be complimentary to the provisions of the Corporations and Securities Industry Bill 1976, which would provide for the external conduct of public companies affecting the interests of the investing public.
The Bill would implement recommendations of the Rae Committee with respect to the necessity for uniformity in company legislation and the need to have a national investigating power with respect of companies. The present distinction between a company’s memorandum of association and its articles of association would be abolished. Proprietary companies, which are outside the scope of the corporations and securities Industry Bill, would be subject to the provisions of the Bill. The requirement for prescribed minimum paid up capital would help prevent company financial difficulties and failures.

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