

Summary of the Parliamentary Amendments to the Corporations (Aboriginal and Torres Strait Islander) Bill 2005

The Parliamentary Amendments introduce new provisions into the Corporations (Aboriginal and Torres Strait Islander) Bill 2005 (CATSI Bill) dealing with transfer and amalgamation of corporations. The amendments also make some changes to the CATSI Bill, some resulting from the issues identified since introduction, including responses to feedback provided by a range of stakeholders.

A number of the amendments extend the ability of the Registrar to exempt a CATSI corporation and its directors, or a class of corporations and its directors, from particular provisions of the CATSI Bill dealing with internal governance and provides more flexibility for consideration of a corporation's particular circumstances.

A summary of the significant parliamentary amendments follows:

- Commencement date of the CATSI Bill will be changed from 1 July 2006 to 1 July 2007.
- New processes will allow existing bodies corporate to transfer to, and from, the CATSI regime and provide for the administrative amalgamation of CATSI corporations. The Corporations Act arrangements and reconstructions provisions will also be applied to CATSI corporations.
- The requirement that each member of a CATSI corporation must be at least 15 years of age will only apply to natural persons not members that are a body corporate.
- An error in the provisions dealing with the categories of small, medium and large corporations will be corrected so that all corporations can be appropriately classified.
- Existing list of replaceable rules will be replaced with a list of internal governance rules, which will include the replaceable rules and other provisions that deal with internal governance to assist with readability of the internal governance framework.
- Provisions dealing with the register of members and the register of former members will be improved, such as making it clear that the register of members and the register of former members may be contained in one document.
- A number of additional provisions will be made subject to possible exemption which allows flexibility for consideration of a corporations particular circumstances. Appropriate discretions will also be made reviewable by the AAT.
- The requirement for individual written notice of general meetings to members, directors, observers and others will be relaxed to take the burden off corporations.
- Unless a CATSI corporation's constitution provides otherwise, a non-member or a non-Indigenous person may not be appointed as a director of a CATSI corporation.

- A CATSI director of a registered native title body corporate will not have a material personal interest in respect of the business judgment rule simply because that person is a common native title law holder. A person may also be considered an expert in relation to questions of traditional law and custom for reasonable reliance on expert advice. Finally another amendment will clarify that member approval is not needed to give a financial benefit if the benefit is given to the related party to comply with a Native Title legislation obligation.

These are all designed to ensure that there are no conflicting obligations that arise between duties under the Native Title Act and the CATSI legislation.

- A CATSI corporation that is required to prepare a financial report, a directors' report and an auditor's report is only required to provide these reports to a member on request to reduce potential administrative burden on corporations.
- The Registrar will have greater control over access to personal information contained in documents or registers that are otherwise publicly available to allow for some information to be excluded from publication, for example member details of family violence prevention or supported accommodation services.
- The Registrar will be able to authorise the examination of the books of a related body corporate of a CATSI corporation and to require the production of books of a related body corporate or connected entity of a CATSI corporation. This is consistent with similar powers of the Australian Securities and Investment Commission.
- Technical corrections to the CATSI Bill.
- Regulations modifying applied provisions of the Corporations Act must not increase maximum penalties or widen the scope of offences.