

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CORPORATIONS BILL 1988

CORPORATIONS (FEES) BILL 1988

SECURITIES EXCHANGES (APPLICATION FOR MEMBERSHIP)
FIDELITY FUNDS CONTRIBUTION BILL 1988

SECURITIES EXCHANGES (MEMBERSHIP) FIDELITY FUNDS
CONTRIBUTION BILL 1988

SECURITIES EXCHANGES FIDELITY FUNDS BILL 1988

NATIONAL GUARANTEE FUND (REPORTABLE TRANSACTIONS)
LEVY BILL 1988

NATIONAL GUARANTEE FUND (PARTICIPATING EXCHANGES)
LEVY BILL 1988

NATIONAL GUARANTEE FUND (MEMBERS OF PARTICIPATING
EXCHANGES) LEVY BILL 1988

FUTURES ORGANISATIONS (APPLICATION FOR MEMBERSHIP)
FIDELITY FUNDS CONTRIBUTION BILL 1988

FUTURES ORGANISATIONS (MEMBERSHIP) FIDELITY FUNDS
CONTRIBUTION BILL 1988

FUTURES ORGANISATIONS FIDELITY FUNDS LEVY BILL 1988

EXPLANATORY MEMORANDUM

VOLUME 1

(Circulated by authority of the Honourable Lionel Bowen, MP,
Deputy Prime Minister and Attorney-General)

14/12/01

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

1100 S. EAST ASIAN AVENUE

CHICAGO, ILL. 60607

TEL: 773-936-5000

FAX: 773-936-5001

WWW.CHICAGOEDU.EDU

CHICAGO, ILL. 60607

CHICAGO, ILL. 60607

CHICAGO, ILL. 60607

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CORPORATIONS BILL 1988

CORPORATIONS (FEES) BILL 1988

SECURITIES EXCHANGES (APPLICATION FOR MEMBERSHIP)
FIDELITY FUNDS CONTRIBUTION BILL 1988

SECURITIES EXCHANGES (MEMBERSHIP) FIDELITY FUNDS
CONTRIBUTION BILL 1988

SECURITIES EXCHANGES FIDELITY FUNDS BILL 1988

NATIONAL GUARANTEE FUND (REPORTABLE TRANSACTIONS)
LEVY BILL 1988

NATIONAL GUARANTEE FUND (PARTICIPATING EXCHANGES)
LEVY BILL 1988

NATIONAL GUARANTEE FUND (MEMBERS OF PARTICIPATING
EXCHANGES) LEVY BILL 1988

FUTURES ORGANISATIONS (APPLICATION FOR MEMBERSHIP)
FIDELITY FUNDS CONTRIBUTION BILL 1988

FUTURES ORGANISATIONS (MEMBERSHIP) FIDELITY FUNDS
CONTRIBUTION BILL 1988

FUTURES ORGANISATIONS FIDELITY FUNDS LEVY BILL 1988

EXPLANATORY MEMORANDUM

VOLUME 1

(Circulated by authority of the Honourable Lionel Bowen, MP,
Deputy Prime Minister and Attorney-General)

CONTENTS OF EXPLANATORY MEMORANDUM

- Volume 1 - Chapters 1-3 of the Corporations Bill
 (pp.2-372)
- Volume 2 - Chapters 4-6 of the Corporations Bill
 (pp.373-580)
- Volume 3 - Chapter 7 of the Corporations Bill
 (pp.581-801)
- Volume 4 - Chapters 8 and 9 and Schedules of the
 Corporations Bill
- Companies (Fees) Bill and Bills dealing
 with contributions and levies to
 securities and futures exchange fidelity
 funds and the National Guarantee Fund
- Major changes to co-operative companies
 and securities scheme legislation
- Comparative table of sections
 (pp.802-1061)

CORPORATIONS BILL AND RELATED
FEES AND LEVY BILLS

OUTLINE

The Corporations Bill ('the Bill') contains the substantive provisions necessary for the regulation of companies and the securities and futures industries in Australia. The Bill is part of a package of Bills to replace the existing co-operative scheme under which the Commonwealth shares regulatory responsibilities with the States and Northern Territory.

2. The Corporations Bill is an omnibus Bill that draws together the present provisions found in the Companies Act 1981, the Securities Industry Act 1980, the Companies (Acquisition of Shares) Act 1980, the Futures Industry Act 1986 and in State and Northern Territory legislation applying those Acts. The scope of the legislative provisions of the Bill is along the lines of the existing law. However, some reforms have been made to remove unnecessary regulation or to overcome specific inefficiencies or burdens in the existing legislation.
3. For example, the rules applying to companies seeking to raise funds from the public have been simplified so as to expedite the process whilst improving the quality of information provided to investors. The Bill also makes reforms to the provisions dealing with shareholder disclosure, company names, transfer of marketable securities, licensing of representatives and public availability of memoranda and articles of association. These are dealt with further in the introduction to the explanatory memorandum.
4. The Bill responds to the April 1987 report of the bipartisan Senate Standing Committee on Constitutional and Legal Affairs in which the Committee found that the co-operative scheme had outlived its usefulness. The Committee

unanimously recommended that the Commonwealth Parliament should enact comprehensive legislation covering the field currently regulated by the co-operative scheme.

5. The Bill is being introduced together with the Australian Securities Commission Bill ('ASC Bill') and the Close Corporations Bill. The ASC Bill establishes an Australian Securities Commission (ASC) to regulate companies and the securities and futures industries in Australia. It confers broad investigation, information and hearings powers on the ASC. The Close Corporations Bill provides a new simplified corporate entity for small business. The Corporations (Fees) Bill details the matters in respect of which fees are payable for the purposes of the Corporations Bill. There are nine other Bills - ancillary to the Corporations Bill - dealing with levies payable by members of stock exchanges and futures exchanges to the guarantee funds or fidelity funds established by those exchanges. These matters are dealt with in separate Bills, as they are in the nature of taxing measures, but do not involve departures from the existing co-operative scheme arrangements.

Financial impact statement

6. The Bill is expected to result in a significant reduction of business costs in the light of reforms which it will make to remove unnecessary regulation and to overcome specific inefficiencies or burdens in the existing co-operative companies and securities scheme legislation. For example, the Bill will replace the complex and excessively detailed rules as to the content of prospectuses with much more basic disclosure rules. The Bill will simplify the process of company incorporation by removing the subjective tests as to whether a name is available for reservation. Other amendments are proposed to assist in remedying delays in the transfer and registration of securities.

7. The costs of establishing and maintaining the ASC, which will administer the Bill, will be covered by revenues received

from companies and securities and futures industry participants who are regulated by the proposed national scheme legislation. Any agreements with State/Territory Governments for administration of the legislation by their agencies as delegates of the ASC would necessarily involve the Commonwealth retaining revenues sufficient to fund the ASC and other bodies established under the ASC Bill.

Explanatory memorandum

8. The explanatory memorandum proceeds by relating each provision of the Corporations Bill, where appropriate, to the corresponding sections under the existing companies, securities and futures industry codes. The general nature of the provision is explained and, in the case of more complex provisions, where there are significant changes in policy from the existing law, these changes are addressed in greater detail. Where there are relevant differences from the existing legislation, these are identified and explained in the explanatory words accompanying the provision. In the absence of any such qualifying words it may be assumed that the legislative policy of the provision is similar to the existing law. The remainder of this explanatory memorandum:

- (a) provides additional background on the existing and proposed companies and securities schemes;
- (b) contains a list of abbreviations used in this explanatory memorandum;
- (c) contains an index of clauses of the Bill;
- (d) deals sequentially with each clause of the Bill;
- (e) contains a table of major changes to co-operative companies and securities scheme legislation; and
- (f) contains a comparative table of the numbering of co-operative companies and securities legislation and of the Corporations Bill and ASC Bill.

BACKGROUNDCo-operative companies and securities scheme

9. On 22 December 1978 the Commonwealth and the six States executed a Formal Agreement that provided the framework for a co-operative Commonwealth-State scheme for a uniform system of law and administration in relation to company law and the regulation of the securities industry in the six States and the Australian Capital Territory. The Northern Territory became a party to the co-operative companies and securities scheme on 28 January 1986.

10. Under the scheme, the National Companies and Securities Commission (NCSC) derives its functions and powers from various pieces of Commonwealth, State and Territory legislation which give effect to the co-operative scheme.

11. The co-operative scheme has the following inherent structural defects:

- (a) Lack of accountability - There is no effective parliamentary scrutiny of co-operative scheme legislation. Commonwealth and State Governments are bound by the Formal Agreement to act in accordance with the legislative policies and views of the Ministerial Council for Companies and Securities; even where these conflict with a Government's own policies or the views of Parliament.

The Commonwealth Government is not only obliged to introduce co-operative scheme legislation that it disagrees with but also cannot introduce scheme legislation that it wishes to introduce but which is not supported by sufficient other members of the Ministerial Council.

The Commonwealth Parliament is reluctant to move amendments to scheme legislation because to do so

would jeopardise the scheme. If the Parliament were to insist that amendments be made, the Commonwealth Minister would have no choice but to refer the amendments to the Ministerial Council for its approval. This would be very unwieldy.

Officials and Ministers can deflect responsibility by suggesting that they couldn't persuade the Ministerial Council to adopt a particular course of action. The quality of decisions suffers as nobody is exposed to the discipline of having to defend them.

The NCSC is not responsible to any Minister because only the Ministerial Council can give it directions.

The State and Northern Territory Parliament have no opportunity to consider amendments to scheme laws. Amendments take effect automatically in the States and the Northern Territory, subject only to the making of necessary 'translator' regulations to effect very minor modifications.

Outside parties wishing to influence the outcome of a Ministerial Council decision are forced to lobby every Ministerial Council member and their officials.

- (b) Division of functions between National Companies and Securities Commission (NCSC) and its State and Territory delegates - This has led to administrative inefficiencies, unnecessary duplication and additional costs to both government and business. To the business community this has meant costly efforts to find the body or person with the appropriate administrative responsibility to deal with a particular problem. Although over \$135m is raised from, and 1500 staff are involved Australia-wide in, corporate affairs regulation it has not been possible to establish a nationally uniform and efficient administration. The NCSC does not have a free hand in

determining its priorities because the State and Territory Corporate Affairs Commissions regard themselves as being responsible to their relevant Minister rather than the NCSC. For example, the NCSC cannot decide to devote more resources to investigations and less to prospectus examination if a particular Corporate Affairs Commission takes a different view.

- (c) Burdensome and lowest common denominator legislation
 - The business community has criticised the over-involvement of scheme administrators in legislative policy development which leads to frequent legislative changes and increases the burden of unnecessary business regulation. On the other hand the 'lowest common denominator' effect makes it difficult to achieve significant and desirable legislative policy changes.

12. These defects led the bipartisan Senate Standing Committee on Constitutional and Legal Affairs to conclude in its April 1987 report that the co-operative scheme had outlived its usefulness. The Committee unanimously recommended that the Commonwealth Parliament should enact comprehensive legislation covering the field currently regulated by the co-operative scheme.

Role of the ASC and Advisory Committee

13. The ASC will be an independent statutory Commission with the same sort of discretionary powers which the NCSC now has. It will be responsible for the day-to-day administration of scheme legislation and will report direct to the responsible Commonwealth Minister and through the Minister to the Commonwealth Parliament. The ASC will be more independent of political interference than the NCSC. The Ministerial Council has the capacity to give a direction to the NCSC in respect of particular cases. The ASC will not be subject to any such influence from Government. The ASC will also have a policy

role. The Bill provides that if in the course of performing its functions or exercising its powers the ASC encounters problems which, in its opinion, require a national scheme law to be amended it will be able to advise the Minister accordingly.

14. It is envisaged that the ASC will not be located in Canberra but will be located in a major State capital. The ASC will be able to determine its own policies for administration of the new legislation. Negotiations with the States and Northern Territory are continuing with respect to a proposal whereby their Corporate Affairs Commissions would administer the new national companies and securities legislation as delegates of the ASC. It is envisaged that where the Commonwealth reached an agreement with a State or the Northern Territory for State or Territory personnel and entities to be used to administer the Commonwealth legislation as a delegate of the ASC, the ASC would ensure that the administration was carried out, to the maximum extent practicable, by those personnel and entities. However, the ASC would have power to give directions to its delegates to ensure proper managerial control. The ASC would be able to withdraw a delegation if a delegate failed to conform with the ASC's management plan. In such a case the revenue that would otherwise have been reimbursed to that delegate's State or Territory would be retained by the Commonwealth.

15. The Bill also provides for the establishment of a statutory Advisory Committee, drawn from all sectors of the business community in Australia. The Advisory Committee will ensure that the avenues of advice to the Commonwealth Minister are not limited to the bureaucracy. It is envisaged that the ASC and Advisory Committee will consult each other where practicable before recommending changes in the law and its administration.

16. The ASC's main functions and powers will be conferred by the Corporations Bill which covers the regulation of companies, and the securities and futures industries. The

Corporations Bill is being introduced in conjunction with the ASC Bill.

17. The legislation for the most part, follows the existing companies and securities legislation. Changes of form from the existing legislation, although not of substance, derive from the expression of the Bill in language to reflect the Commonwealth's constitutional powers and to reflect its character as national legislation. Although principally based on the Commonwealth's constitutional power over trading and financial corporations, a wide range of other supporting constitutional powers have been relied on where appropriate. These include the powers in respect of interstate trade and commerce, posts and telecommunications, banking and insurance and cheques and negotiable instruments. The opportunity has also been taken to rationalise the structure of the legislation and to correct some minor anomalies.

18. Significant improvements have been made. The consolidation of the existing law into the Corporations Bill and the ASC Bill has led to the removal of much duplicated material and to a major rationalisation of the structure and arrangement of the legislation. In addition, large groupings of sections have, wherever possible, been broken up into smaller groupings, and long sections and subsections split into shorter ones, thus allowing a much greater use of Part, Division and section headings. This should help the reader to find the provisions of concern to him or her and make them easier to follow.

19. The existing law has, in some important areas, been reworked to give it clarity and simplicity. These include, in particular, the constitution and powers of the ASC and the Parts of the Corporations Bill that deal with financial statements of companies, names of corporations, registration of foreign companies, and the transfer of marketable securities.

20. Consideration has been given to a number of areas in which reforms are desirable either to remove unnecessary regulation or to overcome specific inefficiencies or burdens in the existing legislation. However, with the exception of the areas outlined below, the scope of the legislative provisions of the Corporations Bill will be along the lines of the existing law.

Fundraising

21. There is a need to reform the rules applying to companies seeking to raise funds from the public. The present system of prospectus registration has been justly criticised for its inefficiency and complexity, for its imposition of unnecessary delays and costs on business and for its lack of utility for investors. The legislation will remove the current regulatory 'deadwood' and introduce a new approach involving more effective self-enforcement by the market to provide a more efficient framework to facilitate the process of raising funds from the investing public, improve the quality of information to be provided to investors and maintaining appropriate measures for investor protection.

22. Key elements of the proposal are as follows:

- (a) A general provision prohibiting misleading and deceptive conduct in relation to the issue, dealing in or trading in securities. This will take the form of a general catch-all liability clause based on s.52 of the Trade Practices Act 1974. It will apply, inter alia, to prospectuses.
- (b) Prospectuses will be filed but not registered. ASC will not pre-vet prospectuses. Vetting is costly, time consuming and may not reveal prospectus defects. A study by the Victorian Corporate Affairs Commission has found that only approximately 5% of investors read prospectuses. Even the Securities Information Review Committee established by the NCSC is considering a proposal that for most cases of issues no registered prospectus be required.

- (c) To protect the public against misfeasance, the ASC will be able to audit a filed prospectus on the basis of sample techniques or following a complaint. Following such an audit the ASC will be able to issue stop-orders in respect of an issue involving serious misrepresentation or malpractice. This approach will not preclude bodies such as the stock exchanges from scrutinising the content of prospectuses of listed issues.
- (d) The complex and excessively detailed rules as to the content of prospectuses will be replaced by much more basic disclosure rules and a general requirement that the prospectus contain a fair and accurate presentation of all material information relevant to a decision by an investor to invest in the offering. Despite detailed rules at present there is no guarantee that investors receive all relevant information. The amendments aim to provide investors with the information they require to make an informed investment decision.
- (e) Persons licensed under the Bill and issuers will be able to advertise issues. Allotments will still be on the basis of a form attached to a filed prospectus. False or misleading advertisements will be prohibited.
- (f) New form prospectuses will need to be provided for all issues other than for specified categories e.g. issues to persons in the business of buying and selling shares. (These categories will be similar to the existing exemptions from the prospectus provisions). Complex problems relating to the meaning of 'offers to the public' and 'section of the public' will thereby be removed.

23. These proposals will also apply to the prescribed interest offer document.

Shareholder Disclosure

24. There has been considerable debate over the last few years as to whether the mix of provisions involving disclosure of beneficial shareholdings is appropriate, in particular disclosure of substantial shareholdings above 10% under s.137-139 of the Companies Act and tracing of beneficial ownership of shares under s.261. The procedure provided by s.261 is cumbersome, ineffective and has been abused. Companies have expressed concern about the excessive paperwork involved in being required to disclose insignificant shareholdings below 1% under s.261.

25. The following approach is proposed:

- (a) reduction of the substantial shareholding threshold from 10% to 5%;
- (b) the tracing provisions in CA s.261 have been altered so that only the ASC will have power to obtain information as to beneficial ownership of shares;
- (c) the existing remedies in s.261A are to be applied to a breach of the substantial shareholdings provisions;
- (d) the abolition of the requirement that substantial shareholder disclosures be in a prescribed form (to enable the existing requirements to be set out more simply in the statute).

Company names

26. It is proposed that the company names provisions be amended to remove the "subjective tests" on whether a name is available for reservation (that is, it will not be necessary to consider if a proposed company name so closely resembles an existing name as to be likely to be mistaken for it; whether a proposed name is undesirable; or whether a proposed name is misleading in relation to the nature, objects or purposes of

the business to be conducted under that name). From the standpoint of the incorporator, the existing subjective tests lead to delay in incorporation times, and result in the overzealous rejection of many names which, although on paper appear to be similar, would otherwise have no connection with the business or activity of another company so as to lead to the possibility of confusion arising in anyone's mind. At the same time, substantial bureaucratic resources are invested in determining questions of whether names are in fact similar or are likely to confuse the public or are otherwise undesirable. These resources could be put to better use elsewhere. In the end the registration of a name confers no protection on the registrant in an action for passing off etc. if some other person has a prior and greater right to the name e.g. because it has been registered as a trade or service mark. The registration of a company name confers no property in that name.

27. The practical effect of this proposal will be to allow all company names except:

- (a) identical names; and
- (b) names of a type that are prescribed in Regulations under the Corporations Bill (for example, names suggesting connexion with the Government).

28. The business community will benefit from the proposal because the ASC will be able to process names applications more quickly than at present. In addition, the ASC will benefit because a smaller number of staff will be required on names matters. This, in turn, could benefit the business community through fees for names applications being reduced in real terms (i.e. by either a reduction in money terms or not increasing in line with inflation).

Takeovers Legislation

29. The basic framework of the existing takeovers legislation will be maintained for the purposes of the initial

Commonwealth legislation. Any comprehensive review of the takeovers legislation would involve the question whether the basic Eggleston principles underlying the code are still appropriate (in particular the concept that each voting share in a company has attached to it an equal proportion of the value of any premium for control). Given the timing considerations, it is not practicable to give the subject the rigorous analysis it warrants or to engage in adequate public consultation before introduction of the initial legislation. A comprehensive review of the basic approach of the takeovers legislation could follow the commencement of the Commonwealth scheme.

30. The only matter thought feasible for implementation in the initial legislation is the abandonment of pre-vetting of Part A statements, profit forecasts and asset valuations during takeover bids. This is consistent with the similar proposals for abandonment of pre-vetting of prospectuses. Pre-vetting is a resource intensive exercise and in contested takeover bids provides too much scope for litigation against the NCSC. The existing provisions imposing criminal and civil liability for omissions or false or misleading statements in Part A statements and offer documents should ensure that such documents are accurate. So far as profit forecasts or statements on asset valuations are concerned, the ASC should not have to expend resources in order to make a decision best left to the market (which will devalue any forecast or statement which is overly optimistic).

Transfer of marketable securities

31. A number of amendments are designed to assist in remedying delays in the transfer and registration of securities.

32. The major proposal involves deletion of the requirement that a transferor sign a transfer form. (A broker authorised by the transferor will be able to validate it on the transferor's behalf and will indemnify the transferor and the

company in all circumstances where a transfer has been made without authority.) Full compensation will be available from the National Guarantee Fund for any losses arising from unauthorised transfers.

33. It is proposed that transferee acceptance forms also be deleted. These are unnecessary and increase the amount of paper within the system.

Exemption and modification power for ASC in respect of transfer of securities provisions

34. It is proposed that the ASC be given an exemption and modification power in respect of the provisions dealing with transfer of securities. This power will be similar to that proposed in respect of the prospectus, debenture and prescribed interest provisions (based on a widened s.215C of the Companies Act).

35. This extension of Commission powers is designed to enable some flexibility to be introduced into the transfer of securities provisions. This will facilitate testing, perhaps by way of pilot schemes, of new procedures forming part of any longer term system developed to make the transfer and settlement system more efficient. In addition, such powers may also enable preparation for, and phased implementation of, any new system which is successfully developed without the need for specific legislative amendment at each stage of the system's introduction.

36. The ASC in exercising any such powers will need to be satisfied that the interests of shareholders are adequately protected and that exercise of the power will be likely to enhance the efficiency of the existing transfer and settlement system.

37. Another proposal involves the abolition of the requirement that companies maintain branch registers at the request of a shareholder. This will produce substantial efficiency gains and cost savings to the several parties involved in processing

certificates and transfers. It will also significantly simplify the operation of the proposed new transfer and settlement system currently being developed by the Australian Stock Exchange.

38. There has been significant pressure from companies, share registrars, stockbrokers, and the Australian Stock Exchange for the abolition of branch registers to be considered for inclusion in the national scheme legislation. Branch registers are costly and inconvenient to maintain and to co-ordinate, particularly where one shareholder may in fact have shares registered on different registers.

39. Registrars' experience has shown that the majority of requests for share registry information are directed to the principal share office. For this reason and given the abolition of death duties, it is argued that branch registers are no longer of any benefit to shareholders.

Licensing of Representatives - Securities and Futures Industry

40. It is proposed, in accordance with the earlier NCSC proposals, to discontinue licensing of representatives of securities dealers and advisers and of futures brokers and advisers. This will be replaced with a system where brokers and advisers are made fully liable for the conduct of their respective representatives (in addition to being responsible for their training, education and supervision). This liability will extend to actions which are outside the scope of their authority (as is the case with insurance agents under the Insurance (Agents and Brokers) Act).

Memorandum and Articles of Association

41. It is proposed that proprietary companies be relieved of the obligation to lodge a copy of their memorandum and articles of association with the ASC. It is considered the requirement is no longer necessary for private companies given that third parties are sufficiently protected in their dealing

with such companies by the abolition of ultra vires and reduction of the rules of constructive notice of company documents. The reform will also facilitate a substantial reduction in administrative costs for the ASC.

ASC Hearings and Investigation Powers

42. It is proposed that the ASC Bill will contain provisions strengthening the existing inspection powers and clarifying the scope of the existing hearings powers. The Bill will also provide for an adjudicative panel, independent from the ASC, to conduct hearings into certain designated matters.

43. The present inspection and special investigation powers are to be amalgamated so that the existing inspection powers will be more effective. In addition, the Minister will be able to direct the ASC to carry out an investigation where this is in the public interest.

44. The ASC's investigative powers (including its powers to conduct an investigative hearing in private along the lines of the powers now contained in the special investigations provisions) are distinct from its general powers to conduct hearings for the purposes of the performance or exercise of its functions or powers. The ASC will be able to use its general hearings powers, for example, to afford natural justice to a person whose licence or registration it proposes to revoke. In addition, the ASC will be able to hold public hearings to ascertain views on the exercise by the ASC of its administrative responsibilities (e.g. a proposed policy statement or guideline).

45. To overcome criticisms that have been levelled against the NCSC for acting as prosecutor, judge and jury, the ASC Bill will provide for the establishment of a separate Panel to conduct hearings into such class of matters as the Minister approves. Initially, the Panel will be empowered to hear cases involving unacceptable conduct during a takeover. These are very controversial matters and amount to about five per

year. The ASC will hear all remaining matters. It is proposed that the Minister will progressively confer further functions on the Panel as it develops its expertise and if the panel proves to be an effective means of hearing a large number of adjudicative hearings. If the Panel operated satisfactorily, the work of the Companies Auditors and Liquidators Disciplinary Boards could be transferred to it.

Close Corporations

46. It is proposed to provide a new simplified corporate entity for small business which obviates the need for much of the inappropriate paraphernalia of regulation that is more appropriate for larger companies. This proposal will be implemented in the Close Corporations Bill which is being introduced in conjunction with the ASC Bill and the Corporations Bill.

47. The new form of company will be based on the Companies and Securities Law Review Committee's proposals for a 'close corporation'. The broad purpose behind the Close Corporation legislation to simplify the corporate rules for small business will be achieved by reducing financial and other reporting requirements and replacing the usual concept of management with partnership rules. Memorandum and articles of association will be abolished and replaced with a non-registrable written association agreement. Basic information about the company will be filed in the form of a Founding Statement which will be updated each time there is a change to the material particulars. A Certificate of Compliance will be an annual document witnessing that the Company has stated that accounts have been prepared according to a formula prescribed by the legislation.

ABBREVIATIONS

48. The following abbreviations are used in this explanatory memorandum:

ASC	-	Australian Securities Commission
ASC Bill	-	Australian Securities Commission Bill 1988
C&S Interpretation Act	-	<u>Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980</u>
CA	-	<u>Companies Act 1981</u>
CASA	-	<u>Companies (Acquisition of Shares) Act 1980</u>
CB	-	Corporations Bill 1988
FIA	-	<u>Futures Industry Act 1986</u>
NCSC	-	National Companies and Securities Commission
NCSC Act	-	<u>National Companies and Securities Commission Act 1979</u>
SIA	-	<u>Securities Industry Act 1980</u>
TPA	-	<u>Trade Practices Act 1974</u>
TPC	-	Trade Practices Commission

CONTENTS OF THE BILL

49. The Bill is divided into the following Chapters:

- Chapter 1 - Introductory
- Chapter 2 - Constitution of Companies
- Chapter 3 - Internal Administration
- Chapter 4 - Various Corporations
- Chapter 5 - External Administration
- Chapter 6 - Acquisition of Shares
- Chapter 7 - Securities
- Chapter 8 - The Futures Industry
- Chapter 9 - Miscellaneous

INDEX OF CLAUSESCORPORATIONS BILL 1988ITEMPARAGRAPH

CHAPTER 1 - INTRODUCTORY

PART 1.1 - PRELIMINARY

Cl.1	:	Short title	51
Cl.2	:	Commencement	52
Cl.3	:	Application to the Crown	53
Cl.4	:	Extension to external Territories	54
Cl.5	:	Commission has general administration of Act	55

PART 1.2 - INTERPRETATION

Division 1 - General

Cl.6	:	Effect of this Part	59
Cl.7	:	Location of other interpretation provisions	60
Cl.8	:	Interpretation provisions to operate distributively	61
Cl.9	:	Dictionary	62

<u>ITEM</u>		<u>PARAGRAPH</u>
<u>Division 2 - Associates</u>		
Cl.10	: Effect of Division	218
Cl.11	: Associates of bodies corporate	219
Cl.12	: Matters relating to voting shares	220
Cl.13	: References in Chapter 7	225
Cl.14	: References in Chapter 8	228
Cl.15	: General	229
Cl.16	: Exclusions	232
Cl.17	: Associates of composite persons	236
<u>Division 3 - Carrying on business</u>		
Cl.18	: Carrying on business: otherwise than for profit	239
Cl.19	: Businesses of a particular kind	240
Cl.20	: Carrying on a business alone or together with others	241
Cl.21	: Carrying on business in Australia or a State or Territory	242
Cl.22	: Carrying on business interstate	245
<u>Division 4 - Dealing in futures contracts</u>		
Cl.23	: Acquiring a futures contract	249

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.24	: Disposing of a futures contract	252
Cl.25	: Dealing in futures contracts: general	254
Cl.26	: Dealing in futures contracts through intermediaries: first step	258
Cl.27	: Dealing in futures contracts through intermediaries: second and later steps	260
Cl.28	: Dealing in futures contracts, though intermediaries, on futures markets	262
Cl.29	: Own account dealings and transactions: futures contracts	264
 <u>Division 5 - Relevant interests in shares and securities</u>		
Cl.30	: Terminology used in this Division	267
Cl.31	: Basic rules	268
Cl.32	: Control of body corporate having power in relation to a share	270
Cl.33	: Control of prescribed percentage or voting power in body corporate having power in relation to a share	272

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.34	: Deemed relevant interest in advance of performance of agreement whose performance will give rise to a relevant interest	274
Cl.35	: Control of body corporate having a relevant interest by virtue of section 34	277
Cl.36	: Matters not affecting application of Division	278
Cl.37	: Body corporate may have a relevant interest in its own shares	280
Cl.38	: Exclusions: money-lenders	281
Cl.39	: Exclusions: certain trustees	283
Cl.40	: Exclusions: instructions to securities dealer to dispose of share	285
Cl.41	: Exclusions: honorary proxies	287
Cl.42	: Exclusions: holders of prescribed offices	289
Cl.43	: Prescribed exclusions	291
Cl.44	: Relevant interests in securities	293
Cl.45	: Effect of Division	296

ITEMPARAGRAPH

Division 6 - Subsidiaries and related
bodies corporate

Cl.46	:	What is a subsidiary	298
Cl.47	:	Control of a body corporate's board	299
Cl.48	:	Matters to be disregarded	301
Cl.49	:	References in this Division to a subsidiary	303
Cl.50	:	Related bodies corporate	304

Division 7 - Interpretation of other
expressions

Cl.51	:	Acquisition and disposal of shares	306
Cl.52	:	Doing acts	310
Cl.53	:	Affairs of a body corporate	312
Cl.54	:	Chapter 8 agreements of the same kind	314
Cl.55	:	Chapter 8 obligations and rights	317
Cl.56	:	Classes of futures organisation membership	320
Cl.57	:	Classes of shares	322
Cl.58	:	Corresponding laws	323
Cl.59	:	Debentures as consideration for acquisition of shares	324

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.60	: Directors	326
Cl.61	: Discretionary accounts	329
Cl.62	: Dormant bodies corporate	331
Cl.63	: Eligible circumstances	335
Cl.64	: Entering into a transaction in relation to shares or securities	336
Cl.65	: Excluded corporations	339
Cl.66	: Excluded issues, offers and invitations	342
Cl.67	Exempt brokers and exempt futures advisers	347
Cl.68	: Exempt dealers and exempt investment advisers	350
Cl.69	: Exempt proprietary companies	352
Cl.70	: Extension of period for doing an act	355
Cl.71	: Futures advice business and eligible futures advice business	357
Cl.72	: Futures contract	361
Cl.73	: Futures representatives	362
Cl.74	: Group holding companies	365

<u>ITEM</u>	<u>PARAGRAPH</u>
Cl.75 : Inclusion in official list	367
Cl.76 : Incorporated in Australia	368
Cl.77 : Investment advice business and eligible investment advice business	369
Cl.78 : Invitations, offers and forms of application	372
Cl.79 : Involvement in contraventions	374
Cl.80 : Jervis Bay Territory deemed part of Australian Capital Territory	375
Cl.81 : New companies	376
Cl.82: Offers and invitations to the public	380
Cl.83 : Officers, and other persons, in default	382
Cl.84 : Own account dealings and transactions: securities	385
Cl.85 : Participation interest	387
Cl.86 : Possession	389
Cl.87 : Proper authority from futures licensee; invalid futures authority	391
Cl.88 : Proper authority from securities licensee; invalid securities authority	394

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.89	: Qualified privilege	396
Cl.90	: Receivers and managers	398
Cl.91	: Being or becoming subject to a prohibition, order or notice under section 229, 230, 599 or 600	399
Cl.92	: Securities of a body corporate	401
Cl.93	: Securities business and eligible securities business	403
Cl.94	: Securities representatives	405
Cl.95	: Signing of certain documents by bodies corporate	409
Cl.96	: Statement in a prospectus	412
Cl.97	: Stock market not to include futures market	414
Cl.98	: Transfer days for bodies corporate	417
Cl.99	: Underlying securities	419
<u>Division 8 - Miscellaneous interpretation rules</u>		
Cl.100	: Address of registered office etc.	420
Cl.101	: Amount of stock representing a number of shares	421

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.102	: Applications to be in writing	422
Cl.103	: Effect of certain contraventions of this Act	424
Cl.104	: Effect of provisions empowering a person to require or prohibit conduct	426
Cl.105	: Calculation of time	428
Cl.106	: Performance of functions by Commonwealth delegate	432
Cl.107	: Headings to Chapters	434
Cl.108	: Parts of dollar to be disregarded in determining majority in value of creditors etc	436
Cl.109	: References to persons, things and matters	438
PART 1.3 - APPLICATION		
Cl.110	: Application of Act in relation to certain banking and insurance	440
Cl.111	: Act not to apply in relation to State banking or insurance within that State	441

ITEMPARAGRAPH

CHAPTER 2 - CONSTITUTION OF COMPANIES
 PART 2.1 - RESTRICTIONS ON FORMING
 CERTAIN ENTITIES

Cl.112	:	Outsize partnerships and associations	447
Cl.113	:	Certain corporations not to be formed under State or Territory company law	449

PART 2.2 - REGISTRATION OF COMPANIES

Division 1 - Incorporation
by registration

Cl.114	:	Formation of companies	453
Cl.115	:	Classes of companies	456
Cl.116	:	Proprietary companies	457
Cl.117	:	Requirements as to memorandum	459
Cl.118	:	Registration application	460
Cl.119	:	Power to require production of unlodged memorandum	463
Cl.120	:	Registration	466
Cl.121	:	Certificate of registration	468
Cl.122	:	Effect of certificate	469
Cl.123	:	Incorporation	471

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.124	: Members	473
Cl.125	: Articles of association	475
<u>Division 2 - Registering certain State and Territory companies as companies</u>		
Cl.126	: Certain State and Territory companies not to carry on business unless registered under this Division	480
Cl.127	: State or Territory company may apply for registration	481
Cl.128	: Determination of application	482
Cl.129	: Registration of applicant as a company	483
Cl.130	: Constitution of Division 2 company	485
Cl.131	: Application of Act in relation to Division 2 companies	487
Cl.132	: Acts preparatory to external administration of Division 2 company	489
<u>Division 3 - Registering foreign companies as companies</u>		
Cl.133	: Foreign company may apply for registration	492
Cl.134	: Externally-administered body corporate not to be registered	493

<u>ITEM</u>	<u>PARAGRAPH</u>
Cl.135 : Prerequisites to eligibility	494
Cl.136 : Form and content of application	495
Cl.137 : Registration of applicant as a company	497
Cl.138 : Registered foreign company	499
Cl.139 : Constitution of Division 3 company	501
Cl.140 : Alterations of constitution	503
Cl.141 : Share warrants	505
<u>Division 4 - Registering close corporations as companies</u>	
Cl.142 : Conversion of a close corporation into a company	508
Cl.143 : Requirements as to memorandum	509
Cl.144 : Registration application	511
Cl.145 : Power to require production of unlodged memorandum	512
Cl.146 : Registration	513
Cl.147 : Articles of association	515
<u>Division 5 - Companies registered under Division 2, 3 or 4</u>	
Cl.148 : Certificate of registration	518

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.149	: Effect of certificate	520
Cl.150	: Effect of registration under Division 2, 3 or 4	521
Cl.151	: Application of Act to Division 2, 3 or 4 company	525
Cl.152	: Establishment of registers and minute books	527
	<u>Division 6 - Activities statements</u>	
Cl.153	: Division 1 company	529
Cl.154	: Division 2, 3 or 4 company	531
Cl.155	: Further activities statement in certain cases where control of company is to change	533
	<u>Division 7 - Companies ceasing to be trading or banking corporations</u>	
Cl.156	: Commission to take action	535
Cl.157	: Presumptions about loss of trading or banking corporation status	536
Cl.158	: Company to take action	537

PART 2.3- LEGAL CAPACITY, POWERS
AND STATUS

ITEMPARAGRAPHDivision 1 - Legal capacity
and powers

Cl.159	:	Interpretation	542
Cl.160	:	Object of sections 161 and 162	543
Cl.161	:	Legal capacity	547
Cl.162	:	Restrictions on companies	552
Cl.163	:	Application of certain State and Territory laws	563
Cl.164	:	Persons having dealings with companies etc	565
Cl.165	:	Lodgment of documents etc not to constitute constructive notice	572
Cl.166	:	Effect of fraud	575

Division 2 - Changes of Status

Cl.167	:	Change of status	579
Cl.168	:	Change from public to proprietary company or vice versa	581
Cl.169	:	Registration of Table A proprietary company's constitution after change of status	584
Cl.170	:	Default in complying with requirements as to proprietary companies	585

ITEMPARAGRAPH

Division 3 - Memorandum and
Articles

Cl.171	:	General provisions as to alteration of memorandum	590
Cl.172	:	Alterations of memorandum	599
Cl.173	:	Lodging, and taking effect, of resolutions passed under section 172	609
Cl.174	:	Effect of memorandums of certain Division 2 companies	611
Cl.175	:	Articles adopting Table A or B	615
Cl.176	:	Alteration of articles	620
Cl.177	:	Deemed proprietary company provisions	623
Cl.178	:	Alteration of proprietary company provisions	624
Cl.179	:	Constitution of companies limited by guarantee	625
Cl.180	:	Operation of memorandum and articles	629
Cl.181	:	Copies of memorandum and articles	633

Division 4 - Transactions on a
company's behalf

Cl.182	:	Confirmation of contracts and authentication and execution of documents	638
--------	---	---	-----

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.183	: Ratification of contracts made before formation of company	649
PART 2.4- MEMBERSHIP AND SHARE CAPITAL		
<u>Division 1 - Membership generally</u>		
Cl.184	: Membership of company	662
Cl.185	: Membership of holding company	663
Cl.186	: Prohibition of carrying on business with fewer than statutory minimum number of members	671
<u>Division 2 - Shares generally</u>		
Cl.187	: Return as to allotments	674
Cl.188	: Differences in calls and payments, reserve liability etc	676
Cl.189	: Share warrants	679
Cl.190	: Power of issue shares at a discount	681
Cl.191	: Issue of shares at a premium	683
Cl.192	: Redeemable preferences shares	685
Cl.193	: Power of company to alter its share capital	689
Cl.194	: Validation of shares improperly issued	691

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.195	: Special resolution for reduction of share capital	693
<u>Division 3 - Class rights</u>		
Cl.196	: Commission to be informed of special rights carried by, or division or conversion of, shares	695
Cl.197	: Rights of holders of classes of shares	697
Cl.198	: Rights of holders of shares	702
Cl.199	: Rights of classes of members	705
Cl.200	: Rights of holders of preference shares to be set out in memorandum or articles	708
<u>Division 4 - Maintenance of capital</u>		
Cl.201	: Dividends payable from profits only	710
Cl.202	: Power of company to pay interest out of capital in certain cases	715
Cl.203	: Restriction on application of capital of company	717
Cl.204	: Power to make certain payments	720
Cl.205	: Company financing dealings in its shares etc.	722
Cl.206	: Consequences of a company financing dealings in its own shares	738

ITEMPARAGRAPHDivision 5 - Register of members

Cl.207	:	Division not to apply to mutual life assurance companies	744
Cl.208	:	Notices relating to non-beneficial and beneficial ownership of shares	746
Cl.209	:	Register and index of members	752
Cl.210	:	Inspection and closing of register	758
Cl.211	:	Consequences of default by agent	761
Cl.212	:	Power of Court to rectify register	763
Cl.213	:	Trustee etc may be registered as owner of shares	765
Cl.214	:	Branch registers	769

Division 6 - Options

Cl.215	:	Register of options	775
Cl.216	:	Options over unissued shares	778

CHAPTER 3 - INTERNAL ADMINISTRATION

PART 3.1 - REGISTERED OFFICE AND NAME

Cl.217	:	Registered office of company	781
Cl.218	:	Notice of address of registered office and office hours	782

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.219	: Publication of company's name and registration number	783
Cl.220	: Service of documents on company	787
PART 3.2 - OFFICERS		
Cl.221	: Directors	790
Cl.222	: Restrictions on appointment or advertisement of director	792
Cl.223	: Qualification of director	793
Cl.224	: Vacation of office	795
Cl.225	: Appointment of directors to be voted on individually	800
Cl.226	: Validity of acts of directors and secretaries	802
Cl.227	: Removal of directors	804
Cl.228	: Age of directors	806
Cl.229	: Certain persons not to manage certain bodies corporate	809
Cl.230	: Court may order persons not to manage corpoprations	817
Cl.231	: Disclosure of interests in contracts, property, offices etc	823

<u>ITEM</u>	<u>PARAGRAPH</u>
C1.232 : Duty and liability of officers of certain bodies corporate	825
C1.233 : Liability of directors for debts etc incurred by body corporate acting as trustee	833
C1.234 : Loans to directors	841
C1.235 : Register of directors' shareholdings etc.	847
C1.236 : General duty to make disclosure	850
C1.237 : Benefits for loss of, or retirement from, office	856
C1.238 : Assignment of office	863
C1.239 : Powers to require disclosure of directors' emoluments	865
C1.240 : Secretary	867
C1.241 : Provisions indemnifying officers or auditors	869
C1.242 : Register of directors, principal executive officers and secretaries	871
C1.243 : Register of disqualified company directors and other officers	876

PART 3.3- MEETINGS AND PROCEEDINGS

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.244	: Statutory meeting and statutory report	881
Cl.245	: Annual general meeting	885
Cl.246	: Convening of general meeting on requisition	892
Cl.247	: Convening of meetings	894
Cl.248	: Articles as to right to demand a poll	898
Cl.249	: Quorum, chairman, voting etc. at meetings	900
Cl.250	: Proxies	902
Cl.251	: Power of Court to order meetings	904
Cl.252	: Circulation of members' resolutions etc.	906
Cl.253	: Special resolutions	908
Cl.254	: Resolution requiring special notice	910
Cl.255	: Resolutions of exempt proprietary companies	912
Cl.256	: Lodgment etc of copies of certain resolutions and agreements	914
Cl.257	: Resolutions at adjourned meetings	916

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.258	: Minutes of proceedings	918
Cl.259	: Inspection of minute books	921
PART 3.4 - OPPRESSIVE CONDUCT OF AFFAIRS		
Cl.260	: Remedy in cases of oppression or injustice	923
PART 3.5 - CHARGES		
<u>Division 1 - Preliminary</u>		
Cl.261	: Interpretation and application	933
<u>Division 2 - Registration</u>		
Cl.262	: Charges required to be registered	940
Cl.263	: Lodgment of notice of charge and copy of instrument	944
Cl.264	: Acquisition of property subject to charge	947
Cl.265	: Registration of documents relating to charges	950
Cl.266	: Certain charges void against liquidator or official manager	956
Cl.267	: Charges in favour of certain persons void in certain cases	966
Cl.268	: Assignment and variation of charges	973

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.269	: Satisfaction of, and release of property from, charges	977
Cl.270	: Lodgment of notices, offences etc.	979
Cl.271	: Company to keep documents relating to charges and register of charges	981
Cl.272	: Certificates	984
Cl.273	: Registration under other legislation relating to charges	986
Cl.274	: Power of Court to rectify Register	997
Cl.275	: Charges of Division 2 company	999
Cl.276	: Charges of Division 3 company	1002
Cl.277	: Power to exempt from compliance with certain requirements of Division	1004
	<u>Division 3 - Order of priority</u>	
Cl.278	: Interpretation	1008
Cl.279	: Priorities of charges	1016
Cl.280	: General priority rules in relation to registered charges	1019
Cl.281	: General priority rules in relation to unregistered charges	1024

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.282	: Special priority rules	1028

PART 3.6 - ACCOUNTS

Division 1 - Accounting standards

Cl.283	: Accounting standards	1037
Cl.284	: Application of accounting standards: general	1042
Cl.285	: Application of accounting standards: financial years	1044
Cl.286	: Interpretation etc of accounting standards	1048
Cl.287	: Power of Board to require copy of accounts or group accounts	1051
Cl.288	: Application of accounting standards approved under <u>Companies Act 1981</u>	1053

Division 2 - Accounting records

Cl.289	: Accounting records	1056
--------	----------------------	------

Division 3 - Financial years of
holding company and subsidiaries

Cl.290	: Synchronisation	1060
Cl.291	: Orders under corresponding laws	1062

<u>ITEM</u>		<u>PARAGRAPH</u>
	<u>Division 4 - Financial statements</u>	
Cl.292	: Profit and loss account	1065
Cl.293	: Balance-sheet	1067
Cl.294	: Steps to be taken before accounts made out	1069
Cl.295	: Group accounts	1071
Cl.296	: Audit of financial statements	1073
Cl.297	: Financial statements to comply with regulations	1075
Cl.298	: Financial statements to comply with applicable accounting standards	1077
Cl.299	: Effect of sections 297 and 298	1080
Cl.300	: Inclusion of comparative amounts for items required by accounting standards	1082
	<u>Division 5 - Directors' statements</u>	
Cl.301	: Statement to be attached to accounts	1084
Cl.302	: Statement to be attached to group accounts	1090
Cl.303	: Statements under this Division	1091

<u>ITEM</u>		<u>PARAGRAPH</u>
<u>Division 6 - Directors' reports</u>		
Cl.304	: Report on company other than group holding company	1094
Cl.305	: Report on group holding company	1097
Cl.306	: Report may omit prejudicial information	1099
Cl.307	: Public companies	1101
Cl.308	: Options	1103
Cl.309	: Benefits under contracts with directors	1108
Cl.310	: Reports generally	1110
<u>Division 7 - Financial statements and directors' reports</u>		
Cl.311	: Rounding off amounts	1113
Cl.312	: Directors of holding company to obtain all necessary information	1115
Cl.313	: Relief from requirements as to accounts and reports	1119
Cl.314	: Orders under corresponding laws	1125
Cl.315	: Members entitled to financial statements and reports	1128
Cl.316	: Financial statements and reports to be laid before annual general meeting	1131

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.317	: Commission may require company to lodge accounts etc.	1133
Cl.318	: Contravention of Part	1136
	<u>Division 8 - Inspection of records</u>	
Cl.319	: Inspection of records	1141
Cl.320	: Disclosure of information	1144
	<u>Division 9 - Transitional</u>	
Cl.321	: Application of this Part and Part 3.7 to Division 2 company	1146
Cl.322	: Continued application to Division 2 company of requirements of corresponding law	1148
Cl.323	: Division 3 or 4 companies	1150
	<u>PART 3.7 - AUDIT</u>	
Cl.324	: Qualification of auditors	1153
Cl.325	: When unlimited exempt proprietary company need not appoint auditor	1160
Cl.326	: When exempt proprietary company need not appoint auditor	1164
Cl.327	: Appointment of auditors	1170
Cl.328	: Nomination of auditors	1179

<u>ITEM</u>	<u>PARAGRAPH</u>
Cl.329 : Removal and resignation of auditors	1181
Cl.330 : Effect of winding up on office of auditor	1188
Cl.331 : Fees and expenses of auditors	1190
Cl.332 : Powers and duties of auditors as to reports on accounts	1192
Cl.333 : Obstruction of auditor	1196
Cl.334 : Special provisions relating to borrowing corporations and guarantor bodies	1198

PART 3.8 - ANNUAL RETURN

Cl.335 : Annual return	1201
Cl.336 : Annual activities statement	1204
Cl.337 : Exemption of certain companies	1208
Cl.338 : Information in annual return deemed to satisfy certain other lodgment requirements	1212
Cl.339 : Division 2 company	1214

CHAPTER 4 - VARIOUS CORPORATIONS

PART 4.1 - REGISTRATION OF CERTAIN BODIES

<u>ITEM</u>		<u>PARAGRAPH</u>
	<u>Division 1 - Registrable Australian corporations</u>	
Cl.340	: Registrable Australian corporation not to carry on business interstate unless registered	1227
Cl.314	: Application for registration	1230
Cl.342	: Cessation of business etc.	1232
	<u>Division 2 - Foreign companies</u>	
Cl.343	: Foreign company not to carry on business in Australia unless registered	1241
Cl.344	: Application for registration	1245
Cl.345	: Appointment of local agent	1247
Cl.346	: Local agent: how appointed	1249
Cl.347	: Local agent: how removed	1251
Cl.348	: Liability of local agent	1253
Cl.349	: Balance-sheets and other documents	1255
Cl.350	: Cessation of business etc.	1258
Cl.351	: Principal Australian register of foreign company	1267
Cl.352	: Branch registers in Australia	1271

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.353	: Register kept under section 351 or 352	1275
Cl.354	: Notifying Commission about register kept under section 351 or 352	1279
Cl.355	: Effect of right to acquire shares compulsorily	1281
Cl.356	: Index of members and inspection and closing of registers	1283
Cl.357	: Certificate as to shareholding	1285
<u>Division 3 - Bodies registered under this Part</u>		
Cl.358	: Names	1287
Cl.359	: Registered office	1289
Cl.360	: Certificate of registration	1291
Cl.361	: Notice of certain changes	1293
Cl.362	: Publication of name etc.	1295
Cl.363	: Service of documents on registered body	1300
Cl.364	: Power to hold land	1302
Cl.365	: Application of certain State and Territory laws	1305

<u>ITEM</u>		<u>PARAGRAPH</u>
<u>PART 4.2 - NAMES</u>		
Cl.366	: Interpretation	1310
Cl.367	: Available names	1312
Cl.368	: Names of particular classes of companies	1316
Cl.369	: Use of words "Limited" and "No Liability"	1318
Cl.370	: Use of word "Proprietary"	1320
Cl.371	: Abbreviations of words included in a company's name	1323
Cl.372	: Company with registration number as a name	1325
Cl.373	: Name of intended Division 1 company	1329
Cl.374	: Name by which body corporate proposes to be registered as a company	1335
Cl.375	: Proposed new name of company	1338
Cl.376	: Name by which registrable body proposes to be registered	1344
Cl.377	: New name or proposed new name of registered body	1347
Cl.378	: Applications under section 373 to 382	1349

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.379	: Extension of reservation	1352
Cl.380	: Cancellation of registration where body corporate dissolved or de-registered	1354
Cl.381	: Registration remains in force until cancelled	1357
Cl.382	: Change of name	1359
Cl.383	: Omission of "Limited" in names of charitable and other companies	1363
PART 4.3 - NO LIABILITY COMPANIES		
Cl.384	: Application of Act to no liability companies	1369
Cl.385	: Shareholder not liable to calls or contributions	1372
Cl.386	: Dividends payable on shares irrespective of amount paid up	1374
Cl.387	: Calls: when due	1376
Cl.388	: Forfeiture of shares	1378
Cl.389	: Provisions as to sale of forfeited shares	1380
Cl.390	: Shares held by, or in trust for, company	1382

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.391	: Sale of shares on non-payment of calls valid although specific numbers not advertised	1384
Cl.392	: Postponement of sale	1386
Cl.393	: Redemption of forfeited shares	1388
Cl.394	: Office to be open on day before sale	1390
Cl.395	: Distribution of surplus on cessation of business upon winding up	1392
Cl.396	: Distribution of surplus on cessation of business within 12 months after incorporation	1394
Cl.397	: Rights attaching to preference shares issued to promoters	1396
Cl.398	: Restrictions on tribute arrangements	1398
PART 4.4 - INVESTMENT COMPANIES		
Cl.399	: Interpretation	1401
Cl.400	: Restrictions on borrowing by investment companies	1405
Cl.401	: Restrictions on investments of investment companies	1407
Cl.402	: Restriction on underwriting by investment companies	1409

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.403	: Special requirements as to articles and prospectus	1411
Cl.404	: Investment company not to hold shares in other investment companies	1414
Cl.405	: Investment company not to speculate in commodities	1416
Cl.406	: Balance-sheets and accounts	1418
Cl.407	: Investment fluctuation reserve	1420
Cl.408	: Contraventions	1422
PART 4.5 - FINANCIAL STATEMENTS OF AUSTRALIAN BANKS AND LIFE INSURANCE CORPORATIONS		
Cl.409	: Australian banks and life insurance corporations	1424
CHAPTER 5 - EXTERNAL ADMINISTRATION		
PART 5.1 - ARRANGEMENTS AND RECONSTRUCTIONS		
Cl.410	: Interpretation	1430
Cl.411	: Power to compromise with creditors and members	1432
Cl.412	: Information as to compromise with creditors or members	1445

<u>ITEM</u>	<u>PARAGRAPH</u>
Cl.413 : Provisions for facilitating reconstruction and amalgamation of Part 5.1 bodies	1449
Cl.414 : Acquisition of shares of shareholders dissenting from scheme or contract approved by majority	1451
Cl.415 : Notification of appointment of scheme manager and power of Court to require report	1453
PART 5.2 - RECEIVERS AND MANAGERS	
Cl.416 : Interpretation	1457
Cl.417 : Application of Part	1462
Cl.418 : Persons not to act as receivers	1463
Cl.419 : Liability of receiver	1466
Cl.420 : Powers of receiver	1468
Cl.421 : Duties of receiver with respect to bank accounts and accounting records	1470
Cl.422 : Reports by receiver	1472
Cl.423 : Supervision of receiver	1476
Cl.424 : Receiver may apply to Court	1478
Cl.425 : Power of Court to fix remuneration of receiver	1480

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.426	: Receiver to enjoy qualified privilege in certain circumstances	1482
Cl.427	: Notification of appointment of receiver	1484
Cl.428	: Statement that receiver appointed	1486
Cl.429	: Provisions as to information where receiver appointed	1488
Cl.430	: Receiver may require reports	1490
Cl.431	: Receiver may inspect books	1492
Cl.432	: Lodging of accounts of receiver	1494
Cl.433	: Payment of certain debts, out of property subject to floating charge, in priority to claims under charge	1496
Cl.434	: Enforcement of duty of receiver to make returns	1498
PART 5.3 - OFFICIAL MANAGEMENT		
Cl.435	: Interpretation	1501
Cl.436	: Power of company to call meeting of creditors to appoint official manager	1502
Cl.437	: Report as to affairs of company to be submitted to meeting of creditors	1504

<u>ITEM</u>	<u>PARAGRAPH</u>
Cl.438 : Power to adjourn meeting	1506
Cl.439 : Power to creditors to place company under official management	1508
Cl.440 : Appointment of committee of management	1510
Cl.441 : Notice of appointment and address of official manager	1512
Cl.442 : Effect of resolution	1514
Cl.443 : Six-monthly meetings of creditors and members	1516
Cl.444 : Stay of proceedings	1518
Cl.445 : Power to extend period of official management	1520
Cl.446 : Extension of period of official management	1522
Cl.447 : Appointment of official manager not to affect appointment and duties of auditor	1524
Cl.448 : Duties of official manager	1526
Cl.449 : Undue preferences in the case of official management	1528
Cl.450 : Application and disposal of property during official management	1530

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.451	: Official manager may apply to Court for directions	1532
Cl.452	: Certain provisions applicable to official management	1534
Cl.453	: Power of Court to terminate official management and give directions	1536
Cl.454	: Resolution to place company under official management effective, subject to appeal	1538
Cl.455	: Lodgment of office copy of Court order	1540
Cl.456	: Termination of appointment and release of official manager	1542
Cl.457	: Notification that company is under official management	1545
Cl.458	: Functions of committee of management; appointment of deputy official manager	1547

PART 5.4 - WINDING UP BY THE COURT

Division 1 - Order for winding up

Cl.459	: Winding up of company that has ceased to be a trading or banking corporation	1551
Cl.460	: Winding up of company on the ground of insolvency	1554

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.461	: General grounds on which company may be wound up by Court	1557
Cl.462	: Standing to apply for winding up	1559
Cl.463	: Court may order winding up of company that is being wound up voluntarily	1563
Cl.464	: Application for winding up in connection with investigation under Commission Act	1564
Cl.465	: Commencement of winding up by the Court	1566
Cl.466	: Payment of preliminary costs etc.	1568
Cl.467	: Powers of court on hearing application	1570
Cl.468	: Avoidance of dispositions of property, attachments etc.	1572
Cl.469	: Application to be <u>lis pendens</u>	1574
Cl.470	: Certain notices to be lodged	1576
Cl.471	: Effect of winding up order	1578
<u>Division 2 - Court-appointed liquidators</u>		
Cl.472	: Power of Court to appoint official liquidator	1581
Cl.473	: General provisions about liquidators	1583

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.474	: Custody and vesting of company's property	1585
Cl.475	: Report as to company's affairs to be submitted to liquidator	1588
Cl.476	: Preliminary report by liquidator	1590
Cl.477	: Powers of liquidator	1592
Cl.478	: Settlement of list of contributions and application of property	1594
Cl.479	: Exercise and control of liquidator's powers	1596
Cl.480	: Release of liquidators and dissolution of company	1598
Cl.481	: Orders for release or dissolution	1600
<u>Division 3 - General Powers of Court</u>		
Cl.482	: Power to stay or terminate winding up	1602
Cl.483	: Delivery of property to liquidator	1604
Cl.484	: Appointment of special manager	1606
Cl.485	: Claims of creditors and distribution of property	1608
Cl.486	: Inspection of books by creditors and contributories	1610

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.487	: Power to arrest absconding contributory	1612
Cl.488	: Delegation to liquidator of certain powers of Court	1614
Cl.489	: Powers of Court cumulative	1616

PART 5.5 - VOLUNTARY WINDING UP

Division 1 - Resolution for winding up

Cl.490	: Limitation on right to wind up voluntarily	1619
Cl.491	: Circumstances in which company may be wound up voluntarily	1621
Cl.492	: Commencement of winding up	1623
Cl.493	: Effect of voluntary winding up	1625
Cl.494	: Declaration of solvency	1628

Division 2 - Members' voluntary winding up

Cl.495	: Liquidators	1632
Cl.496	: Duty of liquidator to call creditors' meeting in case of insolvency	1634

Division 3 - Creditors' voluntary winding up

Cl.497	: Meeting of creditors	1637
--------	------------------------	------

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.498	: Power to adjourn meeting	1640
Cl.499	: Liquidators	1643
Cl.500	: Execution and civil proceedings	1645
	<u>Division 4 - Voluntary winding up</u> <u>generally</u>	
Cl.501	: Distribution of property of company	1647
Cl.502	: Appointment of liquidator	1649
Cl.503	: Removal of liquidator	1651
Cl.504	: Review of liquidator's remuneration	1653
Cl.505	: Acts of liquidator valid etc.	1655
Cl.506	: Powers and duties of liquidator	1657
Cl.507	: Power of liquidator to accept shares etc. as a consideration for sale of property of company	1659
Cl.508	: Annual meeting of creditors	1662
Cl.509	: Final meeting and dissolution	1664
Cl.510	: Arrangement: when binding on creditors	1666
Cl.511	: Application to Court to have questions determined or powers exercised	1668
Cl.512	: Costs	1670

ITEMPARAGRAPH

PART 5.6- WINDING UP GENERALLY

Division 1 - Preliminary

Cl.513	:	Application	1673
--------	---	-------------	------

Division 2 - Contributories

Cl.514	:	Where Division applies	1676
--------	---	------------------------	------

Cl.515	:	General liability of contributory	1677
--------	---	-----------------------------------	------

Cl.516	:	Company limited by shares	1679
--------	---	---------------------------	------

Cl.517	:	Company limited by guarantee	1681
--------	---	------------------------------	------

Cl.518	:	Company limited both by shares and by guarantee	1683
--------	---	--	------

Cl.519	:	Exceptions for former unlimited company	1684
--------	---	--	------

Cl.520	:	Past member: later debts	1686
--------	---	--------------------------	------

Cl.521	:	Person ceasing to be a member a year or more before winding up	1688
--------	---	--	------

Cl.522	:	Present members to contribute first	1689
--------	---	--	------

Cl.523	:	Past Member of former unlimited company	1691
--------	---	--	------

Cl.524	:	Past member of former limited company	1693
--------	---	--	------

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.525	: Debts to a member	1695
Cl.526	: Liability on certain contracts	1696
Cl.527	: Nature of contributory's liability	1698
Cl.528	: Death of contributory	1700
Cl.529	: Bankruptcy of contributory	1702
Cl.530	: Division 2 company	1704
<u>Division 3 - Liquidators</u>		
Cl.531	: Books to be kept by liquidator	1705
Cl.532	: Disqualification of liquidator	1707
Cl.533	: Reports by liquidator	1709
Cl.534	: Prosecution by liquidator of delinquent officers and members	1712
Cl.535	: Liquidator has qualified privilege in certain circumstances	1714
Cl.536	: Supervision of liquidators	1716
Cl.537	: Notice of appointment and address of liquidator	1719
Cl.538	: Regulations relating to money etc. received by liquidator	1721

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.539	: Liquidator's accounts	1724
Cl.540	: Liquidator to remedy defaults	1726

Division 4 - General

Cl.541	: Notification that a company is in liquidation	1728
Cl.542	: Books of company	1730
Cl.543	: Investment of surplus funds on general account	1733
Cl.544	: Unclaimed property to be paid to Minister	1735
Cl.545	: Expenses of winding up where property insufficient	1737
Cl.546	: Resolutions passed at adjourned meetings of creditors and contributories	1739
Cl.547	: Meetings to ascertain wishes of creditors or contributories	1741

Division 5 - Committees of inspection

Cl.548	: Convening of meetings by liquidators for appointment of committee of inspection	1744
Cl.549	: Proceedings of committee of inspection	1746
Cl.550	: Vacancies on committee of inspection	1748

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.551	: Member of committee not to accept extra benefit	1750
Cl.552	: Powers of Court where no committee of inspection	1752
<u>Division 6 - Proof and ranking of claims</u>		
Cl.553	: Proofs of debts	1755
Cl.554	: Computation of debts	1757
Cl.555	: Debts proved to rank equally except as otherwise provided	1760
Cl.556	: Priority payments	1762
Cl.557	: Orders under section 91 of the Commission Act	1764
Cl.558	: Debts due to employees	1766
Cl.559	: Debts of a class to rank equally	1768
Cl.560	: Advances in respect of wages, retrenchment payments and leave of absence	1770
Cl.561	: Priority of employees' claims over floating charges	1772
Cl.562	: Insurance against liabilities to third parties	1774
Cl.563	: Provisions relating to injury compensation	1776

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.564	: Power of Court to make orders in favour of certain creditors	1779
<u>Division 7 - Effect on other transactions</u>		
Cl.565	: Undue preference	1782
Cl.566	: Effect of floating charge	1784
Cl.567	: Liquidator's right to recover in respect of certain transactions	1786
Cl.568	: Disclaimer of onerous property	1788
Cl.569	: Executions, attachments etc. before winding up	1790
Cl.570	: Duties of sheriff after receiving notice of application	1792
<u>Division 8 - Dissolution</u>		
Cl.571	: Power of Court to declare dissolution of company void	1795
Cl.572	: Notice by Commission of intention to deregister defunct company	1797
Cl.573	: Application to Commission for deregistration of defunct company	1800
Cl.574	: Power of Commission to deregister defunct company	1804

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.575	: Commission to act as representative of defunct company	1807
Cl.576	: Outstanding property of defunct company to vest in Commission	1809
Cl.577	: Outstanding interests in property: how disposed of	1811
Cl.578	: Liability of Commission and and Commonwealth as to property vested in Commission	1814
Cl.579	: Accounts	1816
	<u>Division 9 - Co-operation between Australian and foreign courts in external administration matters</u>	
Cl.580	: Interpretation	1819
Cl.581	: Courts to act in aid of each other	1821
	<u>PART 5.7 - WINDING UP OF BODIES OTHER THAN COMPANIES</u>	
Cl.582	: Application of Part	1830
Cl.583	: Winding up Type A bodies	1833
Cl.584	: Winding up Type B bodies	1835
Cl.585	: Insolvency of Part 5.7 body	1837
Cl.586	: Contributories in winding up of Part 5.7 body	1839

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.587	: Power of Court to stay or restrain proceedings	1841
Cl.588	Outstanding property of defunct Part 5.7 body	1843
PART 5.8 - OFFENCES		
Cl.589	: Interpretation and application	1846
Cl.590	: Offences by officers of certain companies	1850
Cl.591	: Liability where proper accounts not kept	1855
Cl.592	: Offences relating to incurring of debts or fraudulent conduct	1858
Cl.593	: Powers of Court	1865
C.594	: Certain rights not affected	1868
Cl.595	: Inducement to be appointed liquidator or official manager	1870
Cl.596	: Frauds by officers	1872
PART 5.9 - MISCELLANEOUS		
Cl.597	: Examination of persons concerned with corporations	1874
Cl.598	Orders against persons concerned with corporations	1877

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.599	: Court may disqualify person from acting as director etc	1879
Cl.600	: Commission may order persons not to manage corporations	1882
Cl.601	: Operation of certain Ordinances	1887
CHAPTER 6 - ACQUISITION OF SHARES		
PART 6.1 - INTERPRETATION		
Cl.602	: Effect of this Part	1895
Cl.603	: Definitions.	1896
Cl.604	: Acquisition of shares by "special" transaction	1898
Cl.605	: Acquisition and disposal of, entitlement to, and relevant interests in, marketable securities other than shares	1900
Cl.606	: Announcement by representative of dealer	1901
Cl.607	: Approved manner of sending documents	1903
Cl.608	: Doing acts	1904
Cl.609	: Entitlement to shares	1906
Cl.610	: Inadvertence or mistake etc.	1910
Cl.611	: Knowledge of employee or agent imputed to employer or principal	1912

<u>ITEM</u>	<u>PARAGRAPH</u>
Cl.612 : Odd lots	1914
Cl.613 : Remedial orders	1916
Cl.614 : Persons to whom Chapter applies	1917
PART 6.2 - CONTROL OF ACQUISITION OF SHARES	
Cl.615 : Restrictions on acquisitions	1922
Cl.616 : Acquisitions permitted under takeover schemes	1929
Cl.617 : Certain acquisitions permitted under takeover announcements	1931
Cl.618 : Acquisition of not more than 3% of voting shares permitted in each 6 months	1933
Cl.619 : Acquisition of shares in small companies or with consent of shareholders	1937
Cl.620 : Acquisition on market during takeovers	1939
Cl.621 : Acquisition as a result of pari passu allotments	1944
Cl.622 : Acquisitions pursuant to prospectus	1947
Cl.623 : Acquisitions approved by resolution of target company	1949

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.624	: Allotment by newly formed company	1954
Cl.625	: Acquisition under compromise or arrangement approved by Court	1956
Cl.626	: Acquisition by liquidator	1958
Cl.627	: Acquisition by exercise of option or rights	1960
Cl.628	: Acquisition of shares as consideration for takeover offer	1962
Cl.629	: Acquisition by acquiring shares in listed company	1964
Cl.630	: Acquisition by exercise of power vested in lender	1968
Cl.631	: Acquisition by will or operation of law	1970
Cl.632	: Acquisition of forfeited shares	1972
Cl.633	: Other permitted acquisitions	1974

PART 6.3 - TAKEOVER SCHEMES

Division 1 - Nature of takeover offers

Cl.634	: Offers must comply with this Division	1978
Cl.635	: Full takeover schemes and proportional takeover scheme	1980
Cl.636	: Identical offers	1982

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.637	: Service of Part A statement and copy of offer on target company	1984
Cl.638	: Contents of offers	1987
Cl.639	: Part A statement, and Part B statement if available, to accompany offers	1989
Cl.640	: Service on Commission of copies of documents accompanying offers	1991
Cl.641	: Offer price	1992
Cl.642	: Offers not to contain certain conditions	1994
<u>Division 2 - Part A statements and takeover offers</u>		
Cl.643	: Additional matter in Part A statement	1997
Cl.644	: Registration of copies of Part A statements and offers	2000
Cl.645	: Extension of time for paying consideration	2006
Cl.646	: Notice of offers to be served	2008
<u>Division 3 - Part B statements</u>		
Cl.647	: Part B statement	2010
Cl.648	: Offeror connected with target company	2015

ITEMPARAGRAPH

Division 4 - Effect of offers in
special circumstances

Cl.649	:	Acquisition by third party of shares subject to takeover offer	2018
Cl.650	:	Acceptance of takeover offers by trustees, nominees, etc.	2020
Cl.651	:	Avoidance of odd lots where takeover offer relates to proportion of offeree's shares	2024
Cl.652	:	Offeror not entitled to bid for balance where takeover offer relates to proportion of offeree's shares	2026

Division 5 - Withdrawal and
variation of offers

Cl.653	:	Withdrawal of offers	2028
Cl.654	:	Circumstances in which offers may be varied	2030
Cl.655	:	Variation of consideration	2032
Cl.656	:	Variation of offer period	2034
Cl.657	:	Manner of varying offers	2036
Cl.658	:	Effect of variation on offeree who has accepted offer	2039
Cl.659	:	Registration of notices of variation	2041

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.660	: Acquisition not affected by contravention	2044
Cl.661	: Section 645 not affected	2046
	<u>Division 6 - Conditional offers and contracts</u>	
Cl.662	: Takeover offers not to be subject to certain terms or conditions	2048
Cl.663	: Declaration where takeover offers are conditional	2052
	<u>Division 7 - Effect of outside acquisitions</u>	
Cl.664	: Effect on conditional offers	2056
Cl.665	: Effect on offers	2059
Cl.666	: Effect on contracts	2061
Cl.667	: Notice to offerees where cash not the sole consideration	2063
Cl.668	: Notice to offerees where cash consideration to constitute a loan	2065
	<u>Division 8 - Takeover approval provisions</u>	
Cl.669	: Definitions	2068
Cl.670	: Effect of Division	2069

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.671	: Constitution may contain takeover approval provisions	2071
Cl.672	: Provisions relating to the inclusion, effect and renewal of takeover approval provisions	2074
	PART 6.4 - TAKEOVER ANNOUNCEMENTS	
	<u>Division 1 - Offers constituted by announcement</u>	
Cl.673	: Nature of offers	2078
Cl.674	: Making of announcement	2080
Cl.675	: Acceptance of offers	2085
Cl.676	: Price to be specified	2088
Cl.677	: Acquisitions at higher price	2090
Cl.678	: Offer period	2093
Cl.679	: Part C statements	2095
Cl.680	: Service on Commission of copies of documents accompanying offers	2098
Cl.681	: Variation of offers	2100
Cl.682	: Liability of dealers	2104
	<u>Division 2 - Response of target company</u>	
Cl.683	: Part D statement	2107

ITEMPARAGRAPH

Division 3 - Withdrawal and
suspension of offers

Cl.684	:	Withdrawal of offers	2110
Cl.685	:	Suspension of acceptance of offers made under takeover announcement	2112

PART 6.5 - PROVISIONS RELATING TO
BOTH TAKEOVER OFFERS AND TAKEOVER
ANNOUNCEMENTS

Division 1 - Restrictions on offerors

Cl.686	:	Restriction on disposal of shares by offeror	2116
--------	---	---	------

Division 2 - Notification of
acquisitions and disposals of
shares in listed companies

Cl.687	:	Periods in respect of which notification to be given	2119
Cl.688	:	Persons by whom notification to be given	2121
Cl.689	:	Notifications by offeror	2123
Cl.690	:	Notifications by other persons acquiring more than 5% shareholding	2125
Cl.691	:	Notifications by persons ceasing to hold more than 5% shareholding	2127

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.692	: Notifications of changes in shareholding exceeding 1% by persons with more than 5% shareholding	2129
Cl.693	: Particulars to be notified	2132
Cl.694	: Person need serve only one notice per day	2134
Cl.695	: Defence	2136
	<u>Division 3 - Notification of acquisition of shares in unlisted company</u>	
Cl.696	: Notification of offeror's entitlement	2138
	<u>Division 4 - Prohibition on additional benefits</u>	
Cl.697	: Persons selling shares before the making of offers not be given additional benefits in certain cases	2140
Cl.698	: Offerees not to be given benefits except under takeover scheme or takeover announcement	2144
	<u>Division 5 - Obligations of target company</u>	
Cl.699	: Obligations of target company to provide information	2148

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.700	: Expenses of directors of target company	2150
	<u>Division 6 - Rights of offerors and shareholders</u>	
Cl.701	: Provisions relating to dissenting shareholders	2152
Cl.702	: Money or property unclaimed by dissenting shareholders	2158
Cl.703	: Rights of remaining shareholders and holders of options and notes	2160
	PART 6.6 - LIABILITY FOR MIS-STATEMENTS	
Cl.704	Mis-statements in Part 6.12 statements etc.	2169
Cl.705	Mis-statements in public statements, advertisements etc.	2173
Cl.706	: Existing causes of action not affected	2177
	PART 6.7 - SUBSTANTIAL SHAREHOLDINGS	
Cl.707	: Companies in relation to which Part applies	2183
Cl.708	: Substantial shareholdings and substantial shareholders	2185
Cl.709	: Substantial shareholder to notify company of interests	2190

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.710	: Substantial shareholder to notify company of changes in interests	2196
Cl.711	: Person who ceases to be substantial shareholder to notify company	2199
Cl.712	: Reference to operation of Division 5 of Part 1.2	2202
Cl.713	: Copy of notice to be served on securities exchanges	2204
Cl.714	: Commission may extend period for giving notice under this Part	2206
Cl.715	: Company to keep register of substantial shareholders	2208
Cl.716	: Civil remedy where Part contravened	2210
	PART 6.8 - POWER OF COMMISSION TO OBTAIN INFORMATION AS TO BENEFICIAL OWNERSHIP OF SHARES	
Cl.717	: Definitions	2219
Cl.718	: Primary notice	2223
Cl.719	: Secondary notice	2224
Cl.720	: Commission may give information to company	2225
Cl.721	: Request by person to whom notice given	2226
Cl.722	: Compliance with notices	2229

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.723	: Consequences of decision by Commission on a request	2231
Cl.724	: Register of notices	2232
Cl.725	: No notice of rights	2234
Cl.726	: Civil liability	2236
Cl.727	: Exceptions to criminal or civil liability	2238
PART 6.9 - POWERS OF COMMISSION AND ANCILLARY POWERS OF COURT		
Cl.728	: Power of Commission to exempt from : compliance with this Chapter	2241
Cl.729	: Power of Court to enforce exemption condition	2242
Cl.730	: Power of Commission to modify operation of this Chapter	2243
Cl.731	: Commission to take account of certain matters	2244
Cl.732	: Power of Commission to declares acquisition or other conduct to be unacceptable	2248
Cl.733	: Powers of Court where Commission declares acquisition or conduct to be unacceptable	2254

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.734	: Power of Commission to make certain orders	2258
Cl.735	: Power of Court to vary or revoke orders of Commission	2261
Cl.736	: Powers of Commission to intervene in proceedings	2263
PART 6.10 - POWERS OF COURT		
Cl.737	: Orders where prohibited acquisitions take place	2266
Cl.738	: Orders where offers not sent pursuant to Part A statement	2269
Cl.739	: Orders to protect rights under takeover schemes or announcements	2271
Cl.740	: Powers of Court in relation to unfair or unconscionable agreements, payments or benefits	2274
Cl.741	: Powers of Court with respect to defaulting substantial shareholder	2281
Cl.742	: Powers of Court where beneficial ownership of shares not disclosed	2283
Cl.743	: Contravention due to inadvertence etc.	2286
Cl.744	: Miscellaneous provisions relating to orders	2288

ITEMPARAGRAPH

PART 6.11 - MISCELLANEOUS

Cl.745	:	Recording of resolutions	2292
Cl.746	:	Announcements of proposed takeover bids	2294
Cl.747	:	Service of documents and publication of notices	2302
Cl.748	:	Regulations	2304

PART 6.12 - STATEMENTS

Cl.749	:	Interpretation of certain clauses in section 750	2306
Cl.750	:	Part A, B, C and D statements	2308

PART 13 - TRANSITIONAL

Cl.751	:	Application	2319
Cl.752	:	Definition	2320
Cl.753	:	Acquisitions pursuant to Part A statements served before commencement of Chapter	2321
Cl.754	:	Acquisitions pursuant to takeover announcements made before commencement of Chapter	2322
Cl.755	:	Application of State or Territory laws to excluded acquisitions not affected	2323

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.756	Acts of NCSC deemed to be acts of Commission	2324
Cl.757	: Acts done before commencement of Chapter	2325
Cl.758	: Notices of substantial shareholdings	2326
Cl.759	: Information as to beneficial ownership of shares	2327

CHAPTER 7 - SECURITIES

PART 7.1 - INTERPRETATION

Cl.760	: Effect of this Part	2334
Cl.761	: Definitions	2336
Cl.762	: Conduct	2338
Cl.763	: Odd lot	2342
Cl.764	: References to doing acts	2343
Cl.765	: Misleading representation	2345
Cl.766	: Trading in securities	2347

PART 7.2 - SECURITIES EXCHANGES

Cl.767	: Conducting unauthorised stock markets	2349
Cl.768	: Trading on unauthorised stock markets	2352

<u>ITEM</u>	<u>PARAGRAPH</u>
Cl.769 : Approval of stock exchange	2354
Cl.770 : Approval of approved securities organisation	2358
Cl.771 : Exempt stock market	2360
Cl.772 : Publication of instruments executed under section 769, 770 or 771	2363
Cl.773 : Auction, by licensed auctioneer, of forfeited shares	2366
Cl.774 : Commission to be notified of amendments to rules	2368
Cl.775 : Power of Commission to prohibit trading in particular securities	2371
Cl.776 : Securities exchanges to provide assistance to Commission	2374
Cl.777 : Power of Court to order compliance with or enforcement of business or listing rules of securities exchange	2376
Cl.778 : Gaming and wagering laws not applicable to certain option contracts	2378
Cl.779 : Qualified privilege in respect of disciplinary proceedings	2382

ITEMPARAGRAPHPART 7.3 - PARTICIPANTS IN THE
SECURITIES INDUSTRYDivision 1 - Dealers and investment
advisers

Cl.780	:	Dealers	2392
Cl.781	:	Investment advisers	2398
Cl.782	:	Application for a licence	2404
Cl.783	:	Grant of licence to natural person	2406
Cl.784	:	Grant of licence to body corporate	2411
Cl.785	:	Effect of certain provisions	2416
Cl.786	:	Conditions of licence	2418
Cl.787	:	Licensee to notify breach of licence condition	2423
Cl.788	:	Giving information and statements to Commission	2425
Cl.789	:	Register of Licence Holders	2427
Cl.790	:	Notifying change in particulars	2430
Cl.791	:	Annual statement of licensee	2432
Cl.792	:	Time for lodging annual statement	2434
Cl.793	:	Commission may extend period for lodging statement	2436

ITEMPARAGRAPH

Division 2 - Agreements with
unlicensed persons

Subdivision A - Agreements affected

Cl.794	:	Certain persons not clients	2441
Cl.795:	:	Agreements with unlicensed corporations	2443
Cl.796	:	Agreements with other unlicensed dealers and investment advisers	2445
Cl.797	:	Agreements with other unlicensed persons	2447

Subdivision B - Effect on
agreements

Cl.798	:	Client may give notice of rescission	2450
Cl.799	:	Effect of notice under section 798	2452
Cl.800	:	Court may make consequential orders	2454
Cl.801	:	Agreement unenforceable against client	2456
Cl.802	:	Non-licensee not entitled to recover commission	2458
Cl.803	:	Onus of establishing non-application of section 801 or 802	2460
Cl.804	:	Client may recover commission paid to non-licensee	2462

<u>ITEM</u>		<u>PARAGRAPH</u>
Cl.805	: Remedies under this Division additional to other remedies	2464
<u>Division 3 - Representatives</u>		
Cl.806	: Representatives of dealers	2467
Cl.807	: Representatives of investment advisers	2469
Cl.808	: Defence	2471
Cl.809	: Body corporate not to act as representative	2473
Cl.810	: Licensee to keep register of holders of proper authorities	2475
Cl.811	: Licensee to notify Commission of location and contents of register	2477
Cl.812	: Inspection and copying of register	2479
Cl.813	: Disclosure to client by representative	2481
Cl.814	: Commission may require production of authority	2484
Cl.815	: Commission may give licensee information about representative	2486
Cl.816	: Holder of authority may be required to return it	2489

ITEMPARAGRAPH

Division 4 - Liability of
principals for representatives'
conduct

Cl.817	:	Conduct engaged in as a representative	2493
Cl.818	:	Liability where identify of principal unknown	2495
Cl.819	:	Liability of principals where act done in reliance on representative's conduct	2497
Cl.820	:	Presumptions about certain matters	2503
Cl.821	:	No contracting out of liability for representative's conduct	2506
Cl.822	:	Effect of Division	2509
Cl.823	:	Additional operation of Division	2511

Division 5 - Excluding persons from
the securities industry

Cl.824	:	Power to revoke, without a hearing, licence held by natural person	2514
Cl.825	:	Power to revoke, without a hearing, licence held by body corporate	2516
Cl.826	:	Power to revoke licence after a hearing	2518
Cl.827	:	Power to suspend licence instead of revoking it	2521