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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

COMPANIES AND SECURITIES
(INTERPRETATION AND MISCELLANEOUS PROVISIONS)
AMENDMENT BILL (NO. 2) 1981

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Business and Consumer Affairs,
the Honourable John Moore, M.P.)

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OUTLINE

Companies and Securities

(Interpretation and Miscellaneous Provisions)

Amendment Bill (No. 2) 1981

1. The Companies and Securities (Interpretation and Miscellaneous Provisions) Amendment Bill (No. 2) 1981 (hereafter referred to as 'the Amendment Bill') makes various amendments to the Companies and Securities (Interpretation and Miscellaneous Provisions) Act 1980 (hereafter referred to as 'the Principal Act'). These amendments are consequential on the enactment of the proposed Companies Bill 1981. The Companies Bill 1981, which will repeal the A.C.T. Companies Ordinance 1962, sets out the substantive provisions of the new companies code and applies those provisions in the A.C.T.
2. Background material on the Principal Act and its relationship to the co-operative companies and securities scheme is contained in paras 4 to 10 of this explanatory memorandum.
3. The Amendment Bill will come into effect only when the proposed new Australian companies code comes into operation.

PROPOSED NEW COMPANIES AND SECURITIES INTERPRETATION CODE

4. The remainder of this explanatory memorandum contains a brief outline of the co-operative companies and securities scheme and the Principal Act and then deals sequentially with each clause of the Amendment Bill.

Formal Agreement

5. 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.

6. Additional background material on the Formal Agreement and on the four basic elements of the co-operative companies and securities scheme are contained in paras 7 to 36 of the separate explanatory memorandum on the Companies Bill 1981.

7. The initial Commonwealth legislation under the scheme can be divided into five groups:

- the NCSC Act;
- the interpretation code;

- the new Australian share acquisition code;
- the new Australian securities industry code; and
- the new Australian companies code.

8. The scheme legislation will be administered by the NCSC which, so far as practicable, will delegate its administrative responsibilities to the relevant corporate affairs office in each jurisdiction.

Interpretation of Scheme Legislation

9. The object of the Principal Act is to set out, as an interpretation code, the interpretative provisions that are essential to the operation of the scheme. These provisions need to be uniform so that the substantive laws can be applied in a uniform manner by each other jurisdiction that is covered by the Formal Agreement. Separate State application legislation will be required in relation to the interpretation code set out in the Principal Act. This Act will govern the interpretation of all Commonwealth legislation under the co-operative scheme.

10. Following further work on the scheme legislation and, in particular, on the Companies Bill 1981 it has become apparent that there is a need for amendment to the Principal Act. The remainder of this explanatory memorandum deals, sequentially, with each clause of the Amendment Bill.

COMPANIES AND SECURITIES (INTERPRETATION AND MISCELLANEOUS
PROVISIONS) AMENDMENT BILL (NO. 2) 1981

Cl. 1 : Short title, etc

11. When enacted the Bill will be cited as the Companies and Securities (Interpretation and Miscellaneous Provisions) Amendment Act (No. 2) 1981 (Amendment Bill cl. 1).

Cl. 2 : Commencement

12. The Bill will come into operation on the day on which the Companies Bill 1981 comes into operation (Amendment Bill cl. 2).

Cl. 3 : Definitions

13. Section 9 of the Principal Act defines a series of terms for the purposes of the Commonwealth legislation under the co-operative scheme.

14. This section is amended :

- (a) by substituting "Companies Act 1981" for "Companies Ordinance 1962" in the definition of "constituent documents"; and

(b) by substituting a new definition of "'the Territory'
or 'the Australian Capital Territory'" to ensure
that the legislation in force applies in all
respects in the Jervis Bay Territory.

(Amendment Bill cl. 3).

