

1990

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

ASSOCIATIONS INCORPORATION (AMENDMENT) BILL 1990

EXPLANATORY MEMORANDUM

**(Circulated by authority of the Attorney-General
Bernard Collaery MLA)**

Explanatory Memorandum

ASSOCIATIONS INCORPORATION (AMENDMENT) BILL 1990

Outline

- . The purpose of the Associations Incorporation (Amendment) Bill 1990 is to amend the Associations Incorporation Act 1953 (the Act).
- . The amendments transfer the administration of the Act from the Commonwealth Corporate Affairs Commission to the ACT Registrar's Office.
- . the amendments include transitional and savings provisions to preserve actions of the Corporate Affairs Commission and the activities of existing associations.
- . the amendments are part of a package of similar amendments made to the Business Names Act 1963 and Unclaimed Moneys Act 1950.

Financial Considerations

- . The amendments allow the Minister to set fees under the Act by determination. The level of fees set by the Minister will have an effect upon income.

Notes on Clauses

Clause 1 provides for the citation of the Act.

Clause 2 provides for the commencement of the Act. Clauses 1, 2 and 3 commence on the day the Act is notified in the Gazette, and the remaining provisions commence on 3 September 1990. This date was specified because the agency agreement under which the Corporate Affairs Commission administers the Principal Act, as well as the Business Names Act 1963 and the Unclaimed Moneys Act 1950, expires upon this date.

Clause 3 defines the "Principal Act" as the Associations Incorporation Act 1953.

Clause 4 amends section 2 of the Principal Act, the interpretation section, by omitting from subsection (1) the definition of "Commission", and by inserting into subsection (1) definitions of "approved form" and "Registrar".

Clause 5 inserts sections 2AA and 2AB after section 2 of the Principal Act. Subsection 2AA(1) provides for the appointment of a Registrar, Acting Registrar, and Deputy Registrars of Incorporated Associations and other officers by the Minister by instrument. Subsection 2AA(2) allows a Deputy Registrar to exercise and perform all the powers and functions of the Registrar, subject to the directions of the Registrar, and subsection 2AA(3) provides that the appointment of a Deputy Registrar does not affect the exercise or performance of a power or function by the Registrar.

Sub-section 2AB(1) provides that the Registrar shall have an official seal, and subsection AB(2) provides that a document shall not be invalid due to a failure to affix a seal or an informality in doing so.

Clause 6 amends section 2A of the Principal Act, dealing with fees. Subsection (1) is omitted and replacement by subsections (1) and (1A), which provide that the Minister may determine fees by notice published in the Gazette, and fees should be payable to the Registrar.

Clause 7 amends section 3 of the Principal Act to reflect the changed nature of the forms used to indicate notice of intention to apply for incorporation; the forms are now approved by the Registrar,

rather than prescribed by the Regulations to the Principal Act.

- Clause 8 amends section 5 of the Principal Act as a consequence of the changed nature of the forms used under the Act to apply for incorporation.
- Clause 9 inserts section 24A after section 24 of the Principal Act. Section 24A provides that the forms used under the Act shall be approved by the Registrar. Previously the forms which prescribed the form in which an application, notice, declaration or certificate should be made, given, published, issued or filed were prescribed in the Regulations to the Principal Act. Allowing the Registrar to approve the required forms increases the ease with which those forms can be amended. As the forms are purely administrative mechanisms and do not affect a person's rights or liabilities under the Act, there is no necessity for the forms to be approved by the Legislative Assembly.
- Clause 10 provides that section 25 of the Principal Act, dealing with the power to make Regulations, is amended as a consequence if the new arrangements made with respect to fees and approved forms under the Principal Act.
- Clause 11 repeals the Schedule to the Principal Act. The Schedule had prescribed the fees which could be charged under the Act.
- Clause 12 provides that further amendments to the Principal Act are made in Schedule 1. The amendments change the name of the administering body from "Commission" and "it" to the "Registrar" and "he or she".
- Clause 13 makes similar amendments to the Regulations in Schedule 2.
- Clause 14 makes transitional provisions for the change over to the new administration. These provisions are designed to ensure that an action commenced under a provision in the Principal Act before that provision was amended will not be affected by the amendments and will be preserved as though it had been commenced under the amended provisions, so that it can be completed by the Registrar. The amendment also provides for the continued application of the former Act in relation to the winding-up of an incorporated association commenced before the amendments commence.