

EXPOSURE DRAFT

2008-2009-2010

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT (19/04/2010)

Corporations Amendment (No. 2) Bill 2010

No. , 2010

(Treasury)

**A Bill for an Act to amend the law relating to
claims against corporations, and for related
purposes**



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1 **A Bill for an Act to amend the law relating to**
2 **claims against corporations, and for related**
3 **purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Corporations Amendment (No. 2) Act*
7 *2010*.

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.
13

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Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details

1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
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2. Schedule 1	The day after this Act receives the Royal Assent.	
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1 Note: This table relates only to the provisions of this Act as originally
2 passed by both Houses of the Parliament and assented to. It will not be
3 expanded to deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published version of this Act.

7 3 Schedule(s)

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

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Amendment of the Corporations Act 2001 Schedule 1

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Schedule 1—Amendment of the Corporations Act 2001

1 At the end of Chapter 2F

Add:

Part 2F.4—Proceedings against a company by members and others

247E Shareholding does not prevent compensation claim

A person is not prevented from obtaining damages or other compensation from a company only because the person:

- (a) holds, or has held, shares in the company; or
- (b) has subscribed for shares in the company; or
- (c) has a right to be included in the register that the company maintains under section 169.

2 Section 563A

Repeal the section, substitute:

563A Postponing subordinate claims

- (1) The payment of a subordinate claim made against a company is to be postponed until all other claims made against the company are satisfied.
- (2) In this section, *subordinate claim* means:
 - (a) a claim for a debt owed by the company to a person in the person's capacity as a member of the company (whether by way of dividends, profits or otherwise); or
 - (b) any other claim that arises from a person buying, holding, selling or otherwise dealing in shares in the company.

3 At the end of Division 3 of Part 5.9

Add:

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Schedule 1 Amendment of the Corporations Act 2001

1 **600H Rights if claim against the company postponed**

2 A person whose claim against a company is postponed under
3 section 563A is entitled:

- 4 (a) to receive a copy of any notice, report or statement to
5 creditors only if the person asks the administrator or
6 liquidator of the company, in writing, for a copy of the
7 notice, report or statement; and
8 (b) to vote in their capacity as a creditor of the company, during
9 the external administration of the company, only if the Court
10 so orders.

11 **4 Application provision—postponed claims**

- 12 (1) Section 563A of the *Corporations Act 2001*, as amended by this
13 Schedule, applies to a claim that arises after this Schedule commences.
- 14 (2) Section 600H of the *Corporations Act 2001*, as inserted by this
15 Schedule, applies to a claim made against a company if the external
16 administration of the company commences after this Schedule
17 commences.