



25 July 2023

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Committee

### Treasury Laws Amendment (2023 Law Improvement Package No. 1) Bill 2023

Further to the previous submission made by the Australian Restructuring Insolvency & Turnaround Association – ARITA – we provide the following supplementary submission clarifying our position that the Treasury Laws Amendment (2023 Law Improvement Package No. 1) Bill 2023 requires further amendment to rectify errors which remain unresolved since 2016.

The current and proposed definition of Resolution in the body of the *Corporations Act 2001* (Act) specifically refers to “a resolution passed at a meeting” and doesn’t capture resolutions passed by proposals in accordance with section 75-40 of the Insolvency Practice Schedule (Corporations).

For ease of reference, we have extracted the relevant current and proposed definitions below to highlight the limitation. You will note that the proposed changes to the section 9 definition maintains the current position.

Current	Proposed
<b>Corporations Act 2001</b> <b>9 Dictionary</b> <b>resolution</b> , when used in a provision outside Schedule 2 in relation to creditors or contributories, means a resolution passed at a meeting of the creditors or contributories.	<b>Corporations Act 2001</b> <b>9 Dictionary</b> <b>resolution</b> , in relation to creditors or contributories, means a resolution passed at a meeting of the creditors or contributories.  <b>7 Identifying defined terms</b> (1) The Dictionary in section 9 includes a definition for each term that is defined in this Act, except:



Current	Proposed
	<p>(a) a term that is defined for the purposes of a single section or part of a single section; and</p> <p>(b) a term that is defined for the purposes of Chapter 10 (transitional provisions) or Schedule 4 (transfer of financial institutions and friendly societies); and</p> <p>(c) a term that is defined for the purposes of Schedule 2 (the Insolvency Practice Schedule).</p> <p>In some cases, the definition is a signpost to another provision or Act which defines the term</p>
<b>Insolvency Practice Schedule</b>	<b>Insolvency Practice Schedule</b>
<p><b>5-5 The Dictionary</b>                      In this Schedule:  <b>resolution:</b> a resolution is passed by creditors or contributories of a company:                      (a) in a meeting—in the circumstances prescribed under paragraph 75-50(2)(k);                      or                      (b) without a meeting—in the circumstances prescribed under paragraph 75-40(5)(b).</p>	<p><b>5-5 The Dictionary</b>                      In this Schedule:  <b>resolution:</b> a resolution is passed by creditors or contributories of a company:                      (a) in a meeting—in the circumstances prescribed under paragraph 75-50(2)(k);                      or                      (b) without a meeting—in the circumstances prescribed under paragraph 75-40(5)(b).</p>

This limits the use of proposals to only consider resolutions that are provided for in the Insolvency Practice Schedule (Corporations).

For completeness, we note that we do not propose the use of proposals for provisions in the body of the Act or the Insolvency Practice Schedule (Corporations) which specifically stipulate the passing of a “resolution at a meeting.”

Please do not hesitate to contact Ms Narelle Ferrier, Technical & Standards Director, on 02 8004 4350 to discuss our comments further.

 **John Winter**  
 Chief Executive Officer



## About ARITA

The Australian Restructuring Insolvency and Turnaround Association (ARITA) represents professionals who specialise in the fields of restructuring, insolvency and turnaround.

We have more than 2,200 members and subscribers including accountants, lawyers and other professionals with an interest in insolvency and restructuring.

We are a not-for-profit, incorporated professional association run for the benefit of our members.

Around 80% of Registered Liquidators and Registered Trustees choose to be ARITA members.

ARITA's ambition is to lead and support appropriate and efficient means to expertly manage financial recovery.

We achieve this by providing innovative training and education, upholding world class ethical and professional standards, partnering with government and promoting the ideals of the profession to the public at large. In 2021, ARITA delivered 82 professional development sessions to over 7,100 attendees.

ARITA promotes best practice and provides a forum for debate on key issues facing the profession.

We also engage in thought leadership and public policy advocacy underpinned by our members' knowledge and experience. We represented the profession at 19 inquiries, hearings and public policy consultations during 2021.