



Clubs Australia

CLUBS AUSTRALIA SUBMISSION TREASURY LAWS AMENDMENT (MODERNISING BUSINESS COMMUNICATIONS AND OTHER MEASURES) BILL 2022

Clubs Australia welcomes the opportunity to comment on the **Treasury Laws Amendment (Modernising Business Communications and Other Measures) Bill 2022** (the Bill).

Clubs Australia represents over 6,000 licensed not-for-profit clubs. All clubs are owned by their members and take various forms, sizes and purposes, including sporting, returned services and bowling clubs. Over 1,000 clubs are public companies limited by guarantee (PCLG clubs) who are governed by the *Corporations Act 2001* (Cth).

While the COVID-19 pandemic presented many challenges for clubs, key legislative relief measures, including permitting companies to distribute meeting-related materials electronically, were welcomed by industry.

These changes have allowed clubs to engage a wider cohort of members using their preferred communications means, thereby reducing costs and saving paper.

Summary of recommendations

Clubs Australia supports reforms that will enable PCLG clubs to:

- communicate with members using electronic means, where appropriate;
- Reduce administrative and regulatory burdens associated with contacting and sending documentation to members whose address is incorrect; and
- hold directors' meetings virtually.

However, Clubs Australia recommends:

- Further extending the electronic communications regime to include documents that the company is required to give or send to members pursuant to its constitution; and
- the Committee consider options to remove redundant requirements for receiving relief under proposed s 110JA(3), or otherwise set out an objective relief condition.

The Bill will improve efficiencies

Clubs Australia supports amendments in the Bill that will permit clubs to send documents electronically.

Clubs are not-for-profit businesses, and they are commonly one of the largest – if not the largest – employers in their communities. Accordingly, any regulatory savings will be used by clubs to retain employees and make contributions to their community.

Communications required by the company constitution

While the Corporations Act requires PCLG clubs to send various documents to members, club constitutions also require clubs to send members certain documents. For instance, many clubs must send members director nomination forms and voting forms.



Since club constitutions are commonly several decades old, the requirements for the club to send these documents to members are commonly described using language which does not permit electronic communications.

While the Bill gives companies options to use electronic means to send documents that the Corporations Act requires, this flexibility does not apply to communications required by the company constitution. This poses a barrier to PCLG clubs reducing the volume of paper.

Clubs Australia recommends extending the electronic communications regime to include documents that the company is required to give or send to members pursuant to its constitution.

Lost Members

Clubs Australia supports removing the requirement for companies to continue communicating with members whose addresses are incorrect.

However, Clubs Australia believes the conditions for relief, set out in proposed s 110JA, are onerous and longer than necessary. While we believe it is reasonable for companies to try and contact lost members, clubs will incur a significant administrative burden if they are required to contact a lost member via every contact address they hold. Because club members are also their customers, clubs communicate with members for promotional and commercial purposes, as well as for membership. Accordingly, clubs commonly hold a member's email address, mobile number and residential address.

As currently drafted, clubs who hold multiple addresses for a member must contact them using each of the addresses. Proposed s 110JA(3)(a)(ii) appears to be intended to capture addresses which are not in the register of members, but which the company holds due to the recipient being a member. As noted above, the distinction between an address held for membership or customer purposes is unclear in clubs, because the member tends to provide each of their various addresses when they apply for membership.

Clubs Australia notes that the three conditions in proposed s 110JA(3) operate to be unnecessarily onerous for companies where members are customers, like clubs. For instance, not only would a club need to receive a notification separately for each of the addresses it holds, but the club must also "reasonably believe" the address is not current. Moreover, if the club is required to communicate with the member using each of the addresses, it is unclear how the club would satisfy the requirement to take reasonable steps to contact the member.

While Clubs Australia is not recommending any specific amendments to minimise these burdens, we recommend that the Government consider options to remove redundant requirements under proposed s 110JA(3), or otherwise set out an objective relief condition.

Clubs Australia appreciates the opportunity to provide a submission. For further information, please contact Simon Sawday, Executive Manager of Policy and Government, [REDACTED]
[REDACTED]