

7 March, 2003

*Corporations Leg. Am. Bill 2002
sub 2.*



Senator G H Brandis
Chairperson
Economics Legislative Committee
Department of Senate
Parliament House
CANBERRA ACT 2600



Dear Sir

Corporations Legislation Amendment Bill 2002

BGL Corporate Solutions Pty Ltd is the largest supplier of corporate registry software in Australia. Almost 40% of electronic documents lodged with the Australian Securities and Investments Commission's (ASIC) are lodged by our clients.

Both BGL and our 2,000 plus clients (which include all major accounting firms and many large corporate groups) are most concerned about content and implementation of the Corporations Legislation Amendment Bill 2002. (CLERP7)

First let me say that we agree in principal with the intention of CLERP 7 that was to simplify ASIC lodgements and reduce the cost of ASIC compliance to business. However, if CLERP 7 is implemented in its current form, it will have the exact opposite effect.

Let me explain:

CLERP 7 removes the need for companies to lodge Annual Returns. The compliance work however involved in the new Annual Review process far exceeds the amount of work required to prepare and lodge an Annual Return. Currently, ASIC agents prepare Annual Returns and resolutions from their computer systems. The return and resolution are then signed by the directors, returned to the ASIC agent and then the Annual Return is lodged electronically with ASIC. This process is fast and simple.

Under CLERP 7, ASIC agents will be required to review the details of every company to ensure the details in their database and ASIC's database are identical, print a Statement of Details (which is almost identical to an Annual Returns) and resolution and send this together with ASIC's Annual Fee Invoice to the directors. Although the Statement of Details does not need to be signed, the directors will still be required review this document and sign the resolution and return this to the ASIC agent. If the resolution is not signed within 60 days, the ASIC agent will be required to produce another form, send this to the directors for signing and then lodge the new form with ASIC.

The reason the review of details is necessary is because ASIC has not properly notified changes it has made to data lodged in previous returns. ASIC expects this new process to highlight these differences, but the process is more likely to cause confusion rather than correction.

In the past, ASIC has suggested that agents currently compare their databases with ASIC's database each year. This assertion by ASIC is simply incorrect. ASIC's own statistics tell them that only 20% of companies, where Annual Returns are lodged

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electronically, are checked against ASIC's database each year. Therefore, by abolishing Annual Returns in CLERP 7, agents will be required to compare ASIC's database with their own each year rather than simply lodging a form and letting ASIC do the comparison. Effectively, ASIC is moving this administrative cost from itself to the community undoubtedly leading to cost increases for the clients of ASIC agents.

Our second concern is the notification of changes document. Currently, agents lodge separate forms electronically with ASIC for changes to registered office, business address, officers, officers details, share allotments and share cancellations for all companies and registered schemes. Under CLERP 7, agents will lodge one combined form, that contains almost identical information to the existing forms. But this form, unlike the current forms, will only be used for Australian companies. Additional forms will be introduced for foreign companies and registered schemes. So where today agents are required to lodge one of 4 forms to notify changes, under CLERP 7 agents will lodge up to 3 parts of a new form or one of 2 additional forms ie 5 forms to notify the same changes. Further, the design of the new form is questionable running to 21 pages whereas the existing forms in total are just 10 pages.

In our view, the implementation and in some respects the foundations on which CLERP 7 is based are flawed. CLERP 7 was supposed to simplify the lodgement requirements for companies. In fact, it is doing the exact opposite. It is making the corporate compliance system more complicated by the introduction of new (unnecessary) forms and processes.

There is also a further issue with the timing of these changes. ASIC has indicated that the changes will come into effect on 1 July 2003. June, July and August are the busiest times for ASIC agents coping with new tax systems and tax return lodgements. Introducing these changes at this time will add significantly to the workload of agents who are still trying to cope with the enormous amount of additional work resulting from the introduction of the GST and the poor administration services provided by the Australian Tax Office. In our view, introduced in its current form, the CLERP 7 changes will be just as disastrous as the introduction of GST.

There is however a simple solution that would achieve most of the objectives of CLERP 7. The CLERP 7 changes were designed to improve the quality of information available to the public and to help spread ASIC's Annual Return workload throughout the year. It is a contradiction of terms to suggest they are a simplification when in fact they require more information to be lodged with ASIC. We therefore suggest the following should be considered as an alternative to the current implementation of CLERP 7.

1. Rather than abolish Annual Returns, change the lodgement date for Annual Returns to be based on the anniversary date of the registration of the company each year. (The CLERP 7 Annual Fee Invoice is also based on this date)
2. Require ASIC to properly report changes it makes to Annual Return data so these can be automatically loaded into agent's databases.
3. Amend 3 existing forms (Company Registration Form 201, Allotment of Shares Form 207 and Cancellation of Shares Form 284) to include the names of company shareholders so ASIC can maintain an up to date Register of Members.
4. Add a new form (or change the Allotment of Shares Form 207) to include detail of Share Transfers.

These four simple changes achieve the same results as CLERP 7 but without the need for total re education of ASIC agents and massive changes to existing systems.

We ask that you seriously consider this alternative proposal.

Sincerely



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Managing Director

cc: Economic Legislative Committee