

# Chapter 1

## Introduction

### Background

1.1 The Corporations Amendment (Repayment of Directors' Bonuses) Bill 2002 was introduced into the House of Representatives by the Treasurer, Mr Peter Costello MP, on 16 October 2002 and passed in the House on 11 February 2003.

### Purpose of the Bill

1.2 The Bill proposes to amend the *Corporations Act 2001* to permit liquidators to reclaim unreasonable director-related payments and transfers of property made to directors by their companies up to four years prior to liquidation.<sup>1</sup> The main object of the Bill as stated in the Explanatory Memorandum is to assist in the recovery of funds, assets and other property to companies in liquidation where payments or transfers of property to directors is unreasonable.

1.3 Unreasonable director-related transactions are defined as transactions made to a recipient in circumstances where a reasonable person in the company's circumstances would not have entered into the transaction.<sup>2</sup> In determining the reasonableness of a transaction factors such as the benefits and detriments to the company and the benefits to the recipient arising as a result of entering the transaction and any other relevant matters are considered.<sup>3</sup>

### Reference of the Bill

1.4 As a result of a report by the Selection of Bills Committee, the Senate referred the provisions of the Bill to the Economics Legislation Committee on 11 December 2002 for inquiry and report by 3 March 2003. The Senate later extended the reporting date to 19 March 2003.

### Submissions

1.5 The Committee advertised the inquiry in the *Australian* on Wednesday, 18 December 2002 and on the Parliament website. It also contacted a number of government agencies, organizations and individuals interested in the area of corporate and insolvency law alerting them to the inquiry and inviting them to make a submission. The Committee received nine submissions which are listed in Appendix 1.

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1 Explanatory Memorandum, p. 1.

2 Explanatory Memorandum, p. 4.

3 Explanatory Memorandum, p. 4.

## **Hearing and Evidence**

1.6 The Committee held one public hearing on this inquiry in Parliament House, Canberra on Thursday, 6 March 2003. The hearing took the form of a roundtable discussion. Witnesses who presented evidence before the Committee are listed in Appendix 2.

1.7 Copies of the Hansard transcript are tabled for the information of the Senate. They are also available through the internet at <http://www.aph.gov.au>

## **Acknowledgement**

1.8 The Committee thanks all those who assisted with its inquiry.