

**ASSOCIATIONS INCORPORATION AMENDMENT (TRANSFER OF INCORPORATION) BILL 2010**

*Introduction and First Reading*

Bill introduced, on motion by **Hon Sue Ellery (Leader of the Opposition)**, and read a first time.

*Second Reading*

**HON SUE ELLERY (South Metropolitan — Leader of the Opposition)** [10.07 am]: I move —

That the bill be now read a second time.

This bill has a very specific purpose—to facilitate the movement of an organisation incorporated under the Associations Incorporation Act 1987 to the Corporations Act 2001. This transfer may be considered necessary due to the size and scope of the organisation and its activities or because the organisation is compelled to transfer under the Corporations Act due to statute or regulation. Earlier this year Labor was approached by representatives of the Medical Defence Association of Western Australia Inc, trading as MDA National. Since 1925 MDA National has offered medical indemnity to the medical profession. MDA National is incorporated under the Associations Incorporation Act 1987. It has an extensive membership and services. MDA National has an income from premiums and subscriptions of over \$60 million a year, with an operating surplus for 2010 of almost \$30 million. MDA National exists in stark contrast to the vast array of small associations such as community groups like school P&Cs, yet they are all captured under the same legislation.

Scale and scope of operation is one obvious reason that it might be considered inappropriate for an organisation to continue operating under the Associations Incorporation Act. Another reason is the appropriateness of the regulatory regime. As a consequence of changes to the regulatory regime for the insurance industry, MDA National's subsidiary, MDA National Insurance Pty Ltd, became a fully authorised general insurer primarily supervised by the Australian Prudential Regulation Authority. APRA had originally required the parent company of a medical indemnity insurer to meet the requirements of a non-operating holding company, which would have involved MDA National becoming a company. Discussions and ambiguity exist around whether the transfer could take place without an explicit power within the state legislation or, indeed, whether MDA National is required to meet the conditions of an NOHC. What is clear is that MDA National sits within a legally ambiguous situation and is not appropriately catered for under the Associations Incorporation Act. Commercial opportunities may also escape the Western Australian company unless the transfer to the Corporations Act can be exercised smoothly, without changing the legal entity and without incurring stamp duties that the transfer might otherwise incur.

Under a new proposed part of the act, the bill explicitly details the process by which an association might approach the minister for permission to apply for registration of the association under the Corporations Act. I note that the association must first secure a special resolution of the association to ensure that the members of the association are appropriately informed and consulted on the issue consistent with that association's constitution.

The bill also provides for cancellation of registration under the Associations Incorporation Act when continued incorporation is considered inappropriate or inconvenient, and sets out clearly the limited grounds on which this might be determined. The bill also envisages consultation between the minister and the association to reach agreement on the continued incorporation, arrangements for continued incorporation or cancellation of incorporation.

This legislation will allow MDA National and other organisations to switch to an appropriate regulatory regime. In the case of MDA National, it means that the company can make strategic decisions to the benefit of the company in an increasingly national and international market with clarity on its legal governance. Most importantly, however, this legislation will enable a Western Australian company to remain in this state and to continue to employ Western Australian workers. I note that MDA National approached the government earlier this year to seek support for this legislation. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.