

PARTNERSHIP AMENDMENT BILL 2004

EXPLANATORY MEMORANDUM

Overview of Bill

The *Partnership Act 1895* (WA) provides that a partnership is liable to a corporation for any act or omission of a partner of the firm while acting as a director of the corporation. The proposed Bill amends this provision, which acts as a disincentive for well-qualified persons who carry on business in partnership to act as directors of corporations. The Bill protects the firm from liability if a partner while acting in the ordinary course of business of the firm acts wrongfully in his role as a director of the corporation.

The amendment will encourage professionals who presently practise in partnership such as lawyers, doctors, accountants and engineers to act as directors of corporations.

Similar amendments have been enacted in all other jurisdictions of Australia except Tasmania.

CLAUSE NOTES

Clause 1 – Short title

Clause 1 provides that the proposed Act is to be cited as the *Partnership Amendment Act 2004*.

Clause 2 – The Act amended

Clause 2 provides that the proposed Act amends the *Partnership Act 1895*.

Clause 3 – Section 17 amended

Section 17 will provide that the partnership is not liable if a partner while acting in the ordinary course of business of the firm causes any damage in his role as director of a corporation in the following circumstances.

- First, the partner had obtained the authority from some or all of the co-partners to act as a director of the corporation;
- Secondly, the remuneration the partner receives or acting as a director of the corporation forms part of the income of the firm;
- Thirdly, any co-partner is also a director of that for any other corporation; and
- Finally, because the firm acts for the corporation for which the partner is acting as a director.

