

EXPLANATORY MEMORANDUM

ASSOCIATIONS INCORPORATION (TRANSFER OF INCORPORATION) AMENDMENT BILL 2010

(Introduced by Hon Sue Ellery MLC)

Clause 1 **Short Title**

This Act may be cited as the *Associations Incorporation (Transfer of Incorporation) Amendment Act 2010*.

Clause 2 **Commencement**

The provisions of this Act shall come into operation on receiving Royal Assent.

Clause 3 **Act Amended**

The Act amends the *Associations Incorporation Act 1987*.

Clause 4 **Section 3A amended**

Section 3 is amended to allow for the registration of an association as a company under the *Corporation Act 2001*.

Clause 5 **Part IV Inserted**

This part provides for an association to seek voluntary transfer of incorporation to the Corporations Act or for the Minister to cancel an associations incorporation under the Associations Incorporation Act where continued incorporation is considered inappropriate.

Section 30B sets out the process by which an association seeks permission to apply for registration under the Corporations Act.

Section 30C gives effect to the process followed in Section 30B

Section 30D provides for the process whereby the Minister considers it inappropriate for an association to be under the Associations Incorporation Act and is required to transfer to the Corporations Act. Section 30D(1) details the process the Minister must take to firstly ascertain that accommodation under the Associations Incorporation Act is no longer appropriate and then to inform the association of his view. Subsequent sections set out the process by which the Minister

gives notice of the decision, the grounds for the decision and the manner in which the association in question might respond to the Minister's decision. Provision is made for the association to either comply with the Minister's decision, seek extension to the response process, or seek for the continued incorporation under the Associations Incorporation Act. Section 30D(5) also allows for the Minister and the Association to agree to ongoing incorporation under the Associations Incorporation Act subject to conditions.

In the event that the association and the Minister do not resolve to comply to an agreed arrangement, Sections 30D(6) – (9) provide for the cancellation of an associations incorporation under the Associations Incorporation Act.

Section 30(E) provides for the cancellation by the Commissioner under the Associations Incorporation Act.

Section 30 (F) describes the effect of the transfer of incorporation to clearly state that the continuity of legal rights, and obligations from teh association to the newly constituted company.

Clause 6

Section 36 amended

Amends Section 36 to include the cancellation under the provisions of this bill.