

## CATSI Act review

I've looked through the recommended changes via the Fact Sheets send by ORIC. There are my comments. [REDACTED]

### Part 1—Review of operation of Act

Yes they should be a review of the CATSI Act every 7 years.

### Part 2—Powers and functions of Registrar.

May be in line with ASIC but seems to give a whole lot more power to the Registrar. It's how that power is used that will be a concern.

### Part 3—Membership applications, member contact details and electronic communication.

Items 24 to 52, 74, 76, 77 and 83—Collecting other contact details

Agreed. Especially with the proposed provisions change the existing requirements for corporations when considering membership cancellation by changing the number of member contact attempts, the means by which the member should be contacted and timeframe within which contact must be attempted.

Items 53 to 54 and 82—Contacting corporations and individuals

Agreed

Items 59 to 64—Cancelling memberships

Agreed

Items 55, 65, 66, 75 and 78—Phone numbers, email addresses and alternative addresses

Agreed

Items 56 to 58 and 84—Timeframe for deciding membership applications, and grounds on which applications may be refused

Agreed

Items 59 to 64—Cancelling memberships

Agreed

Items 67 to 71—Proper purpose test to inspect or copy membership registers

Agreed

Items 69, 72, 73, 79 and 85—Redacting members' information from registers

Agreed with preference that the Registrar grants access to an unredacted register

### Part 4—Subsidiaries and joint ventures

Items 86 to 92 and 96—Subsidiaries and joint ventures

Agreed

Items 93 to 95—Two-member corporations

Agreed

Part 5—Classification of corporations

Agreed

Part 6—Meetings and reports

Items 100 and 110 to 113—AGMs for small corporations

Agreed

Item 101 and 103 to 105—Holding meetings virtually

Agreed

Item 102—Changing meeting details

Agreed

Items 102, 122 and 124—Cancelling meetings

Agreed

Items 106 to 109 and 114 to 120—Automatic time extension for AGMs and to lodge reports

Agreed

Item 121—Laying reports before an AGM

Agreed

Part 7—Constitutions

Item 125 – Replaceable rules

Agreed

Item 127 – Registrar approval of changes to rule books

Agreed

Part 8

I'm not sure if this is needed. It seems that ORIC is giving itself a whole lot of power to intervene or investigate. Surely the remuneration of any executive is personal between the Board and the person/s

could you or comment on Part 8

Part 8—Officers of corporations

The final report made a number of recommendations around changes to provide better transparency for members, and greater accountability for officers of corporations. These included making remuneration more visible and providing members with more information about who is in control of their corporation.

Items 128 to 147 and 159 to 163—Information regarding CEO and CFO Function

Recommendation 37 of the CATSI Act Review final report states:

It is recommended the CATSI Act be amended to require CATSI corporations to notify ORIC within 28 days of a change in Chief Executive Officer, Chief Financial Officer and Chief Operating Officer.

Recommendation 37 is being taken forward in a different way to what was proposed but with the same intent.

After much consultation and consideration it was agreed that while most CATSI corporations would have a Chief Operating Officer (CEO),

**(I think this is a misprint it should be Chief Executive Officer)**

and many would have a Chief Financial Officer (CFO) or someone performing those functions, many would be unlikely to have a Chief Operating Officer. As such, the recommendation was modified to include notification regarding only the CEO and CFO.

At present, the CATSI Act does not separately provide for the role of a CFO—except as part of the CEO function. The existing definition of CEO at section 694-85 states that anyone primarily responsible for financial matters in relation to the corporation and directly responsible for those matters to either the directors or another person or people performing the CEO function (where there is more than one person performing the function), performs a CEO function. Items 159 to 163 amend section 694-85 to explicitly provide a meaning for a CFO function.

Items 128 to 147 make changes to various provisions throughout the Act to include the concept of a CFO and CEO, and other officer roles.

Item 135 specifically gives effect to recommendation 37 by requiring that a corporation must lodge with the Registrar a notice of the personal details of a person performing a CEO or CFO function in relation to the corporation within 28 days after they begin to perform that function.

Items 148 to 158—Remuneration reporting

Recommendations 33 and 34 were aimed at providing greater transparency for members around the remuneration of key management personnel of the corporation.

They state:

It is recommended senior executive remuneration information be included in annual reporting to the Registrar and that the same information is laid before Annual General Meetings in accordance with Recommendation 29 in Chapter 4.

It is recommended the remuneration information of key personnel of associated entities also be reported in annual reports to the Registrar.

The detail of what is contained in reports to the Registrar is outlined in the CATSI Regulations.

Items 148 to 158 give effect to recommendations 33 and 34 by introducing the concept of a Remuneration Report along with other specified reports. The details of what will be in the Remuneration Report will be developed when the Regulation amendments are drafted. Time permitting, consultation will be undertaken in relation to the proposed amendments to the CATSI Regulations.

Item 164—Definition

Item 164 provides for a definition of key management personnel, the remuneration for which is to be included in a Remuneration Report, and links it to the accounting standards to ensure consistency.

#### Part 9—Related party transactions

Agreed

#### Part 10—Power to exempt corporation from employee-director requirement

Recommendation 39 of the CATSI Act Review final report recognised that there are times when it may be appropriate for a corporation's directors to also be employees. For example, in a Registered Native Title Body Corporate where the directors may work as employees undertaking cultural heritage work, or an art centre where directors may also be artists who work as employees to sell their artwork. Recommendation 39 stated:

Allow the Registrar to exempt a corporation or class of corporations from the requirement that a majority of directors must not be employees.

Items 172 and 173 give effect to this recommendation by providing the Registrar with the power to exempt a corporation from, or make a determination exempting a class of corporations from, the requirement that the majority of directors must not be employees.

Disagree. Directors should not be employees of the Corporation. The conflict of interest rules and perceptions needs to be strong. Directors could perform a role if they were contractors and the conflict of interest rules were strictly adhered too.

#### Part 11—Independent directors

Items 174 to 177—Independent Directors

Agreed

#### Part 12—Modernising publication requirements

Agreed

#### Part 13—Storage of information

Agreed

#### Part 14—Improving consistency with Corporations Act

Item 216—Protection for whistleblowers

Agreed but we have experienced the same person making unsubstantiated claims continually and ORIC takes it on face value and just keeps investigating.

Items 217 and 218—False and/or misleading information

Agreed if this limits a person making a complaint on a continuous basis.

Items 219, 220, and 221—Qualified privilege for auditors

Agreed

Part 15—Finalising processes

Items 223 and 224—Finalisation letter and compliance outcome letter

Agreed

Part 16—Dealing with unclaimed property

Agreed

Part 17—External administration and deregistration

Item 236—Irregularity in financial affairs as a ground for special administration

Agreed

Items 237 and 238—Removal of show cause notice

Agreed

Items 235, 241 and 243 to 245—Requirement to apply for leave of court

Agreed

Items 239 and 240—Prevent the cancellation of contracts of corporations under special administration

Agreed

Item 242—Presumptions of insolvency

Agreed

Items 246 to 251—Voluntary deregistration

Agreed

Part 18—Minor technical amendments

Items 252 to 258—Minor technical amendments

Agreed

Part 19—Review of financial reports

Agreed

Part 20—Native Title Register

Agreed