

TREASURY

BUSINESS LAW REFORM LESS RED TAPE; MORE BUSINESS; MORE JOBS

Corporate Law Economic Reform Program (CLERP):–

Phase two of the Coalition's CLERP project will continue the direction and build on the achievement of the program to date. The Coalition will implement the first six parts of CLERP and will develop CLERP Seven. A fundamental aim of this project is to reduce the regulatory burden on companies by abolishing the need for 650,000 proprietary companies to lodge their annual returns in 1999-2000 and to expand that relief to 1 million proprietary companies in 2000-2001. The project will also review the current arrangements for the payment of corporations fees.

Table of Contents

Executive Summary [*](#)

CLERP - Six Chapters of Economic Reform Delivering World's

Best Practice in Corporate Regulation –Generating More Enterprise, Growth and Employment [*](#)

CLERP Seven Cutting Red Tape and Making It Easier To Do Business [*](#)

Helping Regional and Rural Australia [*](#)

Labor’s Record [*](#)

Complex, Prescriptive Regulation. Poor Outcomes. [*](#)

Highlights of the Government’s Achievements [*](#)

A World Class Regulatory System [*](#)

- The Corporate Law Economic Reform Program - [*](#)

- Enhancing Financial Markets - [*](#)

- Consultation with Stakeholders - [*](#)

Cutting Red Tape and Making It Easier to Do Business [*](#)

Helping Rural and Regional Australia [*](#)

Policy Statement – Building On Our Record [*](#)

A CLERP – The Future Program [*](#)

B CLERP Seven – Streamlining the Business/ASIC Interface [*](#)

Key Measures [*](#)

Executive Summary

**CLERP - Six Chapters of Economic Reform
Delivering World’s Best Practice in Corporate
Regulation –Generating More Enterprise, Growth
and Employment**

- World's best practice in corporate regulation, proper and effective investor protection, a strong and effective corporate regulator in the Australian Securities and Investments Commission, helping Australian business to grow and create jobs will be the continued focus and goals of the Government's Corporate law policies.
- In March of 1997 the Coalition announced a comprehensive new program the Corporate Law Economic Reform Program (CLERP) with the aim of modernising Australia's corporate law, giving it an economic focus whilst at the same time protecting investors.
- The Corporate Law Economic Reform Program Bill resulting from the Program will deliver substantial reforms in the important areas of Fundraising, Directors Duties and Corporate Governance, Takeovers and Accounting Standards. The Coalition will also be implementing important reforms to Financial Markets and Investment Products after a further period of consultation.
- These reforms are helping to build a stronger Australia and are part of the Coalition's broader goal of making Australia a leading financial centre in the region.

CLERP Seven Cutting Red Tape and Making It Easier To Do Business

- CLERP Seven will focus on the paper compliance burden of Australian companies and will propose initiatives that will enable ASIC to make greater use of communications technology to reduce this paperwork **including the abolition of the need for all proprietary companies to lodge annual returns by the year 2001.**
- The project will also look at a fundamental overhaul and review of the large range of paper based documents that the law still requires companies to lodge. The aim of CLERP Seven **will be to make compliance with the law easier, less costly and less time consuming for companies whilst ensuring that the ASIC data base is accurate, reliable and comprehensive and investors can access information more easily.**

Helping Regional and Rural Australia

- Building societies and credit unions will be able to issue cheques in their own names from 1 December 1998.
- These reforms will also provide consumers with greater freedom of choice in choosing a financial institution and will particularly help rural and regional Australia where traditional banking providers have been withdrawing their services.
- The CLERP Six reforms to the licensing of financial advisers together with reforms to the licensing of financial institutions will ensure more access to high quality financial advice and a broader range of products and services to people in rural and regional Australia.

Labor's Record

Complex, Prescriptive Regulation. Poor Outcomes.

Labor's period in office was characterised by poor law enforcement in the area of corporate governance.

Regulators had overlapping and in some cases deficient jurisdiction. Regulators were not properly resourced.

In addition a highly prescriptive approach to corporate law led to complex provisions difficult for company officers to apply and difficult for Courts and regulators to interpret and enforce.

This approach failed to appropriately balance the need to protect investors with allowing companies to get on with developing business which provide goods and services and ultimately, economic growth and better living standards.

Labor left Australia with a Corporations Law which was too prescriptive, too complicated and in need of a fundamental reform.

Labor failed to recognise the importance of building a framework of corporate regulation to help Australia become a leading financial centre in the region.

Labor did not open the financial sectors to new competitive forces which can lower costs for business and consumers and promote economic development.

Improving business regulation will promote a **stronger Australia**.

Highlights of the Government's Achievements

A World Class Regulatory System

Combined with the reforms to the Australian Financial Sector the wide ranging reform of Australia's corporate law proposed under the Corporate Law Economic Reform Program will provide a launching pad for Australia's drive to make Australia a leading business centre in the Asia Pacific region.

- The Corporate Law Economic Reform Program -

The key policy reforms to be implemented under CLERP and contained in the CLERP Bill include:

Fundraising Reforms

Changes to the fundraising rules to make access to capital easier for small business, enabling companies to raise up to \$5 million using an Offer Information Statement, up to \$2 million from 20 private investors, and amounts of less than \$500,000 from individual "business angels" without a prospectus.

Measures to Protect investors by ensuring that fundraising reforms focus on the need for investors to be provided with relevant, understandable and cost effective information and to enable them to make informed decisions.

Accounting Reforms

Providing a greater commercial and international focus to the making of accounting standards which will ensure that financial reporting standards are more relevant to business.

Directors Duties and Corporate Governance

A business judgment rule to provide more certainty for directors and new legal rights for shareholders to take action on behalf of companies.

Takeovers

Improving Takeovers regulation to promote a more competitive market for corporate control including the introduction of the follow-on rule which will ensure that minority shareholders benefit equally from takeover activity and enhancing the role of the Takeovers Panel.

Financial Markets and Investment Products

Substantial progress has also been made towards implementing important reforms in the revamp of the regulation of Australia's financial markets and investment products to provide a flexible and adaptable regulatory framework to encourage innovation and competition.

- Enhancing Financial Markets -

Legal certainty for payments system netting managed by the Reserve Bank of Australia (RBA) has been established. This facilitates implementation by the RBA of its Real Time Gross Settlement (RTGS) for high value payments in the financial system.

RTGS ensures that high value payments are settled immediately and irrevocably as they are cleared across exchange settlement accounts held with the RBA.

The new laws also enhance prudential safety in the financial markets by providing greater legal certainty for close out and market netting.

- Consultation with Stakeholders -

Consultation with stakeholders has been a key feature of the Coalition's approach to Corporate law reform with the establishment of the Business Regulation Advisory Group. The Coalition recognises the vital and important role that those who use and rely on the law play in its development.

Cutting Red Tape and Making It Easier to Do Business

The Company Law Review Act 1998 commenced its operation on 1 July 1998. Small business benefits particularly from the Act. Registering a company will require only one form, the Law itself will provide modern rules suitable for running a company and the annual return will be less costly to prepare with over half the items previously required to be included in the return removed.

Helping Rural and Regional Australia

Building societies and credit unions will be able to issue cheques in their own names from 1 December 1998. These reforms will also provide consumers with greater freedom of choice in choosing a financial institution and will particularly help rural and regional Australia where traditional Banks have withdrawn services.

The Financial system reforms introduced after the Financial System Inquiry have ensured that a much wider range of institutions can now offer what have previously been traditional banking services. The government is in the process of implementing a new regime for the licensing of financial dealers, representatives and their agents. The aim of these reforms which form part of CLERP Six are to **ensure more access to high quality financial advice and a broader range of products**. This should have significant benefits for many Australians living outside our Capital cities.

Policy Statement – Building On Our Record

A CLERP – The Future Program

The Coalition has through a series of comprehensive and complementary policy initiatives sought to build Australia into a major financial centre, with a stable and efficient financial and corporate law regime based on sound economic management. The benefits of these policies are aimed at encouraging enterprise, boosting employment, ensuring consumers receive good value and quality service, and attracting financial and corporate business to Australia.

The Coalition will **enact the CLERP Bill in the next parliamentary term** to contribute to these objectives.

Important reforms in financial markets and investment products will also be progressed.

The key proposals include

- comparable regulation of all financial products, including securities, derivatives, superannuation, life and general insurance and bank-deposit products;
- harmonising the licensing of markets in financial products;

- a single licensing regime and disclosure standard for financial intermediaries; and
- ensuring that "promoters" or issuers of financial products provide comprehensible disclosure documents to assist investors to make comparisons across all investment products.

The Coalition plans to **maintain active consultation** on the detail of each of these proposals through the release of discussion papers and draft legislation.

B CLERP Seven – Streamlining the Business/ASIC Interface

CLERP Seven will assist business with a range of initiatives to reduce the volume of material that is lodged with ASIC, while improving the quality and accessibility of the information in the ASIC database.

ASIC's information databases are a resource which can be harnessed to provide significant benefits for business and investors. A new strategy is needed to tap into this resource.

ASIC's approach to information management is being upgraded to take account of technological developments and the increasing use of the Internet by business and investors.

The Coalition will ensure that any reforms appropriately balance the importance of publicly available information required by the law with concerns as to privacy issues.

Key Measures

(i) Establishment of a Business Advisory Board

This Board with private sector representation will provide strategic advice on the direction and initiatives for the ASIC Information Division, assisting with the CLERP Seven reforms and ensuring the Division is aware of and responsive to the needs of business.

(ii) Easier access to ASIC by business

The Coalition will develop through CLERP Seven legislative changes

required to assist ASIC in making optimal use of new communications technology to improve both its own efficiency and to reduce the cost for business of dealing with ASIC. Key measures will include:

- significantly increasing the range of information to be lodged electronically and over the Internet;
- notifying simple changes to ASIC over the telephone with appropriate authentication;
- making more information available for searching over the Internet; and
- introducing alternative and easier payment systems such as credit cards and EFTPOS for paying fees.

(iii) One million fewer documents for business to lodge

CLERP Seven will have as one of its principal objectives the abolition of the annual return form currently lodged by all proprietary companies. This would be accompanied by a review of the structure of the annual fee regime.

At present over one million businesses are required to lodge an annual return. This is required notwithstanding that there may have been no changes to the information contained in the annual return during the year.

The aim of CLERP Seven will be to reduce the number of annual returns that need to be lodged by 650,000 in year 1999-2000 (65% of proprietary companies), and to expand that to 1,000,000 by the following year.

CLERP Seven will aim to achieve a "no change – no lodge" policy in the initial year of implementation. From 1999-2000 proprietary companies will not need to lodge an annual return supplied by ASIC where there have been no changes to the information about the company held by ASIC.

From the year 2000-01 proprietary companies will no longer receive an annual return from ASIC, nor will they need to lodge one annually. All proprietary companies will however continue to be obliged to inform ASIC of any relevant changes to their key details and will still be required to pay an annual fee. ASIC will engage in surveillance and

education programs to ensure that the ASIC database is correct and up to date.

The CLERP Seven project will also consider the scope for reducing the number of documents that must be lodged (particularly where the information has been previously provided) and the type of information which needs to be lodged.

The CLERP Seven reforms will be developed in consultation with ASIC, the Business Regulation Advisory Group (BRAG) and business, investment and consumer organisations.

(iv) Fee Relief

As part of CLERP Seven the Coalition will be reviewing the fees set under the Corporations Law. Key objectives of the review will be to:

- reduce the fees paid by small business;
- more closely apply the user pays principles to services provided by ASIC;
- reduce the complexity of the existing fees arrangements; and
- facilitate the effective and efficient operation of ASIC.

The fees that currently apply to the following activities will be subject to particular attention by the review:

- company annual return fees;
- the futures and securities industries (especially in relation to occupational licensing);
- fundraising and takeovers;
- Lodgement of documents with ASIC.