

# House of Representatives

# Supplementary Order Paper

Thursday, 25 August 2016

## Statutes Amendment Bill

### *Proposed amendment*

David Seymour, in Committee, to move the following amendment:

*New Part 6A*

After *clause 24* (page 12, after line 12), insert:

### **Part 6A**

### **Companies Act 1993**

#### **24A Principal Act**

This **Part** amends the Companies Act 1993 (the **principal Act**).

#### **24B Section 209 amended (Obligation to make annual report available to shareholders)**

(1) Replace section 209(1) with:

- (1) The board of a company must, not less than 20 working days before the date fixed for holding the annual meeting of shareholders,—
- (a) send to every shareholder of the company, free of charge, a printed copy of the annual report; or
  - (b) make available to every shareholder of the company, free of charge, a copy of the annual report.

(2) Replace section 209(3) with:

- (3) The board of a company must, on at least 1 occasion, directly notify each shareholder in writing that—
- (a) the shareholder may elect to receive, free of charge, in each financial year—

- (i) a printed copy of the annual report for the financial year, or a printed copy of the concise annual report for the financial year (if the board of the company has prepared that report for the financial year); or
  - (ii) an electronic copy of either the annual report or the concise annual report (if one has been prepared) for the financial year; and
  - (b) if the shareholder makes no election in response to the notice, the shareholder—
    - (i) will not receive a printed or electronic copy of the annual report or the concise annual report (if one has been prepared); and
    - (ii) may access a copy of the annual report and the concise annual report (if one has been prepared), free of charge, by electronic means specified in the notice, in accordance with **section 209B**.
- (3A) The notice referred to in **subsection (3)** may be accompanied by any additional information or documentation that the board of the company thinks fit.
- (3) Replace section 209(4) with:
- (4) An election made under **subsection (3)** is a standing election for each later financial year until the shareholder changes the election.

#### 24C Sections 209A and 209B replaced

Replace sections 209A and 209B with:

##### 209A Board must send copy of annual report or concise annual report on request

- (1) If a shareholder makes a request to the company to receive a printed copy of the annual report, the board of the company must, as soon as practicable, send to the shareholder, free of charge, a printed copy of the report.
- (2) If a shareholder makes a request under **subsection (1)**,—
  - (a) the request must be treated as an election by the shareholder under **section 209(3)(a)(i)** to send to the shareholder each year a printed copy of the annual report; and
  - (b) the board of the company must send to the shareholder each year a printed copy of the annual report, as if the shareholder had made an election under **section 209(3)(a)(i)** to receive the report, until the shareholder revokes the request by notice to the company.

- (3) **Subsection (2)** does not require a company to send a printed copy of an annual report on the affairs of the company during a particular accounting period if the board of the company is not required to comply with section 208 in respect of that period.
- (4) **Subsection (5)** applies if—
  - (a) the board of a company has prepared a concise annual report; and
  - (b) a shareholder makes a request to the company to receive a printed copy of the concise annual report.
- (5) The board of the company—
  - (a) must send to the shareholder a printed copy of the concise annual report, free of charge, as soon as practicable after receiving the request; but
  - (b) need not treat the request as an election by the shareholder to send to the shareholder each year a printed copy of the annual report or the concise annual report under **section 209(3)(a)(i)**.
- (6) If the board of a company fails to comply with this section, every director of the company commits an offence and is liable on conviction to the penalty set out in section 374(2).

**209B Annual report and concise annual report made available by electronic means**

- (1) The board of a company must ensure that—
  - (a) a copy of the annual report and of the concise annual report (if one has been prepared) is available by electronic means (for example, from a specified website address) at all reasonable times during the period beginning not less than 20 working days before the date fixed for holding the annual meeting of shareholders and ending on the date the board acts under **section 209(1)** in relation to the next accounting period; and
  - (b) the electronic means allows a copy of the report, or reports, to be readily accessible so as to be usable for subsequent reference.
- (2) If the board of a company fails to comply with this section, every director of the company commits an offence and is liable on conviction to the penalty set out in section 374(2).

**24D Section 212 amended (Shareholders may elect not to receive documents)**

Repeal section 212(2) and (3).

**24E Section 374 amended ( Penalties that may be imposed on directors in cases of failure by board or company to comply with Act)**

- (1) In section 374(2)(22), replace “section 209A(5)” with “**section 209A(6)**”.
- (2) In section 374(2)(22A), replace section 209B(3) with “**section 209B(2)**”.

**Explanatory note**

This Supplementary Order Paper inserts a *new Part 6A* in the Statutes Amendment Bill. *New Part 6A* amends provisions in the Companies Act 1993 to implement the changes proposed in Matt Doocey’s Members’ Bill, the Companies (Annual Report Notice Requirements) Amendment Bill.