

EXPOSURE DRAFT

2019-2020

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

EXPOSURE DRAFT (01/10/2020)

Corporations Amendment (Virtual Meetings and Electronic Communications) Bill 2020

No. , 2020

(Treasury)

A Bill for an Act to amend the *Corporations Act 2001*, and for related purposes

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1 **A Bill for an Act to amend the *Corporations Act***
2 ***2001*, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Corporations Amendment (Virtual Meetings and*
6 *Electronic Communications) Act 2020*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.

No. , 2020 Corporations Amendment (Virtual Meetings and Electronic 1
Communications) Bill 2020

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1

Commencement information

Column 1

Column 2

Column 3

Provisions

Commencement

Date/Details

1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table

2. Schedule 1, Part 1

The day after this Act receives the Royal Assent.

3. Schedule 1, Part 2

The day after this Act receives the Royal Assent.

However, the provision(s) do not commence at all if section 3 of the *Corporations Amendment (Corporate Insolvency Reforms) Act 2020* commences before the time this Act commences.

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3
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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

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6
7

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

8

3 Schedules

9
10
11
12

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

2

Corporations Amendment (Virtual Meetings and Electronic Communications) Bill 2020

No. , 2020

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Amendments **Schedule 1**
Amendments **Part 1**

1 **Schedule 1—Amendments**

2 **Part 1—Amendments**

3 *Corporations Act 2001*

4 **1 Section 127 (after the heading)**

5 Insert:

6 *Executing a document without a common seal*

7 **2 Before subsection 127(2)**

8 Insert:

9 *Executing a document with a common seal*

10 **3 After subsection 127(2)**

11 Insert:

12 (2A) For the purposes of subsection (2), the fixing of a common seal to a
13 document is taken to have been witnessed by a person mentioned
14 in paragraph (a), (b) or (c) of that subsection if the person:

15 (a) observes the fixing of the seal by electronic means; and

16 (b) signs the document; and

17 (c) the document includes a statement that the person observed
18 the fixing of the seal by electronic means.

19 **4 Before subsection 127(3)**

20 Insert:

21 *Executing a document as a deed*

22 **5 After subsection 127(3)**

23 Insert:

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1 *Signing a physical copy or counterpart*

- 2 (3A) For the purposes of this section, a document is taken to have been
3 signed by a person if:
4 (a) the person signs a copy or counterpart of the document that is
5 in a physical form; and
6 (b) the copy or counterpart includes the entire contents of the
7 document.

8 *Signing an electronic copy or counterpart*

- 9 (3B) For the purposes of this section, a document is taken to have been
10 signed by a person if:
11 (a) the person receives a copy or counterpart of the document:
12 (i) that is in a physical form; or
13 (ii) by means of an electronic communication; and
14 (b) the copy or counterpart includes the entire contents of the
15 document; and
16 (c) the person indicates, by means of an electronic
17 communication, that the person has signed the document; and
18 (d) a method is used to identify the person and to indicate the
19 person's intention in respect of the information
20 communicated in the document; and
21 (e) the method used was either:
22 (i) as reliable as appropriate for the purpose for which the
23 document was generated or communicated, in light of
24 all the circumstances, including any relevant agreement;
25 or
26 (ii) proven in fact to have fulfilled the functions described
27 in paragraph (d), by itself or together with further
28 evidence.

29 *Copy or counterpart need not include other signatures*

- 30 (3C) For the purposes of paragraphs (3A)(b) and (3B)(b), a copy or
31 counterpart of a document need not include:
32 (a) the signature of another person signing the document; or

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Amendments **Schedule 1**
Amendments **Part 1**

1 (b) any material included in the document to identify another
2 person signing the document or to indicate another person's
3 intention in respect of the contents of the document.

4 **6 Before subsection 127(4)**

5 Insert:

6 *Other ways of executing documents not limited*

7 **7 Subsection 129(5)**

8 After “subsection 127(1)”, insert “, (3A) or (3B)”.

9 **8 Paragraph 129(6)(a)**

10 After “subsection 127(2)”, insert “ or (2A)”.

11 **9 Section 141 (table items 22 and 22A)**

12 Repeal the items, substitute:

22 When notice is given 249J(4)

13 **10 Section 248D**

14 Repeal the section.

15 **11 Paragraphs 249J(3)(c) to (cb)**

16 Repeal the paragraphs, substitute:

17 (c) by electronic means in accordance with section 253S; or

18 **12 Subsections 249J(3A) to (5)**

19 Repeal the subsections, substitute:

20 *When notice is given (replaceable rule—see section 135)*

21 (4) A notice of meeting is taken to be given:

22 (a) if it is sent by post—3 days after it is posted; or

23 (b) if it is sent by means of electronic communication in
24 accordance with subsection 253S(2)—on the business day
25 after it is sent; or

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- 1 (c) if it is sent by giving the member information in accordance
2 with subsection 253S(3)—on the business day after the day
3 on which the information is sent to the member.

4 **13 Paragraph 249L(1)(a)**

5 Repeal the paragraph, substitute:

6 (a) set out:

- 7 (i) if there is only one location at which the members who
8 are entitled to physically attend the meeting may do
9 so—the date, time and place for the meeting; and
10 (ii) if there are 2 or more locations at which the members
11 who are entitled to physically attend the meeting may
12 do so—the date and time for the meeting at each
13 location, and the main location for the meeting; and
14 (iii) if virtual meeting technology is to be used in holding the
15 meeting—sufficient information to allow the members
16 to participate in the meeting by means of the
17 technology; and

18 **14 Section 249R**

19 Repeal the section, substitute:

20 **249R Accessibility of meetings of members**

- 21 (1) A meeting of a company's members must be held:
22 (a) at a reasonable time; and
23 (b) if any of the company's members is entitled to physically
24 attend the meeting—at a reasonable location or locations; and
25 (c) if virtual meeting technology is to be used in holding the
26 meeting—in accordance with section 253Q.
27 (2) For the purposes of paragraph (1)(a), a meeting is taken to be held
28 at a reasonable time if any of the following applies:
29 (a) if there is only one location at which the members who are
30 entitled to physically attend the meeting may do so—the
31 meeting is held at a time that is reasonable at the location;
32 (b) if there are 2 or more locations at which the members who
33 are entitled to physically attend the meeting may do so—the

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- 1 meeting is held at a time that is reasonable at the main
2 location for the meeting as set out in the notice of the
3 meeting;
4 (c) if the meeting is held using virtual meeting technology—the
5 meeting is held at a time that is reasonable at the place where
6 the meeting is taken to be held under section 253R.

7 **15 Section 249S**

8 Repeal the section.

9 **16 Subsection 249T(3)**

10 Repeal the subsection, substitute:

11 (3) A meeting of the company's members that does not have a quorum
12 present within 30 minutes after the time for the meeting set out in
13 the notice of meeting is adjourned to a meeting (the *resumed*
14 *meeting*) at a later time.

15 (3A) The directors may specify:

- 16 (a) the date and time of the resumed meeting; and
17 (b) if any of the company's members is entitled to physically
18 attend the resumed meeting—the location or locations at
19 which the members may do so; and
20 (c) if virtual meeting technology is to be used in holding the
21 meeting—sufficient information to allow the members to
22 participate in the resumed meeting by means of the
23 technology.

24 (3B) If the directors do not specify one or more of the things mentioned
25 in subsection (3A):

- 26 (a) if the date is not specified—the meeting is adjourned to the
27 same day in the next week; and
28 (b) if the time is not specified—the meeting is adjourned to the
29 same time; and
30 (c) if any of the company's members was entitled to physically
31 attend the meeting and the location is not specified—the
32 meeting is adjourned to the same location or locations as
33 were specified for the original meeting; and

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- 1 (d) if the meeting was held using virtual meeting technology and
2 sufficient information to allow members to participate in the
3 resumed meeting by means of the technology is not
4 specified—participation in the resumed meeting by means of
5 the technology must be provided in the same manner as set
6 out in the notice for the original meeting.

7 **17 Subsection 250A(1)**

- 8 Omit “, or otherwise authenticated in a manner prescribed by the
9 regulations.”.

10 **18 Subsection 250A(1A)**

- 11 Repeal the subsection.

12 **19 Paragraph 250B(1)(b)**

- 13 Repeal the paragraph, substitute:

- 14 (b) if the appointment is signed by the appointor’s attorney—the
15 authority under which the appointment was signed or a
16 certified copy of the authority.

17 **20 Subsection 250B(3)**

- 18 Repeal the subsection, substitute:

- 19 (3) A company receives a document referred to in subsection (1):
20 (a) if the document is given by means of electronic
21 communication in accordance with section 253S—when the
22 document is received by the company; and
23 (b) otherwise—when the document is received at:
24 (i) the company’s registered office; or
25 (ii) a place specified for the purpose in the notice of
26 meeting.

- 27 Note: For paragraph (a), if the document is given by means of an electronic
28 communication, it is received by the company when it becomes
29 capable of being retrieved by the company at an electronic address
30 nominated by the company (see subsection 105A(4)).

31 **21 Subsection 250BA(1)**

- 32 Repeal the subsection, substitute:
-

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Amendments **Part 1**

- 1 (1) In a notice of meeting for a meeting of the members of the
2 company, the company must specify at least one of the following:
3 (a) a place for the purposes of receipt of proxy appointments and
4 proxy appointment authorities;
5 (b) sufficient information to allow members to comply with
6 section 250B by means of electronic communication.

7 **22 Paragraph 250BB(1)(b)**

- 8 Repeal the paragraph, substitute:
9 (b) if the proxy has 2 or more appointments that specify different
10 ways to vote on the resolution, the proxy must only vote on a
11 poll; and

12 **23 Subsection 250J(1)**

- 13 Repeal the subsection, substitute:
14 (1) A resolution put to the vote at a meeting of a company's members
15 must be decided:
16 (a) on a poll, if:
17 (i) virtual meeting technology is used in holding the
18 meeting; or
19 (ii) a poll is demanded; or
20 (b) otherwise—on a show of hands.

21 **24 At the end of section 250K**

- 22 Add:
23 (4) This section does not apply in relation to a meeting that is held
24 using virtual meeting technology.
25 Note: Subsection 253Q(3) provides that, if a meeting is held using virtual
26 meeting technology, a vote taken at the meeting must be taken on a
27 poll and not on a show of hands.

28 **25 After paragraph 251A(1)(a)**

- 29 Insert:
30 (aa) if a meeting of the company's members is held using virtual
31 meeting technology:

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- 1 (i) any questions or comments submitted by a member
2 before the meeting; and
3 (ii) any questions asked by, or any comments made by, a
4 member at the meeting; and

5 **26 Paragraph 252G(3)(c)**

- 6 Repeal the paragraph, substitute:
7 (c) by electronic means in accordance with section 253S.

8 **27 Subsection 252G(4) (heading)**

- 9 Repeal the heading, substitute:

10 *When notice is given*

11 **28 Subsection 252G(4)**

- 12 Repeal the subsection, substitute:
13 (4) Unless the scheme's constitution provides otherwise, a notice of
14 meeting is taken to be given:
15 (a) if it is sent by post—3 days after it is posted; or
16 (b) if it is sent by means of electronic communication in
17 accordance with subsection 253S(2)—on the business day
18 after it is sent; or
19 (c) if it is sent by giving the member information in accordance
20 with subsection 253S(3)—on the business day after the day
21 on which the information is sent to the member.

22 **29 Paragraph 252J(a)**

- 23 Repeal the paragraph, substitute:
24 (a) set out:
25 (i) if there is only one location at which the members who
26 are entitled to physically attend the meeting may do
27 so—the date, time and place for the meeting; and
28 (ii) if there are 2 or more locations at which the members
29 who are entitled to physically attend the meeting may
30 do so—the date and time for the meeting at each
31 location, and the main location for the meeting; and

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- 1 (iii) if virtual meeting technology is to be used in holding the
2 meeting—sufficient information to allow the members
3 to participate in the meeting by means of the
4 technology; and

5 **30 At the end of section 252J**

6 Add:

- 7 ; and (e) specify at least one of the following:
8 (i) a place for the purposes of receipt of proxy
9 appointments and proxy appointment authorities;
10 (ii) sufficient information to allow members to comply with
11 section 252Z by means of electronic communication.

12 **31 Section 252P**

13 Repeal the section, substitute:

14 **252P Accessibility of meetings of members**

- 15 (1) A meeting of a registered scheme's members must be held:
16 (a) at a reasonable time; and
17 (b) if any of the registered scheme's members is entitled to
18 physically attend the meeting—at a reasonable location or
19 locations; and
20 (c) if virtual meeting technology is to be used in holding the
21 meeting—in accordance with section 253Q.
- 22 (2) For the purposes of paragraph (1)(a), a meeting is taken to be held
23 at a reasonable time if any of the following applies:
24 (a) if there is only one location at which the members who are
25 entitled to physically attend the meeting may do so—the
26 meeting is held at a time that is reasonable at the location;
27 (b) if there are 2 or more locations at which the members who
28 are entitled to physically attend the meeting may do so—the
29 meeting is held at a time that is reasonable at the main
30 location for the meeting as set out in the notice of the
31 meeting;

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- 1 (c) if the meeting is held using virtual meeting technology—the
2 meeting is held at a time that is reasonable at the place where
3 the meeting is taken to be held under section 253R.

4 **32 Section 252Q**

5 Repeal the section.

6 **33 Subsection 252R(4)**

7 Repeal the subsection, substitute:

8 (4) A meeting of the scheme's members that does not have a quorum
9 present within 30 minutes after the time for the meeting set out in
10 the notice of meeting is adjourned to a meeting (the *resumed*
11 *meeting*) at a later time.

12 (4A) The responsible entity may specify:

- 13 (a) the date and time of the resumed meeting; and
14 (b) if any of the scheme's members is entitled to physically
15 attend the resumed meeting—the location or locations at
16 which the members may do so; and
17 (b) if virtual meeting technology is to be used in holding the
18 meeting—sufficient information to allow members to
19 participate in the resumed meeting by means of the
20 technology.

21 (4B) If the responsible entity does not specify one or more of the things
22 mentioned in subsection (4A):

- 23 (a) if the date is not specified—the meeting is adjourned to the
24 same day in the next week; and
25 (b) if the time is not specified—the meeting is adjourned to the
26 same time; and
27 (c) if any of the scheme's members was entitled to physically
28 attend the meeting and the location is not specified—the
29 meeting is adjourned to the same location; and
30 (d) if virtual meeting technology was used in holding the
31 meeting and sufficient information to allow the scheme's
32 members to participate in the meeting by means of the
33 technology is not specified—participation in the resumed

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Amendments **Part 1**

1 meeting by means of the technology must be provided in the
2 same manner as set out in the notice for the original meeting.

3 **34 Subsections 252Z(3A) and (4)**

4 Repeal the subsections, substitute:

- 5 (4) A responsible entity receives an appointment authority:
- 6 (a) if the appointment authority is given by means of electronic
7 communication in accordance with section 253S—when the
8 appointment authority is received by the responsible entity;
9 and
- 10 (b) otherwise—when the appointment authority is received at:
- 11 (i) the responsible entity’s registered office; or
12 (ii) a place specified for the purpose in the notice of
13 meeting.

14 Note: For paragraph (a), if the document is given by means of an electronic
15 communication, it is received by the company when it becomes
16 capable of being retrieved by the company at an electronic address
17 nominated by the company (see subsection 105A(4)).

18 **35 Subsection 253J(2)**

19 Repeal the subsection, substitute:

- 20 (2) Any other resolution put to the vote at a meeting of the scheme’s
21 members must be decided:
- 22 (a) on a poll, if:
- 23 (i) the virtual meeting technology is used in holding the
24 meeting; or
25 (ii) a poll is demanded; or
26 (b) otherwise—on a show of hands.

27 The resolution is passed on a poll if it has been passed by at least
28 50% of the votes cast by members entitled to vote on the
29 resolution.

30 **36 At the end of subsection 253M(1)**

31 Add:
32 ; and (c) if a meeting of the scheme’s members is held using virtual
33 meeting technology:

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- 1 (i) any questions or comments submitted by a member
2 before the meeting; and
3 (ii) any questions asked by, or any comments made by, a
4 member at the meeting.

5 **37 At the end of Chapter 2G**

6 Insert:

7 **Part 2G.5—Virtual meetings, electronic**
8 **communication of documents, and**
9 **recording and keeping of minute books**

10 **Division 1—Interpretation**

11 **253P References to *meetings***

12 In this Part:

13 *meeting* means:

- 14 (a) a meeting of a company's members; or
15 (b) a meeting of the directors of a company (including meetings
16 of a committee of directors); or
17 (c) a meeting of a registered scheme's members.

1 **Division 2—Virtual meetings**

2 **253Q Virtual meetings**

- 3 (1) Virtual meeting technology may be used in holding a meeting,
4 provided the technology gives all persons entitled to attend the
5 meeting a reasonable opportunity to participate without being
6 physically present in the same place.
- 7 (2) All persons so participating in the meeting are taken for all
8 purposes to be present in person at the meeting while so
9 participating.
- 10 (3) A vote taken at a meeting of the members of a company or
11 registered scheme must be taken on a poll, and not on a show of
12 hands.
- 13 (4) All persons so participating in the meeting who are entitled to vote
14 at the meeting must be given the opportunity (at the election of the
15 voter) to:
16 (a) participate in the vote in real time; or
17 (b) where practicable, record a vote in advance of the meeting.
- 18 (5) If:
19 (a) virtual meeting technology is to be used in holding a
20 meeting; and
21 (b) a document is required or permitted to be tabled at the
22 meeting;
23 the document is taken to have been tabled at the meeting if the
24 document is given to the persons entitled to attend the meeting
25 before or at the meeting.

26 **253R Place and time of virtual meetings**

- 27 (1) This section applies in relation to a meeting if virtual meeting
28 technology is used in holding the meeting.
- 29 (2) If any of the persons entitled to attend the meeting is entitled to
30 physically attend the meeting:
31 (a) the place for the meeting is taken to be:

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Part 1 Amendments

- 1 (i) if there are 2 or more locations at which persons who
2 are entitled to physically attend the meeting may do
3 so—the main location for the meeting as set out in the
4 notice of the meeting; and
5 (ii) otherwise—the location where the persons may
6 physically attend the meeting; and
7 (b) the time for the meeting is taken to be the time at the place
8 for the meeting.
- 9 (3) If none of the persons entitled to attend the meeting is entitled to
10 physically attend the meeting:
11 (a) the place for the meeting is taken to be the address of:
12 (i) if the meeting is a meeting of a company's members or
13 of the directors of a company—the registered office of
14 the company; or
15 (ii) if the meeting is a meeting of a registered scheme's
16 members—the registered office of the responsible entity
17 for the registered scheme; and
18 (b) the time for the meeting is taken to be the time at the place
19 for the meeting.

1 **Division 3—Electronic communication and signatures**

2 **253S Electronic communication of documents**

3 *Documents to which this section applies*

4 (1) Subject to subsection (7), this section applies to:

5 (a) any document that is required or permitted to be given to a
6 person (the *recipient*) under this Act that relates to a meeting,
7 including but not limited to the following:

8 (i) a request in relation to a meeting;

9 (ii) a notice of a meeting;

10 (iii) a notice of a resolution or record of a resolution;

11 (iv) a statement in relation to a meeting, or in relation to a
12 matter to be considered at a meeting;

13 (v) the appointment of a proxy in relation to a meeting, or
14 any other document in relation to a proxy;

15 (vi) a question for, or response to a question by, an auditor
16 of the company;

17 (vii) minute books; and

18 (b) any document that is required or permitted to be given to a
19 person (the *recipient*) under this Act that relates to a
20 resolution or declaration to be considered without a meeting;
21 and

22 (c) any document:

23 (i) that relates to a meeting, or to a resolution or declaration
24 to be considered without a meeting; and

25 (ii) that is required to be signed by a person under this Act.

26 *Giving the document*

27 (2) The document may be given to the recipient by means of an
28 electronic communication.

29 (3) The document may be given by giving the recipient (by means of
30 an electronic communication or otherwise) sufficient information
31 to allow the recipient to access the document electronically.

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- 1 (4) However, an electronic communication or electronic access may
2 only be used if, at the time the electronic communication is used or
3 information about the electronic access is given:
4 (a) it is reasonable to expect that the document would be readily
5 accessible so as to be useable for subsequent reference; and
6 (b) there is a nominated electronic address in relation to the
7 recipient.

8 *Signing the document*

- 9 (5) If the document is required to be signed by a person, that
10 requirement is taken to have been met in relation to the electronic
11 communication of the document, or access to the document
12 electronically, if:
13 (a) the person receives a copy or counterpart of the document:
14 (i) that is in a physical form; or
15 (ii) by means of an electronic communication; and
16 (b) the copy or counterpart includes the entire contents of the
17 document; and
18 (c) the person indicates, by means of an electronic
19 communication, that the person has signed the document; and
20 (d) a method is used to identify the person and to indicate the
21 person's intention in respect of the information
22 communicated in the document; and
23 (e) the method used was either:
24 (i) as reliable as appropriate for the purpose for which the
25 document was generated or communicated, in light of
26 all the circumstances, including any relevant agreement;
27 or
28 (ii) proven in fact to have fulfilled the functions described
29 in paragraph (d), by itself or together with further
30 evidence.
- 31 (6) For the purposes of paragraph (5)(b), a copy or counterpart of a
32 document need not include:
33 (a) the signature of another person signing the document; or

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- 1 (b) any material included in the document to identify another
2 person signing the document or to indicate another person's
3 intention in respect of the contents of the document.

4 *Application of section to documents given to ASIC*

- 5 (7) Subsections (2) to (4) do not apply to a document that is required
6 or permitted to be given to ASIC.

7 (8) If:

8 (a) under this Act, the signature of a person is required on a
9 document; and

10 (b) the person signs the document in accordance with
11 subsection (5); and

12 (c) the person submits the document for lodgement;

13 ASIC must not refuse to receive or register the document on the
14 basis that the document has not been signed.

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Schedule 1 Amendments

Part 1 Amendments

1 **Division 4—Recording and keeping of minute books**

2 **253T Electronic recording and keeping of minute books**

3 (1) If information is required to be recorded in a minute book, the
4 information may be recorded in electronic form if, at the time of
5 the recording of the information, it was reasonable to expect that
6 the information would be readily accessible so as to be useable for
7 subsequent reference.

8 (2) If a minute book is required to be kept at a place, the requirement
9 is taken to be satisfied if:

10 (a) an electronic form of the minute book is open for inspection
11 at the place in accordance with this Act; and

12 (b) having regard to all the relevant circumstances at the time of
13 the generation of the electronic form of the minute book, the
14 method of generating the electronic form of the minute book
15 provided a reliable means of assuring the maintenance of the
16 integrity of the information contained in the minute book;
17 and

18 (c) at the time of the generation of the electronic form of the
19 minute book, it was reasonable to expect that the information
20 contained in the electronic form of the minute book would be
21 readily accessible so as to be useable for subsequent
22 reference.

23 (3) For the purposes of subsection (2), the integrity of information
24 contained in a minute book is maintained if, and only if, the
25 information has remained complete and unaltered, apart from:

26 (a) the addition of any endorsement; or

27 (b) any immaterial change;

28 which arises in the normal course of communication, storage or
29 display.

1 **Division 5—Review**

2 **253U Review of operation of this Part**

- 3 (1) The Minister must cause a review to be undertaken of the operation
4 of this Part.
- 5 (2) The review must be conducted as soon as practicable after the end
6 of 5 years after this section commences.
- 7 (3) The Minister must cause a written report about the review to be
8 prepared.

9 **38 In the appropriate position in Chapter 10**

10 Insert:

11 **Part 10.52—Application and transitional provisions**
12 **relating to the Corporations Amendment**
13 **(Virtual Meetings and Electronic**
14 **Communications) Bill 2020**

15 **1679 Definitions**

16 In this Part:

17 *commencement day* means the day on which Schedule 1 to the
18 *Corporations Amendment (Virtual Meetings and Electronic*
19 *Communications) Bill 2020* commences.

20 **1679A Application—virtual meetings**

21 The amendments made by Schedule 1 to the *Corporations*
22 *Amendment (Virtual Meetings and Electronic Communications)*
23 *Bill 2020* apply in relation to a meeting if:

- 24 (a) the meeting is held on or after the commencement day; and
25 (b) each document that relates to the meeting that is required or
26 permitted to be given to a person under this Act is given on
27 or after the commencement day.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Amendments

1 **1679B Application—recording and keeping of minute books**

2 The amendments made by Schedule 1 to the *Corporations*
3 *Amendment (Virtual Meetings and Electronic Communications)*
4 *Bill 2020* apply in relation to minute books kept before, on or after
5 the commencement day.

6 **1679C Application—execution of documents**

7 Sections 127 and 129, as amended by Schedule 1 to the
8 *Corporations Amendment (Virtual Meetings and Electronic*
9 *Communications) Bill 2020*, apply in relation to a document that is
10 executed on or after the commencement day.

11 **1679D Application of COVID-19 instrument**

12 The modifications of this Act made by the *Corporations*
13 *(Coronavirus Economic Response) Determination (No. 3) 2020* do
14 not apply in relation to:

- 15 (a) any of the following meetings that is held on or after the
16 commencement day:
- 17 (i) a meeting of a company's members;
 - 18 (ii) a meeting of the directors of a company (including
19 meetings of a committee of directors);
 - 20 (iii) a meeting of a registered scheme's members; or
- 21 (b) a document that is executed by a company on or after the
22 commencement day.

EXPOSURE DRAFT

Amendments **Schedule 1**
Amendments if this Act commences before the Corporations Amendment (Corporate
Insolvency Reforms) Act 2020 **Part 2**

1 **Part 2—Amendments if this Act commences before**
2 **the Corporations Amendment (Corporate**
3 **Insolvency Reforms) Act 2020**

4 *Corporations Act 2001*

5 **39 Section 9**

6 Insert:

7 *document* means any record of information, and includes:

- 8 (a) anything on which there is writing; and
9 (b) anything on which there are marks, figures, symbols or
10 perforations having a meaning for persons qualified to
11 interpret them; and
12 (c) anything from which sounds, images or writings can be
13 reproduced with or without the aid of anything else; and
14 (d) a map, plan, drawing or photograph.

15 *electronic communication* means:

- 16 (a) a communication of information in the form of data, text or
17 images by means of guided and/or unguided electromagnetic
18 energy; or
19 (b) a communication of information in the form of speech by
20 means of guided and/or unguided electromagnetic energy,
21 where the speech is processed at its destination by an
22 automated voice recognition system.

23 *nominated electronic address*, in relation to the addressee of an
24 electronic communication, means:

- 25 (a) the most recent electronic address nominated by the
26 addressee to the originator of the electronic communication
27 as the electronic address for receiving electronic
28 communications; or
29 (b) if:
30 (i) the addressee has nominated an electronic address as
31 mentioned in paragraph (a) and the originator knows, or

EXPOSURE DRAFT

1 from the place where the electronic communication is taken to
2 have been sent under section 105B.

3 (4) An electronic communication is *received* when the electronic
4 communication becomes capable of being retrieved by the
5 addressee at the addressee's nominated electronic address.

6 (5) It is to be assumed that an electronic communication is capable of
7 being retrieved by the addressee when it reaches the addressee's
8 nominated electronic address.

9 (6) Subsection (4) applies even though the place where the information
10 system supporting an electronic address is located may be different
11 from the place where the electronic communication is taken to
12 have been received under section 105B.

13 **105B Place where an electronic communication is sent or received**

14 (1) This section applies in relation to an electronic communication
15 unless otherwise agreed between the originator and the addressee
16 of the electronic communication.

17 (2) An electronic communication is taken to have been sent:

18 (a) if the addressee is a company or registered scheme and the
19 originator is a member of the company or registered
20 scheme—from the address of the originator as contained on
21 the register of members of the company or registered scheme
22 at the time the communication is sent; and

23 (b) if the originator has a registered office and paragraph (a) does
24 not apply—from the registered office of the originator; and

25 (c) otherwise:

26 (i) from the most recent physical address nominated by the
27 originator to the addressee; or

28 (ii) if the originator has not nominated a physical address as
29 mentioned in subparagraph (i)—from the originator's
30 usual residential address in Australia.

31 (3) An electronic communication is taken to have been received:

32 (a) if the originator is a company or registered scheme and the
33 addressee is a member of the company or registered

EXPOSURE DRAFT

Schedule 1 Amendments

Part 2 Amendments if this Act commences before the Corporations Amendment (Corporate Insolvency Reforms) Act 2020

- 1 scheme—at the address of the addressee as contained on the
2 register of members of the company or registered scheme at
3 the time the communication is received; and
4 (b) if the addressee has a registered office and paragraph (a) does
5 not apply—at the registered office of the addressee; and
6 (c) otherwise:
7 (i) at the most recent physical address nominated by the
8 addressee to the originator; or
9 (ii) if the addressee has not nominated a physical address as
10 mentioned in subparagraph (i)—at the addressee’s usual
11 residential address in Australia.

41 At the end of Part 10.52

12 Add:
13

14 **1679E Validation of things done under COVID-19 instruments**

- 15 (1) This item applies if, before the commencement day:
16 (a) a thing is done in accordance with:
17 (i) the *Corporations (Coronavirus Economic Response)*
18 *Determination (No. 1) 2020*; or
19 (ii) the *Corporations (Coronavirus Economic Response)*
20 *Determination (No. 3) 2020*; and
21 (b) the thing done would, apart from this item, be invalid or
22 ineffective because it did not satisfy the requirements of this
23 Act.
24 (2) The thing done is as valid and effective, and is taken always to
25 have been as valid and effective, as it would have been had the
26 thing done satisfied the requirements of this Act.