OFFICIAL

CATSI Act Review

# Part 7—Constitutions

All corporations under the CATSI Act are required to have a constitution, which is commonly known as a rule book. Rule books include rules for the internal governance of a corporation, for example, rules relating to its objects, member and director eligibility, meetings, and winding up the corporation.

## Item 125 – Replaceable rules

It is fundamental to good governance that the members and directors of a corporation are aware of its internal governance rules. A common problem for CATSI corporations is that replaceable rules that have not been modified or replaced by the rule book continue to operate but may not be included in the rule books. This can be confusing and frustrating for members and directors who are unaware of the replaceable rules in the CATSI Act. It can also have unintended consequences when a corporation is changing its rule book.

Recommendation 30 of the CATSI Act Review final report is:

*It is recommended the CATSI Act require all replaceable rules, whether replaced or not, to be included in rule books.*

Item 125 takes forward this recommendation in a different way but with the same intent. Item 125 inserts a provision that obligates corporations to ensure their rule books identify the replaceable rules in the CATSI Act, that apply to the corporation, that have not been modified or replaced. This means that directors and members are aware of where replaceable rules are in place and rule books will remain up-to-date even if there are changes to the replaceable rules by amendments to the CATSI Act.

## Item 127 – Registrar approval of changes to rule books

Recommendation 31 of the CATSI Act Review final report is:

*It is recommended an explicit provision be included in the CATSI Act to allow the Registrar to reject changes to a rule book that are inconsistent with ones made by a special administrator.*

Special administrators often make changes to a corporation’s constitution with the purpose of addressing aspects of the corporation’s operations that are leading to governance or financial difficulties. Sometimes, after a special administration has concluded, a corporation may move to reverse changes made by a special administrator to its constitution even though there is a risk that this action may lead to further governance and financial difficulties for the corporation. Item 127 provides explicit power to the Registrar to reject changes to a corporation’s constitution that are inconsistent with ones made by a special administrator. Specifically, the Registrar can reject changes unless they are consistent with changes previously made by a special administrator, or the Registrar is satisfied that the circumstances of the corporation have changed to the extent that the changes previously made by the special administrator are no longer relevant (and the lodged change does not, therefore, need to be consistent with them).

## Minor technical amendment to be taken forward

The proposed change in item 126 aligns the existing paragraph 69-30(3)(a) with the proposed subsection 69-30(3A).