



Corporations Amendment (Sons of Gwalia) Act 2010

No. 150, 2010

An Act to amend the law relating to claims against corporations, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 150, 2010

An Act to amend the law relating to claims against corporations, and for related purposes

[Assented to 17 December 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Corporations Amendment (Sons of Gwalia) Act 2010*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	17 December 2010
2. Schedule 1	The day after this Act receives the Royal Assent.	18 December 2010

Note: This table relates only to the provisions of this Act as originally enacted.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.

- (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.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Corporations Act 2001

1 At the end of Chapter 2F

Add:

Part 2F.4—Proceedings against a company by members and others

247E Shareholding does not prevent compensation claim

A person is not prevented from obtaining damages or other compensation from a company only because the person:

- (a) holds, or has held, shares in the company; or
- (b) has subscribed for shares in the company; or
- (c) has a right to be included in the register that the company maintains under section 169.

1A After subsection 411(5)

Insert:

(5A) If the compromise or arrangement:

- (a) involves creditors of the Part 5.1 body with subordinate claims (within the meaning of subsection 563A(2)); and
- (b) is approved by the Court;

those creditors are also bound by the compromise or arrangement despite the fact that a meeting of those creditors has not been ordered by the Court under subsection (1) or (1A).

2 Section 563A

Repeal the section, substitute:

563A Postponing subordinate claims

- (1) The payment of a subordinate claim against a company is to be postponed until all other debts payable by, and claims against, the company are satisfied.
- (2) In this section:

claim means a claim that is admissible to proof against the company (within the meaning of section 553).

debt means a debt that is admissible to proof against the company (within the meaning of section 553).

subordinate claim means:

- (a) a claim for a debt owed by the company to a person in the person's capacity as a member of the company (whether by way of dividends, profits or otherwise); or
- (b) any other claim that arises from buying, holding, selling or otherwise dealing in shares in the company.

2A Subsection 563B(2)

Omit "debts owed to members of the company as members of the company (whether by way of dividends, profits or otherwise)", substitute "subordinate claims (within the meaning of section 563A)".

3 At the end of Division 3 of Part 5.9

Add:

600H Rights if claim against the company postponed

- (1) A person whose claim against a company is postponed under section 563A is entitled:
 - (a) to receive a copy of any notice, report or statement to creditors only if the person asks the administrator or liquidator of the company, in writing, for a copy of the notice, report or statement; and
 - (b) to vote in their capacity as a creditor of the company, at a meeting ordered under subsection 411(1) or during the external administration of the company, only if the Court so orders.

(2) In this section:

external administration includes the following:

- (a) voluntary administration;
- (b) a compromise or arrangement under part 5.1;
- (c) administration under a deed of company arrangement;
- (d) winding up by the Court;
- (e) voluntary winding up.

4 Application provision—postponed claims

- (1) Section 563A of the *Corporations Act 2001*, as amended by this Schedule, applies to a claim that arises after this Schedule commences.
- (2) Section 600H of the *Corporations Act 2001*, as inserted by this Schedule, applies to a claim made against a company if the external administration of the company commences after this Schedule commences.

[Minister's second reading speech made in—
House of Representatives on 29 September 2010
Senate on 26 November 2010]