Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Associations Incorporation Act 1984* (**the Principal Act**) so as to facilitate the cancellation of the incorporation of incorporated associations that have become defunct.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after the proposed Act commences. Once the proposed Act commences the proposed Act will be spent. Section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Associations Incorporation Act 1984

Schedule 1 [1] replaces section 54 of the Principal Act with proposed sections 54 and 54A. References in those sections to the Director-General are, by administrative changes order, required to be construed as references to the Commissioner for Fair Trading, Department of Commerce.

Proposed section 54 provides that the Director-General may cancel the incorporation of an incorporated association if satisfied as to certain matters. These matters include the matters as to which the Director-General must currently be satisfied under the existing section 54, and also includes 4 further grounds. The additional grounds are as follows:

(a) that the association has failed to lodge financial statements for the last 3 years,

(b) that the association has failed to comply with a direction to change its name,

(c) that the association no longer has at least 5 members,

(d) that the association no longer has a public officer who is resident in the State.

Before cancelling an association's incorporation, the Director-General must notify the association of his or her intention to do so, must give the association and its members at least 28 days in which to respond to the notice and must give due consideration to any responses that are made.

Proposed section 54A preserves any existing liability of all former officers of an association whose incorporation has been cancelled under proposed section 54, and permits the Director-General to reinstate the association's incorporation if satisfied that the incorporation should not have been cancelled under that section. Under the existing section 54, liability is preserved only in relation to persons who were officers at the time of cancellation.

The procedures set out in proposed sections 54 and 54A do not otherwise differ in any material respect from the procedures set out in the existing section 54.

Schedule 1 [2] amends section 55A of the Principal Act so as to ensure that, when an association's incorporation is cancelled on its own application, the liability of all former officers, and not just those persons who were officers at the time of cancellation, is preserved.

Schedule 1 [3] amends clause 1 (1) of Schedule 3 to the Principal Act (Savings and transitional provisions) so as to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [4] inserts proposed Part 3 into Schedule 3 to the Principal Act. The new Part contains a provision that disapplies the amendments made by the proposed Act from any cancellation procedures arising from a notice issued before the

commencement of the proposed Act under existing section 14 (1A) (a change of name direction) or existing section 54 (1) (the current show cause provision).

Schedule 2 Amendment of other Acts

Schedule 2.1 and 2.2 amend section 204B of the *Police Act 1990* and section 12 of the *Sheriff Act 2005*, respectively, to make amendments consequential on the amendment made by **Schedule 1 [1]**.