

Bills Committee on Companies Bill

Follow-up Action to the Meeting of 31 May 2012 – Costs of Legal Action in Challenging a Scheme of Arrangement

Purpose

This paper sets out our proposed Committee Stage Amendment in relation to the costs of legal action for members of a company to challenge a scheme of arrangement.

Costs of Legal Action in Challenging a Scheme of Arrangement

2. In response to Members' request, we propose to make reference to clause 727, which concerns the costs of statutory derivative action, and introduce a new clause to deal with the costs of legal action in which a member of a company challenges a scheme of arrangement involving a takeover offer or general offer under clause 664A(2). The wording of the new clause is at **Annex**.

Advice Sought

3. Members are invited to note the contents of the paper and provide their views.

**Financial Services and the Treasury Bureau
Companies Registry
4 June 2012**

665A. Court may order costs

- (1) This section applies in relation to an application made for the purposes of section 664(3) for an order of the Court sanctioning an arrangement that falls within section 664A(2).
- (2) The Court may make any order that it thinks fit about the costs incurred or to be incurred by a member who dissents from the arrangement in opposing the application.
- (3) An order may require the company or any other party to the application to indemnify the member against the cost incurred or to be incurred by the member.
- (4) The Court may only make an order about costs (including the requirement as to indemnification) under this section in favour of the member if it is satisfied that the member was acting in good faith in, and had reasonable grounds for, opposing the application.