

HOUSE OF REPRESENTATIVES

NOTICE OF MOTION

MEMBER FOR PEARCE: I give notice that on the next day of sitting I shall move that the following matter be referred to the Parliamentary Joint Committee on Corporations and Financial Services for inquiry and report by 7 December 2020:

Whether the present level of regulation applying to Australia's growing class action industry is impacting fair and equitable outcomes for plaintiffs, with particular reference to the following:

- (1) what evidence is available regarding the quantum of fees, costs and commissions earned by litigation funders and the treatment of that income;
- (2) the impact of litigation funding on the damages and other compensation received by class members in class actions funded by litigation funders;
- (3) the potential impact of proposals to allow contingency fees and whether this could lead to less financially viable outcomes for plaintiffs;
- (4) the financial and organisational relationship between litigation funders and lawyers acting for plaintiffs in funded litigation and whether these relationships have the capacity to impact on plaintiff lawyers' duties to their clients;
- (5) the Australian financial services regulatory regime and its application to litigation funding;
- (6) the regulation and oversight of the litigation funding industry and litigation funding agreements;
- (7) the application of common fund orders and similar arrangements in class actions;
- (8) factors driving the increasing prevalence of class action proceedings in Australia;
- (9) what evidence is becoming available with respect to the present and potential future impact of class actions on the Australian economy;

- (10) the effect of unilateral legislative and regulatory changes to class action procedure and litigation funding;
- (11) the consequences of allowing Australian lawyers to enter into contingency fee agreements or a court to make a costs order based on the percentage of any judgment or settlement;
- (12) the potential impact of Australia's current class action industry on vulnerable Australian business already suffering the impacts of the COVID-19 pandemic;
- (13) evidence of any other developments in Australia's rapidly evolving class action industry since the Australian Law Reform Commission's inquiry into class action proceedings and third-party litigation funders; and
- (14) any matters related to these terms of reference.