CROWN DEBTS (PRIORITY) BILL 1981

Date Introduced: 30 April 1981
House: House of Representatives
Presented by: Hon. John Moore, M.P., Minister for Business and Consumer Affairs

Short Digest of Bill

Purpose

To implement the Government's policy that the Crown in right of the Commonwealth should no longer have priority over other debtors in insolvency situations.

Background

The Senate Standing Committee on Constitutional and Legal Affairs recommended in June 1978 that the Commonwealth abrogate all Crown priorities in insolvency administrations. The Government accepted the main thrust of the Senate Report and has since passed legislation amending bankruptcy and taxation administration to abolish the priority as a creditor, which was previously afforded to the Crown in right of the Commonwealth.

This Bill carries through this policy in relation to the insolvency of corporate and unincorporate bodies. The Bill was introduced as part of the package of new company laws which form part of the national scheme for uniform company and securities industry law. This has been done because the Bill relies on the terms of the proposed Companies Act 1981. However, the present Bill, like the Companies (Miscellaneous Amendments) Bill 1981 only affects Commonwealth matters and did not require the approval of the other parties to the national scheme. (For background information on the scheme, see Bills Digest on Companies Bill 1981).

Main Provisions

The Bill will come into operation on the same day as the proposed Companies Act 1981 comes into operation (clause 2).

Clause 3 sets out three categories of laws relating to such things as order of debts and priority of creditors, and provides that the Crown in right of the Commonwealth is
subject to any State or Territory laws dealing with matters covered by these categories.

Clause 4 provides for some exceptions to the general rule created by clause 3. Sections 221P and 221YU of the Income Tax Assessment Act 1936 will still operate to the exclusion of the provisions of clause 3. Thus the Commonwealth retains its priority in relation to tax instalment deductions, withholding tax on dividends, and interest remitted overseas.

For further information, if required, contact:

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