

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Attorney-General)

CORPORATIONS LAW AMENDMENT BILL 1995

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AMENDMENTS OF THE CORPORATIONS LAW

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(Attorney-General)

A BILL

FOR

An Act to amend the Corporations Law

The Parliament of Australia enacts:

1. Short title etc.

(1) This Act may be cited as the *Corporations Law Amendment Act 1995*.

(2) In this Act:

Corporations Law means the Corporations Law set out in section 82 of the *Corporations Act 1989*.

2. Commencement

This Act commences on the day on which it receives the Royal Assent.

3. Amendments

The Corporations Law is amended as set out in the Schedule.

SCHEDULE

Section 3

AMENDMENTS OF THE CORPORATIONS LAW

1. Section 9 (definition of *relevant date*)

Add at the end:

Note: Subsection 553(1B) modifies the operation of this definition for debts and claims that arise while a company is under a deed of company arrangement if the deed terminates immediately before a winding up.

2. After subsection 553(1)

Insert:

(1A) Even though the circumstances giving rise to a debt payable by the company, or a claim against the company, occur on or after the relevant date, the debt or claim is admissible to proof against the company in the winding up if:

- (a) the circumstances occur at a time when the company is under a deed of company arrangement; and
- (b) the company was under the deed immediately before the resolution or court order that the company be wound up.

This subsection has effect subject to the other sections in this Division.

Note 1: See Division 10 of Part 5.3A (sections 444A to 444H) for the provisions dealing with deeds of company arrangement.

Note 2: Section 1411 makes provision for distributions etc. made by liquidators before the commencement of this subsection.

Note 3: See paragraph 513A(d) for deeds that are followed immediately by court ordered winding up. See paragraphs 513B(c) and (d) for deeds that are followed immediately by voluntary winding up. Subsection 446A(2) and section 446B provide that companies are to be taken in certain circumstances to have passed resolutions that they be wound up.

(1B) For the purpose of applying the other sections of this Division to a debt or claim that is admissible to proof under subsection (1A), the relevant date for the debt or claim is the date on which the deed terminates.

3. Before Schedule 1

Insert:

SCHEDULE—continued***Division 9—Changes resulting from the Corporations Law Amendment Act 1995*****1411 Effect of amendments on distributions etc. before commencement**

The validity of any action taken by a liquidator before the commencement of the *Corporations Law Amendment Act 1995* must not be called into question in any proceedings if the action would have been valid if the amendments made by that Act had been in force at the time of the action.



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