



Companies (Insolvency Assistance) Amendment Act 1991

No. 34 of 1991

An Act to amend the law relating to companies

[Assented to 21 March 1991]

The Parliament of Australia enacts:

Short title etc.

1. (1) This Act may be cited as the *Companies (Insolvency Assistance) Amendment Act 1991*.

(2) In this Act, “Principal Act” means the *Companies Act 1981*.

Commencement

2. This Act commences on a day to be fixed by Proclamation.

Power to compromise with creditors and members

3. Section 315 of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsections:

“(1A) Where:

(a) a compromise or arrangement is proposed between 30 or more corporations that are wholly-owned subsidiaries of a holding company and the creditors or a class of the

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creditors of each of those subsidiaries and between the holding company and the creditors or a class of the creditors of the holding company; and

- (b) the proposed compromise or arrangement in relation to each subsidiary includes a term that orders will be sought under section 317 transferring the whole of the undertaking and of the property and liabilities of the subsidiary to the holding company; and
- (c) the Court is satisfied, on the application in a summary way of the holding company or of a creditor of the holding company or, if the holding company is being wound up, of the liquidator, that the number of meetings that would be required between creditors in order to consider the proposed compromises or arrangements would be so great as to result in a significant impediment to the timely and effective consideration by those creditors of the terms of the compromises or arrangements;

the Court may order a meeting or meetings, on a consolidated basis, of the creditors of the holding company and of each of the subsidiaries or of such class or classes of those creditors as the Court determines and, where the Court makes such an order, the Court may approve the explanatory statement required by paragraph 316 (1) (a) to accompany notices of the meeting or meetings.

“(1B) Where:

- (a) there are fewer than 30 wholly-owned subsidiaries of the holding company but the matters referred to in paragraphs (1A) (b) and (c) are satisfied; and
- (b) the Court considers that circumstances exist that would justify its doing so;

the Court may make an order under subsection (1A) in relation to the proposed compromise or arrangement.

“(1C) Where an order is made under subsection (1A) in relation to a proposed compromise or arrangement, the succeeding provisions of this Part apply to the compromise or arrangement as if:

- (a) references in this Part to a company included references to all of the corporations to which the order relates; and
 - (b) references in this Part to creditors of a company included references to the creditors of all of the corporations to which the order relates; and
 - (c) references in this Part to a class of the creditors of a company were references to the relevant class of creditors of all of the corporations to which the order relates.”;
- (b) by inserting in subsections (2), (3), (4) and (19) “or (1A)” after “subsection (1)”;

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- (c) by inserting in subsection (15) “or (1A)” after “subsection (1)” (first occurring);
 - (d) by inserting in subsection (15) “or (1A), as the case may be” after “subsection (1)” (last occurring).
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*[Minister's second reading speech made in—
House of Representatives on 5 December 1990
Senate on 6 March 1991]*