

BRIEFING BOOK

An Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts.

Bill Clause No.	Section No.	Topic
132	---	Transitional Provision

Proposed Wording

- 132.** The *Wage Earner Protection Program Act*, as enacted by section 1, applies
- (a) in respect of wages owing to an individual by an employer who becomes bankrupt after the coming into force of that section; and
 - (b) in respect of wages owing to an individual by an employer any of whose property comes under the possession or control of a receiver within the meaning of subsection 243(2) of the *Bankruptcy and Insolvency Act* after the coming into force of that section.

Rationale

The *Wage Earner Protection Program Act* is intended to apply only with respect to new bankruptcies or receiverships. A bankruptcy file, or a receivership, may last years and it would cause undue hardship to the parties involved to apply new rules to files after they have already been initiated.

Present Law

None.

Senate Recommendation

None.

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Bill Clause No.	Section No.	Topic
133	---	Transitional Provision

Proposed Wording

133. The amendments to the *Bankruptcy and Insolvency Act*, as enacted by any of sections 2 to 123, other than section 6, apply in respect of a person

- (a) who becomes bankrupt after the coming into force of that section;
- (b) who files a notice of intention after the coming into force of that section;
- (c) who files a proposal after the coming into force of that section without having filed a notice of intention;
- (d) in respect of whom a proposal is made after the coming into force of that section without the person having filed a notice of intention;
- (e) any of whose property comes under the possession or control of an interim receiver who is appointed as such after the coming into force of that section; and
- (f) any of whose property comes under the possession or control of a receiver within the meaning of subsection 243(2) of the *Bankruptcy and Insolvency Act* after the coming into force of that section.

Rationale

The amendments to the BIA are intended to apply only with respect to new bankruptcies or proposals. A bankruptcy file, or a proposal, may last years and it would cause undue hardship to the parties involved to apply new rules to files after they have already been initiated.

Present Law

None.

Senate Recommendation

None.

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Bill Clause No.	Section No.	Topic
134	---	Transitional Provision

Proposed Wording

134. The amendments to the *Companies' Creditors Arrangement Act*, as enacted by sections 124 to 131, apply in respect of a debtor company in respect of whom proceedings are commenced under that Act after the coming into force of those sections.

Rationale

The amendments to the CCAA are intended to apply only with respect to new filings. CCAA matters may last years and it would cause undue hardship to the parties involved to apply new rules to files after they have already been initiated.

Present Law

None.

Senate Recommendation

None.

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Bill Clause No.	Section No.	Topic
135	BIA s.5(1)	Transitional Provision – Superintendent of Bankruptcy

Proposed Wording

135. The person who holds office as Superintendent of Bankruptcy immediately before the day on which subsection 5(1) of the *Bankruptcy and Insolvency Act*, as enacted by subsection 6(1), comes into force continues to hold office for the remainder of the person's term as though the person had been appointed under that subsection 5(1).

Rationale

The provision relating to the appointment of the Superintendent of Bankruptcy is intended to apply only with respect to a new appointment.

Present Law

None.

Senate Recommendation

None.

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Bill Clause No.	Section No.	Topic
136	Canada Labour Code s.67	Consequential Amendment

Proposed Wording

136. Section 67 of the *Canada Labour Code* is amended by adding the following after subsection (6):

(7) Despite subsection (2), if a notice to bargain referred to in subsection 65.12(1) of the *Bankruptcy and Insolvency Act* has been served, the parties may agree to revise the term of the collective agreement without approval of the Board.

(8) Despite subsection (2), if a notice to bargain referred to in subsection 33(2) of the *Companies' Creditors Arrangement Act* has been served, the parties may agree to revise the term of the collective agreement without approval of the Board.

Rationale

The amendment intended to clarify that the notice to bargain, issued under either the BIA or CCAA should entitle the parties to a collective agreement to amend the collective agreement by consensus. This provides the support needed to ensure that the collective bargaining can occur in an insolvency situation.

Present Law

None.

Senate Recommendation

None.

BRIEFING BOOK

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Bill Clause No.	Section No.	Topic
137	Canada Pension Plan s.23(2)(b)	Consequential Amendment

Proposed Wording

137. Paragraph 23(2)(b) of the *Canada Pension Plan* is replaced by the following:

23. (2)(b) subsection 224(1.2) of the *Income Tax Act* shall apply to employer's contributions, employee's contributions, and related interest, penalties or other amounts, subject to subsections 69(1), 69.1(1) and 69.2(1) of the *Bankruptcy and Insolvency Act* and section 11.09 of the *Companies' Creditors Arrangement Act*.

Rationale

The consequential amendment is a technical reform to correct for cross-referencing.

Present Law

23. (2)(b) subsection 224(1.2) of the *Income Tax Act* shall apply to employer's contributions, employee's contributions, and related interest, penalties or other amounts, subject to subsections 69(1) and 69.1(1) of the *Bankruptcy and Insolvency Act* and section 11.4 of the *Companies' Creditors Arrangement Act*.

Senate Recommendation

None.

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Bill Clause No.	Section No.	Topic
138	Employment Insurance Act s.99(b)	Consequential Amendment

Proposed Wording

138. Paragraph 99. (b) of the *Employment Insurance Act* is replaced by the following:

99. (b) subsection 224(1.2) of the *Income Tax Act* shall apply to employer's premiums, employee's premiums, and related interest, penalties or other amounts, subject to subsections 69(1), 69.1(1) and 69.2(1) of the *Bankruptcy and Insolvency Act* and section 11.09 of the *Companies' Creditors Arrangement Act*.

Rationale

The consequential amendment is a technical reform to correct for cross-referencing.

Present Law

99. (b) subsection 224(1.2) of the *Income Tax Act* shall apply to employer's premiums, employee's premiums, and related interest, penalties or other amounts, subject to subsections 69(1) and 69.1(1) of the *Bankruptcy and Insolvency Act* and section 11.4 of the *Companies' Creditors Arrangement Act*.

Senate Recommendation

None.

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Bill Clause No.	Section No.	Topic
139	Income Tax Act s.224	Consequential Amendment

Proposed Wording

139. The portion of subsection 224(1.2) of the *Income Tax Act* before paragraph (a) is replaced by the following:

224. (1.2) Notwithstanding any other provision of this Act, the *Bankruptcy and Insolvency Act*, any other enactment of Canada, any enactment of a province or any law, but subject to subsections 69(1), 69.1(1) and 69.2(1) of the *Bankruptcy and Insolvency Act* and section 11.09 of the *Companies' Creditors Arrangement Act*, if the Minister has knowledge or suspects that a particular person is, or will become within one year, liable to make a payment

Rationale

The consequential amendment is a technical reform to correct for cross-referencing.

Present Law

224. (1.2) Notwithstanding any other provision of this Act, the *Bankruptcy and Insolvency Act*, any other enactment of Canada, any enactment of a province or any law, but subject to subsections 69(1) and 69.1(1) of the *Bankruptcy and Insolvency Act* and section 11.4 of the *Companies' Creditors Arrangement Act*, where the Minister has knowledge or suspects that a particular person is, or will become within one year, liable to make a payment

Senate Recommendation

None.

BRIEFING BOOK

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Bill Clause No.	Section No.	Topic
140	<i>Department of Human Resources and Skills Development Act</i>	Coordinating Amendment

Proposed Wording

140. (1) Subsections (2) and (3) apply if Bill C-23, introduced in the 1st session of the 38th Parliament and entitled the *Department of Human Resources and Skills Development Act* (in this section, the “other Act”), receives royal assent.

(2) On the later of the day on which the other Act comes into force and the day on which this Act receives royal assent, section 27 of the *Wage Earner Protection Program Act*, as enacted by section 1, is replaced by the following:

27. Despite subsection 139(5) of the *Employment Insurance Act*, personal information relating to an applicant that is collected or obtained by the Canada Employment Insurance Commission must, if requested by the Minister, be made available to the Minister to determine the applicant's eligibility to receive a payment under this Act.

(3) On the later of the day on which the other Act comes into force and the day on which this Act receives royal assent, section 28 of the *Wage Earner Protection Program Act*, as enacted by section 1, is repealed.

Rationale

The coordinating amendment is intended to ensure that the *Wage Earner Protection Program Act* does not conflict with the *Department of Human Resources and Skills Development Act*.

Present Law

None.

Senate Recommendation

None.

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An Act to establish the Wage Earner Protection Program Act, to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act and to make consequential amendments to other Acts.

Bill Clause No.	Section No.	Topic
141	---	Coming into force

Proposed Wording

141. (1) Sections 1, 67 and 88 come into force on a day to be fixed by order of the Governor in Council.

(2) Sections 2 to 66, 68 to 87, 89 to 123 and 136 to 139 come into force on a day or days to be fixed by order of the Governor in Council.

(3) Sections 124 to 131 come into force on a day to be fixed by order of the Governor in Council.

Rationale

The section determines the timing for the coming into force of the provisions of the Bill. The provisions, as set forth, are related to each other and should come into force at the same time.

Clauses 1, 67 and 88 are related to wage earner protection issues. Clause 1 implements the *Wage Earner Protection Program Act*. Clause 67 implements a super-priority for unpaid wages. Clause 88 amends the priority list to account for the improved priority for wage earners.

Clauses 2 to 66, 68 to 87, 89 to 123 and 136 to 139 are related to the broad, balanced reform of the BIA, excluding wage earner protection issues.

Clauses 124 to 131 deal with the broad, balanced reform of the CCAA.

Present Law

None.

Senate Recommendation

None.