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BILLS DIGEST

Digest No. 1707

Crown Retail Deposit Guarantee Scheme Bill 2009

Date of Introduction:	08 September 2009
Portfolio:	Finance
Select Committee:	As at 8 September, 1st reading not held
Published: 08 September 2009 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of this Bill is to extend the Crown Retail Deposit Guarantee Scheme (the Scheme) on changed terms and conditions until 31 December 2011.

Background

The scheme was established in October 2008 under the Public Finance Act 1989 with guarantees given until 12 October 2010. An announcement was made by the Minister of Finance. This Bill extends that scheme and provides for stand alone legislation with the consequence that Parliament is providing a permanent legislative authority for the scheme (*Clause 1; Part 1, Clause 3, definition of "Crown Retail Deposit Guarantee Scheme"*).

Main Provisions

Minister may set eligibility criteria and give guarantee

The Bill enables the Minister of Finance to set eligibility criteria for the extended scheme and to give certain guarantees until 31 December 2011. These guarantees will be in writing and may be in respect of any or all debt securities issued by an eligible entity if it appears to the Minister to be necessary or

expedient in the public interest to do so. The guarantees may be on any terms and conditions that the Minister thinks fit. A statement that the guarantee has been given must be published in the Gazette as soon as practicable and a copy of the statement presented to the House of Representatives. The statement may contain such details about the guarantee as the Minister considers appropriate (*Part 2, Clauses 5 and 6*).

Recovery of money paid under guarantee

The Bill provides for the Crown's right to recover money paid under the guarantees and ensures that the Crown can rely on the rights of creditors which have received guarantees and enforce those rights itself (rights of "subrogation") (*Part 2, Clauses 7 and 8*).

No appropriation necessary

The Bill provides that any money paid by the Crown under a guarantee and any expenses incurred by the Crown in relation to a guarantee may be incurred without further appropriation, and must be paid without further authority than Clause 9 of the Bill (*Part 2, Clause 9*).

Validation

The Bill provides ("to avoid doubt") that the giving of guarantees under the Crown Retail Deposit Guarantee Scheme and the Crown Wholesale Funding Guarantee Facility "is ... declared to be, and to always have been, a lawful exercise of the powers in Section 65ZD of the Public Finance Act 1989" (*Part 2, Clause 11*).

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