

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

BANKRUPTCY AMENDMENT BILL 1996

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated by authority of the
Attorney-General and Minister for Justice,
the Hon Daryl Williams AM QC MP)



BANKRUPTCY AMENDMENT BILL 1996

Outline

The proposed amendments amend items (2) and (3) of Schedule 3 to ensure the effectiveness of the transitional provisions and the regulations to be made under them. They do this by adding, to the existing reference to fees payable under old rule 179 (of the Bankruptcy Rules), a reference to fees payable under rule 181 of those Rules. The amendments will ensure a consistency of transitional arrangements as between fees payable in estates administered by registered trustees and by the Official Trustee.

Financial Impact Statement

The financial impact of the amendments is unquantifiable, but expected to be minor.

*Amendments to be moved on behalf of the Government*Amendments 1 and 2

Amendments 1 and 2 ensure that transitional arrangements applying to fees payable in estates administered by registered trustees will apply equally to fees payable in estates administered by the Official Trustee. The amendments modify clause 2 of Schedule 3 of the Bill by amending items (2) and (3) which relate to the transition from fees payable under the Bankruptcy Rules to a realisations charge payable under the Bankruptcy (Estate Charges) Act 1996.

As noted at paragraphs 49 and 50 of the principal Explanatory Memorandum, item (2) of Schedule 3 provides that the Governor-General may make regulations dealing with the transition from the fees imposed by old rule 179 to the realisations charge imposed by Part 3 of the Bankruptcy (Estate Charges) Act 1996. Item (3) defines terms used in item (2).

The proposed regulations will provide for the continuation of fees imposed at the rate applicable before the commencement of the Bankruptcy (Estate Charges) Act 1996 in respect of realisations made prior to the commencement of that Act and at the new rate on realisations made after that date.

The proposed amendment to items (2) and (3) will ensure that the proposed regulations dealing with the transition, from the fees imposed by the old rules to the realisations charge imposed by Part 3 of the Bankruptcy (Estate Charges) Act 1996, apply also to old rule 181 fees, payable by the Official Trustee on realisations in estates administered by the Official Trustee, and which fees are to be replaced by the realisations charge.

