

Bankruptcy Act 1966

Act No. 33 of 1966 as amended

This compilation was prepared on 1 July 2006
taking into account amendments up to Act No. 34 of 2006

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Part VIII—Trustees

Division 1—Appointment and official name

154A Application to become a registered trustee

- (1) An individual may apply to the Inspector-General to be registered as a trustee.
- (2) The application must be in the approved form.
- (3) The application must be accompanied by:
 - (a) any information or documents prescribed by the regulations; and
 - (b) the fee determined by the Minister by legislative instrument.
- (4) The application is properly made if subsections (2) and (3) are complied with.

155 Processing of an application

- (1) After receiving a properly made application, the Inspector-General must convene a committee to consider the application.
- (2) The committee must consist of:
 - (a) the Inspector-General; and
 - (b) an APS employee; and
 - (c) a registered trustee chosen by the Insolvency Practitioners' Association of Australia (A.C.N. 002 472 362).
- (3) The committee must consider the application and interview the applicant.

Note: The regulations may provide for the way in which the committee must do its work: see section 315.

155A Committee's decision on an application

Time limit for decision

- (1) Within 60 days of interviewing the applicant, the committee must decide whether the applicant should be registered as a trustee or not.

Exam to assess suitability

- (1A) For the purpose of deciding whether the applicant should be registered, the Committee may require the applicant to sit for an exam.

Mandatory decision in favour of registration

- (2) The committee must decide that the applicant should be registered if the committee is satisfied that the applicant:
- (a) has the qualifications, experience, knowledge and abilities prescribed by the regulations; and
 - (b) will take out insurance against liabilities that the applicant may incur working as a registered trustee; and
 - (c) has not been convicted, within 10 years before making the application, of an offence involving fraud or dishonesty; and
 - (d) has not been a bankrupt or a party (as debtor) to a debt agreement or Part X administration within 10 years before making the application; and
 - (e) has not had his or her registration as a trustee cancelled within 10 years before making the application on the ground that:
 - (i) he or she contravened any conditions imposed by a committee on his or her practice as a registered trustee; or
 - (ii) he or she failed to exercise the powers of a registered trustee properly; or
 - (iii) he or she failed to carry out the duties of a registered trustee properly.

Discretion to decide in favour of registration

- (3) If the committee considers that the applicant is suitable to be registered as a trustee, it may decide that the applicant should be

registered even if it is not satisfied that the applicant has the qualifications, experience, knowledge and abilities prescribed by the regulations for the purposes of paragraph (2)(a).

Mandatory decision against registration

- (4) The committee must decide that the applicant should not be registered if it is satisfied that the applicant:
- (a) will not take out insurance against liabilities that the applicant may incur working as a registered trustee; or
 - (b) has been convicted, within 10 years before making the application, of an offence involving fraud or dishonesty; or
 - (c) has been a bankrupt or a party (as debtor) to a debt agreement or a Part X administration within 10 years before making the application; or
 - (d) has had his or her registration as a trustee cancelled within 10 years before making the application on the ground that:
 - (i) he or she contravened any conditions imposed by a committee on his or her practice as a registered trustee; or
 - (ii) he or she failed to exercise the powers of a registered trustee properly; or
 - (iii) he or she failed to carry out the duties of a registered trustee properly.
- (4A) The Committee must decide that the applicant should not be registered if the Committee is not satisfied that the applicant has the ability (including knowledge) to perform satisfactorily the duties of a registered trustee.

Conditions on registration

- (5) If the committee decides that the applicant should be registered, it may decide that specified conditions should apply to the applicant's practice as a registered trustee.

Report of decision

- (6) The committee must give the applicant and the Inspector-General a report on all of its decisions relating to the application, and the reasons for them.

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Review of decision

- (7) The applicant may apply to the Administrative Appeals Tribunal for review of a decision of the committee.

155B Effect of committee's decision

The Inspector-General must give effect to all of the committee's decisions, subject to paragraph 155C(1)(b).

155C Registration as a trustee

- (1) The Inspector-General must register the applicant as a trustee if:
- (a) the committee has decided that the applicant should be registered; and
 - (b) the applicant has paid the fee determined by the Minister by legislative instrument.
- (2) The Inspector-General registers an applicant by entering in the National Personal Insolvency Index the details relating to the applicant that are prescribed in the regulations.
- (3) After registering a person as a trustee, the Inspector-General must give the person a certificate of registration.
- (4) The registration has effect for 3 years.

155D Extension of registration

- (1) The Inspector-General must extend the registration of a person as trustee for three years from the expiry of the person's registration if:
- (a) the person applies in writing to the Inspector-General for the extension before the person's registration expires; and
 - (b) the person has paid the fee determined by the Minister by legislative instrument (and any late payment penalty under subsection (3) of this section).
- (2) The Inspector-General must not extend the registration of a person if:
- (a) the person owes a total of more than \$50 for the following:
 - (i) charge under the *Bankruptcy (Estate Charges) Act 1997* (the *estate charge*);

- (ii) penalty under section 281 of this Act in respect of that charge; and
 - (b) the Inspector-General notified the person of the unpaid estate charge at least 14 days before the due date for payment of the charge under subsection (3) on the extension of the registration.
- (3) The fee for an extension of registration is due for payment one month before the expiry of the registration. If the fee is not paid by then, an additional amount equal to 20% of the fee is payable by the trustee by way of penalty.

155E Application for change of conditions on practising as a registered trustee

- (1) If a committee has decided under this Division that conditions should apply to a person's practice as a registered trustee, the person may apply to the Inspector-General for the conditions to be changed or removed.
- (2) The application must be in the approved form.
- (3) The application must be accompanied by any information or documents prescribed by the regulations.
- (3A) The application is properly made if subsections (2) and (3) are complied with.
- (4) After receiving a properly made application, the Inspector-General must convene a committee to consider the application.
- (5) The committee must consist of:
 - (a) the Inspector-General; and
 - (b) an APS employee; and
 - (c) a registered trustee chosen by the Insolvency Practitioners' Association of Australia (A.C.N. 002 472 362).
- (6) The committee must consider the application and interview the applicant.

Note: The regulations may provide for the way in which the committee must do its work: see section 315.

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155F Decision on application for change of conditions

- (1) Within 60 days of interviewing the applicant, the committee must:
 - (a) decide that the conditions on the applicant's practice as a registered trustee should not be changed; or
 - (b) decide that specified modifications should be made to the conditions that apply to the applicant's practice as a registered trustee.

Note: See the definition of *modifications* in subsection 5(1).

- (2) The committee must give the applicant and the Inspector-General a report of its decision relating to the application, and the reasons for the decision.
- (3) The applicant may apply to the Administrative Appeals Tribunal for review of the committee's decision.
- (4) The Inspector-General must give effect to the committee's decision.

155G Voluntary termination of registration

- (1) A person who is a registered trustee may give the Inspector-General a written request that the person cease to be registered as a trustee.
- (2) The person ceases to be registered as a trustee when the Inspector-General accepts the request.

155H Consideration of involuntary termination of registration

- (1) The Inspector-General may ask a registered trustee to give the Inspector-General a written explanation why the trustee should continue to be registered, if the Inspector-General believes that:
 - (a) the trustee no longer has a qualification or ability that is prescribed by the regulations made for the purposes of paragraph 155A(2)(a); or
 - (aa) the trustee no longer has the ability (including knowledge) to perform satisfactorily the duties of a registered trustee; or
 - (b) the trustee has been convicted of an offence involving fraud or dishonesty since registration as a trustee; or

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- (c) the trustee is not insured against liabilities that the trustee may incur, or has incurred, working as a registered trustee; or
 - (d) the trustee is no longer practising as a registered trustee; or
 - (e) the trustee has contravened any conditions imposed by the committee on the trustee's practice; or
 - (f) the trustee has failed to exercise powers of a registered trustee properly or has failed to carry out the duties of a registered trustee properly; or
 - (g) the trustee has failed to comply with a standard prescribed for the purposes of subsection (5).
- (2) If the Inspector-General does not receive an explanation within a reasonable time, or is not satisfied by the explanation, the Inspector-General must convene a committee to consider whether the trustee should continue to be registered.
- (3) The committee must consist of:
- (a) the Inspector-General; and
 - (b) an APS employee; and
 - (c) a registered trustee chosen by the Insolvency Practitioners' Association of Australia (A.C.N. 002 472 362).
- (4) In considering whether the trustee should continue to be registered, the committee must take into account the matters mentioned in paragraphs (1)(a) to (g).
- Note: The regulations may provide for the way in which the committee must do its work: see section 315.
- (5) The regulations may prescribe standards applicable to the exercise of powers, or the carrying out of duties, of registered trustees.

155I Decision on involuntary termination of registration

- (1) The committee must:
- (a) decide that the trustee should continue to be registered; or
 - (b) decide that the trustee should cease to be registered.
- (2) The committee may decide under paragraph (1)(a) that:
- (a) the trustee should continue to be registered unconditionally; or
 - (b) the trustee should continue to be registered on the condition that:

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- (i) the trustee meets specified conditions; or
- (ii) specified conditions are imposed on the trustee's practice; or
- (iii) specified modifications are made to conditions on the trustee's practice.

Note: See the definition of *modifications* in subsection 5(1).

- (3) The committee may decide under paragraph (1)(b) that:
 - (a) the trustee should cease to be registered unconditionally; or
 - (b) the trustee should cease to be registered if the trustee fails to meet specified conditions.
- (4) The committee must give the trustee and the Inspector-General a report of its decision relating to the application, and the reasons for the decision.
- (5) The trustee may apply to the Administrative Appeals Tribunal for review of the committee's decision.
- (6) The Inspector-General must give effect to the committee's decision.

Note: Sections 176 and 182 specify other circumstances in which a trustee may involuntarily cease to be registered.

155J After termination of registration

- (1) If a person ceases to be registered as a trustee for any reason, the person must give his or her certificate of registration to the Inspector-General.

Penalty: 1 penalty unit.

- (1A) Subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (1B) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1B) (see subsection 13.3(3) of the *Criminal Code*).

- (2) A person who ceases to be registered is not entitled to a refund of all or part of any registration fee that the person had paid.

155K Payment of fees etc. for application, registration and extension

If a person gives the Commonwealth a cheque or payment order in payment of a fee under section 154A, 155C or 155D, the amount is taken not to be paid until the cheque or payment order is paid by the institution on which it is drawn.

156A Consent to act as trustee [*see* Table B]

- (1) A registered trustee may, by instrument signed by him or her and filed with the Official Receiver, consent to act:
 - (a) as the trustee of the estate of the debtor specified in the instrument in the event that the debtor becomes a bankrupt; or
 - (b) as the trustee of the joint and separate estates of such of the debtors specified in the instrument, being members of a partnership or joint debtors who are not in partnership with one another, as may become bankrupts, or, if only one of those debtors becomes a bankrupt, as the trustee of the estate of that debtor.
- (2) An instrument under subsection (1) shall be in accordance with the approved form.
- (3) Where:
 - (a) at the time when a debtor becomes a bankrupt, a registered trustee has, under subsection (1), consented to act as the trustee of the estate of the debtor and the consent has not been revoked, the registered trustee becomes, at that time, by force of this subsection, the trustee of the estate of the bankrupt; and
 - (b) at the time when 2 or more debtors, being members of a partnership or joint debtors who are not in partnership with one another, become bankrupts, a registered trustee has, under subsection (1), consented to act as the trustee of the joint and separate estates of those debtors and the consent has not been revoked, the registered trustee becomes, at that time, by force of this subsection, the trustee of the joint and separate estates of those bankrupts.
- (4) A creditor may file with the Court an application for the removal by the Court of a trustee of the estate of a bankrupt, being a trustee

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who is the trustee of that estate by virtue of subsection (3), on the ground:

- (a) that the trustee is not fit to act as trustee; or
 - (b) that the connection of the trustee with, or the relation of the trustee to, the bankrupt is likely to make it difficult for him or her to act with impartiality in the interests of the creditors generally.
- (5) Where an application under subsection (4) is filed, the Court may, if a ground specified in that subsection is established, remove the trustee from office and may appoint another registered trustee to be trustee in his or her place.
- (5A) If the Court removes the trustee and appoints another trustee, the creditor who applied for the removal must give the Official Receiver written notice of the removal and appointment as soon as practicable.
- (6) Where the Court appoints a person as trustee under subsection (5), the Official Receiver must issue to the person a certificate of appointment.
- (7) The appointment of a trustee under subsection (5) takes effect from and including the date on which the Court makes the appointment or such later date as the Court directs.

157 Appointment of trustees [see Table B]

- (1) Where a debtor becomes a bankrupt, the creditors may, if the Official Trustee is the trustee of the estate of the bankrupt, by resolution, at a meeting of creditors, appoint a registered trustee to the office of trustee of the estate of the bankrupt in place of the Official Trustee.
- (2) The person (in this section referred to as the *relevant trustee*) who is the trustee of the estate of a bankrupt at the time of an appointment, under subsection (1), of a registered trustee as the trustee, or as one of the trustees, of the estate shall, as early as practicable, notify the registered trustee, in writing, that he or she has been so appointed.
- (3) If the registered trustee appointed under subsection (1) informs the relevant trustee in writing, within 10 days after he or she is notified

by the relevant trustee of his or her appointment, that he or she accepts the office, the Official Receiver shall issue to him or her a certificate of appointment.

- (4) The appointment of a trustee under subsection (1) takes effect from and including the date of the certificate of appointment issued by the Official Receiver.
- (5) If the registered trustee appointed under subsection (1) does not so inform the relevant trustee within 10 days after he or she is notified by the relevant trustee of his or her appointment, he or she shall be deemed to have declined the appointment, and the relevant trustee shall, unless the resolution of creditors has made provision for the contingency, convene another meeting of creditors as soon as practicable for the purpose of appointing, under subsection (1), another registered trustee to the office of trustee.
- (6) A creditor may file with the Court an objection to an appointment of a person under this section on the ground:
 - (a) that the appointment was not made in good faith by a majority in value of the creditors voting;
 - (b) that the person appointed is not fit to act as trustee; or
 - (c) that his or her connexion with, or relation to, the bankrupt or his or her estate or a particular creditor is likely to make it difficult for him or her to act with impartiality in the interests of the creditors generally.
- (7) Where such an objection is filed, the Court may, if any of the grounds specified in subsection (6) is established, cancel the appointment and may appoint another registered trustee to be trustee in his or her place.
- (7A) If the Court cancels the appointment of a trustee and appoints another trustee, the creditor who filed the objection must give the Official Receiver written notice of the cancellation and appointment as soon as practicable.
- (8) Where the Court appoints a person as trustee under subsection (7), the Official Receiver must issue to the person a certificate of appointment.
- (9) The appointment of a trustee under subsection (7) takes effect from and including the date on which the Court makes the appointment or such later date as the Court directs.

Section 158

158 Appointment of more than one trustee etc. [see Table B]

- (1) The creditors may, if they think fit, appoint 2 or more registered trustees jointly, or jointly and severally, to the office of trustee, and in either such case the property of the bankrupt vests in those registered trustees as joint tenants.
- (2) The creditors may, if they think fit, appoint registered trustees to act as trustees in succession in the event of one or more of the registered trustees appointed declining to act or ceasing for any reason to hold the office of trustee.
- (3) In this section, a reference to a registered trustee, in relation to the appointment of a trustee of the estate of a bankrupt, includes a reference to a registered trustee who is, by virtue of subsection 156A(3), the trustee of the estate of the bankrupt.

159 Vacancy in office of trustee [see Table B]

- (1) The creditors may, at a meeting of the creditors, fill any vacancy in the office of trustee.
- (2) An Official Receiver shall, on the requisition of a creditor, summon a meeting of creditors for the purpose of filling such a vacancy.
- (3) For the purposes of this section, an office of trustee shall be deemed to be vacant notwithstanding that it is for the time being filled by the Official Trustee by reason of the operation of section 160.
- (4) The provisions of sections 157 and 158 apply, so far as they are capable of application, to and in relation to the appointment of a new trustee under this section.

160 Official Trustee to be trustee when no registered trustee is trustee [see Table B]

If at any time there is no registered trustee who is the trustee of the estate of a bankrupt, the Official Trustee shall, by force of this section, be the trustee of the estate.

161 Trustee may act in official name [*see* Table B]

- (1) The trustee of the estate of a bankrupt may sue and be sued by the prescribed official name and may, by that name, hold, dispose of or acquire property of every description, make contracts, enter into engagements binding on the trustee and his or her successors in office and do all other acts and things necessary or expedient to be done in the execution of his or her office.
- (2) For the purposes of subsection (1), the prescribed official name is “The Trustee (*or* Trustees) of the Property of (*name of bankrupt*), a Bankrupt”.
- (3) This section applies to proceedings under the *Family Law Act 1975* in a corresponding way to the way in which it applies to a suit.
- (4) If:
 - (a) a person (the *first trustee*) ceases to be the trustee of a bankrupt’s estate; and
 - (b) proceedings to which the first trustee was a party were pending under the *Family Law Act 1975* immediately before the cessation; and
 - (c) another person (the *second trustee*) becomes the first trustee’s successor in office;the second trustee is, by force of this subsection, substituted for the first trustee as a party to the proceedings.

161A Registered trustee to notify Inspector-General of certain events

- (1) If a registered trustee is convicted of an offence involving fraud or dishonesty, the registered trustee must give the Inspector-General written notice of the conviction and the nature of the offence as soon as practicable.
- (2) If a registered trustee becomes a bankrupt, or enters as debtor into an insolvency administration, under the law of a foreign country, the registered trustee must give the Inspector-General written notice of the fact as soon as practicable.

Division 2—Remuneration and costs

161B Trustee's remuneration—minimum entitlement *[see Table B]*

- (1) If the total remuneration payable to the trustee under section 162 would be less than \$1,109 (the *statutory minimum*), the trustee is entitled to be paid additional remuneration equal to the shortfall.
- (1A) The statutory minimum (as affected by section 304A) is increased by 8.4% if the trustee's remuneration is consideration for a taxable supply (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*).
- (2) If there are insufficient funds in the bankrupt's estate to pay the trustee the amount (if any) payable under subsection (1), the trustee may recover that amount from the person who is or was the bankrupt as a debt due to the trustee by action in a court of competent jurisdiction.
- (3) This section has effect subject to section 304A.

162 Trustee's remuneration—general *[see Table B]*

- (1) Subject to section 161B, the remuneration of the trustee of the estate of a bankrupt may be fixed, from time to time, by resolution of the creditors or, if the creditors so resolve, by the committee of inspection.
- (2) Where the remuneration of the trustee is to be, in whole or in part, a commission upon moneys received by the trustee, the trustee is entitled to commission upon all moneys received by the trustee (other than moneys received in the carrying on of a business of the bankrupt by him or her or under his or her supervision) at a rate not exceeding the rate prescribed by the regulations for the purposes of this subsection.
- (3) Where the trustee carries on a business of the bankrupt, or a business is carried on by the bankrupt under the supervision of the trustee, the trustee may be paid additional remuneration in the form either of a periodical payment based on, or a commission at the rate prescribed by the regulations for the purposes of this subsection on, the amount by which the estate is increased by

reason of the carrying on of that business by him or her or under his or her supervision.

- (4) Where the remuneration of the trustee is not fixed by the creditors or the committee of inspection, the trustee is to be remunerated as prescribed by the regulations.
- (5A) The trustee must not withdraw funds from the bankrupt's estate in respect of his or her remuneration at intervals of less than one week.
- (6) Where a trustee receives remuneration for his or her services, a payment in respect of the performance by another person of the ordinary duties that are required by this Act to be performed by the trustee shall not be allowed in his or her accounts unless the payment was authorized by resolution of the creditors or by the committee of inspection.
- (6A) The trustee must, in relation to the trustee's remuneration, give such notices to the bankrupt and creditors as are required by the regulations.
- (7) This section does not apply in relation to the Official Trustee.

163 Remuneration of the Official Trustee

- (1) The Official Trustee is to be remunerated as determined by the Minister by legislative instrument.
- (2) An amount equal to each amount of remuneration received by the Official Trustee shall be paid to the Commonwealth.

Note: The remuneration may be in respect of work the Official Trustee does as trustee of the estate of a bankrupt or in respect of work done in any other situation under this Act (such as where the Official Trustee acts as a trustee as a result of a personal insolvency agreement).

163A Costs and expenses of Official Receiver

- (1) If any Official Receiver exercises any power under this Act in relation to a bankrupt, the costs and expenses of the Official Receiver in connection with the exercise of the power are taken to be costs and expenses of the administration of the estate of the bankrupt.

Section 164

- (2) If any Official Receiver exercises any power under this Act at the request of the trustee of the estate of a bankrupt, the trustee is to pay to the Official Receiver the fee determined by the Minister by legislative instrument.
- (3) Money received by the Official Receiver under subsection (2) is received on behalf of the Commonwealth.

164 Two or more trustees acting in succession

- (1) If one person acts as a trustee of the estate of a bankrupt after another person has acted as the trustee, their remuneration and expenses are to be divided between them, if necessary, on a basis:
 - (a) that they agree on; and
 - (b) that is endorsed by a resolution passed at a meeting of the creditors.
- (2) When a person (the *earlier trustee*) ceases to be the trustee of the estate of a bankrupt because another person (the *later trustee*) has become trustee, the earlier trustee must:
 - (a) prepare an account of his or her receipts and payments (including remuneration and expenses) for the period that he or she was trustee; and
 - (b) keep a copy of the account; and
 - (c) give each creditor a copy of the account; and
 - (d) give the later trustee a copy of the account and any other accounts the earlier trustee has received from a person who was the trustee before the earlier trustee.
- (3) The later trustee must allow an authorised employee to inspect at any reasonable time an account received from the earlier trustee.

165 Trustee not to accept extra benefit etc.

- (1) A trustee of the estate of a bankrupt shall not:
 - (a) make an arrangement for receiving, or accept, from the bankrupt or any other person, in connexion with the bankruptcy, any gift, remuneration or pecuniary or other consideration or benefit beyond the remuneration fixed in accordance with this Act;
 - (b) make an arrangement for giving up, or give up, a part of his or her remuneration to the bankrupt or any other person;

- (c) except as provided by this Act, directly or indirectly derive any profit or advantage from a transaction, sale or purchase for or on account of the estate or any gift, profit or advantage from a creditor; or
 - (d) except with the leave of the Court, directly or indirectly become the purchaser of any part of the estate.
- (2) A trustee who contravenes subsection (1) is guilty of contempt of court.
 - (3) This section has effect subject to section 161B.

167 Taxation of costs

- (1) The trustee of a bankrupt's estate may require a bill of costs for services provided by a person in relation to the administration of the estate to be taxed by a taxing officer. The trustee may make the requirement on the trustee's own initiative, or at the request of the bankrupt or a creditor.
- (3) A person whose bill of costs is required to be taxed may deliver for taxation a bill containing detailed items or a bill for a gross sum.
- (4) Where a bill of costs for a gross sum is delivered for taxation, the person by whom the bill is delivered shall furnish the taxing officer with such details of the costs covered by the bill as the taxing officer requires.
- (5) The taxing officer shall satisfy himself or herself before passing a bill that the employment of the person in respect of the particular matters out of which the costs arise was duly authorized and was reasonable and necessary.
- (6) Where the trustee proposes to distribute a final dividend, the trustee shall, not later than 28 days before the date on which the trustee proposes to do so, request each person whose bill of costs is required to be taxed to give the person's bill to a taxing officer.
- (7) If a person so requested to deliver his or her bill fails to do so within 28 days after receipt of the request, the trustee shall declare and distribute the dividend without regard to any claim of that person in respect of the matters as to which the bill was requested and in that case neither the trustee nor the estate of the bankrupt is under any further liability in respect of the claim.

Section 167

(8) A person interested may appeal to the Court from a decision of the taxing officer in allowing or disallowing a bill of costs or bill of charges or an item in such a bill.

(9) In this section:

taxing officer means a person appointed by the Inspector-General for the purposes of this section.

Division 3—Accounts and audits

168 Trustee not to pay moneys into private account

- (1) A trustee of the estate of a bankrupt shall not pay into a private account any moneys received by him or her as trustee.

Penalty: \$500.

- (2) Subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

169 Trustee to pay moneys into bank account

- (1) A trustee of the estate of a bankrupt must pay all money received by him or her on account of the estate to the credit of a single interest bearing bank account that complies with the requirements (if any) specified in the regulations.
- (1A) The trustee must only pay into the account money received by the trustee on account of the estate of a bankrupt, but he or she may pay in money received on account of more than one estate.
- (1B) The trustee is entitled, in his or her personal capacity, to each payment of interest on the account, less an amount equal to the bank fees or charges (if any) paid or payable on the account during the period to which the interest relates.
- (1C) If, under subsection (1B), the trustee is only entitled to part of a payment of interest, the rest of that payment:
- (a) if the account contains money from only one estate—forms part of that estate; or
 - (b) if the account contains money from more than one estate—forms part of those estates in proportion to the respective amounts of money held in the account on account of each of those estates.
- (1D) Interest on money in the bank account is not subject to taxation under a law of the Commonwealth, a State or a Territory except as provided in Part 2 of the *Bankruptcy (Estate Charges) Act 1997*.

Section 170

- (2) If a trustee of the estate of a bankrupt keeps in his or her hands any money exceeding \$50 received on behalf of the estate for a period exceeding 5 days (excluding any day on which the branch of the bank at which the estate bank account is kept is not open for business), then, unless he or she satisfies the Court that his or her reason for retaining the money was sufficient:
 - (a) he or she is liable to pay interest at the rate of 20% per annum on the amount by which the amount so retained exceeds \$50; and
 - (b) the Court may remove him or her from his or her office of trustee.
- (3) Where a trustee is so removed from office, the Court may make such order with respect to his or her remuneration for his or her services as a trustee as the Court thinks proper and may further order that he or she pay expenses incurred by the creditors in consequence of his or her removal.
- (4) This section does not apply in relation to the Official Trustee.
- (5) In this section:

bank means an ADI or any other bank.

170 Trustee to give Official Receiver and bankrupt information etc.
[see Table B]

- (1) The trustee of the estate of a bankrupt (not being the Official Trustee) shall give the Official Receiver such information, access to and facilities for inspecting the bankrupt's books and generally such assistance as is necessary for enabling the Official Receiver to perform his or her duties.
- (2) The trustee shall, at the request of the bankrupt, furnish to the bankrupt information reasonably required by the bankrupt concerning his or her property or affairs.

171 Trustee to give and obtain receipts

- (1) The trustee of the estate of a bankrupt must issue a receipt in respect of a payment into the estate if asked to do so by the person making the payment.

- (2) The trustee must, wherever practicable, obtain a receipt for a payment made out of the estate.

173 Books to be kept by trustee [see Table B]

- (1) The trustee of the estate of a bankrupt shall keep such accounts and records as are necessary to exhibit a full and correct account of the administration of the estate and shall permit a creditor of the bankrupt to inspect, at all reasonable times, either personally or by an agent, the accounts and records relating to that estate.

Penalty: 5 penalty units.

- (2) Subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

174 Trustee's books when trading

Where the trustee carries on a business previously carried on by the bankrupt, he or she shall keep such accounts and records as are usual and proper in relation to the carrying on of a business of that kind and shall permit a creditor of the bankrupt to inspect, at all reasonable times, either personally or by an agent, those accounts and records.

175 Audit of trustee's accounts

- (1) The Inspector-General may, on his or her own initiative or at the request of a creditor or the bankrupt, audit an account referred to in section 173 or cause it to be audited by an appropriate person.
- (5) For the purposes of an audit under this section, the trustee shall produce to the person carrying out the audit as and when required such books and information as that person requires.

Penalty: 5 penalty units.

- (5A) Subsection (5) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) The cost of an audit under this section shall be borne by the estate.

176 Court may order trustee to make good loss caused by breach of duty

- (1) Where, on application by the Inspector-General or by a creditor who has or had a debt provable in the bankruptcy, the Court is satisfied that a person who is or has been a trustee of a bankrupt's estate has been guilty (whether before or after the commencement of this section) of breach of duty in relation to the bankrupt's estate or affairs, subsection (2) applies.
- (2) The Court may make any one or more of the following orders:
 - (a) an order directing the person to make good any loss that the bankrupt's estate has sustained because of the person's breach of duty;
 - (b) if the person is a registered trustee—an order directing the Inspector-General to cancel the person's registration as a trustee;
 - (c) any other order that the Court considers just and equitable in the circumstances.

Division 4—Control over trustees

177 Control of creditors over trustees

- (1) Subject to this Act, in the administration of the estate of a bankrupt, the trustee shall have regard to any lawful directions given by resolution of the creditors at a meeting of the creditors or by the committee of inspection.

178 Appeal to Court against trustee's decision etc.

- (1) If the bankrupt, a creditor or any other person is affected by an act, omission or decision of the trustee, he or she may apply to the Court, and the Court may make such order in the matter as it thinks just and equitable.
- (2) The application must be made not later than 60 days after the day on which the person became aware of the trustee's act, omission or decision.

179 Control of trustees by the Court

- (1) The Court may, on the application of the Inspector-General, a creditor or the bankrupt, inquire into the conduct of a trustee in relation to a bankruptcy and may do one or both of the following:
 - (a) remove the trustee from office; and
 - (b) make such order as it thinks proper.
- (2) The Inspector-General or a creditor may at any time require a trustee to answer an inquiry in relation to the bankrupt's estate or affairs.

Division 5—Vacation of office

180 Resignation of trustee *[see Table B]*

The Court may, subject to such terms and conditions as it thinks just, accept the resignation of a registered trustee from the office of trustee of an estate.

181 Removal of trustee *[see Table B]*

The creditors may, by resolution, at a meeting of which not less than 7 days' notice has been given, remove a registered trustee appointed by them, or a registered trustee who is, by virtue of subsection 156A(3), the trustee of the estate of the bankrupt concerned, and may at the same or a subsequent meeting appoint another registered trustee to be trustee in his or her place.

181A Streamlined method for replacing trustee *[see Table B]*

- (1) The current trustee of a bankrupt's estate may, with the written consent of another trustee (either a registered trustee or the Official Trustee), nominate the other trustee as the new trustee of the estate.
- (2) The current trustee must give notice of the nomination to all the creditors who would be entitled under section 64A to receive notice of a meeting of creditors.
- (3) The notice must:
 - (a) specify a date (at least 10 days after the notice is given) from which it is proposed that the new trustee will become the trustee of the estate; and
 - (b) state that any creditor may, by written notice to the trustee at least 2 days before the specified date, object to the nomination taking effect without there being a meeting of creditors.
- (4) If no creditor lodges a written notice of objection with the current trustee at least 2 days before the specified date, then the new trustee replaces the current trustee as trustee of the estate, on the date specified in the notice.

- (5) For the purposes of this Act, the new trustee is treated as having been appointed by the creditors.
- (6) A certificate signed by the new trustee stating any matter relating to the replacement of the former trustee under this section is prima facie evidence of the matter.

182 Bankruptcy of trustee etc.

- (1) If a registered trustee becomes bankrupt, becomes a party (as debtor) to a debt agreement or signs an authority under section 188, the trustee's registration is cancelled.
- (4) Where a person registered as a trustee dies, the person administering the estate of the deceased person shall forthwith notify, in writing, the Official Receiver for the District in which the trustee was ordinarily resident of that fact.

Penalty: \$100.

- (5) Subsection (4) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

183 Release of registered trustee by the Court

- (1) A trustee may apply to the Court for an order of release from the trusteeship of an estate.
- (2) Where the Court is satisfied that the trustee:
 - (a) has realized all the property of the bankrupt or so much of it as can be realized without unduly protracting the trusteeship or has distributed a final dividend;
 - (b) has ceased to act by reason of the approval of a composition or scheme of arrangement under Division 6 of Part IV; or
 - (c) has resigned or has been removed from office;the Court may make the order sought.
- (3) In hearing the application, the Court must also consider any objection to the order sought that is made by the Inspector-General, the Official Receiver, a creditor or any other interested person.
- (4) An order of release under this section:

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- (a) discharges the trustee from all liability in respect of any act done or default made by him or her in the administration of the estate of the bankrupt; and
 - (b) if the trustee has not already resigned or been removed from office, operates to remove him or her from office.
- (5) An order of release under this section may be revoked by the Court on proof that it was obtained by fraud or by suppression or concealment of a material fact.
- (6) Where a trustee has died, the person administering the estate of the trustee may apply to the Court for an order releasing the trustee's estate from any claims arising out of the trustee's administration of an estate of which he or she was trustee and, upon such an application, the Court may make such order as it thinks proper in the circumstances.
- (7) This section does not apply in relation to the Official Trustee.

184 Release of registered trustee by operation of law after 7 years

- (1) If the trustee of the estate of a bankrupt:
- (a) is a registered trustee; and
 - (b) has not already been released from being trustee of the estate under section 183;
- the trustee is released at the end of 7 years from the date on which the Official Receiver entered in the National Personal Insolvency Index the fact that the administration of the estate was finalised.
- (3) The release of a trustee from the trusteeship of an estate by force of this section has the same effect as an order of release under section 183.

184A Release of the Official Trustee

- (1) Where the Official Trustee becomes the trustee of the estate of a bankrupt upon the release of a registered trustee under section 183 or 184, the Official Trustee does not become personally liable, by reason of its so becoming the trustee, in respect of an act done, default made or liability incurred by a prior trustee.
- (2) The Official Trustee is released from being trustee of the estate of a bankrupt at the end of 7 years from the date on which the Official

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Receiver entered in the National Personal Insolvency Index the fact that the administration of the estate was finalised.

Part IX—Debt agreements

Division 1—Definitions and procedures

185 Definitions

Definitions

- (1) In this Part, unless the contrary intention appears:

affected creditor means:

- (a) in relation to a proposal to vary or terminate a debt agreement—a creditor who is a party (as creditor) to the agreement; or
- (b) in relation to a debt agreement proposal—a creditor who would be a party to the proposed debt agreement if it were made.

Debtor means a person who is insolvent, or would be insolvent if he or she had not been released from debts under section 185J.

frozen debt means a debt that:

- (a) is owed by a debtor who has given a debt agreement proposal that has been accepted by the Official Receiver for processing; and
- (b) would be provable in bankruptcy if the debtor had become a bankrupt when the Official Receiver accepted the debt agreement proposal for processing;

but does not include a debt arising under a maintenance agreement or maintenance order (whenever entered into or made).

Provable debt, in relation to a debt agreement, means a debt that would have been provable in bankruptcy if the debtor had become a bankrupt when the making of the debt agreement was recorded in the National Personal Insolvency Index.

Deadline for a proposal

- (2) The **deadline** for a proposal is:
- (a) if it is a debt agreement proposal—the end of the 25th working day after the Official Receiver accepted the proposal for processing; or
 - (b) if it is a proposal to vary or terminate a debt agreement—the end of the 25th working day after the proposal was given to the Official Receiver.

Working day

- (3) For the purposes of subsection (2), a **working day** is:
- (a) in relation to a debt agreement proposal—a day that is not a Saturday, Sunday or a public holiday in the District in which the proposal was accepted for processing; or
 - (b) in relation to a proposal to vary or terminate a debt agreement—a day that is not a Saturday, Sunday or public holiday in the District in which the proposal for the debt agreement was accepted for processing.

185A Procedures for dealing with proposals

Processing of proposals by the Official Receiver

- (1) Whenever the Official Receiver is required by this Part to process a proposal relating to a debt agreement, the Official Receiver must:
- (a) call a meeting of the affected creditors who are known to the Official Receiver to allow those creditors to consider the proposal; or
 - (b) write to each of the affected creditors who is known to the Official Receiver, asking each affected creditor to indicate whether the proposal should be accepted.

Meetings to deal with a proposal

- (2) Division 5 of Part IV, with any modifications prescribed by the regulations, applies in relation to any meeting called by the Official Receiver under paragraph (1)(a) as if:
- (a) the debtor were a bankrupt; and
 - (b) the Official Receiver were the trustee of the debtor's estate in bankruptcy.

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Writing to creditors to deal with a proposal

- (3) When writing to each affected creditor under paragraph (1)(b) about a proposal, the Official Receiver must:
- (a) explain the proposal; and
 - (b) ask the creditor to state in writing whether or not the proposal should be accepted; and
 - (c) inform the creditor of the person to whom the statement should be given and of the need to give the statement before the deadline.

185B Acceptance of a proposal

Acceptance by special resolution

- (1) A proposal is accepted if a meeting of affected creditors passes a special resolution before the deadline accepting the proposal.

Timing of acceptance by special resolution

- (2) A proposal accepted under subsection (1) is accepted at the time the special resolution is passed.

Acceptance in writing

- (3) A proposal is also accepted if:
- (a) the Official Receiver writes to affected creditors of a debtor under section 185A; and
 - (b) a majority in number, and at least three-quarters in value, of the creditors who reply before the deadline state that the proposal should be accepted.

Timing of acceptance of a proposal in writing

- (4) A proposal that is accepted under subsection (3) is taken to be accepted at the deadline.

Value of a creditor

- (5) In assessing the value of a creditor for the purposes of paragraph (3)(b), any debt that was assigned to the creditor is taken to have a value equal to the value of the consideration that the creditor gave for the assignment.

Division 2—Debt agreement proposals

185C Giving a debt agreement proposal to the Official Receiver

Giving a debt agreement proposal

- (1) A debtor may give the Official Receiver a written proposal for a debt agreement.

Requirements for a debt agreement proposal

- (2) A debt agreement proposal must:
 - (a) identify the debtor's property that is to be dealt with under the agreement; and
 - (b) specify how the property is to be dealt with; and
 - (c) authorise a specified person (being the Official Trustee, a registered trustee or another person) to deal with the identified property in the way specified.

What a debt agreement proposal may include

- (3) A debt agreement proposal may provide for any matter relating to the debtor's financial affairs.

If the person specified under paragraph (2)(c) is not the Official Trustee, the proposal may also provide for the remuneration of that person.

When a debtor cannot give a debt agreement proposal

- (4) A debtor cannot give the Official Receiver a debt agreement proposal at a particular time (the **proposal time**) if:
 - (a) at any time in the 10 years immediately before the proposal time the debtor:
 - (i) has been a bankrupt; or
 - (ii) has been a party (as debtor) to a debt agreement; or
 - (iii) has given an authority under section 188; or
 - (b) at the proposal time the debtor's unsecured debts total more than:
 - (i) the threshold amount; or

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- (ii) if the regulations prescribe a greater amount for this purpose—the amount prescribed; or
 - (c) at the proposal time, the value of the debtor’s property that would be divisible among creditors if the debtor were bankrupt is more than the threshold amount; or
 - (d) the debtor’s after tax income (see subsection (5)) in the year beginning at the proposal time is likely to exceed three-quarters of the threshold amount.
- (5) In this section:

after tax income, in relation to a debtor and a year, means the amount that is likely to be the taxable income of the debtor for the year less the income tax and the medicare levy imposed on that taxable income (worked out treating the year as a year of income if it is not actually a year of income).

Note: For the purposes of this definition, *taxable income*, *income tax* and *year of income* have the same meanings as in the *Income Tax Assessment Act 1936*, and *medicare levy* means the levy imposed by the *Medicare Levy Act 1986*.

Threshold amount, in relation to a particular time, means 7 times the amount that, at that time, is specified in column 3, item 2, Table B, point 1064-B1, Pension Rate Calculator A, in the *Social Security Act 1991*.

Unsecured debt includes the amount by which the value of a debt exceeds the value of a security given for the debt.

185D Statement of affairs to be given with a debt agreement proposal

- (1) A debtor who gives the Official Receiver a debt agreement proposal must give the Official Receiver a statement of the debtor’s affairs with the proposal.
- Note: Section 6A sets out requirements for statements of affairs.
- (2) The debtor may, without fee and either personally or by an agent:
- (a) inspect the statement of affairs; and
 - (b) obtain a copy of, or make extracts from, the statement of affairs.

185E Accepting a debt agreement proposal for processing

- (1) Before accepting a debt agreement proposal for processing, the Official Receiver must give the debtor the information prescribed by the regulations.
- (2) If a debtor gives the Official Receiver a debt agreement proposal, the Official Receiver may accept the proposal for processing if the Official Receiver thinks that subsections 185C(2) and (4) have been complied with and the statement of affairs accompanying the proposal is in order.
- (2A) The Official Receiver must refuse to accept a debt agreement proposal for processing if the person nominated as administrator is ineligible, in accordance with the regulations, to act as an administrator.
- (3) The Official Receiver must not accept a debt agreement proposal for processing if the Official Receiver thinks that the creditors' interests would be better served by not accepting the proposal for processing.
- (4) A debtor who gives the Official Receiver a debt agreement proposal may apply to the Administrative Appeals Tribunal for review of the Official Receiver's decision on whether to accept the proposal for processing.
- (5) If the Official Receiver accepts a debt agreement proposal for processing, the Official Receiver must process the proposal.
- (6) If the Official Receiver processes the proposal by writing to creditors under section 185A, the Official Receiver must:
 - (a) ask each creditor to include with the creditor's statement the following information for each debt owed to the creditor by the debtor:
 - (i) the amount of the debt;
 - (ii) whether the creditor holds a security for the debt;
 - (iii) if the creditor holds a security—the creditor's estimate of the value of the security and the value of the debt after deducting the value of the security;
 - (iv) the transaction and circumstances that gave rise to the debt;
 - (v) whether the debt was assigned to the creditor;

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- (vi) if the debt was assigned to the creditor—the value of the consideration that the creditor gave for the assignment; and
- (b) give each creditor a summary of the debtor’s statement of affairs.

185F Effect of accepting a debt agreement proposal for processing

- (1) After acceptance of a debt agreement proposal for processing is recorded in the National Personal Insolvency Index:
 - (a) a creditor cannot apply for enforcement of, or enforce, a remedy against the debtor’s person or property in respect of a frozen debt; and
 - (b) a sheriff must not take action, or further action, to execute, or sell property under, any process issued by a court to enforce payment of a frozen debt owed by the debtor; and
 - (c) a person who is entitled under a law of the Commonwealth, or of a State or Territory of the Commonwealth, to retain or deduct money from money that is or will be owing or payable to the debtor must not retain or deduct money;until any of the following events occurs:
 - (d) the deadline arrives;
 - (e) the proposal is rejected by the creditors at a meeting;
 - (f) the proposal lapses.
- (2) Subsection (1) does not prevent a creditor from:
 - (a) starting a legal proceeding in respect of a frozen debt; or
 - (b) taking a fresh step in such a proceeding (except to enforce a judgment).

185G Lapsing of a debt agreement proposal

- A debt agreement proposal lapses if:
- (a) the Official Receiver accepts the proposal for processing and calls a meeting of affected creditors to consider it, but the creditors do not pass a special resolution accepting the proposal before the deadline; or
 - (b) the Official Receiver accepts the proposal for processing and writes to affected creditors about it, but no replies are received before the deadline; or

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- (c) the debtor dies after giving the proposal to the Official Receiver but before a debt agreement is made on the basis of the proposal.

Note: Section 185H deals with the making of a debt agreement.

Division 3—Making a debt agreement

185H Making a debt agreement

A debt agreement is made in the terms of a debt agreement proposal when the proposal is accepted.

Note: Section 185B explains how a proposal is accepted.

185I Parties to a debt agreement

The parties to a debt agreement are:

- (a) the debtor; and
- (b) the creditors to whom the debtor owed debts immediately before the debt agreement was made.

185J Release of debtor from debts

Time and effect of release

- (1) When details of a debt agreement are entered in the National Personal Insolvency Index, the debtor is released from provable debts from which the debtor would have been released if he or she had been discharged from bankruptcy immediately after the details were entered in the Index.

End of release

- (2) The release ceases to operate if the debt agreement:
 - (a) is terminated under section 185P, 185Q, 185QA or 185R; or
 - (b) is declared void by the Court.

Limits on release

- (3) The release does not:
 - (a) release anyone else from a debt that he or she owes jointly with the debtor; or
 - (b) release a guarantor from the guarantee that the guarantor gave for the debtor's debt; or

Section 185K

- (c) prevent a secured creditor from dealing with a security to obtain payment of a secured debt, or part of a secured debt, for which the creditor has not made a claim:
 - (i) in a statement under section 64D as it is applied by subsection 185A(2); or
 - (ii) under subparagraph 185E(6)(a)(i).

185K Prevention of proceedings relating to debts

- (1) While a debt agreement is in force and details of it are entered on the National Personal Insolvency Index, a creditor cannot:
 - (a) present a creditor's petition against the debtor; or
 - (b) proceed further with a creditor's petition that was presented against the debtor before details of the debt agreement were entered in the Index; or
 - (c) enforce a remedy against the debtor's person or property, or start or take a fresh step in legal proceedings, in respect of a debt that would have been provable had the debtor become bankrupt when details of the debt agreement were entered in the Index.
- (2) Paragraph (1)(c) does not prevent a creditor from enforcing a remedy against the debtor or the debtor's property for a liability under one or more of the following:
 - (a) a maintenance agreement;
 - (b) a maintenance order;
 - (c) a proceeds of crime law.

185L Distribution of property under a debt agreement

If:

- (a) the property subject to a debt agreement is not sufficient to pay in full, or to the extent provided by the agreement, all the debtor's provable debts; and
 - (b) the debt agreement does not specify how the property is to be distributed among the creditors;
- the property must be distributed among the creditors in proportion to the provable debts.

Division 4—Varying a debt agreement

185M Varying a debt agreement

Proposing to vary a debt agreement

- (1) A debtor or creditor who is a party to a debt agreement may give the Official Receiver a written proposal to vary the agreement.

Processing a proposal to vary a debt agreement

- (2) The Official Receiver must process the proposal.

Note: Section 185A explains what is involved in processing a proposal.

Varying the agreement

- (3) If the proposal is accepted, the agreement is varied in the way set out in the proposal.

Note: Section 185B explains how a proposal is accepted.

Division 5—Ending a debt agreement

185N End of debt agreement on discharge of obligations under agreement

Time of end of debt agreement

- (1) A debt agreement ends when all the obligations that it created have been discharged, unless the agreement has been terminated earlier under section 185P, 185Q, 185QA or 185R.

Keeping surplus property that was subject to an agreement

- (2) When a debt agreement ends under subsection (1), the debtor is entitled to any property that was subject to the debt agreement but that was not required by the agreement to be distributed to creditors.

Example: Rhea entered into a debt agreement that required her to sell her boat and car and to pay her creditors \$15,000 from the proceeds. The debt agreement ended when she sold her boat and car for \$16,000 and paid her creditors \$15,000. She may keep the remaining \$1,000 received from the sale.

Certificate of the end of a debt agreement

- (3) If a debt agreement ends under subsection (1), the Official Receiver must give the debtor a certificate to that effect.

Evidentiary value of certificate

- (4) The certificate is prima facie evidence of the facts stated in it.

185P Terminating a debt agreement by accepting a proposal

Proposing to terminate a debt agreement

- (1) The debtor (or the debtor's personal representative if the debtor has died) or a creditor who is bound by a debt agreement may give the Official Receiver a written proposal to terminate the agreement.

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Processing a proposal to terminate debt agreement

- (2) The Official Receiver must process the proposal.

Note: Section 185A explains what is involved in processing a proposal.

Termination of the debt agreement when the proposal is accepted

- (3) The debt agreement is terminated when the proposal is accepted.

Note: Section 185B explains how a proposal is accepted.

185Q Terminating a debt agreement by order of the Court

Applying for an order

- (1) Any of the following persons may apply to the Court for an order terminating a debt agreement:
- (a) the debtor (or the debtor's personal representative if the debtor has died);
 - (b) a creditor of the debtor;
 - (c) the Official Receiver.

Simultaneous application for a sequestration order

- (2) A creditor may include an application for a sequestration order in an application for an order terminating a debt agreement.

Effect of applying for a sequestration order

- (3) For the purposes of this Act, making an application for a sequestration order under subsection (2) is taken to be presenting a creditor's petition against the debtor, but subsection 43(1), sections 44 and 47, subsections 52(1) and (2) and Part XIA do not apply in relation to the application.

Prerequisites for making an order terminating a debt agreement

- (4) The Court may make an order terminating a debt agreement if it is satisfied:
- (a) that the debtor (or the debtor's personal representative if the debtor has died) has failed to carry out a term of the agreement and that it is in the creditors' interest to terminate the agreement; or

- (b) that carrying out the agreement would cause injustice or undue delay to the creditors or the debtor (or the debtor's estate if the debtor has died); or
- (c) that for any other reason the agreement should be terminated and that it is in the creditors' interest to do so.

Sequestration order

- (5) If the Court makes an order terminating a debt agreement, the Court may also make a sequestration order if a creditor applied for the sequestration order.

185QA Terminating a debt agreement by special resolution of creditors

- (1) A debt agreement is terminated by the passing of a special resolution to that effect by a meeting of creditors called for the purpose if:
 - (a) property of the debtor is covered by a restraining order or a forfeiture order; or
 - (b) a pecuniary penalty order made against the debtor is in force.
- (2) However:
 - (a) paragraph (1)(a) does not apply if, when the debt agreement was made, the restraining order or forfeiture order already covered the property in question; and
 - (b) paragraph (1)(b) does not apply if, when the debt agreement was made, the pecuniary penalty order was already in force against the debtor.

185R Terminating a debt agreement by the bankruptcy of the debtor

A debt agreement is terminated if the debtor becomes a bankrupt.

Note: Despite section 185K, there are a number of ways in which a debtor who is a party to a debt agreement could become bankrupt. For example, the debtor could become bankrupt on a debtor's petition if the Court gave permission for the debtor to present, or join in presenting, the petition, or the debtor could become bankrupt as a result of the presentation of a petition against a partnership.

Section 185S

185S Validity of things done under a debt agreement that was terminated

If a debt agreement is terminated under section 185P, 185Q, 185QA or 185R, anything that was done in good faith under the agreement by a person before the person had notice of the termination:

- (a) is valid; and
- (b) cannot be voided by a trustee under section 120, 121 or 122 (whether applying of its own force or under subsection 188A(4)).

Note: This section does not preserve a release from debts under a debt agreement that is terminated: see paragraph 185J(2)(a).

Division 6—Voiding a debt agreement

185T Applying for an order declaring a debt agreement void

Persons who may apply for an order

- (1) The debtor (or the debtor's personal representative if the debtor has died), a creditor or the Official Receiver may apply to the Court for an order declaring that all, or a specified part, of a debt agreement is void.

Grounds for applying for an order

- (2) A person mentioned in subsection (1) may apply for an order only if:
 - (a) there is doubt on a specific ground that all or part of the debt agreement was not made in accordance with this Part or does not comply with this Part; or
 - (b) the statement of affairs lodged with the debt agreement was deficient because it omitted a material particular or because it was incorrect in a material particular.

Time limit on applying for an order

- (3) A person cannot apply for an order declaring a debt agreement void after all the obligations created by the agreement have been discharged.

Simultaneous application for a sequestration order

- (4) A creditor may include an application for a sequestration order in an application for an order declaring all or part of a debt agreement void.

Effect of applying for a sequestration order

- (5) For the purposes of this Act, making an application for a sequestration order under subsection (4) is taken to be presenting a creditor's petition against the debtor, but subsection 43(1), sections 44 and 47, subsections 52(1) and (2) and Part XIA do not apply in relation to the application.

Section 185U

185U Making an order declaring a debt agreement void

Power to make order

- (1) On an application under section 185T, the Court may make an order declaring a debt agreement void.

Limit on declaring debt agreement void on grounds of non-compliance with this Part

- (2) The Court must not declare all or part of a debt agreement void on the ground that it does not comply with this Part if the agreement or part of the agreement complies substantially with this Part.

Declaring a debt agreement void on grounds of deficient statement of affairs

- (3) The Court must not declare all or part of a debt agreement void on the ground that the statement of affairs lodged with the debt agreement was deficient, unless the Court is satisfied that it is in the creditors' interests to declare the agreement or part of the agreement void.

Sequestration order

- (4) If the Court makes an order declaring all of a debt agreement void, the Court may also make a sequestration order if a creditor applied for the sequestration order.

185V Validity of things done under a debt agreement that was declared void

If a debt agreement is declared void, anything that was done in good faith under the agreement by a person before the person had notice of the declaration:

- (a) is valid; and
(b) cannot be voided by a trustee under section 120, 121 or 122 (whether applying of its own force or under subsection 231(2)).

Note: This section does not preserve a release from debts under a debt agreement that is declared void: see paragraph 185J(2)(b).

Division 7—Miscellaneous

185W Court directions to the Official Receiver

- (1) Any of the following persons may apply to the Court for an order directing the Official Receiver or another person how to exercise the Official Receiver's powers under this Part:
 - (a) a debtor who is a party to a debt agreement (or the debtor's personal representative if the debtor has died);
 - (b) a creditor who is a party to a debt agreement;
 - (c) the Official Receiver.
- (2) On an application under subsection (1), the Court may make an order directing the Official Receiver or another person how to exercise the Official Receiver's powers under this Part.

Note: Under section 185Y, the Official Receiver may delegate powers and functions to a registered trustee.

185X No stamp duty payable on a debt agreement

Stamp duty under a State or Territory law is not payable on a debt agreement or a variation of a debt agreement.

185Y Delegation of powers and functions relating to processing of proposals

- (1) The Official Receiver may delegate to a registered trustee all or any of the Official Receiver's processing powers and functions in relation to a particular:
 - (a) debt agreement proposal that has been accepted for processing; or
 - (b) proposal to vary a debt agreement; or
 - (c) proposal to terminate a debt agreement.
- (2) A delegation can only be made with the written consent of the debtor and the registered trustee.
- (3) A delegation must be in writing.
- (4) A delegation is subject to any conditions:

Section 185Z

- (a) specified in the instrument of delegation; or
 - (b) specified by the Official Receiver by notice in writing given to the registered trustee.
- (5) The Official Receiver's *processing powers and functions* in relation to a proposal are:
- (a) if it is a debt agreement proposal—the powers and functions of the Official Receiver in relation to the proposal under subsections 185E(5) and (6) and section 185A (including the provisions applied by subsection 185A(2)); or
 - (b) if it is a proposal to vary a debt agreement—the powers and functions of the Official Receiver in relation to the proposal under subsection 185M(2) and section 185A (including the provisions applied by subsection 185A(2)); or
 - (c) if it is a proposal to terminate a debt agreement—the powers and functions of the Official Receiver in relation to the proposal under subsection 185P(2) and section 185A (including the provisions applied by subsection 185A(2)).

185Z Remuneration of registered trustees and other persons

- (1) A person (other than the Official Trustee) who is dealing with property under a debt agreement may be remunerated as provided in the agreement (see subsection 185C(3)).

Note: For the remuneration payable to the Official Trustee, see section 163.

- (2) A registered trustee to whom powers or functions have been delegated under section 185Y is not entitled to be remunerated for, or to be reimbursed for costs incurred in, the exercise or performance of those powers or functions.

185ZA Notification of death of administrator

- (1) If the administrator in relation to a debt agreement dies, the person administering the estate of the deceased person must, as soon as practicable, give written notice of that fact to the Official Receiver for the District in which the debt agreement administrator was ordinarily resident.

Penalty: 1 penalty unit.

- (2) Subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

185ZB Official Receiver to replace an administrator who dies

- (1) If the administrator in relation to a debt agreement dies, the Inspector-General must appoint an Official Receiver for a District as the replacement administrator for that debt agreement.
- (2) An appointment must be in writing.
- (3) The Official Receiver appointed under subsection (1) must notify the parties to the debt agreement that:
 - (a) the administrator has died; and
 - (b) the Official Receiver is the replacement administrator until further notice; and
 - (c) (if applicable) the Official Receiver intends to appoint another person as the new administrator.

185ZC Official Receiver may appoint a new administrator

- (1) If the parties to a debt agreement have not already varied the agreement to appoint a new administrator, the Official Receiver who is appointed as the replacement administrator may appoint another person to be the administrator of the agreement in place of the Official Receiver.
- (2) An appointment must be in writing.
- (3) The Official Receiver must give written notice of the appointment to the parties to the debt agreement.
- (4) The Official Receiver cannot revoke an appointment under subsection (1).
- (5) This section does not prevent the appointment of another person as administrator by variation of the debt agreement.

185ZD Remuneration of administrator

A person who becomes the administrator in relation to a debt agreement under section 185ZC is entitled to the remuneration (if any) provided for in the agreement.

Part X—Personal insolvency agreements

Division 1—Interpretation

187 Interpretation

- (1) In this Part, unless the contrary intention appears:

controlling trustee, in relation to a debtor whose property is subject to control under Division 2, means the person who is the controlling trustee under section 188 or 192.

debtor means a person who is insolvent.

divisible property, in relation to a personal insolvency agreement executed by a debtor, means the property, other than property that was acquired by, or devolved on, the debtor on or after the day on which he or she executed the agreement, that would be divisible amongst his or her creditors under Part VI if he or she had become a bankrupt on that day.

- (1A) Without limiting the definition of *debtor* in subsection (1), a reference in this Part to a debtor shall, unless the contrary intention appears, be read as including a reference to a person who is for the time being insolvent, even if the person may ultimately cease to be insolvent.
- (2) In this Part, a reference, in relation to a personal insolvency agreement, to a provable debt shall be read as a reference to a debt or liability that would have been a provable debt in the debtor's bankruptcy if the debtor had become a bankrupt on the day on which he or she executed the personal insolvency agreement.

187A Application of Part to joint debtors [see Table B]

This Part applies, with the prescribed modifications (if any), in relation to joint debtors, whether partners or not.

Division 2—Meeting of creditors and control of debtor's property

188 Debtor may authorise trustee or solicitor to be controlling trustee *[see Table B]*

- (1) A debtor who desires that his or her affairs be dealt with under this Part without his or her estate being sequestrated and:
- (a) is personally present or ordinarily resident in Australia;
 - (b) has a dwelling-house or place of business in Australia;
 - (c) is carrying on business in Australia, either personally or by means of an agent or manager; or
 - (d) is a member of a firm or partnership carrying on business in Australia by means of a partner or partners or of an agent or manager;

may sign an authority in accordance with the approved form naming and authorising a registered trustee, a solicitor or the Official Trustee to call a meeting of the debtor's creditors and to take control of the debtor's property.

- (2) An authority signed by a debtor under this section is not effective for the purposes of this Part unless:
- (a) if the person authorised is a registered trustee or solicitor—the person has consented in writing to exercise the powers given by the authority; and
 - (aa) if the person authorised is the Official Trustee—an Official Receiver has given the debtor written approval to name the Official Trustee in the authority.
- (2AA) If the person authorised is a registered trustee or a solicitor, then, before the person consents to exercise the powers given by the authority, the person must give the debtor the information prescribed by the regulations.
- (2AB) If the person authorised is the Official Trustee, then, before the Official Receiver gives approval to name the Official Trustee in the authority, the Official Receiver must give the debtor the information prescribed by the regulations.

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- (2A) The regulations may prescribe the circumstances in which a person (other than the Official Trustee or a registered trustee) is ineligible to act as a controlling trustee under this Part.
- (2B) An authority signed by a debtor under this section is not effective for the purposes of this Part if, at the time the authority is signed, the person authorised:
- (a) is not the Official Trustee or a registered trustee; and
 - (b) is ineligible, under the regulations, to act as a controlling trustee under this Part.
- (2C) If the person authorised is a registered trustee or solicitor, the authority signed by the debtor under this section is not effective for the purposes of this Part unless, before the person authorised consents to exercise the powers given by the authority, the debtor gives to the person authorised:
- (a) a statement of the debtor's affairs; and
 - (b) a proposal for dealing with them under this Part.
- Note: Section 6A sets out requirements for statements of affairs.
- (2D) If the person authorised is the Official Trustee, the authority signed by the debtor under this section is not effective for the purposes of this Part unless, before an Official Receiver gives approval to name the Official Trustee in the authority, the debtor gives to the Official Receiver:
- (a) a statement of the debtor's affairs; and
 - (b) a proposal for dealing with them under this Part.
- Note: Section 6A sets out requirements for statements of affairs.
- (2E) A proposal for dealing with the debtor's affairs under this Part must include a draft personal insolvency agreement.
- Note: Section 188A sets out requirements for personal insolvency agreements.
- (3) An authority under this section that is effective for the purposes of this Part is not revocable by the debtor.
- (4) Subject to subsection 192(1), a debtor cannot give an authority within 6 months of giving another authority, unless the Court grants leave to do so.

- (5) A registered trustee or solicitor who consents to exercise the powers given by an authority must, within 2 working days of consenting, give a copy of:
- (a) the authority; and
 - (b) the debtor's statement of affairs;
- to the Official Receiver for the District in which the debtor resides.
- (5A) For the purposes of subsection (5), a *working day* is a day that is not a Saturday, Sunday or public holiday in the place where the registered trustee or solicitor consented to exercise the powers given by the authority.
- (6) When an authority becomes effective, the person authorised by it becomes the controlling trustee.

188A Personal insolvency agreement [see Table B]

Requirements for a personal insolvency agreement

- (1) A personal insolvency agreement is a deed that:
- (a) is expressed to be entered into under this Part; and
 - (b) complies with subsection (2).
- (2) A personal insolvency agreement must:
- (a) identify the debtor's property (whether or not already owned by the debtor when he or she executes the agreement) that is to be available to pay creditors' claims; and
 - (b) specify how the property is to be dealt with; and
 - (c) identify the debtor's income (whether or not already derived by the debtor when he or she executes the agreement) that is to be available to pay creditors' claims; and
 - (d) specify how the income is to be dealt with; and
 - (e) specify the extent (if any) to which the debtor is to be released from his or her provable debts; and
 - (f) specify the conditions (if any) for the agreement to come into operation; and
 - (g) specify the circumstances in which, or the events on which, the agreement terminates; and
 - (h) specify the order in which proceeds of realising the property referred to in paragraph (a) are to be distributed among creditors; and

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- (i) specify the order in which income referred to in paragraph (c) is to be distributed among creditors; and
 - (j) specify whether or not the antecedent transactions provisions of this Act apply to the debtor; and
 - (k) make provision for a person or persons to be trustee or trustees of the agreement; and
 - (l) provide that the debtor will execute such instruments and generally do all such acts and things in relation to his or her property and income as is required by the agreement.
- (3) Subsection (2) does not limit the provisions that may be included in a personal insolvency agreement.

Antecedent transactions provisions

- (4) If a personal insolvency agreement specifies that the antecedent transactions provisions of this Act apply to the debtor, sections 120 to 125 apply, with any modifications prescribed by the regulations, in relation to the debtor as if:
- (a) a creditor's petition had been presented against the debtor on the day on which the special resolution requiring the execution of the agreement was passed; and
 - (b) a sequestration order had been made against the debtor on that petition on the day on which the debtor executed the agreement; and
 - (c) the trustee of the agreement were the trustee in the debtor's bankruptcy.
- (5) In the application, by virtue of subsection (4), of the provisions referred to in that subsection:
- (a) a reference to the property of the bankrupt is to be read as a reference to the divisible property of the debtor; and
 - (b) a reference to a provable debt is to be read as a reference to a provable debt within the meaning of this Part; and
 - (c) a reference to the end of the bankruptcy is to be read as a reference to the end of the personal insolvency agreement.

Definition

- (6) In this section:

income has the meaning given by section 139L.

188B Inspection of statement of debtor's affairs

- (1) This section applies to the following documents relating to a debtor:
 - (a) a copy of a statement of the debtor's affairs given to an Official Receiver under subsection 188(5);
 - (b) a statement of the debtor's affairs given to the Official Receiver under subsection 188(2D).
- (2) A person who states in writing that he or she is a creditor of the debtor, may, without fee:
 - (a) inspect, personally or by an agent, the document; and
 - (b) obtain a copy of, or make extracts from, the document.
- (3) A person who does not state in writing that he or she is a creditor of the debtor, may, on payment of the fee determined by the Minister by legislative instrument:
 - (a) inspect, personally or by an agent, the document; and
 - (b) obtain a copy of, or make extracts from, the document.
- (4) The debtor may, without fee and either personally or by an agent:
 - (a) inspect the document; or
 - (b) obtain a copy of, or make extracts from, the document.
- (5) If the approved form for a statement of affairs indicates that particular information in the statement will not be made available to the public, then the Official Receiver must ensure that the information is not made available under this section to any person (other than the debtor or an agent of the debtor).
- (6) The Official Receiver may refuse to allow a person access under this section to particular information in a debtor's statement of affairs on the ground that access to that information would jeopardise, or be likely to jeopardise, the safety of any person.

189 Control of property of a debtor who has given authority under section 188

- (1) When an authority given by a debtor under section 188 becomes effective, the property of the debtor becomes subject to control under this Division.
- (1A) The control continues until one of the following events happens:

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- (a) the creditors resolve at a meeting called under this Part that the property cease to be subject to control;
 - (b) the debtor and a trustee execute a personal insolvency agreement following a special resolution of creditors;
 - (d) 4 months pass since the authority under section 188 became effective;
 - (e) the Court, under section 208, releases the property from control;
 - (f) the debtor becomes a bankrupt;
 - (g) the debtor dies.
- (1B) The trustee must notify the Official Receiver in writing within 7 days after the trustee becomes aware that the control has ended because of an event specified in subsection (1A).
- (2) A debtor whose property is subject to control under this Division:
- (a) shall not remove, dispose of or deal with any of his or her property except with the consent of the controlling trustee;
 - (b) shall furnish to the controlling trustee such information with respect to any of the debtor's examinable affairs as the controlling trustee requires; and
 - (c) shall comply with any direction given to him or her by the controlling trustee with respect to his or her property or affairs.
- Penalty: Imprisonment for 12 months.
- (3) A disposal of, or dealing with, property by a debtor in contravention of subsection (2) is not invalid by reason only of that contravention.

189AAA Stay of proceedings relating to creditor's petition until meeting of debtor's creditors

- (1) If:
- (a) an authority signed by a debtor under section 188 has become effective; and
 - (b) either:
 - (i) a creditor's petition was presented against the debtor before the authority became effective; or

- (ii) a creditor's petition is presented against the debtor after the authority became effective but before the first or only meeting of the debtor's creditors called under the authority;
- proceedings relating to that petition are, by force of this subsection, stayed until:
- (c) the conclusion of the meeting; or
 - (d) the adjournment of the meeting;
- whichever is the earlier.
- (2) This section does not limit subsection 206(1).

189AA Court orders with effect during period of control of debtor's property

- (1) The Court may make an order that has effect while the property of the debtor is subject to control:
- (a) discharging an order made at any time against the person or property of the debtor under a law relating to the imprisonment of fraudulent debtors; or
 - (b) staying a civil or criminal legal process begun at any time against the person or property of the debtor for the debtor's failure:
 - (i) to pay a debt that would be provable if the debtor were bankrupt; or
 - (ii) to pay a pecuniary penalty payable as a result of the failure to pay a debt that would be provable if the debtor were bankrupt; or
 - (iii) to obey an order of a court to pay a debt that would be provable if the debtor were bankrupt; or
 - (c) if the debtor has been imprisoned under a law described in paragraph (a) or for a failure described in paragraph (b)—releasing the debtor from custody.
- (2) Paragraph (1)(b) does not allow the Court to stay any proceedings under a proceeds of crime law.

Section 189AB

189AB Charge over debtor's property that is subject to control

[see Table B]

Creation of charge

- (1) When the debtor's property becomes subject to control under this Division, the debtor's property is charged with:
 - (a) the debtor's unsecured debts at the time the debtor signed the authority under section 188; and
 - (b) any amount by which the debtor's secured debts exceeded the value of the property secured for payment of the debts at the time the debtor signed the authority under section 188.

Charge continues despite changing ownership of charged property

- (2) Subject to subsections (3) and (9), the charge is not affected by any change of ownership of the charged property.

Certain other charges have priority

- (3) The charge created by subsection (1) is subject to:
 - (a) any charge or encumbrance that was on the debtor's property immediately before the debtor signed the authority under section 188; and
 - (b) any charge or encumbrance acquired in good faith and for market value by a person who did not have notice of the charge created by subsection (1).

Priority over some other charges

- (4) The charge created by subsection (1) has priority over a charge or encumbrance that is not described in subsection (3).

Registration of charge

- (5) The controlling trustee may register a charge created by subsection (1) over particular property if a law of the Commonwealth, or of a State or Territory, provides for registration of a charge over that sort of property.

Effect of registration of charge

- (6) If the trustee registers the charge over particular property, a person who acquires the property or an interest in the property after the charge is registered is taken to have notice of the charge for the purposes of subsections (3) and (9).

Controlling trustee may sell charged property

- (7) The controlling trustee may sell property that is subject to a charge under subsection (1).

Application of proceeds of sale

- (8) Any proceeds from the sale of charged property that are not needed to meet a charge or encumbrance that has higher priority than the charge created by subsection (1) are the debtor's property.

End of charge on property that is sold

- (9) A charge created by subsection (1) ceases to have effect in relation to property if the property is acquired by a person:
- (a) in good faith for consideration at least as valuable as the market value of the property without notice of the charge; or
 - (b) from the controlling trustee in a sale under subsection (7).

Charge ends when property ceases to be subject to control

- (10) Unless it has already ceased to have effect under subsection (9), the charge ceases to have effect when control of the debtor's property ends under subsection 189(1A).

Meaning of debtor's property

- (11) In this section:

debtor's property has the meaning given in subsection 190(5).

189AC Right of indemnity for controlling trustee

- (1) The controlling trustee is entitled to be indemnified out of the debtor's property for:
- (a) his or her remuneration; and

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- (b) any costs, charges or expenses properly and reasonably incurred by the controlling trustee while the debtor's property was subject to control under this Division.
- (2) To secure a right of indemnity under subsection (1), the controlling trustee has a lien on the debtor's property.
- (3) A lien under subsection (2) ceases to have effect if the debtor becomes a bankrupt.

189A Report and declaration by controlling trustee

- (1) The controlling trustee must prepare a report:
 - (a) summarising and commenting on the information about the debtor's affairs that is available to the controlling trustee; and
 - (b) stating whether the controlling trustee believes that the creditors' interests would be better served:
 - (i) by accepting the debtor's proposal for dealing with his or her affairs under this Part; or
 - (ii) by the bankruptcy of the debtor; and
 - (c) naming each creditor who was identified as a related entity of the debtor in the debtor's statement of affairs.
- (2) The trustee must:
 - (a) give a copy of the report to the Official Receiver and to each of the creditors; and
 - (b) keep a copy of the report.

Declaration of relationships

- (3) The controlling trustee must make a written declaration stating whether the debtor is a related entity of:
 - (a) the controlling trustee; or
 - (b) a related entity of the controlling trustee.
- (4) The controlling trustee must:
 - (a) give a copy of the declaration to the Official Receiver; and
 - (b) give a copy of the declaration to each of the creditors at the same time as the controlling trustee gives a copy of the subsection (1) report to each creditor; and
 - (c) keep a copy of the declaration.

189B Controlling trustee to prepare statement about possible resolutions

- (1) A controlling trustee under an authority under section 188 must prepare a written statement about the special resolutions under section 204 that may reasonably be expected to be passed at a meeting of creditors called under the authority.
- (2) The trustee must:
 - (a) give a copy of the statement to the Official Receiver and to each of the creditors; and
 - (b) keep a copy of the statement.

190 Duties and powers of controlling trustee

- (1) The controlling trustee must call a meeting of the debtor's creditors under this Division.
- (2) The controlling trustee is empowered:
 - (a) to take immediate control of the debtor's property and affairs;
 - (b) to make such inquiries and investigations in connexion with the debtor's property and examinable affairs as the trustee considers necessary;
 - (c) to carry on a business of the debtor if, in the opinion of the trustee, it will be in the interests of the creditors to do so; and
 - (d) to deal with the debtor's property in any way that will, in the opinion of the trustee, be in the interests of the creditors.
- (3A) For the purpose of exercising the powers conferred by subsection (2), a trustee may, with the consent in writing of the debtor, obtain such advice or assistance as the trustee considers desirable.
- (4) For the purposes of exercising his or her powers under this section, the trustee may act in the name of the debtor as if he or she had been duly appointed by the debtor to be his or her lawful attorney to exercise those powers.
- (4A) The controlling trustee or any person affected by an act or omission of the controlling trustee may apply to the Court for directions on a matter connected with control of the debtor's property under this Division.

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- (4B) The Court may make any orders it thinks just on a matter raised by an application.
- (5) In this section, *debtor's property*, in relation to a debtor who has given an authority under section 188, means the property of the debtor that would be divisible amongst his or her creditors under Part VI (other than Subdivision B of Division 2) if a sequestration order had been made against him or her on the day on which he or she signed the authority, and includes property that has been acquired by, or has devolved on, the debtor on or after that day, but, if a personal insolvency agreement is executed by him or her in accordance with a special resolution of a meeting of creditors called in accordance with the authority, does not include property that is acquired by, or devolves on, him or her on or after the day on which he or she executes the agreement.

190A Additional duties of controlling trustee

- (1) The duties of the controlling trustee include the following:
- (a) notifying the debtor's creditors of the giving by the debtor of an authority under section 188;
 - (b) giving information about the administration of the controlling trusteeship to a creditor who makes a reasonable request for it;
 - (c) taking whatever action is practicable to try to ensure that the debtor discharges all of the debtor's duties under this Act;
 - (d) considering whether the debtor has committed an offence against this Act;
 - (e) referring to the Inspector-General or to relevant law enforcement authorities any evidence of an offence by the debtor against this Act;
 - (f) making appropriate inquiries and investigations in connection with the debtor's property and examinable affairs;
 - (g) disclosing to creditors any material personal interests held by the trustee that could conflict with the proper exercise of his or her powers or the proper performance of his or her functions;
 - (h) exercising powers and performing functions in a commercially sound way;
 - (i) exercising powers and performing functions in an impartial and independent manner.

191 Payments to protect property etc.

Without prejudice to the powers conferred on a controlling trustee by section 190, the trustee may, at any time while the property of the debtor is subject to his or her control, make any payments from the debtor's money that, in the opinion of the trustee, it is necessary to pay for the purpose of safe-guarding the value of his or her property or any of it or of avoiding forfeiture or determination of any interest or rights of the debtor in or to property.

192 Changing the controlling trustee

- (1) If a registered trustee or solicitor who has consented to exercise the powers given by an authority under section 188:
 - (a) dies; or
 - (b) ceases to be a registered trustee or solicitor; or
 - (c) becomes incapable of exercising his or her powers under this Part; or
 - (d) gives the Official Trustee a written request to be relieved of duties under this Part;then:
 - (e) the Official Trustee becomes the controlling trustee; and
 - (f) the debtor may sign a new authority under section 188.
- (2) If the debtor signs a new authority under section 188 naming a registered trustee or solicitor, the registered trustee or solicitor becomes the controlling trustee when he or she consents to exercise the powers given by the authority.
- (3) If:
 - (a) a meeting of creditors or the Court nominates a registered trustee or the Official Trustee to be the trustee of a personal insolvency agreement; and
 - (b) the nominated trustee is not already the controlling trustee;the nominated trustee becomes the controlling trustee when the nominated trustee consents to act as trustee of the agreement.
- (4) A person who becomes the controlling trustee under this section:
 - (a) has the same powers and duties as the person originally authorised by the debtor under section 188; and

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- (b) is taken for the purposes of this Division to have done any act or thing duly done earlier by an earlier controlling trustee.

194 Time for calling meeting

- (1) The meeting that is to be called under an authority under section 188 must be held:
 - (a) not more than 25 working days after the relevant consent or approval was given; or
 - (b) if the relevant consent or approval was given in December— not more than 30 working days after the relevant consent or approval was given.
- (2) For the purposes of subsection (1), the *relevant consent or approval* is:
 - (a) if the person authorised is a registered trustee or solicitor— the consent of the person to exercise the powers given by the authority; or
 - (b) if the person authorised is the Official Trustee—the approval given by the Official Receiver to name the Official Trustee in the authority.
- (3) For the purposes of subsection (1), a *working day* is a day that is not a Saturday, Sunday or public holiday in the place where the meeting is to be held.

194A Statement of affairs and declarations of relationships to be tabled at meeting

Scope

- (1) This section applies to a meeting that is called under an authority under section 188.

Debtor's statement of affairs

- (2) The controlling trustee must table at the meeting a copy of the debtor's statement of affairs.
- (3) If, assuming that the debtor had been required, immediately before the start of the meeting, to prepare a statement of affairs, that statement would have differed in one or more material respects from the statement given by the debtor under subsection 188(2C)

or (2D), the debtor must table at the meeting a written statement identifying those differences.

Controlling trustee's declaration

- (4) The controlling trustee must table at the meeting a copy of the declaration made by the controlling trustee under subsection 189A(3).
- (5) If, assuming that the controlling trustee had been required, immediately before the start of the meeting, to make a declaration stating whether the debtor is a related entity of:
 - (a) the controlling trustee; or
 - (b) a related entity of the controlling trustee;that declaration would have differed in one or more material respects from the declaration made by the controlling trustee under subsection 189A(3), the controlling trustee must table at the meeting a written statement identifying those differences.

195 Debtor to attend meeting

- (1) The debtor shall, unless prevented by illness or other sufficient cause, attend the meeting.
- (2) At the meeting, the debtor must help the person presiding to the best of the debtor's knowledge and ability.
- (3) The debtor shall, at the meeting, answer, to the best of his or her knowledge and ability, all questions put to him or her by the controlling trustee or by a creditor with respect to his or her conduct and examinable affairs.
- (3A) Where the Official Trustee is the controlling trustee, subsection (3) applies as if the reference in that subsection to the controlling trustee were a reference to an Official Receiver or a person authorized in writing by an Official Receiver to act on behalf of the Official Trustee at the meeting.
- (4) The failure of the debtor to attend the meeting does not affect the validity of any resolution passed at the meeting.

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196 Procedure for calling and holding meeting

Division 5 of Part IV applies, with any modifications prescribed by the regulations, in relation to a meeting called under an authority under section 188 as if:

- (a) the debtor who signed the authority were bankrupt; and
- (b) the controlling trustee were the trustee in the bankruptcy.

204 Resolution for personal insolvency agreement

- (1) The creditors may, at a meeting called in pursuance of an authority under section 188, by special resolution:
 - (a) where the debtor's property is subject to control under this Division, resolve that the debtor's property be no longer subject to control under this Division;
 - (b) require the debtor to execute a personal insolvency agreement; or
 - (d) require the debtor to present a debtor's petition within 7 days from the day on which the resolution was passed.
- (2) A special resolution requiring a debtor to execute a personal insolvency agreement must specify the provisions to be included in the agreement.
- (3) If a special resolution requiring the debtor to execute a personal insolvency agreement has been passed, the creditors must, by resolution, nominate a trustee or trustees to be trustee or trustees of the agreement.
- (5) The creditors may, in nominating a trustee or trustees for the purposes of subsection (3):
 - (a) nominate 2 or more trustees to hold the office of trustee jointly, or jointly and severally; and
 - (b) nominate trustees to be trustees of the personal insolvency agreement in succession in the event of one or more of the trustees nominated declining to act or ceasing for any reason to hold the office of trustee.
- (6) Property of the debtor that vests in 2 or more trustees of a personal insolvency agreement, whether nominated to hold the office jointly, or jointly and severally, vests in those trustees as joint tenants.

(7) In this section:

trustee means registered trustee or Official Trustee.

205 Duties of sheriff after receiving notice of signing of authority under section 188 etc.

- (1) Subject to this section, where notice in writing of the signing by a debtor of an authority under section 188, of the calling of a meeting of creditors of a debtor in pursuance of this Division or of the passing of a special resolution under section 204 requiring a debtor to execute a personal insolvency agreement or present a debtor's petition is given to a sheriff, the sheriff:
- (a) shall refrain:
 - (i) from taking any action to sell property of the debtor in pursuance of any process of execution issued by or on behalf of a creditor; and
 - (ii) from taking any action on behalf of a creditor to attach a debt due to the debtor; and
 - (b) shall not:
 - (i) pay to the creditor by whom, or on whose behalf, the process of execution was issued, or to any person on his or her behalf, the proceeds of the sale of property of the debtor that has been sold in pursuance of any such process or any moneys seized, or paid to avoid seizure or sale of property of the debtor, in pursuance of any such process; or
 - (ii) pay to the creditor, or to any person on his or her behalf, any moneys received as a result of the attachment of the debt due to the debtor.
- (2) Where a notice is given under subsection (1) to a sheriff, a creditor who has issued a process of execution, or on whose behalf a process of execution has been issued, against property of the debtor, or who has taken action, or on whose behalf action has been taken, to attach a debt due to the debtor, in respect of a liability of the debtor under a maintenance agreement or maintenance order (whether entered into or made, as the case may be, before or after the commencement of this section) may give to the sheriff a written notice setting out details of the maintenance agreement or maintenance order, and, upon the giving of the

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notice, subsection (1) ceases to apply in relation to the process of execution or attachment, as the case may be.

- (3) Subject to this section, where notice in writing of the signing by a debtor of an authority under section 188, of the calling of a meeting of creditors of a debtor in pursuance of this Division or of the passing of a special resolution under section 204 requiring a debtor to execute a personal insolvency agreement or present a debtor's petition is given to the registrar or other appropriate officer of a court:
- (a) to which the proceeds of the sale of property of the debtor or other moneys have been paid by a sheriff in pursuance of a process of execution issued, by or on behalf of a creditor, against property of the debtor; or
 - (b) to which moneys have been paid in pursuance of proceedings instituted, by or on behalf of a creditor, to attach a debt due to the debtor;
- any of those proceeds or moneys not paid out of court shall not be paid to the creditor or to any person on his or her behalf.
- (4) Where a notice is given under subsection (3) to the registrar or other appropriate officer of any court, a creditor who has issued a process of execution, or on whose behalf a process of execution has been issued, against property of the debtor, or who has taken action, or on whose behalf action has been taken, to attach a debt due to the debtor, in respect of a liability of the debtor under a maintenance agreement or maintenance order (whether entered into or made, as the case may be, before or after the commencement of this section) may give to the registrar or other officer a written notice setting out details of the maintenance agreement or maintenance order, and, upon the giving of the notice, subsection (3) ceases to apply in relation to the process of execution or the attachment, as the case may be.
- (5) Subsection (1) does not prevent the sheriff from selling property, taking action to attach a debt or paying the proceeds of the sale of property or other moneys to a creditor or a person on his or her behalf, and subsection (3) does not prevent moneys in court from being paid out of court to a creditor or a person on his or her behalf, if:
- (a) having received notice of the signing by the debtor of an authority under section 188, the sheriff, registrar or other

- officer does not, within 42 days from the date on which the debtor signed the authority, receive notice of the passing of a special resolution under section 204 requiring the debtor to execute a personal insolvency agreement or present a debtor's petition;
- (b) having received notice that a meeting of creditors of the debtor has been called, the sheriff, registrar or other officer does not, within 7 days from the date for which the meeting was called, receive notice of the passing of a special resolution referred to in paragraph (a) or of the adjournment of the meeting;
 - (c) having received notice of the adjournment of a meeting of creditors of the debtor, the sheriff, registrar or other officer does not, within 7 days from the date to which the meeting was adjourned, receive notice of the passing of a special resolution referred to in paragraph (a) or of the further adjournment of the meeting; or
 - (d) having received notice of the passing of a special resolution referred to in paragraph (a), the sheriff, registrar or other officer does not, within 21 days from the date on which the resolution was passed, receive notice that the personal insolvency agreement required to be executed has been duly executed or that the debtor has presented a debtor's petition.
- (6) Where:
- (a) the sheriff, in pursuance of subsection (1) of this section or of subsection 119(1) or (2), refrains from taking action to sell property of a debtor (being real property), the debtor executes a personal insolvency agreement, and the property vests in the trustee of the agreement; or
 - (b) a sheriff, in pursuance of subsection (1), refrains from taking action to sell property of a debtor (being real property), the debtor becomes a bankrupt and the property vests in the trustee in the bankruptcy;
- the costs of the execution are a first charge on that property.
- (7) A failure by the sheriff to comply with a provision of this section does not affect the title of a person who purchases property of a debtor in good faith under a sale by the sheriff in pursuance of a process of execution issued by or on behalf of a creditor.

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205A Duties of sheriff after receiving notice of execution of personal insolvency agreement etc.

(4) Subject to this section, where:

(a) the sheriff is satisfied:

(i) that a debtor has executed a personal insolvency agreement; and

(ii) that:

(A) property of the debtor in his or her possession under a process of execution issued by or on behalf of a creditor; or

(B) proceeds of the sale of property of the debtor or other moneys in his or her possession, being proceeds of the sale of property sold, whether before or after the execution of the agreement, in pursuance of any such process or moneys seized, or paid to avoid seizure or sale of property of the debtor, whether before or after the execution of the agreement, in pursuance of any such process; or

(C) moneys in his or her possession as a result of the attachment, by or on behalf of a creditor, of a debt due to the debtor;

is not, or are not, subject to the the agreement;

the sheriff shall deliver that property, or pay those proceeds or other moneys, as the case requires, to the debtor or to a person authorized by the debtor in writing for the purpose; or

(b) the registrar or other appropriate officer of a court is satisfied:

(i) that a debtor has executed a personal insolvency agreement; and

(ii) that:

(A) proceeds of the sale of property of the debtor or other moneys in court, being proceeds of sale or other moneys paid into court, whether before or after the execution of the agreement, by a sheriff in pursuance of a process of execution issued, by or on behalf of a creditor, against property of the debtor; or

- (B) moneys in court that have been paid into court, whether before or after the execution of the agreement, in pursuance of proceedings instituted, by or on behalf of a creditor, to attach a debt due to the debtor;
- are not subject to the the agreement;
- the registrar or other officer shall pay those proceeds or other moneys, as the case requires, to the debtor or to a person authorized by the debtor in writing for the purpose.
- (5) The sheriff, registrar or other officer of a court shall not, in pursuance of subsection (4):
- (a) in the case of the sheriff—deliver property or pay the proceeds of the sale of property or other moneys; or
 - (b) in the case of the registrar or other officer—pay moneys in court;
- to the debtor or to a person authorized by the debtor unless:
- (c) 21 days have elapsed since the day on which the personal insolvency agreement was executed; and
 - (d) the sheriff, registrar or other officer, as the case may be, is satisfied that application has not been made to the Court for an order to set aside or terminate the agreement or that the application, or each application, made for such an order has been withdrawn or dismissed.
- (6) Subject to this section, where:
- (a) the sheriff is satisfied:
 - (i) that a debtor has executed a personal insolvency agreement; and
 - (ii) that:
 - (A) property of the debtor in his or her possession under a process of execution issued by or on behalf of a creditor; or
 - (B) proceeds of the sale of property of the debtor or other moneys in his or her possession, being proceeds of the sale of property sold, whether before or after the execution of the agreement, in pursuance of any such process or moneys seized, or paid to avoid seizure or sale of property of the debtor, whether before or after

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the execution of the agreement, in pursuance of any such process; or

- (C) moneys in his or her possession as a result of the attachment, by or on behalf of a creditor, of a debt due to the debtor;

is, or are, subject to the the agreement;

the sheriff shall deliver that property, or pay those proceeds or other moneys, as the case requires, to the trustee of the agreement; or

- (b) the registrar or other appropriate officer of a court is satisfied:

- (i) that a debtor has executed a personal insolvency agreement; and

- (ii) that:

- (A) proceeds of the sale of property of the debtor or other moneys in court, being proceeds of sale or other moneys paid into court, whether before or after the execution of the agreement, by a sheriff in pursuance of a process of execution issued, by or on behalf of a creditor, against property of the debtor; or

- (B) moneys in court that have been paid into court, whether before or after the execution of the agreement, in pursuance of proceedings instituted, by or on behalf of a creditor, to attach a debt due to the debtor;

are subject to the the agreement;

the registrar or other officer shall pay those proceeds or other moneys, as the case requires, to the trustee of the agreement.

- (7) The sheriff, registrar or other officer of a court shall not, in pursuance of subsection (6):

- (a) in the case of the sheriff—deliver property or pay the proceeds of the sale of property or other moneys; or
 - (b) in the case of the registrar or other officer—pay moneys in court;

to the trustee of the agreement unless:

- (c) 21 days have elapsed since the day on which the personal insolvency agreement was executed; and

- (d) the sheriff, registrar or other officer, as the case may be, is satisfied that application has not been made to the Court for an order to set aside or terminate the agreement or that the application, or each application, made for such an order has been withdrawn or dismissed.
- (8) Where property is, or the proceeds of the sale of property or other moneys are, required by subsection (4) or (6) to be delivered or paid to the trustee of a personal insolvency agreement or to a debtor or a person authorized by the debtor, the costs of the execution or attachment, as the case may be, are a first charge on that property or those proceeds of sale or other moneys, as the case may be.
- (9) For the purpose of giving effect to the charge referred to in subsection (8), the sheriff, registrar or other officer of a court may retain, on behalf of the creditor entitled to the benefit of the charge, such amount from the proceeds of sale or other moneys referred to in that subsection as he or she thinks necessary for the purpose.
- (10) Where a sheriff, registrar or other officer of a court has, in pursuance of subsection (4) or (6), delivered property or paid moneys to the trustee of a personal insolvency agreement or to the debtor or a person authorized by a debtor, the creditor who issued the process of execution or instituted the attachment proceedings, or on whose behalf the process was issued or the proceedings instituted, as the case may be, may prove under the agreement as an unsecured creditor as if the execution or attachment, as the case may be, had not taken place.
- (12) Where:
- (a) property has been delivered by a sheriff, or the proceeds of the sale of property or other moneys have been paid by a sheriff, registrar or other officer of a court:
 - (i) to a debtor, or a person authorised by the debtor under subsection (4); or
 - (ii) to the trustee of a personal insolvency agreement under subsection (6); and
 - (b) the property was in the possession of the sheriff, or the proceeds of the sale of the property or the other moneys were in the possession of the sheriff or paid into court, as the case may be, under or in pursuance of a process of execution

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issued, or proceedings to attach a debt instituted, by or on behalf of a creditor in respect of a liability of the debtor under a maintenance agreement or maintenance order (whether entered into or made, as the case may be, before or after the commencement of this section);

the trustee, debtor or other person, as the case may be, to whom the property has been delivered, or those proceeds or other moneys have been paid, shall deliver that property, or pay those proceeds or other moneys, as the case requires, to that creditor.

- (13) A failure by a sheriff to comply with a provision of this section does not affect the title of a person who purchases property of a debtor in good faith under a sale by the sheriff in pursuance of a process of execution issued by or on behalf of a creditor.

206 Court may adjourn hearing of petition where creditors have passed resolution for personal insolvency agreement

- (1) Where:

- (a) a meeting of creditors has, in accordance with this Part, passed a special resolution requiring a debtor to execute a personal insolvency agreement; and
- (b) a creditor's petition was presented against the debtor before the passing of the resolution or is presented against him or her after the passing of the resolution but before the agreement has been duly executed;

the Court may, upon application by the debtor, a creditor or a person nominated as trustee of the proposed agreement, if it appears to the Court that it would be for the advantage of the creditors that the debtor's affairs be administered under the agreement, adjourn the hearing of the petition for such period as it considers necessary to allow the agreement to be executed and, if the agreement is duly executed within that period, shall dismiss the petition.

- (2) Where a creditor's petition is presented against a debtor who has been required by special resolution of a meeting of creditors to execute a personal insolvency agreement, the creditor who presents the petition must, as soon as practicable, give notice in writing of that fact to the person who has been nominated as trustee of the agreement and to the Official Receiver.

207 Surrender of security etc. where secured creditor has voted

- (1) Where a secured creditor has estimated the value of his or her security for the purposes of voting at a meeting of creditors at which a special resolution requiring the debtor to execute a personal insolvency agreement was passed:
 - (a) he or she is not entitled to estimate the value of the security for the purposes of proving part of his or her debt under the agreement at any other amount except with the approval of the Court; and
 - (b) he or she shall, upon request in writing by the trustee of a personal insolvency agreement executed in accordance with the special resolution, surrender the security upon payment of the amount at which he or she has estimated the value of his or her security for the purposes of voting or, if the Court has approved his or her estimating the value of his or her security at another amount under paragraph (a), upon payment of that other amount.
- (2) The Court shall not grant its approval under paragraph (1)(a) unless it is satisfied that:
 - (a) the estimate made for the purposes of voting was made in good faith on a mistaken basis; or
 - (b) the value of the security has changed since that estimate was made.
- (3) Subject to subsection (4), where a secured creditor has voted at a meeting of creditors at which a special resolution referred to in subsection (1) was passed in respect of the whole of his or her debt without having surrendered his or her security:
 - (a) he or she shall be deemed to have estimated his or her security as having no value; and
 - (b) he or she shall, upon request in writing by the trustee of a personal insolvency agreement executed in accordance with the special resolution, surrender the security.
- (4) The Court may, upon application by a secured creditor to whom subsection (3) applies, if it is satisfied that his or her failure to estimate the value of his or her security was due to inadvertence, upon such terms as the Court considers just and equitable:
 - (a) relieve him or her from the obligation to surrender the security; and

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- (b) permit him or her to estimate its value for the purposes of proving part of his or her debt under the personal insolvency agreement.
- (5) Subject to subsection (4), if a creditor referred to in subsection (1) or (3) fails to comply with a request in writing under that subsection, the trustee by whom the request was made may apply to the Court for an order requiring the creditor to surrender the security to which the request related and the Court may make an order accordingly.
- (6) The right conferred on a secured creditor under section 90, as applied in relation to personal insolvency agreements, to realize his or her security and prove for the balance due to him or her is not exercisable where the trustee of such an agreement has requested the surrender of the security under this section.

208 Termination of control of debtor's property by the Court

The Court may make an order releasing the debtor's property from control under this Division if:

- (a) an interested person applies to the Court for such an order; and
- (b) the Court is satisfied that special circumstances justify it making the order.

209 Acts of controlling trustee to bind trustee of subsequent personal insolvency agreement or bankruptcy

Where:

- (a) a debtor signs an authority under section 188; and
- (b) subsequently a personal insolvency agreement is entered into by the debtor or the debtor becomes a bankrupt;

all payments made, acts and things done, transactions entered into and liabilities incurred by the controlling trustee in good faith in exercise of his or her powers under this Part are binding on the trustee of the personal insolvency agreement or in the bankruptcy, as the case may be.

210 Other provisions about controlling trustee

Part VIII, with any modifications prescribed by the regulations, applies in relation to the controlling trustee in relation to a debtor as if:

- (a) the debtor were a bankrupt; and
- (b) the controlling trustee were the trustee of the estate of the bankrupt debtor.

211 Other provisions about debtor

(1) Sections 77, 77A, 77C, 77D, 77E, 77F, 78 (other than paragraphs 78(1)(a), (b) and (c)) and 81, with any modifications prescribed by the regulations, apply in relation to a debtor whose property is subject to control under this Division as if:

- (a) the debtor were a bankrupt; and
- (b) the controlling trustee were the trustee of the estate of the bankrupt debtor.

(2) Section 78 (other than paragraphs 78(1)(d) and (f)), with any modifications prescribed by the regulations, applies in relation to a debtor whose property is subject to control under this Division as if the debtor were a debtor against whom a bankruptcy notice has been presented.

Division 3—General provisions

215 Eligibility to be trustee of personal insolvency agreement

Only a registered trustee or the Official Trustee can be a trustee of a personal insolvency agreement.

215A Nomination or appointment of trustee of personal insolvency agreement

- (1) A resolution that is passed at a meeting of creditors and purports to:
 - (a) nominate one or more persons under subsection 204(3) to be a trustee or trustees; or
 - (b) appoint a person under subsection 220(1) to a vacant office of trustee of a personal insolvency agreement;is void unless the person or each of the persons gave written consent before the meeting to act as a trustee of the agreement.
- (1A) As soon as possible after the resolution is passed, each person (except the Official Trustee) nominated or appointed by the resolution must give to the Official Receiver a copy of the consent that relates to that person.
- (2) Where, if this subsection had not been enacted, a resolution purporting to nominate a person or persons, or to appoint a person, would, because of a particular matter, be void by virtue of subsection (1), the Court may, on the application of the person, or of any of the persons, as the case may be, or of any other interested person, by order declare the resolution not to be void merely because of that matter.
- (3) Before a resolution is passed at a meeting of creditors that nominates one or more persons under subsection 204(3) to be a trustee or trustees:
 - (a) the person or each of those persons must make a written declaration stating whether the debtor is a related entity of:
 - (i) the person concerned; or
 - (ii) a related entity of the person concerned; and
 - (b) the person or each of those persons must:

- (i) give his or her declaration to the controlling trustee; and
 - (ii) keep a copy of his or her declaration; and
 - (c) the controlling trustee must table at the meeting a copy of each declaration given to the controlling trustee; and
 - (d) the controlling trustee must give a copy of each such declaration to each of the creditors at the same time as the controlling trustee gives a copy of the subsection 189A(1) report to each creditor.
- (4) Before a resolution is passed at a meeting of creditors that appoints a person under subsection 220(1) to a vacant office of trustee of a personal insolvency agreement:
- (a) the person must make a written declaration stating whether the debtor is a related entity of:
 - (i) the person; or
 - (ii) a related entity of the person; and
 - (b) the person must:
 - (i) give his or her declaration to the person presiding at the meeting; and
 - (ii) keep a copy of his or her declaration; and
 - (c) the person presiding at the meeting must table at the meeting a copy of the declaration.

216 Execution of personal insolvency agreements

- (1) A personal insolvency agreement must be executed by the debtor and the trustee within 21 days from the day on which the special resolution requiring the debtor to execute the agreement was passed.
- (2) The execution of the agreement by the debtor and by the trustee shall be attested by a witness.

217 Failure of trustee to execute personal insolvency agreement

- (1) Where a personal insolvency agreement is not executed, as required by section 216, by the registered trustee, or a registered trustee, nominated in a resolution of a meeting of creditors under section 204 to be the trustee, or a trustee, as the case requires, of the agreement, a meeting of creditors called for the purpose, in accordance with the regulations, by any creditor or the debtor may,

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by resolution, nominate any other registered trustee in the place of that registered trustee.

- (2) If the agreement is not executed by the registered trustee so nominated within 7 days from the date on which the resolution was passed or within such further period as the Court, on application made before the expiration of that period of 7 days, allows, the Court may, upon application by a creditor, nominate any registered trustee who is prepared to accept the office to be trustee in the place of the registered trustee who did not execute the agreement as required by section 216.
- (3) A registered trustee so nominated by the Court shall execute the agreement within 7 days from the date on which the trustee was so nominated or within such further period as the Court, on application made before the expiration of that period of 7 days, allows.

218 Notice of execution of personal insolvency agreement

- (1) The trustee of a personal insolvency agreement entered into in pursuance of this Part shall:
 - (a) notify each creditor of the debtor as soon as practicable after the debtor and the trustee have executed the agreement; and
 - (b) within 21 days after the execution of the agreement by the debtor and the trustee—file a copy of the agreement in the office of the Official Receiver.
- (3) A trustee must notify creditors under paragraph (1)(a) in the way prescribed by the regulations.

219 Trustee may sue, be sued etc. by official name

- (1) The trustee of a personal insolvency agreement entered into in pursuance of this Part may sue and be sued by the prescribed official name and may, by that name, hold, dispose of or acquire property of every description, make contracts, enter into engagements binding on the trustee and his or her successors in office and do all other acts and things necessary or expedient to be done in the execution of the office of trustee.

- (2) For the purposes of subsection (1), the prescribed official name is “The Trustee (*or* Trustees) of the Property of (*name of debtor*), a Debtor”.

220 Filling of vacancy in office of trustee after execution of personal insolvency agreement etc.

- (1) Where a vacancy occurs in the office of trustee of a personal insolvency agreement entered into under this Part, a meeting of creditors called for the purpose may, by resolution, appoint a registered trustee to the vacant office.
- (2) Where, at any time, a vacancy exists in an office of trustee of such a personal insolvency agreement, the Court may, on the application of the debtor, a creditor or an Official Receiver:
- (a) appoint to the vacant office a registered trustee who is willing to accept the appointment; or
 - (b) appoint the Official Trustee or a registered trustee, being a registered trustee who is willing so to act, to act as trustee until the vacant office is filled by a meeting of creditors.
- (3) The appointment of a trustee to a vacant office of trustee by a meeting of creditors shall be deemed to have taken effect as from the date on which the vacancy in the office occurred, except where the Official Trustee or a registered trustee has been appointed to act as trustee under paragraph (2)(b), in which case the appointment takes effect on the date on which it is made.
- (4) The appointment of a registered trustee to a vacant office of trustee by the Court shall be deemed to have taken effect as from the date on which the vacancy in the office occurred.
- (5) Where, under this section, the Official Trustee or a registered trustee is appointed to an office of trustee or to act as trustee:
- (a) all property to which the personal insolvency agreement relates that is vested in the former trustee, alone or jointly with another trustee, shall, subject to subsection (6), vest in the Official Trustee or that registered trustee, as the case may be, alone or jointly with any continuing trustee, as the case may be, without any conveyance, assignment or transfer, as from the date on which the appointment takes effect or is deemed to have taken effect; and

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- (b) the Official Trustee or that registered trustee, as the case may be, has the same rights, powers, duties and liabilities as if the Official Trustee or that registered trustee, as the case may be, had been an original trustee, but is not personally liable in respect of any act done, omission made or liability incurred by a prior trustee.
- (6) Where a law of the Commonwealth or of a State or Territory of the Commonwealth requires the transmission of property to be registered, and enables a trustee so appointed to be registered as the owner of any such property to which the personal insolvency agreement relates, that property, notwithstanding that it vests in equity in the trustee by virtue of this section, does not vest in the trustee at law until the requirements of that law have been complied with.

221 Sequestration order where debtor fails to attend meeting, execute personal insolvency agreement etc.

- (1) Where:
 - (a) a debtor has failed, without sufficient cause, to attend a meeting of creditors called under an authority signed by him or her under section 188;
 - (aa) a debtor has contravened subsection 189(2);
 - (b) a debtor, having been required by a special resolution of a meeting of creditors called in pursuance of such an authority to execute a personal insolvency agreement, has failed without sufficient cause to execute the agreement within the time prescribed by this Act; or
 - (c) a meeting of creditors called in pursuance of such an authority has not, within 4 months from the date for which the meeting was called, passed one of the special resolutions referred to in subsection 204(1);the Court may, if it thinks fit, on the application of the Inspector-General, a creditor or the controlling trustee, forthwith make a sequestration order against the estate of the debtor.
- (2) The Court may, if it thinks fit, dispense with service on the debtor of notice of an application under this section, either unconditionally or subject to conditions.

- (3) Subject to subsection (4), the making of an application under this section in respect of a debtor shall, for the purposes of this Act, be deemed to be equivalent to the presentation of a creditor's petition against the debtor.
- (4) The provisions of subsection 43(1), sections 44 and 47, subsections 52(1) and (2) and Part XIA do not apply in relation to an application under this section, but, on the hearing of such an application, the Court shall require proof (which may be given by affidavit) of the matters stated in the application and, unless service has been dispensed with by the Court, of service of the application on the debtor.

221A Variation of personal insolvency agreement

Variation by special resolution of creditors

- (1) The creditors, with the written consent of the debtor, may vary a personal insolvency agreement by special resolution at a meeting called for the purpose.

Variation by trustee

- (2) The trustee, with the written consent of the debtor, may, in writing, propose a variation of a personal insolvency agreement.
- (3) The trustee must give notice of the proposed variation to all the creditors who would be entitled under section 64A (as that section applies in accordance with section 223A) to receive notice of a meeting of creditors.
- (4) The notice must:
 - (a) include a statement of the reasons for the variation and the likely impact it will have on creditors (if it takes effect); and
 - (b) specify a date (at least 14 days after the notice is given) from which it is proposed that the variation will take effect; and
 - (c) state that any creditor may, by written notice to the trustee at least 2 days before the specified date, object to the variation taking effect without there being a meeting of creditors.
- (5) If no creditor lodges a written notice of objection with the trustee at least 2 days before the specified date, then the proposed variation takes effect on the date specified in the notice.

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- (6) A certificate signed by the trustee stating any matter relating to a proposed variation under subsection (2) is prima facie evidence of the matter.

222 Court may set aside personal insolvency agreement

Setting aside on grounds of unreasonableness etc.

- (1) If a personal insolvency agreement is in force, the Court may, on application by:
- (a) the Inspector-General; or
 - (b) the trustee; or
 - (c) a creditor;
- make an order setting the agreement aside if the Court is satisfied that:
- (d) the terms of the agreement are unreasonable or are not calculated to benefit the creditors generally; or
 - (e) for any other reason, the agreement ought to be set aside.

Setting aside on grounds of non-compliance with this Part etc.

- (2) If a personal insolvency agreement is in force, the Court may, on application by:
- (a) the Inspector-General; or
 - (b) the trustee; or
 - (c) a creditor; or
 - (d) the debtor;
- make an order setting the agreement aside if the Court is satisfied that:
- (e) the agreement was not entered into in accordance with this Part; or
 - (f) the agreement does not comply with the requirements of this Part.
- (3) The Court must not make an order setting aside a personal insolvency agreement on the ground that it does not comply with the requirements of this Part if the agreement complies substantially with those requirements.

- (4) The Court must not make an order under subsection (2) unless the application for the order is made before all the obligations that the personal insolvency agreement created have been discharged.

Setting aside on grounds of false or misleading information etc.

- (5) If a personal insolvency agreement is in force, the Court may, on application by:

- (a) the Inspector-General; or
- (b) the trustee; or
- (c) a creditor;

make an order setting the agreement aside if the Court is satisfied that:

- (d) the debtor has given false or misleading information in answer to a question put to the debtor with respect to any of the debtor's conduct or examinable affairs at the meeting of creditors at which the resolution requiring the debtor to execute the agreement was passed; or
- (e) the debtor has:
 - (i) omitted a material particular from the statement of the debtor's affairs given under subsection 188(2C) or (2D); or
 - (ii) included an incorrect and material particular in that statement; or
- (f) the debtor was subject to a requirement under subsection 194A(3) to table a statement, and the debtor has:
 - (i) omitted a material particular from that statement; or
 - (ii) included an incorrect and material particular in that statement; or
- (g) the controlling trustee has:
 - (i) omitted a material particular from the declaration given by the controlling trustee under subsection 189A(3); or
 - (ii) included an incorrect and material particular in that declaration; or
- (h) the controlling trustee was subject to a requirement under subsection 194A(5) to table a statement, and the controlling trustee has:
 - (i) omitted a material particular from that statement; or
 - (ii) included an incorrect and material particular in that statement; or

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- (i) a person who became the trustee of the agreement has:
 - (i) omitted a material particular from the declaration given by the person under subsection 215A(3) or (4); or
 - (ii) included an incorrect and material particular in that declaration.
- (6) The Court must not make an order under subsection (5) unless it is satisfied that it would be in the interests of the creditors to do so.
- (7) The Court must not make an order under subsection (5) unless the application for the order is made before all the obligations that the personal insolvency agreement created have been discharged.

Ancillary orders

- (8) If the Court makes an order under subsection (1), (2) or (5), the Court may make such other orders as the Court thinks fit.
- (9) An order under subsection (8) may be an order directing a person to pay another person compensation of such amount as is specified in the order. This subsection does not limit subsection (8).

Application for sequestration order

- (10) The trustee or a creditor may include in an application under subsection (1), (2) or (5) an application for a sequestration order against the estate of the debtor. If the Court, on the first-mentioned application, makes an order under this section setting the personal insolvency agreement aside, it may, if it thinks fit, immediately make the sequestration order sought.
- (11) The making of an application by the trustee or a creditor for a sequestration order under this section is taken, for the purposes of this Act, to be equivalent to the presentation of a creditor's petition against the debtor, but the provisions of subsection 43(1), sections 44 and 47, subsections 52(1) and (2) and Part XIA do not apply in relation to such an application.

Court may dispense with service on debtor of notice of application

- (12) The Court may, if it thinks fit, dispense with service on the debtor of notice of an application by the Inspector-General, the trustee or a creditor under this section, either unconditionally or subject to conditions.

222A Termination of personal insolvency agreement by trustee

- (1) The trustee of a personal insolvency agreement may, in writing, propose the termination of the agreement if the trustee is satisfied that the debtor is in default.
- (2) The trustee must give notice of the proposed termination to all the creditors who would be entitled under section 64A (as that section applies in accordance with section 223A) to receive notice of a meeting of creditors.
- (3) The notice must:
 - (a) include a statement of the reasons for the termination and the likely impact it will have on creditors (if it takes effect); and
 - (b) specify a date (at least 14 days after the notice is given) from which it is proposed that the termination will take effect; and
 - (c) state that any creditor may, by written notice to the trustee at least 2 days before the specified date, object to the termination taking effect without there being a meeting of creditors.
- (4) If:
 - (a) the debtor is in default; and
 - (b) no creditor lodges a written notice of objection with the trustee at least 2 days before the specified date;then the proposed termination takes effect on the date specified in the notice.
- (5) For the purposes of this section, the debtor is *in default* if, and only if:
 - (a) the debtor has failed to carry out or comply with a term of the personal insolvency agreement; or
 - (b) if the debtor has died—the debtor or the person administering the estate of the debtor has failed to carry out or comply with a term of the agreement.
- (6) A certificate signed by the trustee stating any matter relating to a proposed termination under this section is prima facie evidence of the matter.

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222B Termination of personal insolvency agreement by creditors

- (1) The creditors may, by resolution at a meeting called for the purpose, terminate a personal insolvency agreement if:
 - (a) the debtor is in default; and
 - (b) before the passage of the resolution, the trustee of the agreement tabled at the meeting a written declaration to the effect that the trustee is satisfied that the debtor is in default.
- (2) The creditors may, by special resolution at a meeting called for the purpose, terminate the personal insolvency agreement if:
 - (a) property of the debtor is covered by a restraining order or a forfeiture order; or
 - (b) a pecuniary penalty order made against the debtor is in force.
- (3) However:
 - (a) paragraph (2)(a) does not apply if, when the personal insolvency agreement was made, the restraining order or forfeiture order already covered the property in question; and
 - (b) paragraph (2)(b) does not apply if, when the personal insolvency agreement was made, the pecuniary penalty order was already in force against the debtor.
- (4) For the purposes of this section, the debtor is *in default* if, and only if:
 - (a) the debtor has failed to carry out or comply with a term of the personal insolvency agreement; or
 - (b) if the debtor has died—the debtor or the person administering the estate of the debtor has failed to carry out or comply with a term of the agreement.

222C Court may terminate personal insolvency agreement

- (1) If a personal insolvency agreement is in force, the Court may, on application by:
 - (a) the trustee; or
 - (b) a creditor; or
 - (c) the debtor; or
 - (d) if the debtor has died—the person administering the estate of the debtor;make an order terminating the agreement if the Court is satisfied:

- (e) that:
 - (i) the debtor; or
 - (ii) if the debtor has died—the debtor or the person administering the estate of the debtor;has failed to carry out or comply with a term of the agreement; or
 - (f) that the agreement cannot be proceeded with without injustice or undue delay to:
 - (i) the creditors; or
 - (ii) the debtor; or
 - (iii) if the debtor has died—the estate of the debtor; or
 - (g) that, for any other reason, the agreement ought to be terminated.
- (2) The Court must not make an order terminating a personal insolvency agreement on the ground specified in paragraph (1)(e) or (g) unless it is satisfied that it would be in the interests of the creditors to do so.

Ancillary orders

- (3) If the Court makes an order terminating a personal insolvency agreement, the Court may make such other orders as the Court thinks fit.
- (4) An order under subsection (3) may be an order directing a person to pay another person compensation of such amount as is specified in the order. This subsection does not limit subsection (3).

Application for sequestration order

- (5) The trustee or a creditor may include in an application under subsection (1) an application for a sequestration order against the estate of the debtor. If the Court, on the first-mentioned application, makes an order under this section terminating the personal insolvency agreement, it may, if it thinks fit, immediately make the sequestration order sought.
- (6) The making of an application by the trustee or a creditor for a sequestration order under this section is taken, for the purposes of this Act, to be equivalent to the presentation of a creditor's petition against the debtor, but the provisions of subsection 43(1),

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sections 44 and 47, subsections 52(1) and (2) and Part XIA do not apply in relation to such an application.

Court may dispense with service on debtor of notice of application

- (7) The Court may, if it thinks fit, dispense with service on the debtor of notice of an application by the trustee or a creditor under this section, either unconditionally or subject to conditions.

222D Termination of personal insolvency agreement by occurrence of terminating event

A personal insolvency agreement is terminated by the occurrence of any circumstance or event on the occurrence of which the agreement provides that it is to terminate.

223 Calling of meetings after the first meeting

- (1) The controlling trustee or the trustee of a personal insolvency agreement:
- (a) may call such meetings of the creditors as he or she considers necessary or desirable for the purposes of this Part; and
 - (b) shall call meetings of the creditors at such times as the creditors, by resolution, direct and whenever requested in writing to call such a meeting by not less than one-fourth in value of the creditors.
- (3) If, at any time, there is no trustee of a personal insolvency agreement, any creditor or the debtor may call a meeting of creditors (other than the meeting referred to in section 194) for the purposes of appointing a trustee of the agreement.

223A Rules in relation to meetings

- (1) Division 5 of Part IV applies, with any modifications prescribed by the regulations, in relation to a meeting called under section 223 as if:
- (a) the debtor who signed the authority under section 188 were bankrupt; and
 - (b) the person who called the meeting were the trustee in the bankruptcy.

- (2) Section 195 applies, with any modifications prescribed by the regulations, in relation to a meeting called under section 223 as if references in section 195 to the controlling trustee included references to the trustee of a personal insolvency agreement.

224 Validity of acts if personal insolvency agreement set aside or terminated

Scope

- (1) This section applies if a personal insolvency agreement is:
- (a) set aside by the Court; or
 - (b) terminated.

Validity of acts

- (2) All payments made, acts and things done and transactions entered into in good faith under, or for the purposes of, the agreement by:
- (a) the trustee; or
 - (b) any other person;
- before he or she had notice of the order of the Court or of the termination of the agreement, as the case may be, are valid and effectual and are not liable to be set aside by the trustee of a later personal insolvency agreement or in a subsequent bankruptcy.

224A Notice that a personal insolvency agreement has been set aside, varied or terminated

- (1) If a personal insolvency agreement is terminated or varied by a resolution or special resolution at a meeting of creditors called for the purpose, the trustee of the agreement must immediately file a copy of the resolution or special resolution in the office of the Official Receiver.
- (2) If a personal insolvency agreement is varied in accordance with subsection 221A(5), the trustee of the agreement must immediately file a copy of the variation in the office of the Official Receiver.
- (3) If a personal insolvency agreement is terminated by the occurrence of any circumstance or event on the occurrence of which the deed provides that it is to terminate, the trustee of the agreement must

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immediately give written notice of that fact to the Official Receiver.

(4) If:

- (a) the Court makes an order setting aside or terminating a personal insolvency agreement; and
- (b) a registered trustee was the trustee of the personal insolvency agreement;

the registered trustee must give written notice of the order to the Official Receiver.

(5) If:

- (a) the Court makes an order setting aside or terminating a personal insolvency agreement; or
- (b) a personal insolvency agreement is terminated otherwise than because of an order of the Court;

the trustee of the personal insolvency agreement must give written notice of the order or termination to each of the creditors within 2 working days of the making of the order or of the termination, as the case may be.

(6) For the purposes of subsection (5), a **working day** is a day that is not a Saturday, Sunday or public holiday in:

- (a) in the case of an order made by the Court—the place where the order is made; or
- (b) in the case of a termination otherwise than because of an order of the Court:
 - (i) if the trustee of the personal insolvency agreement has only one office—the place where that office is located; or
 - (ii) if the trustee of the personal insolvency agreement has 2 or more offices—the place where the principal office is located.

225 Evidence of personal insolvency agreement, resolution etc.

- (1) A personal insolvency agreement that purports to have been executed by the debtor and by the trustee, and to have been attested in accordance with this Part, shall, unless and until the contrary is proved, be deemed to have been duly executed and attested.

- (2) A certificate of the passing of a special resolution under section 204 signed in accordance with that section is *prima facie* evidence that the meeting was duly convened and held and that the special resolution specified in the certificate was duly passed at the meeting.
- (3) A certificate of the passing of a resolution (not being a special resolution) under section 204 signed in accordance with that section is *prima facie* evidence that the resolution specified in the certificate was duly passed at the meeting.
- (4) The minutes of a meeting held under this Part signed in accordance with section 203 are *prima facie* evidence of the proceedings at the meeting.

226 Creditor may inspect personal insolvency agreement etc.

- (1) A person who states in writing that he or she is a creditor of a debtor who has executed a personal insolvency agreement under this Part may, at all reasonable times, inspect without fee, personally or by an agent, the agreement, the statement of the debtor's affairs given under subsection 188(2C) or (2D) and the proofs of debt of creditors and may make copies of, or take extracts from, the agreement, the statement and the proofs.
- (3) A person who states in writing that he or she is a creditor of a debtor who has executed a personal insolvency agreement under this Part may without fee, and any other person may on payment of the fee determined by the Minister by legislative instrument, inspect, personally or by an agent, any document filed under this Part in the office of the Official Receiver in relation to the debtor, and may make copies of, or take extracts from, the document.
- (4) Any person is entitled, on payment of the fee determined by the Minister by legislative instrument, to obtain an office copy of any document filed under this Part in the office of the Official Receiver.

227 Stamp duty not payable on personal insolvency agreements etc. entered into under this Part

Stamp duty is not payable under a law of a State or Territory on:
(a) an authority under section 188; or

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(b) a personal insolvency agreement.

229 Personal insolvency agreement to bind all creditors

- (1) A personal insolvency agreement that:
- (a) is entered into in accordance with this Part; and
 - (b) complies with the requirements of this Part;
- is, upon being duly executed by the debtor and the trustee, binding on all the creditors of the debtor.
- (2) If a personal insolvency agreement has become binding on the creditors of the debtor, it is not competent for a creditor, so long as the agreement remains valid:
- (a) to present a creditor's petition against the debtor, or to proceed with such a petition presented before the agreement became so binding, in respect of a provable debt; or
 - (b) to enforce any remedy against the person or property of the debtor in respect of a provable debt; or
 - (c) to commence any legal proceeding in respect of a provable debt or take any fresh step in such a proceeding.
- (3) This section does not:
- (a) affect the right of a secured creditor to realise or otherwise deal with the creditor's security; or
 - (b) prevent a creditor, after all the obligations that a personal insolvency agreement created have been discharged, from taking any proceeding or enforcing any remedy in respect of a provable debt from which the debtor is not released by the operation of the agreement.
- (4) This section does not prevent a creditor from enforcing any remedy against:
- (a) a debtor who has executed a personal insolvency agreement; or
 - (b) any property of such a debtor that is not subject to the agreement;
- in respect of any liability of the debtor under a maintenance agreement or maintenance order (whether entered into or made, as the case may be, before or after the commencement of this subsection).

230 Release of provable debts

- (1) If a personal insolvency agreement provides for a debtor to be released from a provable debt, the agreement operates to release the debtor from that provable debt unless the agreement is set aside or terminated under this Part.
- (2) Subsection (1) has effect subject to subsections (3), (4) and (5).

Exceptions

- (3) Subsection (1) does not operate to release the debtor from a debt that would not be released by his or her discharge from bankruptcy if he or she had become a bankrupt on the day on which he or she executed the personal insolvency agreement.
- (4) Subsection (1) does not affect the right of a secured creditor, or a person claiming through or under a secured creditor, to realise or otherwise deal with the creditor's security:
 - (a) if the secured creditor has not proved under the agreement for any part of the secured debt—for the purpose of obtaining payment of the secured debt; or
 - (b) if the secured creditor has proved under the agreement for part of the secured debt—for the purpose of obtaining payment of the part of the secured debt for which the creditor has not proved under the agreement;and, for the purposes of enabling the secured creditor, or a person claiming through or under a secured creditor, so to realise or deal with the creditor's security, but not otherwise, the secured debt, or the part of the secured debt, as the case may be, is taken not to have been released.
- (5) A personal insolvency agreement does not release from any liability a person who, at the date on which the debtor executed the agreement, was:
 - (a) a partner or a co-trustee with the debtor; or
 - (b) jointly bound or had made a joint contract with the debtor; or
 - (c) surety or in the nature of a surety for the debtor.

231 Application of general provisions of Act to personal insolvency agreements

- (1) Sections 77, 77A, 77AA, 77C, 77D, 77E, 77F, 78 (other than paragraphs 78(1)(a), (b) and (c)) and 81 apply, with the prescribed modifications (if any), in relation to a debtor who has executed a personal insolvency agreement as if:
 - (a) the debtor were a bankrupt; and
 - (b) the trustee of the agreement were the trustee of the estate of the bankrupt debtor.
- (2) Section 78 (other than paragraphs 78(1)(d) and (f)) applies, with the prescribed modifications (if any), in relation to a debtor who has executed a personal insolvency agreement as if the debtor were a debtor against whom a bankruptcy notice has been presented.
- (3) Subsection 58(4) and sections 60, 61, 62, 70, 71, 72, 82 to 118, 127 to 130 and 133 to 139H, Subdivisions I and J of Division 4B of Part VI and sections 140 to 147 apply, with the prescribed modifications (if any), in relation to such an agreement as if:
 - (a) a creditor's petition had been presented against the debtor by whom the agreement was executed on the day on which the special resolution requiring the execution of the agreement was passed; and
 - (b) a sequestration order had been made against him or her on that petition on the day on which he or she executed the agreement; and
 - (c) the trustee of the agreement were the trustee in his or her bankruptcy.
- (4) In the application, by virtue of subsections (1), (2) and (3), of the provisions referred to in those subsections:
 - (a) a reference to the property of the bankrupt is to be read as a reference to the divisible property of the debtor; and
 - (b) a reference to a provable debt is to be read as a reference to a provable debt within the meaning of this Part; and
 - (c) a reference to the end of the bankruptcy is to be read as a reference to the end of the personal insolvency agreement.
- (5) Part VIII applies, with any modifications prescribed by the regulations, in relation to a trustee of a personal insolvency agreement as if:

- (a) the debtor by whom the agreement was executed were a bankrupt; and
 - (b) the trustee of the agreement were the trustee in his or her bankruptcy.
- (6) If, after taking into account the prescribed modifications and the provisions of subsection (4), a provision specified in subsection (1), (2), (3) or (5) is incapable of application in relation to a personal insolvency agreement, or the trustee of such an agreement, as the case requires, or is inconsistent with this Part, that provision does not so have application.
- (7) This Division does not empower the Court to stay any proceedings under a proceeds of crime law.

231A Right of debtor to remaining property

- (1) The debtor to whom a personal insolvency agreement relates is entitled to any property remaining after payment in full of:
- (a) the costs, charges and expenses of the administration of the agreement; and
 - (b) all provable debts; and
 - (c) interest on interest-bearing provable debts.
- (2) The Court may make an order directing the trustee not to pay or transfer the property, or a specified part of the property, referred to in subsection (1), to the debtor if:
- (a) the Director of Public Prosecutions, or a person who is entitled to apply for an interstate confiscation order under a corresponding law, applies to the Court for an order under this subsection; and
 - (b) the Court is satisfied that proceedings are pending under a proceeds of crime law; and
 - (c) the Court is satisfied that property of the debtor may:
 - (i) become subject to a forfeiture order or interstate forfeiture order made in the proceedings; or
 - (ii) be required to satisfy a pecuniary penalty order or interstate pecuniary penalty order made in the proceedings.
- (3) The Court, on application made to it, may vary or revoke an order made under subsection (2).

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232 Certificate relating to discharge of obligations

- (1) If the trustee of a personal insolvency agreement is satisfied that all the obligations that the agreement created have been discharged, the trustee must, on written request by the debtor, give the debtor a certificate signed by the trustee to that effect.
- (2) A certificate signed by a trustee under this section is prima facie evidence of the facts stated in it.

Part XI—Administration of estates of deceased persons in bankruptcy

244 Administration of estates under this Part upon petition by creditor

- (1) Subject to this section, where:
 - (a) a debt of not less than \$2,000 was owing by a deceased person at the time of his or her death to a creditor, or debts amounting in the aggregate to not less than that amount were so owing to any 2 or more creditors;
 - (b) a debt incurred by the legal personal representative of a deceased person of not less than \$2,000 is owing to a creditor, or debts so incurred amounting in the aggregate to not less than that amount are owing to any 2 or more creditors; or
 - (c) a debt of not less than \$2,000, or debts amounting in the aggregate to not less than that amount, which a deceased person would have been liable to pay to a creditor or any 2 or more creditors if he or she had not died becomes or become owing after his or her death;

the creditor or creditors to whom the debt or debts is or are owing may present a petition to the Court for an order for the administration of the estate of the deceased person (in this section referred to as *the deceased debtor*) under this Part.

- (2) Subject to subsection (3), a secured creditor shall, for the purposes of subsection (1), be deemed to be a creditor only to the extent, if any, by which the amount of the debt owing to him or her exceeds the value of his or her security.
- (3) A secured creditor may present, or join in presenting, a petition under this section as if he or she were an unsecured creditor if he or she includes in the petition a statement that he or she is willing to surrender his or her security for the benefit of creditors generally in the event of an order for the administration of the estate under this Part being made.

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- (4) Where a petitioning creditor is a secured creditor, he or she shall set out in the petition particulars of his or her security.
- (5) A petition under this section shall be verified by the affidavit of a person who has knowledge of the facts.
- (6) A petition under this section shall not be presented unless:
 - (a) the debt, or each of the debts, in respect of which it is presented:
 - (i) is a liquidated sum due at law or in equity or partly at law and partly in equity; and
 - (ii) is payable immediately or at a certain future time; and
 - (b) at the time of his or her death, the deceased debtor:
 - (i) was personally present or ordinarily resident in Australia;
 - (ii) had a dwelling-house or place of business in Australia;
 - (iii) was carrying on business in Australia, either personally or by means of an agent or manager; or
 - (iv) was a member of a firm or partnership carrying on business in Australia by means of a partner or partners, or of an agent or manager.
- (7) Where a secured creditor has presented, or joined in presenting, a petition under this section as if he or she were an unsecured creditor, he or she shall, upon request in writing by the trustee within 3 months after the making of an order for the administration of the estate under this Part, surrender his or her security to the trustee for the benefit of the creditors generally.
- (8) A secured creditor to whom subsection (7) applies who fails to surrender his or her security when requested to do so by the trustee in accordance with that subsection is guilty of contempt of court.
- (9) Subject to subsection (10), a sealed copy of the petition shall be served upon the legal personal representative of the deceased debtor or, if there is no legal personal representative, upon such person as the Court directs.
- (10) The Court may, if it is satisfied that there is no legal personal representative of the deceased debtor and that there are special circumstances that justify its so doing, by order dispense with

service of the petition, either unconditionally or subject to conditions.

- (11) At the hearing of the petition, the Court shall require proof of:
- (a) the matters stated in the petition (for which purpose the Court may accept the affidavit verifying the petition as sufficient);
 - (b) service of the petition, unless service of the petition has been dispensed with; and
 - (c) the fact that the debt or debts to which the petition relates is or are still owing;
- and if it is satisfied with the proof of those matters, may make an order that the estate be administered under this Part.
- (12) If the Court is not satisfied with the proof of any of those matters or is of the opinion that for other sufficient cause the order sought ought not be made, it may dismiss the petition.
- (13) Where proceedings have been commenced in a court for the administration of a deceased person's estate under a law of a State or Territory, a petition for an order under this section in relation to the estate shall not be presented by a creditor except by leave of the Court and on such terms and conditions (if any) as the Court thinks fit.
- (14) If the Court makes an order that the estate be administered under this Part, the creditor who obtained the order must give a copy of the order to the Official Receiver.

245 Debtor dying after presentation of creditor's petition

- (1) Subject to subsection (2), where a person against whom a creditor's petition has been presented under Part IV dies after he or she has been served with the petition but before a sequestration order has been made on the petition or the petition has been dismissed, an order may be made on that petition for the administration of his or her estate under this Part.
- (2) The matters of which the Court is to require proof before making such an order in a case to which subsection (1) applies are those of which the Court would have required proof before making a sequestration order on the petition if the deceased person had not died.

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- (3) If the Court makes an order that the estate be administered under this Part, the creditor who obtained the order must give a copy of the order to the Official Receiver.

246 Statement of deceased debtor's affairs etc. by legal personal representative

- (1) Where an order is made under section 244 or 245 for the administration of the estate of a deceased person under this Part, and there is a legal personal representative of the deceased person, the legal personal representative shall, within 28 days from the day on which he or she is notified of the making of the order:
- (a) make out a statement of the deceased person's affairs and of his or her administration of the deceased person's estate; and
 - (b) give a copy of the statement to the Official Receiver.

Penalty: 5 penalty units.

- (1A) Subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) The cost of making out and filing such a statement shall be borne by the estate.
- (5) A person who states in writing that he or she is a creditor of the estate may, without fee, and any other person may, on payment of the fee determined by the Minister by legislative instrument, inspect, personally or by an agent, the statement filed under this section in respect of a deceased person, and make copies of, or take extracts from, the statement.
- (6) If the trustee of the estate is a registered trustee, the Official Receiver must give the trustee a copy of the order and a copy of the statement of affairs.

247 Petition for administration under this Part by person administering deceased person's estate

- (1) Subject to this section, a person administering the estate of a deceased person may present a petition for an order for the administration of the estate under this Part, accompanied by a statement, in duplicate, of the deceased person's affairs and of his or her administration of the deceased person's estate.

- (1A) Upon hearing the petition, the Court may make, or refuse to make, the order sought as it thinks fit.
- (2) A petition under this section shall not be presented unless, at the time of his or her death, the deceased person:
 - (a) was personally present or ordinarily resident in Australia;
 - (b) had a dwelling house or place of business in Australia;
 - (c) was carrying on business in Australia, either personally or by means of an agent or manager; or
 - (d) was a member of a firm or partnership carrying on business in Australia by means of a partner or partners, or of an agent or manager.

247A Commencement of administration under Part

- (1) Administration of the estate of a deceased person under this Part by virtue of an order made by the Court under section 244 or 247 after the commencement of this section shall be deemed to have relation back to, and to have commenced at:
 - (a) if the deceased person was on the day of his or her death unable to pay his or her debts as they became due from his or her own moneys and had committed any act or acts of bankruptcy within the period of 6 months immediately preceding the day on which he or she died—the time of the commission of that act, or the first of those acts, as the case may be;
 - (b) if the deceased person was on the day of his or her death unable to pay his or her debts as they became due from his or her own moneys, but had not committed any act of bankruptcy within the period of 6 months immediately preceding the day on which he or she died—the time of his or her death; or
 - (c) if the deceased person was on the day of his or her death able to pay his or her debts as they became due from his or her own moneys—the time of the presentation of the petition on which the order was made.
- (2) Administration of the estate of a deceased person under this Part by virtue of an order made by the Court under section 245 on a creditor's petition shall be deemed to have relation back, and to have commenced at, the time of the commission of the earliest act of bankruptcy committed by the deceased person within the period

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of 6 months immediately preceding the date on which the petition was presented.

248 Application of Act in relation to administrations under this Part

- (1) Subject to this section, subsection 47(2), sections 49 to 51 (inclusive), subsections 52(4) and (5), section 62, Division 5 of Part IV, sections 70 to 76 (inclusive), section 79, sections 81 to 114 (inclusive), sections 117 to 130 (inclusive), sections 132 to 139H (inclusive), Subdivisions I and J of Division 4B of Part VI and sections 140 to 147 (inclusive) and sections 156A to 184 (inclusive) apply, with any modifications prescribed by the regulations, in relation to proceedings under this Part and the administration of estates under this Part.
- (3) Subject to the regulations, in the application of the provisions specified in subsection (1) in relation to proceedings under this Part and the administration of estates of deceased persons under this Part:
 - (a) a reference to a sequestration order shall be read as a reference to an order for administration of an estate under this Part;
 - (b) a reference to bankruptcy shall be read as a reference to administration under this Part;
 - (c) a reference to the property of the bankrupt shall be read as a reference to the divisible property of the estate as defined by subsection 249(6);
 - (d) a reference to the date of the bankruptcy or to the date on which a person became a bankrupt shall be read as a reference to the date on which the order for administration under this Part was made;
 - (da) a reference to the commencement of the bankruptcy shall be read as a reference to the time at which administration of the estate under this Part is, by virtue of section 247A, to be deemed to have commenced;
 - (e) a reference to a bankrupt shall be read as a reference to a deceased person in respect of whose estate an order for administration under this Part has been made and as including a reference to the estate of that deceased person; and

- (f) a reference to the trustee of the estate of a bankrupt shall be read as a reference to the trustee of the estate of a deceased person in respect of whose estate an order for administration under this Part has been made.
- (4) If, after taking into account the prescribed modifications and the provisions of subsection (3), a provision specified in subsection (1) is incapable of application in relation to proceedings under this Part or the administration of estates under this Part, or is inconsistent with this Part, that provision does not so have application.

248A Consolidation of proceedings

- (1) Where orders have been made, whether before or after the commencement of this section, for the administration under this Part of the estates of 2 or more members of a partnership or 2 or more persons jointly liable for a debt, the Court may consolidate the proceedings upon such terms as it thinks fit.
- (2) Where:
 - (a) a member of a partnership has become, whether before or after the commencement of this section, a bankrupt or 2 or more members of a partnership have become, whether before or after the commencement of this section, bankrupts; and
 - (b) an order has been made, whether before or after the commencement of this section, for the administration under this Part of the estate of another member of the partnership or orders have been made, whether before or after the commencement of this section, for the administration under this Part of the estates of 2 or more other members of the partnership;the Court may consolidate the proceedings upon such terms as it thinks fit.
- (3) Where:
 - (a) one of the persons jointly liable for a debt has become, whether before or after the commencement of this section, a bankrupt or 2 or more of the persons jointly liable for a debt have become, whether before or after the commencement of this section, bankrupts; and
 - (b) an order has been made, whether before or after the commencement of this section, for the administration under

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this Part of the estate of another person jointly liable for the debt or orders have been made, whether before or after the commencement of this section, for the administration under this Part of the estates of 2 or more persons jointly liable for the debt;

the Court may consolidate the proceedings upon such terms as it thinks fit.

- (4) Where the Court makes an order under subsection (1), (2) or (3), section 110 applies in the administration under this Act of all the estates (whether estates of bankrupts or of deceased debtors) to which that order relates.
- (5) Where the Court makes an order under subsection (1), (2) or (3) in relation to 2 or more estates, the Court may, in the order:
 - (a) declare a specified date to be, for the purpose of the application of the provisions of Division 3 of Part VI in the administration of the joint estate, the date on which all the petitions relevant to the administration of those estates shall be deemed to have been presented;
 - (b) declare a specified date to be, for that purpose, the date of the bankruptcy in respect of each of those estates being administered in bankruptcy and the date on which each order for administration under this Part was made in respect of those estates being administered under this Part; and
 - (c) declare a specified time to be, for that purpose, the time that is the commencement of the bankruptcy in respect of each of those estates being administered in bankruptcy and the time at which the administration under this Part of each of those estates being administered under this Part (other than an estate in respect of which the order for its administration under this Part was made before the commencement of this section) is, by virtue of section 247A, to be deemed to have commenced;

and, if the Court does so, those estates shall be administered accordingly.

249 Vesting of property on making of order

- (1) Subject to this Act, where an order is made for the administration of the estate of a deceased person under this Part:

- (a) the divisible property of the estate, not being after-acquired property, vests forthwith in the Official Trustee or, if when the order is made, a registered trustee is trustee of the estate of the deceased person under this Act, in that registered trustee; and
 - (b) after-acquired property of the estate vests, as soon as it is acquired by, or devolves on, the estate, in the Official Trustee or, if a registered trustee is trustee of the estate of the deceased person under this Act, in that registered trustee;and is divisible amongst the creditors of the deceased person and of his or her estate in accordance with this Act.
- (2) Where a law of the Commonwealth or of a State or Territory of the Commonwealth requires the transmission of property to be registered and enables the trustee of the estate of a deceased person under this Act to be registered as the owner of any such property that is part of the divisible property of the estate, that property, notwithstanding that it vests in equity in the trustee by virtue of this section, does not so vest at law until the requirements of that law have been complied with.
- (3) Except as provided by this Act, after an order has been made for the administration of the estate of a deceased person under this Part, it is not competent for a creditor:
 - (a) to enforce any remedy against the estate in respect of a debt provable in the administration; or
 - (b) except with the leave of the Court and on such terms as the Court thinks fit, to commence any legal proceedings in respect of such a debt or take any fresh step in such a proceeding.
- (4) After an order has been made for the administration of the estate of a deceased person under this Part, distress for rent shall not be levied or proceeded with against the divisible property of the estate, whether or not the deceased person was a tenant of the landlord by whom the distress is sought to be levied.
- (4A) Nothing in this section shall be taken to prevent a creditor from enforcing any remedy against the estate of a deceased person in relation to which the Court has made an order for administration under this Part, or against any property of such an estate that is not part of the divisible property of the estate, in respect of any liability

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of the estate under a maintenance agreement or maintenance order (whether entered into or made, as the case may be, before or after the commencement of this subsection).

- (5) Nothing in this section affects the right of a secured creditor to realize or otherwise deal with his or her security.
- (6) For the purposes of this section, where the administration of the estate of a deceased person under this Part is, by virtue of section 247A, to be deemed to have commenced before the death of the deceased person, the divisible property of the estate comprises:
- (a) property that formed part of the estate upon the death of the deceased person other than:
 - (i) property that, if the deceased person had not died and a sequestration order had been made against him or her immediately before his or her death, would not have been divisible amongst his or her creditors under Part VI; or
 - (ii) so much of:
 - (A) the proceeds of a policy of life assurance or endowment assurance; or
 - (B) a payment from a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) or an approved deposit fund (within the meaning of that Act); or
 - (BAA) a payment from an exempt public sector superannuation scheme (within the meaning of that Act); or
 - (BA) a payment from an RSA;as would not have been divisible among the creditors of the deceased person under Part VI if:
 - (C) the deceased person had not died; and
 - (D) a sequestration order had been made against the deceased person immediately before his or her death; and
 - (E) the amount concerned had been paid immediately before his or her death;
 - (b) property that was or is acquired by, or devolved or devolves on, the estate after the death of the deceased person and

before an order releasing the estate from administration under this Part is made, not being property that, if the deceased person had not died and a sequestration order had been made against him or her immediately before his or her death, would not have been divisible amongst his or her creditors under Part VI;

- (c) the capacity to exercise, and to take proceedings for exercising, all such powers in, over or in respect of property as might have been exercised by the legal personal representative of the deceased person for the benefit of the estate at any time before an order releasing the estate from administration under this Part is made;
- (d) property that forms part of the divisible property of the estate by virtue of section 251 and any amount for which a person is liable to account to the trustee of the estate under subsection 251(2);
- (e) if, immediately before the death of the deceased person, any property was owned by the deceased person and another person or other persons as joint tenants—an amount equal to the value of the improvements (if any) made to that property wholly or principally by or at the expense of the deceased person after, or not earlier than 2 years before, the commencement of administration of his or her estate under this Part;
- (f) property (other than property that formed part of the estate of the deceased person upon his or her death) that belonged to, or was vested in, the deceased person at the commencement of administration of his or her estate under this Part or was acquired by, or devolved on, the deceased person after the commencement of administration of his or her estate under this Part and before his or her death, not being property that, if he or she had not died and a sequestration order had been made against him or her at the commencement of administration of his or her estate under this Part, would not have been divisible amongst his or her creditors under Part VI; and
- (g) the capacity to exercise, and take proceedings for exercising, all such powers in, over or in respect of property as might have been exercised by the deceased person for his or her own benefit at the commencement of administration of his or her estate under this Part, or at any time after commencement

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of administration of his or her estate under this Part and before his or her death.

- (7) For the purposes of this section, where the administration of the estate of a deceased person is under this Part, by virtue of section 247A, to be deemed to have commenced at the time of his or her death, the divisible property of the estate comprises:
- (a) property that formed part of the estate upon the death of the deceased person other than:
 - (i) property that, if the deceased person had not died and a sequestration order had been made against him or her immediately before his or her death, would not have been divisible amongst his or her creditors under Part VI; or
 - (ii) so much of:
 - (A) the proceeds of a policy of life assurance or endowment assurance; or
 - (B) a payment from a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) or an approved deposit fund (within the meaning of that Act); or
 - (BAA) a payment from an exempt public sector superannuation scheme (within the meaning of that Act); or
 - (BA) a payment from an RSA;as would not have been divisible among the creditors of the deceased person under Part VI if:
 - (C) the deceased person had not died; and
 - (D) a sequestration order had been made against the deceased person immediately before his or her death; and
 - (E) the amount concerned had been paid immediately before his or her death;
 - (b) property that was or is acquired by, or devolved or devolves on, the estate after the death of the deceased person and before an order releasing the estate from administration under this Part is made, not being property that, if the deceased person had not died and a sequestration order had been made against him or her immediately before his or her death,

- would not have been divisible amongst his or her creditors under Part VI;
- (c) the capacity to exercise, and to take proceedings for exercising, all such powers in, over or in respect of property as might have been exercised by the legal personal representative of the deceased person for the benefit of the estate at any time before an order releasing the estate from administration under this Part is made;
 - (d) property that forms part of the divisible property of the estate by virtue of section 251 and any amount for which a person is liable to account to the trustee of the estate under subsection 251(2); and
 - (e) if, immediately before the death of the deceased person, any property was owned by the deceased person and another person or other persons as joint tenants—an amount equal to the value of the improvements (if any) made to that property wholly or principally by or at the expense of the deceased person after, or not earlier than 2 years before, the commencement of administration of his or her estate under this Part.
- (8) For the purposes of this section, where the administration of the estate of a deceased person under this Part is, by virtue of section 247A, to be deemed to have commenced after the death of the deceased person, the divisible property of the estate comprises:
- (a) property that formed part of the estate at the commencement of administration of the estate under this Part other than:
 - (i) property that, if the deceased person had not died and a sequestration order had been made against him or her at that time, would not have been divisible amongst his or her creditors under Part VI; or
 - (ii) so much of:
 - (A) the proceeds of a policy of life assurance or endowment assurance; or
 - (B) a payment from a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) or an approved deposit fund (within the meaning of that Act); or

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- (BAA) a payment from an exempt public sector superannuation scheme (within the meaning of that Act); or
 - (BA) a payment from an RSA;
as would not have been divisible among the creditors of the deceased person under Part VI if:
 - (C) the deceased person had not died; and
 - (D) a sequestration order had been made against the deceased person at that time; and
 - (E) the amount concerned had been paid at that time;
 - (b) property that was or is acquired by, or devolved or devolves on, the estate after the commencement of administration under this Part and before an order releasing the estate from administration under this Part is made, not being property that, if the deceased person had not died and a sequestration order had been made against him or her at the commencement of administration of his or her estate under this Part, would not have been divisible amongst his or her creditors under Part VI;
 - (c) the capacity to exercise, and to take proceedings for exercising, all such powers in, over or in respect of property as might have been exercised by the legal personal representative of the deceased person for the benefit of the estate at the commencement of administration under this Part or at any time after that time and before an order releasing the estate from administration under this Part is made; and
 - (d) property that forms part of the divisible property of the estate by virtue of section 251 and any amount for which a person is liable to account to the trustee of the estate under subsection 251(2).
- (9) The value of any improvements made to property owned by a deceased person in respect of whose estate an order is made for administration under this Part and another person or other persons as joint tenants shall, for the purposes of paragraph (6)(e) or (7)(e), be determined as at the date of the death of the deceased person.
- (10) In this section:
- after-acquired property*, in relation to an estate, means property that is acquired by, or devolves on, the estate of the deceased
-

person on or after the day on which the order for the administration of the estate under this Part is made, being property that is part of the divisible property of the estate.

commencement of administration, in relation to the administration of the estate of a deceased person under this Part, means the time at which the administration of the estate under this Part is, by virtue of section 247A, to be deemed to have commenced.

249A Charge over property owned in joint tenancy

(1) Where:

- (a) an amount equal to the value of improvements made to property owned by a deceased person in respect of whose estate an order is made for administration under this Part and another person or other persons as joint tenants forms, for the purposes of section 249, part of the divisible property of the estate of the deceased person; and
- (b) the property is owned by that other person, or is owned (whether as joint tenants or otherwise) by all or some of those other persons and no other person, on the day on which the order for the administration of the estate under this Part is made;

there is created, by force of this subsection, a charge on that property to secure the payment of that amount.

(2) The charge created on property by subsection (1):

- (a) is subject to every charge or encumbrance to which the property was subject immediately before the time at which the order for administration under this Part was made;
- (b) subject to subsection (3), has priority over all other charges or encumbrances whatsoever; and
- (c) subject to subsection (3), is not affected by any change of ownership of the property.

(3) A charge created by subsection (1) on any property:

- (a) ceases to have effect in respect of the property upon the sale of the property to a *bona fide* purchaser for value who, at the time of the purchase, has no notice of the charge; and
- (b) is postponed in favour of a further charge, or an encumbrance, on the property acquired *bona fide* and for

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value by a person who, at the time of the acquisition, had no notice of the first-mentioned charge.

- (4) Where a charge is created by subsection (1) on property of a particular kind and the provisions of any law of the Commonwealth or of a State or Territory provide for the registration of charges over property of that kind, the trustee of the estate may cause the charge to be registered under the provisions of that law and, if he or she does so, a person who purchases or otherwise acquires the property, or an interest in the property, after registration of the charge shall, for the purposes of subsection (3), be deemed to have notice of the charge.

250 Effect of order under Part where deceased person was bankrupt

- (1) Where an order is made for the administration of the estate of a deceased person under this Part who was, at the time of his or her death, a bankrupt:
- (a) property:
- (i) that was acquired by, or devolved on, the deceased person on or after the date of the bankruptcy; and
 - (ii) that is divisible amongst the creditors of the deceased person, but had not been distributed amongst the creditors in the bankruptcy before the date on which the order was made;
- shall (subject to any disposition of that property made by the trustee in the bankruptcy without knowledge of the presentation of the petition on which the order was made and subject also to section 126 in its application to the administration of deceased estates under this Part by virtue of section 248) vest forthwith in the trustee of the estate of the deceased person;
- (b) property:
- (i) that is acquired by, or devolves on, the estate of the deceased person on or after the date of the making of the order; and
 - (ii) that is divisible amongst the creditors of the estate under this Part;
- vests in the trustee of the estate of the deceased person under this Part as soon as it is acquired by, or devolves on, the estate;

- (c) the trustee in the bankruptcy:
- (i) shall be deemed to be a creditor in the administration of the estate of the deceased person under this Part in respect of any unsatisfied balance of his or her expenses or remuneration in the bankruptcy, the liabilities incurred by him or her in administering the estate in the bankruptcy and the debts proved in the bankruptcy (whether or not those debts are entitled to priority, or are postponed, in the bankruptcy);
 - (ii) shall rank equally with the ordinary unsecured creditors of the estate of the deceased person in its administration under this Part; and
 - (iii) may, where he or she has lodged a proof of debt in the administration under this Part, amend that proof of debt, without the consent of the trustee of the estate of the deceased person under this Part, for the purpose of adding:
 - (A) his or her expenses in the bankruptcy that have, or his or her remuneration in the earlier bankruptcy that has, accrued after the proof of debt was lodged;
 - (B) liabilities incurred by him or her in administering the estate in the bankruptcy after the proof of debt was lodged; or
 - (C) debts proved in the bankruptcy after the proof of debt was lodged;or, with the consent of the trustee of the estate of the deceased person, for any other purpose;
 - (d) a charge or charging order that, by virtue of subsection 118(9), is void as against the trustee in the bankruptcy continues to be void as against that trustee; and
 - (e) a transaction that, by virtue of section 120, 121 or 122, is void as against the trustee in the bankruptcy continues to be void as against that trustee.
- (2) Where:
- (a) the trustee of the estate of a bankrupt who has died receives, after the death of the bankrupt, notice of the presentation of a creditor's petition against the deceased bankrupt, being a petition that was presented before he or she died; or

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- (b) the trustee of the estate of a bankrupt who has died receives notice of the presentation of a petition for the administration of the estate of the deceased bankrupt under this Part; the trustee shall hold the after-acquired property of the deceased bankrupt that is then in the possession of the trustee, or the proceeds thereof, until the petition has been dealt with by the Court or has lapsed.
- (3) Where the trustee of the estate of a bankrupt who has died receives, after the death of the bankrupt, notice of the reference to the Court of a debtor's petition against the deceased bankrupt, being a petition that was presented before he or she died, the trustee shall hold the after-acquired property of the deceased bankrupt that is then in the possession of the trustee, or the proceeds thereof, until the Court has dealt with the petition.
- (4) Where the trustee of the estate of a bankrupt who has died is holding after-acquired property of the deceased bankrupt, or the proceeds of any such property, in pursuance of subsection 59(2) or (3) or subsection (2) or (3) of this section and an order is made for the administration of the estate of the deceased bankrupt under this Part, the trustee shall:
- (a) in a case where the trustee is also the trustee in relation to the administration of the estate of the deceased bankrupt under this Part—hold all such property, and the proceeds of such property, as trustee in relation to the administration of the estate of the deceased bankrupt under this Part; or
- (b) in any other case—deliver all such property, and pay the proceeds of such property, to the trustee in relation to the administration of the estate of the deceased bankrupt under this Part.
- (5) Where a law of the Commonwealth or of a State or Territory of the Commonwealth requires the transmission of property to be registered, and enables the trustee in relation to the administration of the estate of a deceased person under this Part to be registered as the owner of any such property that is part of the property of the estate, that property, notwithstanding that it vests in equity in the trustee by virtue of subsection (1), does not vest in the trustee at law until the requirements of that law have been complied with.
- (6) In subsections (2), (3) and (4), *after-acquired property*, in relation to a deceased bankrupt, means such of the property that was

acquired by, or devolved on, the bankrupt on or after the date of the bankruptcy and before he or she died or that was acquired by, or devolved on, the estate of the bankrupt after his or her death, being property divisible among the creditors of the deceased bankrupt, as has not been distributed amongst the creditors in the bankruptcy.

251 Real property devised by will that vests directly in devisee to form part of estate in certain cases

- (1) Subject to this section, where an order for the administration of the estate of a deceased person under this Part is made within 12 months after the death of that person, any real property of the deceased person devised by his or her will which, under a law of a State or Territory, vests, either upon the death of that person or upon compliance with a law of the State or Territory relating to the registration of interests in land, directly in the devisee, forms part of the divisible property of the estate.
- (2) Where, before the making of such an order, the devisee has disposed of the property devised, or has mortgaged or charged it, for valuable consideration, to a person acting in good faith, the property does not form part of the divisible property of the estate, or forms part of the divisible property of the estate subject to the mortgage or charge, as the case requires, but the devisee is liable to account to the trustee of the estate for the proceeds of the disposal of the property or for an amount equal to the amount for which it is mortgaged or charged, as the case requires.

252 Liability of legal personal representative

- (1) A payment or transfer of property made by the legal personal representative of a deceased person:
 - (a) after service on him or her of a petition under this Part in respect of the estate of that person;
 - (b) in a case to which subsection 245(1) applies, after he or she has knowledge of the presentation of a petition against that person; or
 - (c) after a petition is presented under section 247 in respect of the estate of that person;

does not, if an order for the administration of the estate of that person is made under this Part on that petition, operate as a

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discharge to the legal personal representative as between himself or herself and the trustee.

- (2) Except as provided by subsection (1), nothing in this Part shall be taken to impose on the legal personal representative of a deceased person any liability for any payment or transfer of property made, or any act or thing done, in good faith by the legal personal representative before an order for administration of the estate of the deceased person is made under this Part.

252A Annulment on payment of debts

- (1) If the trustee of the estate of a deceased person is satisfied that all the debts of the estate of a deceased person have been paid in full, the order for the administration of the estate under this Part is annulled, by force of this subsection, on the date on which the last such payment was made.
- (2) The trustee must, as soon as practicable after that date, give to the Official Receiver a written certificate setting out the name and the administration number of the estate and the date of the annulment.
- (4) For the purposes of this section, if a debt has been proved by a creditor but the creditor cannot be found or cannot be identified, the debt may be paid to the Official Receiver and, if so paid, is taken for the purposes of this section to have been paid in full to the creditor.
- (4A) Money received by the Official Receiver under subsection (4) is received on behalf of the Commonwealth.
- (5) If money is paid to the Official Receiver under subsection (4), the provisions of subsections 254(3) and (4) apply in relation to that money as if it had been paid to the Commonwealth by a trustee under subsection 254(2).
- (6) In this section:

debts of the estate of a deceased person means all debts that have been proved in the administration of the estate and includes interest payable on such of those debts as bear interest, and the costs, charges and expenses of the administration of the estate, including the remuneration and expenses of the trustee.

252B Annulment by Court

If the Court is satisfied that an order for the administration of the estate of a deceased person under this Part ought not to have been made, the Court may make an order annulling the administration of the estate under this Part.

252C Effect of annulment

- (1) If the administration of the estate of a deceased person under this Part is annulled under section 252A or 252B:
 - (a) all sales and dispositions of property and payments duly made, and all acts done, by the trustee of the estate under this Part or any person acting under the authority of the trustee or the Court before the annulment are taken to have been validly made or done; and
 - (b) the trustee may apply the property still vested in the trustee in connection with the administration of the estate in payment of the costs, charges and expenses of the administration of the estate, including the remuneration and expenses of the trustee; and
 - (c) subject to subsection (2), the remainder (if any) of the property still vested in the trustee in connection with the administration of the estate reverts to the estate of the deceased person.
- (2) If an application is made to the Court by a person claiming an interest in property referred to in paragraph (1)(c), the Court, after hearing such persons as it thinks fit, may make an order, either unconditionally or on such conditions as the Court considers just and equitable, for the vesting of the property in, or delivery of the property to, a person in whom, or to whom, it seems to the Court to be just and equitable that it should be vested or delivered, or to a trustee for that person.
- (3) Subject to subsection (4), if an order vesting property in a person is made under subsection (2), the property vests immediately in the person without any conveyance, transfer or assignment.

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- (4) If:
- (a) the property to which such an order relates is property the transfer of which is required by a law of the Commonwealth, of a State or of a Territory to be registered; and
 - (b) that law enables the registration of such an order;
- the property, even though it vests in equity in the person named in the order, does not vest in that person at law until the requirements of that law have been complied with.

Part XIA—Farmers' debts assistance

253A Interpretation

In this Part, *the relevant authority*, in relation to a stay under a proclaimed law in its application in relation to a person or the estate of a deceased person, means the person administering the proclaimed law by or under which the stay was or is in force.

253B Law of State or Territory may be proclaimed

Where a law of a State or Territory (including a law that came into operation before the commencement of this section):

- (a) provides for the giving of financial assistance for the purpose of discharging debts of persons who are farmers within the meaning of the *Loan (Farmers' Debt Adjustment) Act 1935*; or
- (b) gives effect to the agreement between the Commonwealth and the States the execution of which, on behalf of the Commonwealth, was approved by the *States Grants (Rural Reconstruction) Act 1971* or that agreement as subsequently amended; or
- (c) gives effect to the agreement between the Commonwealth and the States the execution of which, on behalf of the Commonwealth, was approved by the *States Grants (Rural Adjustment) Act 1976* or that agreement as subsequently amended (including that agreement as amended by the agreement between the Commonwealth, the States and the Northern Territory the execution of which, on behalf of the Commonwealth, was approved by the *States and Northern Territory Grants (Rural Adjustment) Act 1979* or that last-mentioned agreement as subsequently amended); or
- (d) gives effect to the agreement between the Commonwealth and the States and the Northern Territory the execution of which, on behalf of the Commonwealth, was approved by the *States and Northern Territory Grants (Rural Adjustment) Act 1985* or that agreement as subsequently amended; or
- (e) gives effect to an agreement between the Commonwealth and a State or the Northern Territory whose execution, on behalf

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of the Commonwealth, was approved by the *States and Northern Territory Grants (Rural Adjustment) Act 1988*, or that agreement as subsequently amended;
the Governor-General may, by Proclamation, specify the law as a law in relation to which this Part applies.

253C Notice about stay under proclaimed law

The relevant authority may give to the Official Receiver a written notice that a stay under a proclaimed law applies to a person specified in the notice.

253E Relevant authority may apply for stay of proceedings under certain petitions

- (1) If:
 - (a) a creditor's petition is presented against a person (whether alone or jointly with another person) or against a partnership of which a person is a member; or
 - (b) a debtor's petition is presented against a partnership of which a person is a member and that person is not one of the partners presenting the petition;and a stay under a proclaimed law applies in relation to that person, the relevant authority may, at any time before a sequestration order is made on the creditor's petition or before the debtor's petition is accepted by the Official Receiver, as the case may be, apply to the Court for an order staying all or any proceedings under the petition, and the Court may, if it thinks fit, upon such terms and conditions as it thinks proper, stay all or any proceedings under the petition.
- (2) If a petition is presented under section 244 or section 247 for an order for the administration of the estate of a deceased person and a stay under a proclaimed law applies in relation to the estate, the relevant authority may, at any time before the order is made, apply to the Court for an order staying all or any proceedings under the petition, and the Court may, if it thinks fit, upon such terms and conditions as it thinks proper, stay all or any proceedings under the petition.
- (3) An order made under this section may provide that the stay is to be of indefinite duration or for such period as the Court thinks fit.

253F Relevant authority may be heard on application relating to debtor's petition

- (1) The relevant authority may appear and be heard at the hearing of:
 - (a) an application under subsection 55(6A) for leave to present a petition against a debtor in relation to whom a stay applies under a proclaimed law; or
 - (b) an application under subsection 56A(7) by a person to whom a stay under a proclaimed law applies for the Court's permission to join in presenting a petition against a partnership; or
 - (c) an application under subsection 57(8) by a person in relation to whom a stay under a proclaimed law applies for leave to join in presenting a petition under section 57.
- (2) The relevant authority may appear in person or be represented by a barrister or solicitor.

Part XII—Unclaimed dividends or moneys

254 Payment of unclaimed moneys to the Commonwealth

- (1) In this section, *trustee* means:
 - (a) a trustee of the estate of a bankrupt;
 - (b) a trustee of a personal insolvency agreement;
 - (c) a trustee of a composition or a scheme of arrangement; or
 - (d) a trustee of the estate of a deceased person in respect of which an order has been made under Part XI of this Act;and includes the Official Trustee.
- (2) Where a trustee has under his or her control:
 - (a) any dividends or other moneys that have remained unclaimed for a period exceeding 6 months; or
 - (b) any moneys that it is proposed not to distribute or pay to any person;he or she shall forthwith pay those moneys to the Commonwealth.
- (2A) Where:
 - (a) the Court has, after the presentation of a creditor's petition against a debtor, directed the Official Trustee, an Official Receiver or a registered trustee to take control of the property of the debtor;
 - (b) the petition has been withdrawn or dismissed;
 - (c) the Official Trustee, Official Receiver or registered trustee, as the case may be, has moneys under its control in pursuance of the direction; and
 - (d) it is not reasonably practicable to pay those moneys to the person entitled to them;the Official Trustee, Official Receiver or registered trustee, as the case may be, shall pay those moneys to the Commonwealth.
- (3) A person who claims to be entitled to any moneys that have been paid to the Commonwealth by a trustee in pursuance of subsection (2) or (2A) may apply to the Court for an order under this subsection declaring him or her to be so entitled and, if the

Court is satisfied that the applicant is entitled to those moneys or a part of those moneys, it may make an order accordingly.

- (4) Upon receipt by the Official Receiver of an office copy of an order under subsection (3), the Official Receiver shall pay to the person in whose favour the order was made the amount specified in the order out of moneys lawfully available for the purpose.

Part XIII—Evidence

255 Record of proceedings or evidence

- (1) A transcript or electronic or magnetic recording that purports to be a record of proceedings under section 77C or 81, or of proceedings before a court, is to be taken to be a record of that kind, unless the contrary is proved.
- (2) The transcript or recording is admissible as evidence of the matters described by a person whose words are recorded in the transcript or recording, unless the Court, or a court in which the transcript is sought to be introduced, makes an order to the contrary.
- (3) The cost of preparing a transcript or recording is an expense of administration of the estate of the bankrupt or debtor to which the matters recorded relate.

256 Evidence of matters stated in notices published in *Gazette*

A copy of the *Gazette* containing any notice inserted in it in pursuance of this Act is *prima facie* evidence of the matters stated in the notice.

257 Evidence of proceedings at meetings of creditors or committee of inspection

The minutes of proceedings at a meeting of creditors or of a committee of inspection under this Act, signed by a person describing himself or herself as, or appearing to have been, chair of the meeting is *prima facie* evidence of those proceedings.

258 Presumption about due convening of meetings etc.

Subject to this Act, unless the contrary is shown:

- (a) a meeting of creditors or of a committee of inspection in respect of which minutes of proceedings have been signed by a person describing himself or herself as, or appearing to have been, chair of the meeting shall be deemed to have been duly convened and held; and

- (b) all resolutions passed or proceedings taken at such a meeting shall be deemed to have been duly passed or taken.

262 Swearing of affidavits

- (1) An affidavit to be used for the purposes of this Act may be sworn within the Commonwealth or a Territory of the Commonwealth before a person authorized to administer oaths for the purposes of the High Court or the Supreme Court of a State or Territory of the Commonwealth, a Judge of a Court having jurisdiction under this Act, an Official Receiver, a justice of the peace, a commissioner for affidavits or a commissioner for declarations.
- (2) An affidavit to be used for the purposes of this Act may be sworn at a place outside the Commonwealth and the Territories of the Commonwealth before:
- (aa) a Commissioner of the High Court authorized to administer oaths in that place for the purposes of the High Court;
 - (a) a commissioner of the Supreme Court of a State or Territory of the Commonwealth for taking affidavits empowered and authorized to act in that place;
 - (b) an Australian Diplomatic Officer or an Australian Consular Officer, as defined by the *Consular Fees Act 1955*, exercising his or her function in that place;
 - (ba) an employee of the Commonwealth who is:
 - (i) authorised under paragraph 3(c) of the *Consular Fees Act 1955*; and
 - (ii) exercising his or her function in that place;
 - (bb) an employee of the Australian Trade Commission who is:
 - (i) authorised under paragraph 3(d) of the *Consular Fees Act 1955*; and
 - (ii) exercising his or her function in that place;
 - (c) a notary public exercising his or her function in that place; or
 - (d) a person qualified to administer an oath in that place, being a person certified by a person mentioned in any of paragraphs (aa) to (c), or by the superior court of that place, to be so qualified.

Part XIV—Offences

263 Concealment etc. of property etc.

- (1) A person shall not:
- (a) with intent to defraud the creditors of:
 - (i) a bankrupt;
 - (ii) a deceased person or the estate of a deceased person; or
 - (iii) a debtor who has executed a personal insolvency agreement, a deed of assignment or a deed of arrangement;conceal property of the bankrupt, of the deceased person or his or her estate or of the debtor;
 - (b) receive property:
 - (i) from a bankrupt or a debtor who has executed a personal insolvency agreement, a deed of assignment or a deed of arrangement or a person on behalf of a bankrupt or such a debtor;
 - (ii) from the legal personal representative of a deceased person; or
 - (iii) from a debtor who subsequently becomes a bankrupt or executes such an agreement or deed, or a person on behalf of such a debtor;with intent to defraud, or to assist the bankrupt, the legal personal representative or the debtor to defraud, the creditors of the bankrupt, of the deceased person or his or her estate or of the debtor;
 - (c) with intent to defraud, insert or cause to be inserted in the *Gazette* or in a newspaper an advertisement purporting to be under this Act without authority or knowing it to be false in any particular; or
 - (d) with intent to defraud:
 - (i) in any proceedings in bankruptcy;
 - (ii) in connexion with the administration of the estate of a deceased person; or
 - (iii) in connexion with the administration of a debtor's affairs under a personal insolvency agreement, a deed of

assignment, a deed of arrangement, a composition or a scheme of arrangement;

make a false claim or a declaration or statement of account that is untrue in any particular or lodge a proof of debt that is untrue in any particular.

Penalty: Imprisonment for 3 years.

- (2) A person is guilty of an offence if:
- (a) the person disposes of, receives, removes, retains or conceals property that has been seized:
 - (i) as part of the property of a bankrupt; or
 - (ii) as part of the estate of a deceased person; or
 - (iii) under a personal insolvency agreement, a deed of assignment; and
 - (b) the first-mentioned person knows that the property has been so seized.

Penalty: Imprisonment for 1 year.

- (3) In this section:

composition does not include a composition entered into for the purposes of a proclaimed law.

deceased person means a deceased person in respect of whose estate an order for administration has been made under Part XI of this Act.

deed of arrangement does not include a deed of arrangement executed for the purposes of a proclaimed law.

scheme of arrangement does not include a scheme of arrangement made or entered into for the purposes of a proclaimed law.

263A False affidavits

A person who intentionally makes a false statement in an affidavit to be used for the purposes of this Act is guilty of an offence and is punishable:

- (a) upon summary conviction—by a fine not exceeding \$200, or imprisonment for a period not exceeding 6 months, or both; or

- (b) upon conviction on indictment—by imprisonment for a period not exceeding 4 years.

263C False claims about a creditor's entitlement to vote

- (1) A creditor must not give to the trustee a voting document knowing or reckless that the document is false or misleading in a material particular.

Penalty: Imprisonment for 6 months.

- (2) In this section:

give includes cause to be given.

trustee means:

- (a) a trustee in a bankruptcy; or
- (b) a trustee of a composition or scheme of arrangement under Division 6 of Part IV; or
- (c) the Official Trustee when the Official Trustee has accepted for processing a debt agreement proposal; or
- (d) a controlling trustee as defined in Part X; or
- (e) a trustee of a personal insolvency agreement under Part X; or
- (f) a trustee of an estate being administered under Part XI.

voting document means:

- (a) a statement that is:
 - (i) described in section 64D, as that section applies of its own force, or as it is applied by another provision of this Act; and
 - (ii) given to the trustee at or before a meeting called for the purposes of Part IV, IX, X or XI; or
- (b) a form that is:
 - (i) described in section 64E, as that section applies of its own force, or as it is applied by another provision of this Act; and
 - (ii) given to the trustee at or before a meeting called for the purposes of Part IV, IX, X or XI.

264A Failure of person to attend before the Court etc.

- (1) This section applies to a person who:
- (a) is served, whether before or after the commencement of this subsection, with a summons under this Act to attend for examination under a provision of this Act (other than section 81), or to appear as a witness before the Court, and is tendered a reasonable sum for expenses; or
 - (b) is not a relevant person within the meaning of section 81 but is served, whether before or after the commencement of this section, with a summons to attend for examination under that section and is tendered a reasonable sum for expenses; or
 - (c) is a relevant person within the meaning of section 81 and is served, on or after the commencement of this section, with a summons to attend for examination under that section.
- (1A) A person to whom this section applies must not, after the commencement of this section:
- (a) fail to attend as required by the summons served on the person; or
 - (b) fail to appear and report from day to day, unless excused or released from further attendance by the Court, the Registrar or the magistrate, as the case may be.

Penalty: Imprisonment for 6 months.

- (1B) Subsection (1A) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1B) (see subsection 13.3(3) of the *Criminal Code*).

- (2) Nothing in this section limits the power of the Court to punish persons for contempt of court, but a person shall not be punished under this section and for contempt of court in respect of the same act or omission.

264B Arrest of person failing to attend before the Court etc.

- (1) Subject to subsection (2), where a person who is served, whether before or after the commencement of this section, with a summons referred to in subsection 264A(1):

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- (a) fails to attend before the Court, the Registrar or the magistrate, as the case may be, as required by the summons; or
 - (b) fails to appear and report himself or herself from day to day as required by the Court, the Registrar or magistrate, as the case may be;
- the Court, the Registrar or the magistrate, as the case may be, may, on proof by affidavit of the service of the summons, issue a warrant for the apprehension of the person.
- (2) The Court, the Registrar or the magistrate shall not issue a warrant under subsection (1) for the apprehension of a person mentioned in paragraph 264A(1)(a) or (b) who has failed to attend for examination under a provision of this Act, or to appear as a witness before the Court, as required by a summons under this Act unless the Court, the Registrar or the magistrate, as the case may be, is satisfied, on proof by affidavit, that the person was tendered a reasonable sum for expenses.
 - (3) A warrant issued under subsection (1) authorizes the apprehension of the person and his or her being brought before the Court, the Registrar or the magistrate, as the case may be, and his or her detention in custody until he or she is released by order of the Court, the Registrar or the magistrate, as the case may be.
 - (4) A warrant issued under subsection (1) may be executed by a constable and a constable executing the warrant has the power to break and enter any place or building for the purpose of executing the warrant.
 - (5) The Court, the Registrar or the magistrate, as the case may be, may order a person apprehended under this section to pay the costs of the apprehension.
 - (6) The apprehension of a person under this section does not relieve him or her from any liability incurred by him or her by reason of his or her failure to attend before the Court, the Registrar or the magistrate, as the case may be.

264C Refusal to be sworn or give evidence etc.

- (1) A person appearing before the Court, the Registrar or a magistrate for the purpose of being examined under this Act, or appearing as a witness before the Court, shall not:
 - (a) refuse or fail to be sworn or to make an affirmation;
 - (b) refuse or fail to answer a question which he or she is required to answer by the Court, the Registrar or the magistrate, as the case may be; or
 - (c) refuse or fail to produce any books that he or she is required by the Court, the Registrar or the magistrate, as the case may be, or by a summons under this Act, to produce.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (1A) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

- (2) Nothing in this section limits the power of the Court to punish persons for contempt of court, but a person shall not be punished under this section and for contempt of court in respect of the same act or omission.

264D Prevarication or evasion in the course of examination

- (1) Where a person who is being examined before the Court, the Registrar or a magistrate under this Act is guilty of prevarication or evasion, the person commits an offence punishable upon conviction by a fine not exceeding \$1,000 or imprisonment for 6 months, or both.
- (2) Nothing in this section limits the power of the Court to punish persons for contempt of court, but a person shall not be punished under this section and for contempt of court in respect of the same conduct.

264E Offences in relation to Registrar or magistrate conducting an examination

- (1) A person shall not:
- (a) insult or disturb a Registrar or magistrate before whom an examination under this Act is being held;
 - (b) interrupt an examination under this Act before a Registrar or magistrate;
 - (c) create a disturbance, or take part in creating or continuing a disturbance, in or near a place where an examination under this Act is being held before a Registrar or magistrate;
 - (d) use insulting or threatening language towards a Registrar or magistrate before whom an examination under this Act is being held; or
 - (e) by writing or speech use words calculated:
 - (i) to influence improperly a Registrar or magistrate before whom an examination under this Act is being held; or
 - (ii) to bring a Registrar or magistrate before whom an examination under this Act is being held into disrepute.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (2) For the purposes of an offence against subsection (1), strict liability applies to the following physical elements of circumstance of the offence:
- (a) that the Registrar or magistrate is a Registrar or magistrate before whom an examination under this Act is being held;
 - (b) that the examination is an examination under this Act being held before a Registrar or magistrate.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

265 Failure of bankrupt or debtor to disclose property etc.

- (1) A bankrupt:
- (a) shall fully and truly disclose to the trustee all of the property of the bankrupt, and its value;
 - (b) shall fully and truly disclose to the trustee particulars of any disposition of property made by him or her within the period of 2 years immediately preceding the date on which he or she became a bankrupt;

- (c) shall not refuse or fail to comply with a direction by the trustee to deliver to the trustee property in the possession of the bankrupt, being all or part of the property of the bankrupt;
- (ca) shall fully and truly disclose to the trustee such information about any of the bankrupt's conduct and examinable affairs as the trustee requires;
- (d) shall not refuse or fail to tell the trustee where the books (including books of an associated entity of the bankrupt) relating to the bankrupt's examinable affairs may be found;
- (e) shall not refuse or fail to comply with a direction by the trustee to deliver to the trustee books (including books of an associated entity of the bankrupt) that are in the possession of the bankrupt and relate to any of the bankrupt's examinable affairs;
- (f) shall not omit any material particular from a statement relating to any of the bankrupt's examinable affairs;
- (g) shall, if he or she knows that a person has lodged a proof of debt in the bankruptcy that is false, forthwith inform the trustee of the fact; and
- (h) shall give to the trustee a full and proper explanation of any loss or depreciation of any of his or her assets or part of any of his or her assets that occurred within the period of 2 years immediately preceding the date on which he or she became a bankrupt.

Penalty: Imprisonment for 1 year.

- (1A) A bankrupt is taken to have complied with paragraph (1)(a), (b) or (ca) if he or she has fully and truly disclosed to the best of his or her knowledge and belief as required by that paragraph.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

- (2) A bankrupt shall be deemed to have complied with paragraph (1)(b) in respect of any property if he or she shows that that property has been disposed of in the ordinary way of his or her business or in meeting the ordinary expenses of his or her family.
- (3) A bankrupt shall not, with the intention of obtaining the consent of his or her creditors or any of them to any matter relating to any of the bankrupt's examinable affairs, make a false representation or commit any fraud.

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Penalty: Imprisonment for 3 years.

- (4) A person who, after the presentation of a petition on which, or by virtue of the presentation of which, he or she becomes a bankrupt:
- (a) conceals or removes any part of his or her property to the value of \$20 or more;
 - (b) conceals a debt due to or by him or her;
 - (c) conceals, parts with, destroys, mutilates, falsifies, alters or makes a false entry in, or omits a material particular from, a book (including a book of an associated entity of the person) affecting or relating to any of the person's examinable affairs;
 - (d) attempts to account for any part of his or her property by falsely stating that he or she has incurred a loss or expense;
 - (e) otherwise than in the ordinary way of his or her business, disposes of, or gives security over, property that he or she has obtained on credit and for which he or she has not paid; or
 - (f) prevents the production of a book (including a book of an associated entity of the person) affecting or relating to any of the person's examinable affairs;

is guilty of an offence and is punishable, upon conviction, by imprisonment for a period not exceeding 1 year.

- (5) A person who, after the presentation of a petition on which, or by virtue of the presentation of which, he or she becomes a bankrupt:
- (a) obtains property by fraud; or
 - (b) in incurring any debt or liability, obtains credit by fraud;

is guilty of an offence and is punishable, upon conviction, by imprisonment for a period not exceeding 3 years.

- (6) Subsections (4) and (5) extend to an act or omission done or made after the commencement of this Act where the petition was presented before the commencement of this Act but do not apply to an act or omission done or made after the person by whom it was done or made has been discharged from the bankruptcy or after his or her bankruptcy has been annulled.

- (7) A person who has become a bankrupt after the commencement of this Act and, within 12 months before the presentation of the petition on which, or by virtue of the presentation of which, he or she became a bankrupt, has done any of the things specified in any of paragraphs (4)(a) to (f) or paragraph (5)(a) or (b), whether

before or after the commencement of this Act, is guilty of an offence and is punishable, upon conviction, by imprisonment for a period not exceeding the maximum period of imprisonment applicable to the doing of that thing under subsection (4) or subsection (5), as the case may be.

- (8) A person who has become a bankrupt and, within 2 years before he or she became a bankrupt and after the commencement of this Act, has contracted a debt provable in the bankruptcy without having at the time of contracting it any reasonable or probable ground of expectation, after taking into consideration his or her other liabilities (if any), of being able to pay the debt, is guilty of an offence and is punishable, upon conviction, by imprisonment for a period not exceeding 1 year.
- (9) It is a defence to a charge under this section (not being a charge under paragraph (1)(c) or (e) or subsection (3), (5) or (8)) if the defendant proves that the act or omission to which the charge relates was done or made without intent to defraud any of his or her creditors.

265A Offences relating to exercise of powers under section 77A or 130

- (1) A person shall not refuse or fail to comply with a requirement under section 77A or 130.
- (1A) Subsection (1) does not apply if the person has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).
- (2) A person shall not, in purported compliance with a requirement under section 77A or 130, give information, or make a statement, that is, to the person's knowledge, false or misleading in a material particular.
- (3) A person shall not:
- (a) obstruct or hinder a person in the exercise of a power under section 77A; or
 - (b) obstruct or hinder a person who is executing a warrant issued under section 130.

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- (3A) Subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3A) (see subsection 13.3(3) of the *Criminal Code*).

- (4) The occupier, or person in charge, of premises that a person enters under a warrant issued under section 130 shall provide to the last-mentioned person all reasonable facilities and assistance for the effective exercise of his or her powers under the warrant.

Penalty: Imprisonment for 12 months.

266 Disposing or charging of property by person who becomes, or has become, a bankrupt

- (1) A person who, after the presentation of a petition on which, or by virtue of the presentation of which, he or she becomes a bankrupt disposes of, or creates a charge on, any property with intent to defraud his or her creditors is guilty of an offence and is punishable, upon conviction, by imprisonment for a period not exceeding 3 years.
- (2) Subsection (1) does not apply to the disposal of, or the creation of a charge on, property after the person by whom the disposal is effected or the charge is created is discharged from bankruptcy or after his or her bankruptcy has been annulled.
- (3) A person who has become a bankrupt after the commencement of this Act and, within 12 months before the presentation of the petition on which, or by virtue of the presentation of which, he or she became a bankrupt and after the commencement of this Act, has disposed of, or created a charge on, any property with intent to defraud his or her creditors is guilty of an offence and is punishable, upon conviction, by imprisonment for a period not exceeding 3 years.

267 False declaration by debtor or bankrupt

- (1) This section applies to a declaration contained in a statement that:
- (a) is filed under paragraph 54(1)(a) or (2)(a); or
 - (b) accompanies a petition presented under paragraph 55(2)(b) or subsection 56B(1); or
 - (c) is filed under paragraph 56F(1)(a) or (b); or

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- (d) accompanies a petition presented under subsection 57(1); or
 - (e) is given to the Official Trustee under section 185D with a debt agreement proposal; or
 - (f) is given under subsection 188(2C) or (2D).
- (2) A person must not sign a declaration to which this section applies that the person knows to be false.

Penalty: Imprisonment for 12 months.

267B Failure of person to provide information

- (1) A person must not refuse or fail to comply with a notice given to the person under subsection 6A(3), subsection 77C(1) or section 139V.

Penalty: Imprisonment for 12 months.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

267D Failure of person to attend

- (1) A person who is required by a notice under subsection 77C(1) to attend before the Official Receiver or an authorised officer and to whom an advance is offered in accordance with subsection 77E(1) must not:
- (a) fail to attend as required by the notice; or
 - (b) fail to appear and report from day to day, unless excused or released from further attendance by the Official Receiver or authorised officer, as the case may be.

Penalty: Imprisonment for 6 months.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

267E Arrest of person failing to attend before Official Receiver or authorised officer

- (1) Subject to subsection (2), if a person who is required by a notice under subsection 77C(1) to attend before the Official Receiver or an authorised officer:
 - (a) fails to attend as required by the notice; or
 - (b) fails to appear and report from day to day, as required by the Official Receiver or authorised officer;the Registrar, on proof by affidavit of the service of the notice, may issue a warrant for the arrest of the person.
- (2) The Registrar must not issue a warrant under subsection (1) for the arrest of a person unless:
 - (a) the Registrar is satisfied, on proof by affidavit, that the person was offered an advance in accordance with subsection 77E(1); or
 - (b) both:
 - (i) the person is or has been a bankrupt; and
 - (ii) the person's attendance was required for the purpose of giving evidence or producing books relating to the person's bankruptcy.
- (3) A warrant issued under subsection (1) authorises the arrest of the person and his or her being brought before the Registrar, and his or her detention in custody until he or she is released by order of the Registrar.
- (4) A warrant issued under subsection (1) may be executed by a constable, and a constable executing the warrant has the power to break in and enter any premises for the purpose of executing the warrant.
- (5) The Registrar may order a person arrested under this section to pay the costs of the arrest.
- (6) The arrest of a person under this section does not relieve the person from any liability incurred because of his or her failure to attend before the Official Receiver or authorised officer.

267F Refusal to be sworn or give evidence etc.

- (1) A person attending before the Official Receiver or an authorised officer as required by a notice under subsection 77C(1) must not:
 - (a) refuse or fail to be sworn or to make an affirmation; or
 - (b) refuse or fail to answer a question that the person is required to answer by the Official Receiver or authorised officer, as the case may be; or
 - (c) refuse or fail to produce any books that the person is required by the notice to produce.

Penalty: Imprisonment for 6 months.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

267G Prevarication or evasion in the course of giving evidence

Where a person who is giving evidence before the Official Receiver or an authorised officer as required by a notice under subsection 77C(1) is guilty of prevarication or evasion, the person is guilty of an offence punishable upon conviction by imprisonment for a period not exceeding 6 months.

268 Offences in relation to personal insolvency agreements

- (1) A debtor shall not knowingly give a false or misleading answer to a question put to him or her at a meeting called under Part X.

Penalty: Imprisonment for 1 year.

- (2) A debtor who has executed a personal insolvency agreement under Part X:
 - (a) shall fully and truly disclose to the trustee of the agreement all the property subject to the agreement and its value;
 - (b) shall not refuse or fail to comply with a direction of the trustee of the agreement to deliver up to the trustee property subject to the agreement that is in the possession of the debtor;

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- (ba) shall fully and truly disclose to the trustee of the agreement such information about any of the debtor's conduct and examinable affairs as the trustee requires;
- (c) shall not refuse or fail to comply with a direction by the trustee of the agreement:
 - (i) to tell the trustee where books (including books of an associated entity of the debtor) relating to any of the debtor's examinable affairs may be found; or
 - (ii) to deliver to the trustee such books that are in the possession of the debtor;
- (d) shall not omit any material particular from a statement relating to any of the debtor's examinable affairs;
- (e) shall, if he or she knows that a person has lodged a proof of debt under the agreement that is false, forthwith inform the trustee of the fact;
- (f) shall execute such instruments and do all such acts and things in relation to property subject to the agreement and its realization as are required by this Act or by the trustee or as are ordered by the Court upon the application of the trustee; and
- (g) shall aid to the utmost of his or her power in the administration of his or her property and affairs under the agreement.

Penalty: Imprisonment for 1 year.

- (2A) A debtor is taken to have complied with paragraph (2)(a) or (ba) if he or she has fully and truly disclosed to the best of his or her knowledge and belief as required by that paragraph.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

- (3) A debtor who has executed a personal insolvency agreement under Part X shall not make a false representation or commit any fraud with the intention of obtaining the consent of his or her creditors or any of them to any matter relating to any of the debtor's examinable affairs.

Penalty: Imprisonment for 3 years.

- (4) Subsections (2) and (3) do not apply to an act or omission that is done or made after:

- (a) all the obligations that the personal insolvency agreement created have been discharged; or
- (b) the personal insolvency agreement has been set aside or terminated.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

- (5) If a personal insolvency agreement specifies that the antecedent transactions provisions of this Act apply to the debtor, the debtor must fully and truly disclose to the trustee of the agreement particulars of any disposition of property made by him or her within the period of 2 years immediately preceding the date on which he or she signed the authority under section 188 authorizing the calling of the meeting of his or her creditors at which the resolution requiring the execution of the agreement was passed.

Penalty: Imprisonment for 1 year.

- (5A) A debtor is taken to have complied with subsection (5) if he or she has fully and truly disclosed to the best of his or her knowledge and belief as required by that subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

- (6) A debtor shall be deemed to have complied with subsection (5) in respect of any property if he or she shows that that property has been disposed of in the ordinary way of his or her business or in meeting the ordinary expenses of his or her family.
- (7) A debtor who has signed an authority under section 188, and has, within 12 months before the date on which he or she signed that authority and after the commencement of this Act:
- (a) done any of the things specified in any of paragraphs 265(4)(a) to (f) or paragraph 265(5)(a) or (b); or
 - (b) disposed of, or created a charge on, any property with intent to defraud his or her creditors;

is guilty of an offence and is punishable, upon conviction, if the offence relates to the doing of a thing specified in paragraph 265(5)(a) or (b) or a thing specified in paragraph (b) of this subsection, by imprisonment for a period not exceeding 3 years or, in any other case, by imprisonment for a period not exceeding 1 year.

- (8) It is a defence to a charge under this section (not being a charge under paragraph (2)(b) or (c) or subsection (3) of this section or a charge relating to the doing of a thing specified in paragraph 265(5)(a) or (b) or paragraph (7)(b) of this section) if the defendant proves that the act or omission to which the charge relates was done or made without intent to defraud any of his or her creditors.

269 Bankrupt obtaining credit etc. without disclosing bankruptcy

- (1) An undischarged bankrupt shall not:
- (a) either alone or jointly with another person, obtain credit to the extent of \$3,000 or more from a person without informing that person that he or she is an undischarged bankrupt;
 - (aa) either alone or jointly with another person, obtain goods or services from a person:
 - (i) by giving a bill of exchange or cheque drawn, or a promissory note made, by him or her either alone or jointly with another person, being a bill, cheque or note under which the sum payable is \$3,000 or more; or
 - (ii) by giving 2 or more such instruments under which the sums payable amount in the aggregate to \$3,000 or more;without informing that person that he or she is an undischarged bankrupt;
 - (ab) either alone or jointly with another person, enter into a hire-purchase agreement with a person, or enter into a contract or agreement for the leasing or hiring of any goods from a person, being a hire-purchase agreement, contract or agreement under which the amounts payable to that person amount in the aggregate to \$3,000 or more, without informing that person that he or she is an undischarged bankrupt;
 - (ac) either alone or jointly with another person, obtain goods or services from a person by promising to pay that person or another person an amount of, or amounts aggregating, \$3,000 or more without informing that person that he or she is an undischarged bankrupt;
 - (ad) either alone or jointly with another person, obtain an amount of, or amounts aggregating, \$3,000 or more from a person by promising to supply goods to, or render services for, that

person or another person without informing that person that he or she is an undischarged bankrupt; or

- (b) carry on business under an assumed name, in the name of another person or, either alone or in partnership, under a firm name without disclosing to every person with whom he or she or, if he or she is carrying on business in partnership under a firm name, the partnership deals, his or her true name and the fact that he or she is an undischarged bankrupt.

- (2) This section has effect subject to section 304A.

Penalty: Imprisonment for 3 years.

270 Failure to keep proper books of account

- (1) A person who has become a bankrupt after the commencement of this Act and:
 - (a) has not kept such books, accounts and records as are usual and proper in any business carried on by him or her and as sufficiently disclose his or her business transactions and financial position during any period while the business was being carried on within the period of 5 years immediately preceding the date on which he or she became a bankrupt; or
 - (b) having kept such books, accounts or records, has not preserved them;is guilty of an offence and is punishable, upon conviction:
 - (c) in the case of a person who has previously been either a bankrupt whose bankruptcy has not been annulled or a person whose affairs have been administered under a personal insolvency agreement, a deed of assignment or a deed of arrangement under this Act or the repealed Act or who has made a composition or arrangement with creditors under this Act or the repealed Act—by imprisonment for a period not exceeding 3 years; and
 - (d) in the case of any other person—by imprisonment for a period not exceeding 1 year.
- (2) It is a defence to a prosecution under subsection (1) if the accused proves that in the circumstances his or her failure to keep or preserve the books, accounts or records was honest and excusable.

271 Gambling or hazardous speculations

A person who has become a bankrupt after the commencement of this Act and:

- (a) within 2 years before the presentation of the petition on which, or by virtue of the presentation of which, he or she became a bankrupt, whether the petition was presented before or after the commencement of this Act, materially contributed to, or increased the extent of, his or her insolvency; or
- (b) during any period between the presentation of that petition and the date on which he or she became a bankrupt, lost any of his or her property;

by gambling or by speculations that, having regard to his or her financial position at the time and any other material circumstance, were rash and hazardous, being gambling or speculations not connected with a trade or business carried on by him or her, is guilty of an offence and is punishable, on conviction, by imprisonment for a period not exceeding 1 year.

272 Leaving Australia with intent to defeat creditors etc.

(1) A person who:

- (a) within 6 months before the presentation of the petition on or by virtue of which he or she became a bankrupt, left Australia, or did an act preparatory to leaving Australia, with intent to defeat or delay his or her creditors; or
- (b) after the presentation of the petition on or by virtue of which he or she became a bankrupt and before he or she became bankrupt, left Australia, or did an act preparatory to leaving Australia, with intent to defeat or delay his or her creditors; or
- (c) after he or she has become a bankrupt and before he or she is discharged from the bankruptcy, without the consent in writing of the trustee of his or her estate, leaves Australia, or does an act preparatory to leaving Australia;

is guilty of an offence and is punishable, on conviction, by imprisonment for a period not exceeding 3 years.

(2) The trustee may impose written conditions on a consent given for the purposes of paragraph (1)(c). If the bankrupt is liable to make a

contribution to the trustee under section 139P or 139Q, the conditions may include conditions regarding the payment of that contribution.

- (3) If the bankrupt contravenes any condition imposed by the trustee, the bankrupt is guilty of an offence and is punishable, on conviction, by imprisonment for a period not exceeding 1 year.

273 Trial of offences

- (1) Subject to this section, an offence against this Act, other than an offence that is punishable by a fine only, is punishable either on indictment or on summary conviction.
- (2) Where proceedings for an offence that is punishable as provided by subsection (1) are brought in a court of summary jurisdiction, the court may either determine the proceedings or commit the defendant for trial, but shall not, if it determines the proceedings, impose a period of imprisonment exceeding 1 year in respect of the offence.
- (3) Subject to subsection (4), an offence against this Act that is punishable by a fine only is punishable by a court of summary jurisdiction.
- (4) The Court has jurisdiction to try summarily any offence against this Act.
- (5) Where proceedings for an offence other than an offence that is punishable by a fine only are brought in the Court, the Court may either determine the proceedings or commit the defendant for trial before a court of competent jurisdiction, but shall not, if it determines the proceedings, impose a period of imprisonment exceeding 1 year in respect of the offence.

275 Criminal liability not affected by discharge etc.

A person may be prosecuted for an offence against this Act although:

- (a) he or she has been discharged from bankruptcy or his or her bankruptcy has been annulled;
- (b) a composition or a scheme of arrangement has been accepted or approved under Division 6 of Part IV; or

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- (c) a personal insolvency agreement has become binding on his or her creditors.

276 Trustee acting under a personal insolvency agreement that has been set aside

- (1) A person who acts as trustee under a personal insolvency agreement that has, to his or her knowledge, been set aside or been terminated is liable, on conviction by the Court or a court of summary jurisdiction, to a fine not exceeding \$20 for each day on which he or she has so acted, not being a day on which his or her acting as a trustee was confined to taking such steps as were necessary for the protection of the property of the debtor.
- (2) It is a defence to proceedings brought under subsection (1) if the person alleged to have acted as trustee proves that his or her acting as a trustee was confined to taking such steps as were necessary for the protection of the property of the debtor.

277 Punishment of contempt of court

Where by this Act it is provided that a person is guilty of contempt of court, that person may be dealt with by any court having jurisdiction in bankruptcy as if he or she were guilty of a contempt of that court, but a person is not liable to be punished by more than one court in respect of the one contempt.

277A Keeping of books in respect of period of bankruptcy

- (1) Subject to this section, a bankrupt must:
 - (a) keep books that record and explain any income derived by the bankrupt, record the particulars of any employment of the bankrupt, and record and explain any other dealings, transactions or other financial or business affairs of the bankrupt, during the period of the bankruptcy; and
 - (b) retain the books until discharged from the bankruptcy.
- (2) The bankrupt must:
 - (a) keep the books in writing in the English language or so as to enable the books to be readily accessible and convertible into writing in the English language; and

- (b) keep the books so as to enable any liability of the bankrupt arising under this Act by virtue of any acts, transactions or other matters occurring during the period of the bankruptcy to be readily ascertainable.
- (3) A person who has possession of any books referred to in subsection (1) must:
 - (a) produce the books to the trustee or to the Official Receiver when requested to do so; and
 - (b) retain the books until the bankrupt is discharged.
- (4) A person is not required to retain books if the trustee or the Official Receiver, by written notice given to the person, has told the person that the retention of those books is not necessary.

Penalty: Imprisonment for 6 months.

Part XV—Provisions relating to the Bankruptcy (Estate Charges) Act 1997

278 Interpretation

In this Part:

Estate Charges Act means the *Bankruptcy (Estate Charges) Act 1997*.

interest charge means charge imposed by Part 2 of the Estate Charges Act.

late payment penalty means penalty payable under subsection 281(1).

realisations charge means charge imposed by Part 3 of the Estate Charges Act.

279 Administration of, and powers and functions in relation to, the Charges Acts

- (1) The Inspector-General has the general administration of the Estate Charges Act.
- (2) A reference to “this Act” in section 12 or 77AA of this Act is taken to include a reference to the Estate Charges Act.

280 Deferred payment of interest charge or realisations charge

- (1) A person may defer the payment of an amount of interest charge relating to a particular trustee account if:
 - (a) the total amount of interest charge that the person is liable to pay in respect of the account is less than \$50; and
 - (b) the account has not been closed; and
 - (c) the person has notified the Inspector-General as provided for in subsection (3).

- (2) A person may defer the payment of an amount of realisations charge relating to a particular bankrupt's estate, deceased person's estate or debtor's property, as the case may be, if:
- (a) the total amount of realisations charge that the person is liable to pay in respect of the estate or property is less than \$50; and
 - (b) the trustee account in relation to the estate or property has not been closed; and
 - (c) the person has notified the Inspector-General as provided for in subsection (3).
- (3) If a person intends to defer paying an amount of interest charge or realisations charge, he or she must notify the Inspector-General in writing of that fact before the time by which the amount is otherwise required to be paid.
- (4) If a person defers payment of an amount of interest charge or realisations charge in accordance with this section, the amount is still payable to the Commonwealth, but the person does not have to pay it until 21 days after whichever of the following happens first:
- (a) at the end of a charge period:
 - (i) if the deferral is of interest charge—the total amount of interest charge that the person is liable to pay in respect of the relevant trustee account is \$50 or more; or
 - (ii) if the deferral is of realisations charge—the total amount of realisations charge that the person is liable to pay in respect of the relevant estate or property is \$50 or more;
 - (b) the relevant trustee account is closed.

Note: As a deferred amount is still payable to the Commonwealth, it must be taken into account in working out the total amounts referred to in paragraphs (1)(a), (2)(a) and (4)(a).

- (5) In this section:

trustee account means an account under section 169, or under that section as applied by any of the following provisions:

- (a) section 210 (which applies section 169 to a controlling trustee under Division 2 of Part X);
- (b) subsection 231(5) (which applies section 169 to a personal insolvency agreement);
- (e) subsection 248(1) (which applies section 169 to administration of estates under Part XI).

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281 Late payment penalty—interest charge and realisations charge

- (1) If any interest charge or realisations charge remains unpaid after the time for payment of the charge, the person liable to pay the charge is liable to pay to the Commonwealth a late payment penalty calculated from that time at the rate of 20% per year on the amount unpaid.
- (2) The person liable to pay late payment penalty is personally liable to pay the penalty and is not entitled to be reimbursed in respect of the penalty out of the bankrupt's estate, the deceased person's estate or the debtor's property, as the case may be.

282 Extension of time for payment—interest charge and realisations charge

- (1) The Inspector-General may, in a particular case, extend the time for payment of interest charge or realisations charge.
- (2) The following provisions apply in relation to extensions of time under subsection (1):
 - (a) the person liable to pay the charge may apply for an extension;
 - (b) an application is to be in writing, setting out the reasons for the application, and is to be made to the Inspector-General before the original time for payment;
 - (c) the Inspector-General's decision on an application is to be in writing;
 - (d) application may be made to the Administrative Appeals Tribunal for review of a decision to refuse an application, or to grant a lesser extension than was applied for.

Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires notification of a decision that is reviewable.

283 Remission of interest charge, realisations charge and late payment penalty

- (1) The Inspector-General may remit an amount of interest charge, realisations charge or late payment penalty that is payable but has not been paid if the Inspector-General thinks that:
 - (a) failure to remit the amount would cause a person undue hardship; and

- (b) it is appropriate to remit the amount.
- (2) The following provisions apply in relation to remissions under subsection (1):
 - (a) the person liable to pay the charge or penalty may apply for a remission;
 - (b) an application is to be in writing, setting out the reasons for the application, and is to be made to the Inspector-General;
 - (c) the Inspector-General's decision on an application is to be in writing;
 - (d) application may be made to the Administrative Appeals Tribunal for review of a decision to refuse an application, or to remit a lesser amount than was applied for.

Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* requires notification of a decision that is reviewable.

284 Recovery of interest charge, realisations charge and late payment penalty

Interest charge, realisations charge or late payment penalty that is due and payable may be recovered by the Commonwealth as a debt due to the Commonwealth.

285 Payments by cheque or payment order

- (1) If a person gives the Commonwealth a cheque or payment order in payment of an amount of interest charge, realisations charge or late payment penalty, the amount is taken not to be paid until the cheque or payment order is paid by the institution on which it is drawn.
- (2) If:
 - (a) a person gives the Commonwealth a cheque or payment order in payment of an amount of interest charge or realisations charge; and
 - (b) the cheque or payment order is paid by the institution on which it is drawn;

then, for the purposes of working out if there is a liability to late payment penalty, the amount of charge is taken to have been paid when the person gave the cheque to the Commonwealth.

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286 Regulations may deal with other matters

- (1) The regulations may include other provisions dealing with the collection and recovery of interest charge, realisations charge or late payment penalty, including (but not limited to) provisions dealing with the following:
 - (a) the methods by which charge and late payment penalty may be paid;
 - (b) refunds of, or overpayments of, charge or late payment penalty;
 - (c) as an alternative to the refund of the whole or a part of an amount to a person, crediting the amount or part of the amount against a liability of the person to pay charge or late payment penalty;
 - (d) forms to be used, and information to be provided, in relation to the payment of charge and late payment penalty.
- (2) The matters that may be covered in regulations made for the purposes of paragraph (1)(a) include, but are not limited to, the making of payments using:
 - (a) electronic funds transfer systems; or
 - (b) credit cards; or
 - (c) debit cards.
- (3) A refund of an amount in accordance with the regulations is to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

Part XVI—Miscellaneous**301 Certain provisions in contracts etc. to be void**

- (1) A provision in a contract or agreement for the sale of property, in a lease of property, in a hire-purchase agreement or in a licence to the effect that:
- (a) the contract, agreement, lease, hire-purchase agreement or licence is to terminate, or may be terminated by the vendor, lessor, owner or licensor;
 - (b) the operation of the contract, agreement, lease, hire-purchase agreement or licence is to be modified; or
 - (c) property to which the contract, agreement, lease, hire-purchase agreement or licence relates may be repossessed by or on behalf of the vendor, lessor, owner or licensor;
- if the purchaser, lessee, hirer or licensee becomes a bankrupt or commits an act of bankruptcy or executes a personal insolvency agreement under this Act is void.

- (2) This section extends to contracts, agreements, leases, hire-purchase agreements and licences entered into or granted before the commencement of this Act.

- (3) In this section:

lease includes an agreement for a lease.

lessee includes a person who has agreed to take a lease.

lessor includes a person who has agreed to grant a lease.

302 Certain provisions in bills of sale etc. to be void

- (1) A provision in a bill of sale, mortgage, lien or charge:
- (a) enabling the grantee, mortgagee or person entitled to the benefit of the lien or charge to exercise any power or remedy; or

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- (b) to the effect that the operation of the bill of sale, mortgage, lien or charge is to be modified;
if the grantor, mortgagor or person whose property is subject to the lien or charge becomes a bankrupt or commits an act of bankruptcy or executes a personal insolvency agreement under this Act is void.
- (2) This section extends to bills of sale, mortgages, liens and charges entered into or granted before the commencement of this Act.

302A Certain provisions in governing rules of superannuation funds and approved deposit funds to be void

- (1) This section applies to a provision in the governing rules of a provident, benefit, superannuation, retirement or approved deposit fund to the extent to which the provision has the effect that:
 - (a) any part of the beneficial interest of a member or depositor is cancelled, forfeited, reduced or qualified; or
 - (b) the trustee or another person is empowered to exercise a discretion relating to such a beneficial interest to the detriment of a member or depositor;
if the member or depositor:
 - (c) becomes a bankrupt; or
 - (d) commits an act of bankruptcy; or
 - (e) executes a personal insolvency agreement under this Act.

- (2) The provision is void.
- (3) This section applies to governing rules made before the commencement of this section.
- (4) In this section:

governing rules, in relation to a fund, means any trust instrument, other document or legislation, or combination of them, governing the establishment or operation of the fund.

302AB Certain provisions in RSA's terms and conditions to be void

- (1) This section applies to a provision in the terms and conditions of an RSA to the extent to which the provision has the effect that:
 - (a) any part of the amount of money a bankrupt holds in an RSA is cancelled, forfeited, reduced or qualified; or

- (b) the provider of the RSA is empowered to exercise a discretion relating to such an amount to the detriment of an RSA holder;
- if the RSA holder:
- (c) becomes a bankrupt; or
 - (d) commits an act of bankruptcy; or
 - (e) executes a personal insolvency agreement under this Act.
- (2) The provision is void.

302B Certain provisions in trust deeds void

A provision of a trust deed is void to the extent that it has the effect of:

- (a) cancelling, reducing or qualifying a beneficiary's interest under the trust; or
- (b) allowing the trustee to exercise a discretion to the detriment of a beneficiary's interest;

if the beneficiary becomes a bankrupt, commits an act of bankruptcy or executes a personal insolvency agreement under this Act.

303 Applications to Court

Where in respect of any matter this Act provides that:

- (a) an application may be made to the Court; or
- (b) the Court or the Registrar may exercise a power;

and does not specify the person by whom the application may be made or the person on whose application the power may be exercised, as the case may be, the application may be made by, or the power may be exercised on the application of, any person aggrieved by or interested in that matter.

304 Parts of dollar to be disregarded in determining majority in value of creditors etc.

In determining for the purposes of this Act whether a majority in value of creditors, or a particular proportion in value of creditors, has passed a resolution or done any other act or thing, if a creditor's debt consists of a number of whole dollars and a part of a dollar, the part of the dollar shall be disregarded.

304A Indexation

- (1) In this section:

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

indexable amount means:

- (a) the amount of \$20 referred to in paragraph 77D(1)(a); or
- (b) the amount of \$20 referred to in subsection 77E(2); or
- (c) the amount of \$20 referred to in subsection 77E(3); or
- (d) the amount of \$10 referred to in paragraph 77E(4)(a); or
- (e) the amount of \$10 referred to in paragraph 77E(4)(b); or
- (f) an amount prescribed by the regulations for the purposes of paragraph 77E(3)(a) or (4)(a); or
- (g) the amount of \$3,000 referred to in paragraph 149D(1)(c); or
- (i) the amount of \$1,109 referred to in subsection 161B(1); or
- (j) each amount of \$3,000 referred to in section 269;

or, if any such amount has previously been altered under this section, the amount as so altered or last altered.

- (2) Section 77D or 77E applies in relation to the attendance of a person on a day during a quarter that begins after the commencement of the section concerned as if the indexable amount or each indexable amount in that section were replaced by the amount worked out using the formula in subsection (6).
- (3) Section 149D applies in relation to an act, omission or transaction by a bankrupt that constituted misleading conduct that took place or was entered into on a day during a quarter that begins after the date of commencement of the section concerned as if the indexable amount in that section were replaced by the amount worked out using the formula in subsection (6).
- (4) Section 161B applies in relation to a trustee who was appointed on a day during a quarter that begins after the date of commencement of that section as if the indexable amount in that section were replaced by the amount worked out using the formula in subsection (6).

Section 304A

- (5) Section 269 applies in relation to an act, omission or transaction referred to in that section that took place or was entered into on a day during a quarter that begins after the date of commencement of section 41 of the *Bankruptcy Amendment Act 1991* as if each indexable amount in section 269 were replaced by the amount worked out using the formula in subsection (6).
- (6) The formula for the purposes of subsections (2), (3), (4) and (5) is:
Previous indexable amount \times Indexation factor
where:
Previous indexable amount means the indexable amount for the previous quarter.
Indexation factor means the indexation factor for the quarter worked out under subsection (8).
- (7) If, apart from this subsection, an amount worked out under subsection (6) would be an amount of dollars and cents, the amount is to be rounded to the nearest dollar (rounding 50 cents upwards).
- (8) The indexation factor for a quarter is the number (worked out to 3 decimal places) worked out by dividing the index number for the previous quarter by the index number for the quarter that immediately preceded the previous quarter.
- (9) If the factor worked out under subsection (8) in relation to a quarter would, if it were worked out to 4 decimal places, end with a number greater than 4, the factor worked out under that subsection in relation to that quarter is taken to be the factor worked out to 3 decimal places and increased by 0.001.
- (10) Subject to subsection (11), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purposes of this section.
- (11) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or
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takes place, regard is to be had only to the index numbers published in terms of the new reference base.

305 Payment of expenses by Commonwealth

- (1) Where the Minister, upon the application of the trustee of the estate of a bankrupt, the trustee under Part X in relation to a debtor or the trustee of the estate of a deceased person that is being administered under Part XI of this Act, is satisfied:

(a) that proceedings relating to:

- (i) the estate of the bankrupt, the debtor or the deceased person; or
 - (ii) any of the examinable affairs of the bankrupt, the debtor or the deceased person;
- should be instituted, continued or defended; or

(aa) that the trustee should appear and participate in proceedings before the Administrative Appeals Tribunal reviewing a decision or determination by the trustee, or reviewing a decision of the Inspector-General on a review of such a decision or determination; or

(b) that inquiries should be made concerning:

- (i) the estate of the bankrupt, the debtor or the deceased person; or
- (ii) any of the examinable affairs of the bankrupt, the debtor or the deceased person;

and is also satisfied that the moneys in the estate of the bankrupt, the debtor or the deceased person, as the case may be, are, or may be, insufficient to meet the cost of the proceedings or inquiries, the Minister may, by instrument in writing, direct that the cost of the proceedings or inquiries (including any costs that may be awarded against the trustee), or such part of the cost of the proceedings or inquiries (including any costs that may be awarded against the trustee) as is specified in the direction, be paid by the Commonwealth and, in that case, the cost or that part of the cost, as the case may be, shall be paid accordingly out of moneys available under an appropriation made by the Parliament.

- (2) A direction made by the Minister under subsection (1) may be subject to such conditions (including conditions as to the taxation of all or any costs and the reimbursement of the Commonwealth, in

whole or in part, by the estate of the bankrupt, the debtor or the deceased person, as the case may be) as the Minister thinks fit.

- (3) The Minister may, by instrument in writing, revoke or vary a direction made by him or her under subsection (1).
- (4) In this section:

estate, in relation to a personal insolvency agreement under Part X, means the property and income subject to the agreement.

306 Formal defect not to invalidate proceedings

- (1) Proceedings under this Act are not invalidated by a formal defect or an irregularity, unless the court before which the objection on that ground is made is of opinion that substantial injustice has been caused by the defect or irregularity and that the injustice cannot be remedied by an order of that court.
- (2) A defect or irregularity in the appointment of any person exercising, or purporting to exercise, a power or function under this Act or under a personal insolvency agreement entered into under this Act does not invalidate an act done by him or her in good faith.

306A Protection of Registrars, magistrates etc. in relation to examinations

- (1) A Registrar or magistrate has, in the exercise of the powers and the performance of the functions conferred on him or her by this Act in relation to the examination of a person, the same protection and immunity as a Justice of the High Court.
- (2) A barrister, solicitor or other person representing a person being examined under this Act, or a person entitled to take part in the examination of a person under this Act, has in respect of the examination the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.
- (3) Subject to this Act, a person summoned to attend for examination, or appearing for examination, under this Act has the same protection, and is, in addition to the penalties provided by this Act, subject to the same liabilities, as a witness in proceedings in the High Court.

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306B Protection in respect of reports

- (1) An action, suit or proceeding does not lie against the Inspector-General, an Official Receiver, the trustee of the estate of a bankrupt or any other person in respect of a statement made in good faith in a report prepared or given to a person under subsection 12(1A) or (1B), 155A(6), 155F(2) or 155I(4) or section 189A.
- (2) Subsection (1) shall not be taken to limit or affect any other right, privilege, immunity or defence existing apart from that subsection.

307 Proceedings in firm name

Any person or persons carrying on business under a firm name may take proceedings or be proceeded against under this Act in the firm name, but in that case the Court may, on the application of an interested person, order the name of the person or the names of the persons so carrying on business to be disclosed and verified in such manner as the Court directs.

308 Representation of corporation etc.

Subject to this Act, for the purposes of this Act:

- (a) a corporation may act by any person duly authorized in that behalf by the corporation;
- (b) a partnership may act by any of its members or a duly authorized agent;
- (c) a person of unsound mind may act by a person authorized or empowered by law to act for him or her; and
- (d) any person may act by his or her agent duly authorized in that behalf.

309 Service of notices etc.

- (1A) Where a trustee carries on business at 2 or more addresses, a notice or other document in relation to which no special manner of service is prescribed may be sent to the trustee at any of those addresses.
- (2) Where a notice or other document is required by this Act to be served on or given to a person, the Court may, in a particular case,

order that it be given or served in a manner specified by the Court, whether or not any other manner of giving or serving the notice or other document is prescribed.

311 Stamp duty not payable on trustee's cheques or receipts

- (1) In this section, *trustee* means:
 - (a) a trustee of the estate of a bankrupt; or
 - (b) a trustee of a personal insolvency agreement; or
 - (c) a trustee of a composition or a scheme of arrangement; or
 - (d) a trustee of the estate of a deceased person in respect of which an order has been made under Part XI of this Act.
- (2) Notwithstanding anything contained in a law of a State or Territory, stamp duty is not payable under such a law:
 - (a) on a cheque drawn by a trustee on an account kept under this Act;
 - (b) on a cheque received by a trustee in his or her capacity as trustee, being a cheque drawn in a State or Territory other than that in which it is received by the trustee; or
 - (c) on a receipt given by a trustee in his or her capacity as trustee.

312 Return or destruction of old accounts and records

- (1) During the administration of the estate of a bankrupt or debtor, the trustee may destroy or give back to the bankrupt or debtor any books that:
 - (a) the bankrupt or debtor gave to any trustee of the estate; and
 - (b) the trustee considers will not help the administration.
- (2) After the end of the administration of the estate of a bankrupt or debtor, the last trustee to administer the estate:
 - (a) may give back to the bankrupt or debtor any books that the bankrupt or debtor gave to any trustee of the estate; and
 - (b) may destroy any other books relating to the estate in accordance with subsection (3) or (4).
- (3) The trustee may destroy books relating to the estate at any time at least 6 years after the end of the administration if, by the end of the administration:

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- (a) no property had been realised; and
 - (b) no dividends had been distributed to creditors; and
 - (c) the trustee considered that there was no chance of realising any property or distributing dividends.
- (4) The trustee may destroy books relating to the estate at any time at least 15 years after the end of the administration if, by the end of the administration:
- (a) property had been realised; and
 - (b) the trustee had received some remuneration.
- (5) A trustee may destroy books only in accordance with this section.
- (6) This section does not limit a trustee's power to give back to a bankrupt or debtor books that the bankrupt or debtor gave to any trustee of the estate of the bankrupt or debtor.
- (7) This section does not limit a trustee's power to require a bankrupt or debtor to give books to the trustee (even if the books have previously been given to a trustee of the estate).
- (8) In this section:

end of the administration means:

- (a) in the case of a bankruptcy—the day on which the bankrupt is discharged or the bankruptcy is annulled, whichever happens first; or
- (b) in the case of an administration under Part X—the day 3 years after the day on which a personal insolvency agreement made by the debtor for the administration of the debtor's estate took effect; or
- (c) in the case of an administration under Part XI—the day 3 years after the day on which the administration is taken to have commenced under section 247A.

313 Audit of accounts and records of the Official Trustee and the Official Receivers

- (1) The Auditor-General shall inspect and audit the accounts and records of the Official Trustee and the Official Receivers, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that, in the opinion of the

Auditor-General, is of sufficient importance to justify his or her so doing.

- (2) The Auditor-General may, at his or her discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records of the Official Trustee and the Official Receivers.
- (3) The Auditor-General shall, at least once in each financial year, report to the Minister the results of the inspection and audit carried out under subsection (1).
- (4) The Auditor-General or a person authorized by him or her is entitled at all reasonable times to full and free access to all books of the Official Trustee and the Official Receivers.
- (5) The Auditor-General or a person authorized by him or her may make copies of, or take extracts from, any books of the Official Trustee or an Official Receiver.
- (6) The Auditor-General or a person authorized by him or her may require any person to furnish him or her with such information in the possession of the person or to which the person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.
- (7) A person who contravenes subsection (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

315 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may:
 - (a) provide for the establishment, maintenance, correction and inspection of the National Personal Insolvency Index; and
 - (b) specify matters that must be, or may be, entered in the Index; and
 - (c) provide for the obtaining of extracts of material entered in the Index; and

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- (d) provide for the use of extracts of material entered in the Index in evidence in proceedings under this Act and other laws of the Commonwealth or of a State or Territory; and
- (e) provide for immunity from actions for defamation arising out of publication of material in the Index or publication of extracts of material from the Index; and
- (f) provide for information and documents to be given to persons for entry in the Index; and
- (g) provide for the means of service of documents; and
- (h) provide for the publication of notice of specified events; and
- (i) provide for the manner in which committees referred to in Division 1 of Part VIII are to perform their functions, including:
 - (i) the convening of meetings of committees; and
 - (ii) the number of members of a committee who form a quorum; and
 - (iii) disclosure of interest in a matter before a committee; and
 - (iv) the manner in which questions are to be decided by the committee; and
- (j) provide for the charging and payment of fees, but not the setting of amounts of fees other than fees mentioned in paragraph 81(17)(b), in relation to:
 - (i) proceedings under this Act; and
 - (ii) inspection of material entered in the Index; and
 - (iii) obtaining extracts of material entered in the Index; and
 - (iv) inspection and copying of documents given to Official Receivers; and
 - (v) the making of other requests or applications under this Act or the presentation or lodgment of other documents under this Act; and
- (k) prescribe penalties not exceeding 10 penalty units for offences against the regulations.

316 Legislative instruments determining fees

- (1) The Minister may make legislative instruments determining the amounts of one or more of the following:

- (a) fees for the purposes of one or more of subsections 54(4), 55(9), 56G(2) and 57(11), subparagraph 77C(3)(b)(iii), paragraphs 154A(3)(b), 155C(1)(b) and 155D(1)(b) and subsections 163A(2), 188B(3), 226(3) and (4) and 246(5) (as they apply of their own force or as they apply because of another provision);
 - (b) other fees relating to one or more of the following:
 - (i) proceedings under this Act;
 - (ii) inspection of material entered in the National Personal Insolvency Index;
 - (iii) obtaining extracts of material entered in the National Personal Insolvency Index;
 - (iv) inspection and copying of documents given to Official Receivers;
 - (v) the making of other requests or applications under this Act or the presentation or lodgment of other documents under this Act;
 - (c) remuneration of the Official Trustee.
- (2) Fees determined must not be such as to amount to taxation.

Schedule 1—Acts repealed

Section 4(1)

Bankruptcy Act 1924
Bankruptcy Act 1927
Bankruptcy Act 1928
Bankruptcy Act 1929
Bankruptcy Act 1930
Bankruptcy Act 1932
Bankruptcy Act 1933
Bankruptcy Act 1945
Bankruptcy Act 1946
Bankruptcy Act 1954
Bankruptcy Act 1958
Bankruptcy Act 1959
Bankruptcy (Decimal Currency) Act 1965

Table of Acts**Notes to the *Bankruptcy Act 1966*****Note 1**

The *Bankruptcy Act 1966* as shown in this compilation comprises Act No. 33, 1966 amended as indicated in the Tables below.

The *Bankruptcy Act 1966* was amended by the *Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1)* (SLI 2006 No. 50). The amendments are incorporated in this compilation.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 25 October 1996 is not included in this compilation. For subsequent information see Table A.

The *Bankruptcy Act 1966* was modified by the *Bankruptcy Regulations 1996* (1996 No. 263 as amended 2003 No.76; 2004 No. 256) see Table B.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Bankruptcy Act 1966</i>	33, 1966	1 June 1966	4 Mar 1968 (see Gazette 1968, p. 119)	
<i>Bankruptcy Act 1968</i>	121, 1968	3 Dec 1968	31 Dec 1968	—
<i>Judges' Remuneration Act 1969 (a)</i>	40, 1969	14 June 1969	14 June 1969	—
<i>Bankruptcy Act 1970</i>	122, 1970	11 Nov 1970	11 Nov 1970	S. 21
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10
<i>Postal and Telecommunications Commissions (Transitional Provisions) Act 1975</i>	56, 1975	12 June 1975	Ss. 4 and 38: 1 July 1975 (see s. 2(1) and Gazette 1975, No. S122) Remainder: Royal Assent	S. 38(3)
<i>Administrative Changes (Consequential Provisions) Act 1976</i>	91, 1976	20 Sept 1976	S. 3: (b)	S. 4

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Bankruptcy Amendment Act 1976</i>	161, 1976	9 Dec 1976	1 Feb 1977 (see <i>Gazette</i> 1977, No. S3, p. 2)	Ss. 5, 6(2), (3) and 7–9
<i>Remuneration and Allowances Amendment Act 1977</i>	111, 1977	28 Oct 1977	Ss. 1, 2, 5, 9(2), 13, 16, 18 and 19(2): Royal Assent Remainder: 1 June 1977	—
<i>Australian Federal Police (Consequential Amendments) Act 1979</i>	155, 1979	28 Nov 1979	19 Oct 1979 (see s. 2 and <i>Gazette</i> 1979, No. S206)	—
<i>Bankruptcy Amendment Act 1980</i>	12, 1980	8 Apr 1980	Ss. 1, 2, 3(1), 4–6, 8, 13, 14, 18–20, 23–25, 29, 30, 36–41, 45, 46, 47(1), (3), 48, 52–54, 56, 63, 66–68, 71, 73(1), 79, 89, 91, 93–95, 97, 99, 105, 115, 117, 120–123, 126, 128, 129, 131, 133, 135, 143, 149, 150, 153, 155–162, 165–170, 174 and 176: Royal Assent Remainder: 1 Feb 1981 (see <i>Gazette</i> 1980, No. S282)	Ss. 12(2), 17(2), 23(2), 24(2), 26(2), 27(2), 28(2), 29(2), 31(2), 32(2), 33(2), 34(2), 35(2), (3), 36(2), (3), 38(2)–(4), 40(2), 41(2)–(4), 42(2), 43(2), 44(2), 45(2), (3), 47(3), 51(2), (3), 53(2), 54(2), 55(2)–(6), 56(2), 57(2), 58(2), 59(2), 60(2), 61(2), 63(2), 69(2), 70(2), 71(2), 72(2), 75(2), 82(2), (3), 85(2), (3), 91(2), 96(2), 99(2), 104(2), 105(2), 109(2)–(5), 112(2), 115(2), 122(2), 124(2), 125(2), 127(2), 129(2), 130(2), 132(2), 133(2), 134(2), 136(2), 137(2), 139(2), 141(2), 142(2), (3), 147(2), 148(2), 152(2), (3), 158(2), 175 and 176
<i>Bankruptcy Amendment Act 1980—continued</i>				
<i>Australian Federal Police (Consequential</i>	70, 1980	28 May 1980	28 May 1980	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Amendments) Act 1980</i>				
<i>Commonwealth Functions (Statutes Review) Act 1981</i>	74, 1981	18 June 1981	Part V (ss. 122–147): 2 Nov 1981 (see <i>Gazette</i> 1981, No. S229) (c)	Ss. 123(2), 125(2), 126(2), 127(2), 128(2), 129(2), 132(2), 134(2), 135(2), 137(2), 146(2), 147(2) and 264
as amended by				
<i>Statute Law (Miscellaneous Amendments) Act 1981</i>	176, 1981	2 Dec 1981	Part X (ss. 36, 37): 2 Nov 1981 (see <i>Gazette</i> 1981, No. S229) (d)	—
<i>Statute Law (Miscellaneous Amendments) Act 1981</i>	176, 1981	2 Dec 1981	Part VIII (ss. 28–30): 1 Feb 1982 (see <i>Gazette</i> 1982, No. S10) (e)	S. 30
<i>Income Tax (Payments for Work) (Consequential Amendments) Act 1983</i>	18, 1983	14 June 1983	14 June 1983 (see s. 2)	—
<i>Australian Government Solicitor (Consequential Amendments) Act 1984</i>	10, 1984	10 Apr 1984	S. 3: 1 July 1984 (see <i>Gazette</i> 1984, No. S231) (f)	S. 4(1) and (2)
<i>Public Service Reform Act 1984</i>	63, 1984	25 June 1984	S. 151(1): 1 July 1984 (see <i>Gazette</i> 1984, No. S245) (g) S. 151(6): (g)	S. 151(9)
as amended by				
<i>Prime Minister and Cabinet Legislation Amendment Act 1991</i>	199, 1991	18 Dec 1991	18 Dec 1991	—
<i>Bankruptcy Amendment Act 1985</i>	21, 1985	7 May 1985	19 May 1986 (see <i>Gazette</i> 1986, No. S224)	Ss. 6(2), 7(2), 8(2), 14(2), 29(2), (3) and 35(2)
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1985</i>	193, 1985	16 Dec 1985	S. 3: (h)	Ss. 7 and 16

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment Act (No. 4) 1986</i>	154, 1986	18 Dec 1986	Part II (ss. 3–6), ss. 8(a) and 9–11: 1 Jan 1987 (see s. 2(3)) S. 8(c): 10 June 1986 Ss. 26(b), (c), 28, 40, 49(3) and (7): 1 Jan 1987 (see s. 2(4) and <i>Gazette</i> 1986, No. S650) S. 55: 1 Mar 1987 (see <i>Gazette</i> 1987, No. S32) Remainder: Royal Assent	—
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1986</i>	168, 1986	18 Dec 1986	S. 3: 2 Mar 1987 (see <i>Gazette</i> 1987, No. S32) (i)	Ss. 5(1), 6(1) and (2)
<i>Proceeds of Crime (Miscellaneous Amendments) Act 1987</i>	73, 1987	5 June 1987	5 June 1987 (see s. 2)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Bankruptcy Amendment Act 1987</i>	119, 1987	16 Dec 1987	Ss. 1 and 2: Royal Assent Ss. 4(1)(f), 9–11, 19, 24–29, 31, 32, 34–37, 46, 47, 53–58, 97, 98, 101, 103 and 105: 3 Jan 1989 (see <i>Gazette</i> 1988, No. S392) Ss. 6, 16–18, 20–22, 30, 38, 41, 59, 60, 62–65, 68–79, 82, 86, 87, 90, 99 and 100: 31 July 1989 (see <i>Gazette</i> 1989, No. S245) Ss. 14, 42–44 and 51: 1 Mar 1988 (see <i>Gazette</i> 1988, No. S49) Remainder: 13 Jan 1988	Ss. 4(2), 8(2), 9(2), 10(2), 11(2), 13(2), 15(2), 16(2), 17(2), 18(2), 20(2), 21(2), 22(2), 23(2), 25(2), (3), 26(2), 27(2), 28(2), 29(2), 30(2), 31(2), 32(2), 34(2), 35(2), 36(2), 37(2), (4), 38(2), 39(2), 40(2), 41(2), 42(2), 43(2), (4), 44(2), (4), 45(2), 46(2), 47(2), (3), 48(2), 49(2), 50(2), 51(2), 52(2), 53(3), 55(2), 57(2), 58(2), 59(2), 60(2), 62(2), 63(2), 64(2), 65(2), 68(2), 69(2), 70(2), 71(2), 72(2), 73(2), 74(2), 75(2), 76(2), 77(2), 78(2), 79(2), (5), 82(2), 83(2), 84(2), 85(2), 86(2), 89(2), 91(2), 97(2), 98(2), 99(2), 103(2), 106 and 107
<i>Family Court of Australia (Additional Jurisdiction and Exercise of Powers) Act 1988</i>	8, 1988	5 Apr 1988	S. 12(a) and (d): 1 Jan 1990 Ss. 22–26, 28 and 31–45: 1 July 1988 (see <i>Gazette</i> 1988, No. S191) Remainder: Royal Assent	—
as amended by <i>Law and Justice Legislation Amendment Act 1988</i>	120, 1988	14 Dec 1988	Part XI (ss. 34, 35): 5 Apr 1988 (j)	—
<i>Statute Law (Miscellaneous</i>	38, 1988	3 June 1988	S. 3: Royal Assent	S. 5(1)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Provisions) Act 1988</i>			(k)	
<i>Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988</i>	99, 1988	2 Dec 1988	2 Dec 1988	—
<i>Banking Legislation Amendment Act 1989</i>	129, 1989	7 Nov 1989	Part I (ss. 1, 2), ss. 3, 26, 29–33, 35, 38 and 40: Royal Assent S. 23(1): 4 May 1989 S. 39: 23 Jan 1988 Remainder: 28 Dec 1989 (see <i>Gazette</i> 1989, No. S383)	S. 28
<i>Law and Justice Legislation Amendment Act 1990</i>	115, 1990	21 Dec 1990	Ss. 3, 5, 6, 8, 9, 16, 17, 20–23, 28, 30, 32, 33, 38 and 39: 4 Feb 1991 (see <i>Gazette</i> 1991, No. GN3, p. 278) Ss. 4, 7, 10–15, 18, 19, 24–27, 29, 31 and 34–37: 21 June 1991 Remainder: Royal Assent	Ss. 14(2), 15(2), 25(2)–(4), 35(2) and 36(2)
<i>Bankruptcy Amendment Act 1991</i>	9, 1992	17 Jan 1992	Part 2 (ss. 3–50): 1 July 1992 (see <i>Gazette</i> 1992, No. S176) Remainder: Royal Assent	Ss. 51–58
<i>Social Security Legislation Amendment Act 1992</i>	81, 1992	30 June 1992	Schedule 2 (Part 6): 1 July 1992 (l)	—
<i>Law and Justice Legislation Amendment Act (No. 4) 1992</i>	143, 1992	7 Dec 1992	S. 3: (m)	—
<i>Corporate Law Reform Act 1992</i>	210, 1992	24 Dec 1992	Part 1 (ss. 1–3): Royal Assent Ss. 26(2) and 28(1): 1 Feb 1994 Ss. 29–173 and 177: 23 June 1993 (see <i>Gazette</i> 1993, No. S186) Remainder: 1 Feb 1993 (see <i>Gazette</i> 1993, No. S25)	—
<i>Bankruptcy Amendment Act 1993</i>	11, 1993	31 May 1993	31 May 1993	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Insolvency (Tax Priorities) Legislation Amendment Act 1993</i>	32, 1993	16 June 1993	Ss. 6, 7, 9, 11, 13, 15 and Part 5 (ss. 29, 30): 1 June 1993 Part 4 (ss. 20–28): 1 July 1993 Remainder: Royal Assent	S. 30
<i>Superannuation Industry (Supervision) Consequential Amendments Act 1993</i>	82, 1993	30 Nov 1993	Ss. 1, 2, 14, 16(2), 41, 42, 45, 46, 48(1) and 52–64: 1 Dec 1993 Remainder: 1 July 1994	S. 11
<i>Law and Justice Legislation Amendment Act 1994</i>	84, 1994	23 June 1994	Ss. 89–91: Royal Assent (n)	S. 91 (am. by 94, 1994, s. 11)
as amended by				
<i>Primary Industries and Energy Legislation Amendment Act 1994</i>	94, 1994	29 June 1994	S. 11: (o)	S. 12
<i>Student Assistance (Youth Training Allowance—Transitional Provisions and Consequential Amendments) Act 1994</i>	184, 1994	23 Dec 1994	1 Jan 1995 (p)	—
<i>Taxation Laws Amendment Act (No. 3) 1995</i>	170, 1995	16 Dec 1995	Schedule 2 (items 54–57, 64): Royal Assent (q)	Sch. 2 (items 56, 64)
<i>Bankruptcy Legislation Amendment Act 1996</i>	44, 1996	25 Oct 1996	Schedule 1: 16 Dec 1996 (see <i>Gazette</i> 1996, No. GN49) Schedule 2: (r) Remainder: Royal Assent	Sch. 1 (items 441–500) [see Table A]
as amended by				
<i>Bankruptcy Amendment Act 1997</i>	11, 1997	13 Mar 1997	Schedule 2: (s)	—
<i>Law and Justice Legislation Amendment Act 1999</i>	125, 1999	13 Oct 1999	Schedule 4: 16 Dec 1996 (sa)	—
<i>Bankruptcy Amendment Act 1997</i>	11, 1997	13 Mar 1997	Schedules 1 and 3: 14 Apr 1997 (see <i>Gazette</i> 1997, No. S136) (t)	Sch. 3 [see Table A]
<i>Retirement Savings Accounts (Consequential Amendments) Act 1997</i>	62, 1997	28 May 1997	2 June 1997 (see s. 2 and <i>Gazette</i> 1997, No. S202)	—
<i>Audit (Transitional and</i>	152, 1997	24 Oct 1997	Schedule 2	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Miscellaneous Amendment Act 1997</i>			(items 584–596): 1 Jan 1998 (see <i>Gazette</i> 1997, GN49) (u)	
<i>Farm Household Support Amendment (Restart and Exceptional Circumstances) Act 1997</i>	179, 1997	25 Nov 1997	25 Nov 1997	—
<i>Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998</i>	45, 1998	17 June 1998	Schedule 13 (item 4): 1 July 1998 (v)	—
<i>Financial Sector Reform (Consequential Amendments) Act 1998</i>	48, 1998	29 June 1998	Schedule 1 (Items 10–23): 1 July 1998 (see <i>Gazette</i> 1998, No. S316) (w)	S. 4(2) [see Table A]
<i>Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 1998</i>	93, 1998	15 July 1998	Schedule 7 (item 1): 1 Apr 1998 (x)	—
<i>Superannuation Legislation Amendment Act 1999</i>	38, 1999	31 May 1999	Schedule 1: Royal Assent (y)	—
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i>	44, 1999	17 June 1999	Schedule 7 (items 1–4): 1 July 1999 (see <i>Gazette</i> 1999, No. S283) (z) Schedule 8 (items 1–9, 22): Royal Assent (z)	Sch. 8 (items 1–9, 22) [see Table A] S. 3(2)(e) (am. by 160, 2000, Sch. 4 [item 4])
as amended by				
<i>Financial Sector Legislation Amendment Act (No. 1) 2000</i>	160, 2000	21 Dec 2000	Schedule 1 (item 21): Royal Assent Remainder: 18 Jan 2001	—
<i>A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999</i>	83, 1999	8 July 1999	Schedule 11 (item 3): (za)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 280): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (zb)	—
<i>A New Tax System (Tax Administration) Act 1999</i>	179, 1999	22 Dec 1999	Schedule 11 (item 3): 1 July 2000 (zc)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Federal Magistrates (Consequential Amendments) Act 1999</i>	194, 1999	23 Dec 1999	Schedule 7: 23 Dec 1999 (zd)	—
<i>Dairy Industry Adjustment Act 2000</i>	22, 2000	3 Apr 2000	3 Apr 2000	—
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]
<i>Family Law Amendment Act 2000</i>	143, 2000	29 Nov 2000	Schedule 3 (item 1E): 27 Dec 2000 (ze)	—
<i>Farm Household Support Amendment Act 2000</i>	144, 2000	7 Dec 2000	Ss. 1 and 2: Royal Assent Remainder: 18 Dec 2000 (see <i>Gazette</i> 2000, No. S634)	Sch. 3 (items 7(1), 8) [see Table A]
<i>Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001</i>	24, 2001	6 Apr 2001	S. 4(1), (2) and Schedule 5: (zf)	S. 4(1) and (2) [see Table A]
<i>Corporations (Repeals, Consequentials and Transitionals) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 80–87): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (zg)	Ss. 4–14
<i>Family Law Legislation Amendment (Superannuation) Act 2001</i>	61, 2001	28 June 2001	28 Dec 2002	S. 5 (as am. by 86, 2002, Sch. 5 [item 10]) [see Table A]
as amended by				
<i>Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002</i>	86, 2002	11 Oct 2002	(see 86, 2002 below)	—
<i>Higher Education Funding Amendment Act 2001</i>	86, 2001	18 July 2001	Schedule 2 (items 1, 2): Royal Assent (zh)	—
<i>Financial Services Reform (Consequential Provisions) Act 2001</i>	123, 2001	27 Sept 2001	Schedule 1 (item 216): 11 Mar 2002 (see <i>Gazette</i> 2001, No. GN42) (zi)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Taxation Laws Amendment (Superannuation) Act (No. 2) 2002</i>	51, 2002	29 June 2002	Schedule 6 (items 1, 2): (zj)	Sch. 6 (item 2) [see Table A]
<i>Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002</i>	86, 2002	11 Oct 2002	Ss. 1–3: Royal Assent Remainder: 1 Jan 2003 (see s. 2(1) and <i>Gazette</i> 2002, No. GN44)	Sch. 4 (items 12, 16) [see Table A]
<i>Bankruptcy Legislation Amendment Act 2002</i>	131, 2002	18 Dec 2002	Schedule 1: 5 May 2003 (see <i>Gazette</i> 2003, No. S138) Remainder: Royal Assent	Sch. 1 (item 198 (as am. by 80, 2004, Sch. 7 [items 1, 2]) Sch. 1 (items 199–237) [see Table A]
as amended by				
<i>Bankruptcy Legislation Amendment Act 2004</i>	80, 2004	23 June 2004	Schedule 7 (items 1, 2): (zk) Schedule 7 (item 3): Royal Assent	Sch. 7 (item 3) [see Table A]
<i>Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003</i>	150, 2003	19 Dec 2003	Schedule 2 (items 96, 97): (zl)	—
<i>Law and Justice Legislation Amendment Act 2004</i>	62, 2004	26 May 2004	Schedule 1 (items 11, 12): 27 May 2004	—
<i>Bankruptcy Legislation Amendment Act 2004</i>	80, 2004	23 June 2004	Schedule 1 (items 1–187, 212–215) and Schedules 2–5: 1 Dec 2004 (see <i>Gazette</i> 2004, No. GN34) Schedule 6: Royal Assent	Sch. 1 (items 212–215), Sch. 2 (items 11–13), Sch. 5 (item 3) and Sch. 6 (item 4) [see Table A]
as amended by				
<i>Statute Law Revision Act 2005</i>	100, 2005	6 July 2005	Schedule 2 (item 9): (zm)	—
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	S. 4 and Schedule 1 (items 97–108, 496): Royal Assent	S. 4 and Sch. 1 (item 496) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Bankruptcy and Family Law Legislation Amendment Act 2005</i>	20, 2005	18 Mar 2005	Schedule 1: 18 Sept 2005 Schedules 3–5: 15 Apr 2005 Remainder: Royal Assent	Sch. 2 (item 5), Sch. 3 (item 2) and Sch. 4 (item 3) [see Table A]
<i>Family Law Amendment Act 2005</i>	98, 2005	6 July 2005	Schedule 1 (item 138): 18 Sept 2005	—
<i>Bankruptcy Legislation Amendment (Anti-avoidance) Act 2006</i>	33, 2006	3 May 2006	Schedule 1: 31 May 2006 Remainder: Royal Assent	Sch. 1 (item 30) [see Table A]
<i>Bankruptcy Legislation Amendment (Fees and Charges) Act 2006</i>	34, 2006	3 May 2006	Schedule 1 (items 1–19), Schedules 2 and 3: 1 July 2006 Schedule 1 (items 20, 21): (zn) Remainder: Royal Assent	Sch. 1 (items 3, 5, 9, 13, 15, 18), Sch. 3 (item 4) and Sch. 4 (item 8) [see Table A]

Act Notes

- (a) The *Judges' Remuneration Act 1969* was repealed by section 7 of the *Statute Law Revision Act 1973*, subsection 7(2) of that Act provides as follows:
- (2) The repeal of an Act by this section does not affect the operation of:
 - (a) any amendment of another Act made by the repealed Act; or
 - (b) any provision for the citation of that other Act as amended by the repealed Act.
- (b) The *Bankruptcy Act 1966* was amended by section 3 only of the *Administrative Changes (Consequential Provisions) Act 1976*, subsection 2(7) of which provides as follows:
- (7) The amendments of each other Act specified in the Schedule made by this Act shall be deemed to have come into operation on 22 December 1975.
- (c) The *Bankruptcy Act 1966* was amended by Part V (sections 122–147) only of the *Commonwealth Functions (Statutes Review) Act 1981*, subsection 2(10) of which provides as follows:
- (10) The remaining provisions of this Act shall come into operation on such respective dates as are fixed by Proclamation.
- (d) The *Commonwealth Functions (Statutes Review) Act 1981* was amended by Part X (sections 36 and 37) only of the *Statute Law (Miscellaneous Amendments) Act 1981*, subsection 2(6) of which provides as follows:
- (6) Part X shall come into operation, or shall be deemed to have come into operation, as the case requires, on the date of commencement of subsection 125(1) of the *Commonwealth Functions (Statutes Review) Act 1981*.
- (e) The *Bankruptcy Act 1966* was amended by Part VIII (sections 28–30) only of the *Statute Law (Miscellaneous Amendments) Act 1981*, subsection 2(4) of which provides as follows:
- (4) Part VIII, Part XV, Division 2 of Part XVIII and Division 3 of Part XVIII shall come into operation on such respective dates as are fixed by Proclamation.
- (f) The *Bankruptcy Act 1966* was amended by section 3 only of the *Australian Government Solicitor (Consequential Amendments) Act 1984*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act shall come into operation, or shall be deemed to have come into operation, as the case requires, on the day on which section 7 of the *Judiciary Amendment Act (No. 2) 1984* comes into operation.
- (g) The *Bankruptcy Act 1966* was amended by section 151(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:
- (4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by proclamation.
- Section 151(6) of the *Public Service Reform Act 1984* provided for the amendment of section 16 of the *Bankruptcy Act 1966*. The last-mentioned section was repealed by the *Prime Minister and Cabinet Legislation Amendment Act 1991* before a date was fixed for the commencement of section 16.
- (h) The *Bankruptcy Act 1966* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1985*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
 - (2) Section 7 of this Act and the amendment of section 41 of the *Bankruptcy Act 1966* made by this Act shall come into operation on a day to be fixed by Proclamation.
- The date fixed in pursuance of subsection 2(2) was 9 June 1986 (see *Gazette* 1986, No. S264).
- (i) The *Bankruptcy Act 1966* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

Act Notes

- (2) The amendment of the *Bankruptcy Act 1966* made by this Act inserting proposed section 31A shall come into operation on a day to be fixed by Proclamation.
- (j) The *Family Court of Australia (Additional Jurisdiction and Exercise of Powers) Act 1988* was amended by Part XI (sections 34 and 35) only of the *Law and Justice Legislation Act 1988*, subsection 2(6) of which provides as follows:
- (6) Part XI shall be taken to have commenced on 5 April 1988.
- (k) The *Bankruptcy Act 1966* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1988*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (l) The *Bankruptcy Act 1966* was amended by Schedule 2 (Part 6) only of the *Social Security Legislation Amendment Act 1992*, paragraph 2(14)(c) of which provides as follows:
- (14) The following provisions commence on 1 July 1992:
- (c) Part 8 of Schedule 1 and Part 6 of Schedule 2.
- (m) The *Bankruptcy Act 1966* was amended by section 3 only of the *Law and Justice Legislation Amendment Act (No. 4) 1992*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) The amendment of section 19 of the *Bankruptcy Act 1966* made by this Act commences on the 28th day after the day on which this Act receives the Royal Assent.
- (n) The *Bankruptcy Act 1966* was amended by sections 89 and 90 only of the *Law and Justice Legislation Amendment Act 1994*, subsection 2(5) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (o) The *Law and Justice Legislation Amendment Act 1994* was amended by section 11 only of the *Primary Industries and Energy Legislation Amendment Act 1994* provides as follows:
- (5) The amendments of the *Law and Justice Legislation Amendment Act 1994* made by the Schedule commence, or are taken to have commenced, immediately after the commencement of section 91 of that Act.
- Section 91 commenced on 23 June 1994.
- (p) Section 2 of the *Student Assistance (Youth Training Allowance—Transitional Provisions and Consequential Amendments) Act 1994* provides as follows:
2. This Act commences on 1 January 1995 immediately after the commencement of the *Student Assistance (Youth Training Allowance) Amendment Act 1994*.
- (q) The *Bankruptcy Act 1966* was amended by Schedule 2 (items 54, 55 and 57) only of the *Taxation Laws Amendment Act (No. 3) 1995*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (r) Subsection 2(4) of the *Bankruptcy Legislation Amendment Act 1996* provides as follows:
- (4) Schedule 2 commences immediately after the commencement of Schedule 1. Schedule 1 commenced on 16 December 1996 (see *Gazette* 1996, No. GN49).
- (s) The *Bankruptcy Act 1966* was amended by Schedule 2 only of the *Bankruptcy Amendment Act 1997*, subsection 2(4) of which provides as follows:
- (4) Schedule 2 commences, or is taken to have commenced, immediately after the *Bankruptcy Legislation Amendment Act 1996* receives or received the Royal Assent.
- The *Bankruptcy Legislation Amendment Act 1996* received the Royal Assent on 25 October 1996.
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Act Notes

- (sa) The *Bankruptcy Legislation Amendment Act 1996* was amended by Schedule 4 only of the *Law and Justice Legislation Amendment Act 1999*, subsection 2(4) of which provides as follows:
- (4) Schedule 4 is taken to have commenced on 16 December 1996, immediately after the commencement of Schedule 1 to the *Bankruptcy Legislation Amendment Act 1996*.
- (t) The *Bankruptcy Act 1966* was amended by Schedules 1 and 3 only of the *Bankruptcy Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Subject to subsection (3), Schedules 1 and 3 commence on the commencement of the *Bankruptcy (Estate Charges) Act 1997*.
- (u) The *Bankruptcy Act 1966* was amended by Schedule 2 (items 584–596) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (v) The *Bankruptcy Act 1966* was amended by Schedule 13 (item 4) only of the *Social Security Legislation Amendment (Youth Allowance Consequential and Related Measures) Act 1998*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) to (10), this Act commences on 1 July 1998.
- (w) The *Bankruptcy Act 1966* was amended by Schedule 1 (Items 10–23) only of the *Financial Sector Reform (Consequential Amendments) Act 1998*, subsection 2(2) of which provides as follows:
- (2) Subject to subsections (3) to (14), Schedules 1, 2 and 3 commence on the commencement of the *Australian Prudential Regulation Authority Act 1998*.
- (x) The *Bankruptcy Act 1966* was amended by Schedule 7 (item 1) only of the *Social Security and Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 1998*, subsection 2(9) of which provides as follows:
- (9) Schedule 7 commences, or is taken to have commenced, on 1 April 1998.
- (y) The *Bankruptcy Act 1966* was amended by Schedule 1 only of the *Superannuation Legislation Amendment Act 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (z) The *Bankruptcy Act 1966* was amended by Schedule 7 (items 1–4) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*, subsections 3(1), (2)(e) and (16) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (2) The following provisions commence on the transfer date:
 - (e) subject to subsection (12), Schedule 7, other than items 43, 44, 118, 205 and 207 (the commencement of those items is covered by subsections (10), (11) and (13)).
 - (16) The Governor-General may, by Proclamation published in the *Gazette*, specify the date that is to be the transfer date for the purposes of this Act.
- (za) The *Bankruptcy Act 1966* was amended by Schedule 11 (item 3) only of the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 2) 1999*, subsection 2(2) of which provides as follows:
- (2) Schedule 1 (Parts 1 to 5), Schedules 3 to 6, Schedule 7 (other than item 14), Schedules 8 and 9, Schedule 10 (other than item 63) and Schedule 11 (items 3 and 4 only) commence, or are taken to have commenced, on the commencement of Schedule 1 to the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999*.
- Schedule 1 to the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999* commenced immediately after 1 July 2000.
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Act Notes

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- (zb) The *Bankruptcy Act 1966* was amended by Schedule 1 (item 280) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (zc) The *Bankruptcy Act 1966* was amended by Schedule 11 (item 3) only of the *A New Tax System (Tax Administration) Act 1999*, subsection 2(9)(b) of which provides as follows:
- (9) The following provisions commence on 1 July 2000:
 - (b) Schedule 11 (other than item 44).
- (zd) The *Bankruptcy Act 1966* was amended by Schedule 7 only of the *Federal Magistrates (Consequential Amendments) Act 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the commencement of the *Federal Magistrates Act 1999*.
- (ze) The *Bankruptcy Act 1966* was amended by Schedule 3 (item 1E) only of the *Family Law Amendment Act 2000*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (1A) and (2), this Act commences 28 days after the day on which it receives the Royal Assent.
- (zf) The *Bankruptcy Act 1966* was amended by Schedule 5 only of the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1)(a) of which provides as follows:
- (1) Subject to this section, this Act commences at the later of the following times:
 - (a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;
 Item 15 commenced on 24 May 2001.
- (zg) The *Bankruptcy Act 1966* was amended by Schedule 3 (items 80–87) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
- (zh) The *Bankruptcy Act 1966* was amended by Schedule 2 (items 1 and 2) only of the *Higher Education Funding Amendment Act 2001*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (zi) The *Bankruptcy Act 1966* was amended by Schedule 1 (item 216) only of the *Financial Services Reform (Consequential Provisions) Act 2001*, subsections 2(1) and (6) of which provide as follows:
- (1) In this section:

FSR commencement means the commencement of item 1 of Schedule 1 to the *Financial Services Reform Act 2001*.
 - (6) Subject to subsections (7) to (17), the other items of Schedule 1 commence on the FSR commencement.
- (zj) Subsection 2(1) (item 10) of the *Taxation Laws Amendment (Superannuation) Act (No. 2) 2002* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.
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Act Notes**Commencement information**

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
10. Schedule 6, items 1 and 2	The later of: (a) the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of item 77 of Schedule 1 to the <i>Bankruptcy Legislation Amendment Act 2002</i>	5 May 2003 (paragraph (b) applies)

(zk) Subsection 2(1) (item 5) of the *Bankruptcy Legislation Amendment Act 2004* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
5. Schedule 7, items 1 and 2	Immediately after the commencement of Schedule 1 to the <i>Bankruptcy Legislation Amendment Act 2002</i> .	5 May 2003

(zl) Subsection 2(1) (item 8) of the *Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
8. Schedule 2, items 95 to 103	The later of: (a) 1 January 2004; and (b) immediately after the commencement of sections 1-10 to 238-15 of the <i>Higher Education Support Act 2003</i> .	1 January 2004 (paragraph (b) applies)

(zm) Subsection 2(1) (item 30) of the *Statute Law Revision Act 2005* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
30. Schedule 2, item 9	Immediately after the time specified in the <i>Bankruptcy Legislation Amendment Act 2004</i> for the commencement of item 167 of Schedule 1 to that Act.	1 December 2004

Act Notes

(zn) Subsection 2(1) (item 3) of the *Bankruptcy Legislation Amendment (Fees and Charges) Act 2006* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
3. Schedule 1, Part 2	The later of: (a) immediately after the commencement of the provision(s) covered by table item 2; and (b) immediately after the commencement of Schedule 1 to the <i>Bankruptcy Legislation Amendment (Anti-avoidance) Act 2006</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2006 (paragraph (a) applies)

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
S. 3	am. No. 122, 1970 rep. No. 216, 1973
S. 4	am. No. 12, 1980
Part IA	
Heading to Part IA	ad. No. 119, 1987
S. 5	am. No. 121, 1968; No. 122, 1970; No. 155, 1979; Nos. 12 and 70, 1980; No. 21, 1985; Nos. 73 and 119, 1987; No. 8, 1988; No. 129, 1989; No. 115, 1990; Nos. 9 and 210, 1992; No. 82, 1993; No. 44, 1996; No. 62, 1997; No. 48, 1998; No. 194, 1999; No. 143, 2000; Nos. 55 and 123, 2001; Nos. 86 and 131, 2002; No. 80, 2004; No. 20, 2005; Nos. 33 and 34, 2006
S. 5AA	ad. No. 44, 1996 am. No. 80, 2004
S. 5A	ad. No. 119, 1987
Ss. 5B, 5C	ad. No. 119, 1987 am. No. 44, 1996
Ss. 5D–5F	ad. No. 119, 1987
S. 5G	ad. No. 119, 1987 am. No. 210, 1992; No. 55, 2001
S. 5H	ad. No. 119, 1987 am. No. 80, 2004
Ss. 5J, 5K	ad. No. 119, 1987
Heading to s. 6A	rs. No. 44, 1996
S. 6A	ad. No. 119, 1987 rs. No. 9, 1992 am. No. 44, 1996; No. 80, 2004; No. 34, 2006
Heading to s. 6B	am. No. 44, 1996
S. 6B	ad. No. 9, 1992 am. No. 44, 1996; No. 34, 2006
S. 6C	ad. No. 86, 2002
Part IB	
Heading to Part IB	ad. No. 119, 1987
S. 7	am. No. 12, 1980; No. 119, 1987; No. 44, 1996
S. 7A	ad. No. 24, 2001
S. 8	rs. No. 12, 1980
S. 9	am. No. 12, 1980

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part II	
Division 1	
Heading to Div. 1 of Part II	ad. No. 12, 1980
S. 10	am. No. 91, 1976 rs. No. 119, 1987 am. No. 115, 1990
S. 11	am. No. 44, 1996; No. 131, 2002
S. 12	am. No. 91, 1976; No. 12, 1980; No. 21, 1985; No. 168, 1986; Nos. 73 and 119, 1987; No. 9, 1992; No. 44, 1996; No. 131, 2002; No. 80, 2004
S. 13	rs. No. 44, 1996
S. 14	am. No. 12, 1980; No. 21, 1985; No. 115, 1990 rep. No. 44, 1996
S. 14A	ad. No. 12, 1980 rep. No. 44, 1996
S. 15	am. No. 12, 1980; No. 44, 1996; No. 131, 2002
Heading to s. 16	rs. No. 44, 1996
S. 16	am. No. 12, 1980; No. 21, 1985; No. 44, 1996; No. 131, 2002
S. 17	am. No. 91, 1976; No. 12, 1980 rs. No. 12, 1980 am. No. 21, 1985; No. 44, 1996; No. 131, 2002
S. 17A	ad. No. 12, 1980 am. No. 21, 1985 rep. No. 44, 1996
S. 17AA	ad. No. 193, 1985 rep. No. 44, 1996
S. 17B	ad. No. 12, 1980
S. 18	am. No. 91, 1976; No. 12, 1980 rs. No. 12, 1980 am. No. 21, 1985; No. 168, 1986; No. 44, 1996; No. 80, 2004
S. 18AA	ad. No. 152, 1997
S. 18A	ad. No. 12, 1980 am. No. 44, 1996; No. 80, 2004
S. 19	am. No. 12, 1980; No. 74, 1981; No. 21, 1985; No. 119, 1987; No. 115, 1990; Nos. 9 and 143, 1992; No. 44, 1996; No. 131, 2002
S. 19AA	ad. No. 119, 1987 rs. No. 44, 1996 am. No. 131, 2002
Heading to s. 19A	am. No. 44, 1996
S. 19A	ad. No. 12, 1980 am. No. 44, 1996
S. 19B	ad. No. 12, 1980 rep. No. 44, 1996
S. 20	am. No. 12, 1980 rs. No. 168, 1986 rep. No. 44, 1996

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Division 2	
Div. 2 of Part II	ad. No. 12, 1980
S. 20A	ad. No. 12, 1980 am. No. 168, 1986; No. 152, 1997; No. 8, 2005
S. 20B	ad. No. 12, 1980 am. No. 21, 1985; No. 168, 1986; No. 115, 1990; No. 44, 1996; No. 48, 1998
S. 20C	ad. No. 12, 1980 am. No. 63, 1984 rep. No. 168, 1986
S. 20D	ad. No. 12, 1980 am. No. 168, 1986; No. 119, 1987; No. 44, 1996; No. 11, 1997; No. 48, 1998
S. 20E	ad. No. 12, 1980 am. No. 168, 1986; No. 44, 1996; No. 48, 1998
S. 20F	ad. No. 12, 1980 am. No. 168, 1986
S. 20G	ad. No. 12, 1980 rs. No. 152, 1997; No. 8, 2005
Heading to s. 20H	am. No. 152, 1997 rs. No. 8, 2005
S. 20H	ad. No. 12, 1980 am. No. 21, 1985; No. 168, 1986; No. 152, 1997 rs. No. 8, 2005
S. 20J	ad. No. 12, 1980 am. No. 168, 1986; No. 44, 1996 (as am. by No. 125, 1999); No. 80, 2004
Part III	
Div. 1 of Part III	rep. No. 44, 1996
S. 21	am. No. 12, 1980 rep. No. 44, 1996
S. 22	rep. No. 44, 1996
Ss. 23, 24	am. No. 12, 1980 rep. No. 44, 1996
S. 25	am. No. 40, 1969 rs. No. 111, 1977 rep. No. 44, 1996
S. 26	am. No. 12, 1980 rep. No. 44, 1996
Division 2	
S. 27	am. No. 161, 1976; No. 12, 1980; No. 176, 1981; No. 44, 1996; No. 194, 1999; No. 20, 2005
S. 28	am. No. 161, 1976; No. 12, 1980 rep. No. 44, 1996
Heading to s. 29	rs. No. 44, 1996
S. 29	am. No. 12, 1980; No. 44, 1996
S. 30	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 194, 1999

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 31	am. No. 12, 1980; No. 119, 1987; No. 143, 1992; No. 44, 1996; No. 80, 2004
S. 31A	ad. No. 168, 1986 am. No. 115, 1990; No. 9, 1992 rep. No. 44, 1996
S. 33	am. No. 12, 1980; No. 44, 1996
S. 33A	ad. No. 131, 2002
S. 34	am. No. 44, 1996
S. 34A	ad. No. 119, 1987
S. 35	am. No. 12, 1980 rs. No. 12, 1980 rep. No. 44, 1996 ad. No. 20, 2005
S. 35A	ad. No. 8, 1988 am. No. 44, 1996; No. 194, 1999
S. 35B	ad. No. 98, 2005
S. 36	am. No. 44, 1996
S. 37	am. No. 12, 1980 rs. No. 9, 1992
S. 38	rs. No. 161, 1976 am. No. 38, 1988 rep. No. 44, 1996
S. 39	rep. No. 161, 1976
Part IV	
Division 1	
S. 40	am. No. 12, 1980; No. 21, 1985; No. 119, 1987; No. 44, 1996; Nos. 86 and 131, 2002; No. 80, 2004; No. 20, 2005
S. 41	am. No. 12, 1980; No. 193, 1985; No. 44, 1996; No. 131, 2002; No. 80, 2004
S. 42	am. No. 12, 1980; No. 10, 1984
Division 2	
S. 43	am. No. 12, 1980; No. 143, 1992; No. 131, 2002
S. 44	am. No. 12, 1980; No. 21, 1985; No. 44, 1996
S. 45	am. No. 44, 1996
S. 46	am. No. 12, 1980
S. 47	am. No. 44, 1996
S. 48	am. No. 121, 1968; No. 12, 1980 rep. No. 12, 1980
S. 50	am. No. 12, 1980; No. 74, 1981; No. 119, 1987; No. 44, 1996; No. 131, 2002
S. 51	am. No. 12, 1980
S. 52	am. No. 12, 1980; No. 74, 1981 (as am. by No. 176, 1981); No. 21, 1985; No. 44, 1996
S. 53	am. No. 121, 1968; No. 12, 1980

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 54	am. No. 12, 1980; No. 74, 1981; No. 21, 1985; No. 119, 1987; No. 44, 1996; No. 24, 2001; No. 131, 2002; No. 34, 2006
Division 2A	
Div. 2A of Part IV	ad. No. 119, 1987
S. 54A	ad. No. 119, 1987 am. No. 44, 1996
S. 54B	ad. No. 119, 1987
S. 54C	ad. No. 119, 1987 am. No. 44, 1996
Heading to s. 54D	rs. No. 44, 1996
Ss. 54D–54H	ad. No. 119, 1987 am. No. 44, 1996
Ss. 54J–54L	ad. No. 119, 1987
Division 3	
S. 55	am. No. 122, 1970; No. 12, 1980; No. 74, 1981; No. 21, 1985; No. 119, 1987; No. 115, 1990; No. 143, 1992; No. 44, 1996; No. 131, 2002; No. 80, 2004; No. 34, 2006
S. 56	am. No. 122, 1970; No. 12, 1980 rs. No. 12, 1980 am. No. 74, 1981; No. 21, 1985; No. 119, 1987; No. 115, 1990; No. 143, 1992 rep. No. 44, 1996
S. 56A	ad. No. 44, 1996 am. No. 80, 2004
Ss. 56B–56D	ad. No. 44, 1996
S. 56E	ad. No. 44, 1996 am. No. 131, 2002
S. 56F	ad. No. 44, 1996 am. No. 24, 2001; No. 131, 2002
S. 56G	ad. No. 44, 1996 am. No. 131, 2002; No. 34, 2006
S. 57	rs. No. 12, 1980 am. No. 74, 1981; No. 21, 1985; No. 119, 1987; No. 115, 1990; No. 143, 1992; No. 44, 1996; No. 131, 2002; No. 80, 2004; No. 34, 2006
S. 57A	ad. No. 12, 1980 am. No. 44, 1996
Division 4	
Heading to s. 58	am. No. 86, 2002
S. 58	am. No. 12, 1980; No. 74, 1981; No. 73, 1987; No. 44, 1996; No. 86, 2002
Note to s. 58(1)	ad. No. 86, 2002
Renumbered Note 1	No. 34, 2006
Note 2 to s. 58(1)	ad. No. 34, 2006
S. 58A	ad. No. 86, 2002

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 59	am. No. 12, 1980 rs. No. 12, 1980 am. No. 119, 1987; No. 143, 1992; No. 44, 1996
S. 59A	ad. No. 20, 2005
S. 60	am. No. 12, 1980; No. 73, 1987; No. 44, 1996; No. 86, 2002
S. 61	am. No. 44, 1996
S. 63	am. No. 44, 1996
Division 5	
Heading to Div. 5 of Part IV	am. No. 119, 1987; No. 115, 1990 rs. No. 9, 1992
Subdivision A	
Subdiv. A of Div. 5 of Part IV	ad. No. 9, 1992
S. 63A	ad. No. 9, 1992 am. No. 44, 1996
S. 63B	ad. No. 9, 1992
Subdivision B	
Heading to Subdiv. B of Div. 5 of Part IV	ad. No. 9, 1992
S. 64	rs. No. 12, 1980 am. No. 74, 1981; No. 21, 1985 rs. No. 119, 1987 am. No. 9, 1992; No. 131, 2002
S. 64A	ad. No. 9, 1992 am. No. 80, 2004
Ss. 64B, 64C	ad. No. 9, 1992
S. 64D	ad. No. 9, 1992 am. No. 44, 1996
Ss. 64E, 64F	ad. No. 9, 1992
S. 64G	ad. No. 9, 1992 am. No. 44, 1996
Subdivision C	
Ss. 64H, 64J	ad. No. 9, 1992
Subdivision D	
Ss. 64K, 64L	ad. No. 9, 1992
S. 64M	ad. No. 9, 1992
Note to s. 64M(1)	ad. No. 131, 2002
S. 64N	ad. No. 9, 1992 am. No. 131, 2002
Ss. 64P–64T	ad. No. 9, 1992
S. 64U	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
Ss. 64V–64X	ad. No. 9, 1992
Subdivision E	
S. 64Y	ad. No. 9, 1992

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 64Z	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
S. 64ZA	ad. No. 9, 1992 am. No. 131, 2002
S. 64ZB	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
S. 64ZBA	ad. No. 131, 2002
Ss. 64ZC–64ZF	ad. No. 9, 1992
S. 65	am. No. 119, 1987 rep. No. 9, 1992
S. 66	am. No. 12, 1980; No. 119, 1987 rep. No. 9, 1992
S. 67	am. No. 119, 1987 rep. No. 9, 1992
S. 68	am. No. 12, 1980; No. 119, 1987 rep. No. 9, 1992
S. 69	am. No. 121, 1968 rs. No. 12, 1980 am. No. 74, 1981; No. 21, 1985; No. 119, 1987 rep. No. 115, 1990
Division 5A	
Heading to Div. 5A of Part IV	ad. No. 9, 1992
S. 70	am. No. 12, 1980; No. 119, 1987; No. 9, 1992; No. 44, 1996
S. 71	am. No. 12, 1980; No. 44, 1996; No. 80, 2004
Division 6	
S. 73	am. No. 44, 1996; No. 131, 2002; No. 80, 2004
S. 73A	ad. No. 131, 2002
Ss. 73B, 73C	ad. No. 80, 2004
S. 74	am. No. 12, 1980; No. 119, 1987; No. 9, 1992; No. 44, 1996
S. 74A	ad. No. 131, 2002
S. 75	am. No. 122, 1970; No. 12, 1980; No. 9, 1992; No. 44, 1996; No. 80, 2004
S. 76	am. No. 119, 1987; No. 44, 1996
S. 76A	ad. No. 9, 1992; No. 44, 1996
S. 76B	ad. No. 80, 2004
Part V	
Division 1	
Heading to Div. 1 of Part V	ad. No. 9, 1992
S. 77	am. No. 119, 1987; No. 44, 1996; No. 131, 2002
Heading to s. 77AA	am. No. 44, 1996
S. 77AA	ad. No. 9, 1992 am. No. 44, 1996

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to s. 77A	am. No. 131, 2002
S. 77A	ad. No. 119, 1987 am. No. 131, 2002
S. 77B	ad. No. 119, 1987 rep. No. 131, 2002
S. 77C	ad. No. 9, 1992 am. Nos. 33 and 34, 2006
S. 77D	ad. No. 9, 1992
S. 77E	ad. No. 9, 1992 am. No. 44, 1996
S. 77F	ad. No. 9, 1992
S. 78	am. No. 121, 1968; No. 12, 1980; No. 119, 1987; No. 44, 1996
S. 79	am. No. 56, 1975; No. 12, 1980 rep. No. 44, 1996
S. 80	am. No. 12, 1980; No. 9, 1992; No. 44, 1996; No. 24, 2001; No. 131, 2002
S. 81	am. No. 121, 1968 rs. No. 12, 1980 am. No. 21, 1985; No. 119, 1987; No. 115, 1990; No. 9, 1992; No. 44, 1996; No. 33, 2006
Division 2	
Div. 2 of Part V	ad. No. 9, 1992
Ss. 81A–81F	ad. No. 9, 1992
Division 3	
Div. 3 of Part V	ad. No. 9, 1992
S. 81G	ad. No. 9, 1992
Part VI	
Division 1	
S. 82	am. No. 12, 1980; Nos. 73 and 119, 1987; No. 210, 1992; No. 44, 1996; No. 55, 2001; Nos. 86 and 131, 2002; No. 150, 2003
Note to s. 82(1)	ad. No. 86, 2001 rep. No. 150, 2003
S. 83	am. No. 44, 1996
Ss. 84, 85	am. No. 12, 1980; No. 44, 1996; No. 137, 2000
S. 86	am. No. 44, 1996
Ss. 90, 91	am. No. 12, 1980; No. 44, 1996
S. 92	am. No. 44, 1996
Ss. 93–95	am. No. 12, 1980; No. 44, 1996
S. 98	am. No. 44, 1996
S. 99	am. No. 12, 1980; No. 44, 1996 rep. No. 131, 2002
S. 100	am. No. 12, 1980; No. 44, 1996
S. 101	am. No. 12, 1980; No. 119, 1987

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 102	am. No. 12, 1980; No. 44, 1996
S. 103	am. No. 12, 1980 rs. No. 131, 2002
S. 104	am. No. 12, 1980; No. 131, 2002
S. 105	am. No. 12, 1980
S. 106	am. No. 12, 1980; No. 44, 1996
Heading to s. 107	am. No. 44, 1996
S. 107	am. No. 12, 1980; No. 44, 1996
Division 2	
Subdivision A	
Heading to Subdiv. A of Div. 2 of Part VI	ad. No. 86, 2002
Note to s. 108.....	ad. No. 86, 2002
S. 109	am. No. 122, 1970; No. 12, 1980 rs. No. 12, 1980 am. No. 18, 1983; No. 21, 1985; No. 154, 1986; No. 119, 1987; No. 115, 1990; No. 32, 1993; No. 170, 1995; No. 44, 1996; Nos. 51 and 131, 2002; No. 80, 2004; SLI 2006 No. 50
S. 109A	ad. No. 21, 1985
S. 110	am. No. 44, 1996
Ss. 111, 112	am. No. 12, 1980 rep. No. 119, 1987
S. 113.....	am. No. 44, 1996
S. 114.....	am. No. 44, 1996; No. 80, 2004
Subdivision B	
Subdiv. B of Div. 2 of Part VI	ad. No. 86, 2002
Ss. 114A–114C	ad. No. 86, 2002
Division 3	
S. 115	am. No. 12, 1980; No. 44, 1996; No. 131, 2002
S. 116	am. No. 12, 1980; No. 168, 1986; No. 119, 1987; No. 115, 1990; No. 143, 1992; No. 82, 1993; No. 84, 1994; No. 44, 1996; Nos. 62 and 179, 1997; No. 38, 1999; Nos. 22 and 144, 2000; No. 61, 2001; No. 131, 2002; No. 20, 2005; No. 33, 2006
S. 117	am. No. 12, 1980; No. 44, 1996
Ss. 118, 119	am. No. 12, 1980 rs. No. 12, 1980 am. No. 44, 1996
S. 119A	ad. No. 12, 1980 am. No. 168, 1986; No. 44, 1996
S. 120	am. No. 12, 1980; No. 119, 1987 rs. No. 44, 1996 am. No. 33, 2006
Note to s. 120(1)	ad. No. 33, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 121	rs. No. 44, 1996 am. No. 33, 2006
Note to s. 121(1)	ad. No. 33, 2006
S. 121A	ad. No. 33, 2006
S. 122	am. No. 12, 1980; No. 32, 1993; No. 44, 1996
Heading to s. 123	am. No. 44, 1996
S. 123	am. No. 12, 1980; No. 119, 1987; No. 32, 1993; No. 44, 1996
S. 124	am. No. 12, 198; No. 44, 1996
S. 125	am. No. 12, 1980; No. 21, 1985; No. 44, 1996; No. 48, 1998; No. 44, 1999; No. 20, 2005
S. 126	am. No. 12, 1980; No. 44, 1996; No. 48, 1998
Ss. 127, 128	am. No. 12, 1980; No. 44, 1996
Division 4	
S. 129	am. No. 12, 1980; No. 119, 1987; No. 44, 1996
S. 129AA	ad. No. 131, 2002
S. 129A	ad. No. 115, 1990
S. 130	rs. No. 119, 1987 am. No. 115, 1990
S. 131	am. No. 12, 1980 rep. No. 9, 1992
S. 132	am. No. 12, 1980; No. 74, 1981; No. 21, 1985; No. 44, 1996
S. 133	am. No. 12, 1980; No. 119, 1987; No. 44, 1996
S. 134	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 131, 2002
Heading to s. 135	rs. No. 44, 1996
S. 135	am. No. 12, 1980; No. 119, 1987; No. 44, 1996 rep. No. 131, 2002
Ss. 136, 137	am. No. 12, 1980; No. 44, 1996
S. 138	am. No. 44, 1996
S. 139	am. No. 12, 1980; No. 21, 1985; No. 44, 1996
Division 4A	
Heading to Div. 4A of Part VI	rs. No. 33, 2006
Div. 4A of Part VI	ad. No. 119, 1987
Ss. 139A–139C	ad. No. 119, 1987
S. 139CA	ad. No. 33, 2006
Heading to s. 139D	am. No. 33, 2006
S. 139D	ad. No. 119, 1987 am. No. 115, 1990; No. 33, 2006
S. 139DA	ad. No. 33, 2006
Heading to s. 139E	am. No. 33, 2006
S. 139E	ad. No. 119, 1987 am. No. 115, 1990; No. 33, 2006
S. 139EA	ad. No. 33, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 139F.....	ad. No. 119, 1987 am. No. 33, 2006
Heading to s. 139G	am. No. 33, 2006
Ss. 139G, 139H.....	ad. No. 119, 1987 am. No. 33, 2006
Division 4B	
Div. 4B of Part VI	ad. No. 9, 1992
Subdivision A	
S. 139J	ad. No. 9, 1992
Subdivision B	
S. 139K	ad. No. 9, 1992 am. No. 81, 1992; No. 44, 1996; No. 131, 2002
Subdivision C	
S. 139L	ad. No. 9, 1992 am. No. 82, 1993; No. 184, 1994; No. 44, 1996; No. 62, 1997; No. 152, 1997; Nos. 45 and 93, 1998, No. 83, 1999; No. 131, 2002; Nos. 8 and 20, 2005
S. 139M	ad. No. 9, 1992
S. 139N	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
Subdivision D	
Ss. 139P–139S	ad. No. 9, 1992
S. 139T	ad. No. 9, 1992 am. No. 44, 1996 rs. No. 131, 2002
Subdivision E	
S. 139U	ad. No. 9, 1992 am. No. 170, 1995; No. 48, 1998; No. 179, 1999; No. 131, 2002
S. 139V	ad. No. 9, 1992
Subdivision F	
S. 139W	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002; No. 80, 2004
S. 139WA	ad. No. 131, 2002
S. 139X	ad. No. 9, 1992
S. 139Y	ad. No. 9, 1992 am. SLI 2006 No. 50
S. 139Z	ad. No. 9, 1992
Subdivision G	
S. 139ZA	ad. No. 9, 1992 am. No. 131, 2002
S. 139ZB	ad. No. 9, 1992 rep. No. 44, 1996
Ss. 139ZC, 139ZD	ad. No. 9, 1992
S. 139ZE	ad. No. 9, 1992 am. No. 131, 2002

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 139ZF	ad. No. 9, 1992 rs. No. 131, 2002
Subdivision H	
S. 139ZG	ad. No. 9, 1992 am. No. 11, 1993; No. 131, 2002; No. 34, 2006
Ss. 139ZH, 139ZI	ad. No. 9, 1992
Subdivision HA	
Subdiv. HA of Div. 4B of Part VI	ad. No. 20, 2005
Ss. 139ZIA–139ZID	ad. No. 20, 2005
S. 139ZIDA	ad. No. 20, 2005
S. 139ZIE	ad. No. 20, 2005
S. 139ZIEA	ad. No. 20, 2005
Ss. 139ZIF–139ZIH	ad. No. 20, 2005
S. 139ZIHA	ad. No. 20, 2005
S. 139ZII	ad. No. 20, 2005
S. 139ZIIA	ad. No. 20, 2005
Ss. 139ZIJ–139ZIP	ad. No. 20, 2005
Ss. 139ZIR–139ZIT	ad. No. 20, 2005
Subdivision I	
Ss. 139ZJ–139ZP	ad. No. 9, 1992
Subdivision J	
Ss. 139ZQ–139ZT	ad. No. 9, 1992
Div. 4C of Part VI	ad. No. 9, 1992 rep. No. 131, 2002
Ss. 139ZU, 139ZV	ad. No. 9, 1992 am. No. 44, 1996 rep. No. 131, 2002
Ss. 139ZW, 139ZX	ad. No. 9, 1992 rep. No. 131, 2002
S. 139ZY	ad. No. 9, 1992 am. No. 44, 1996 rep. No. 131, 2002
Heading to s. 139ZZ	rs. No. 44, 1996 rep. No. 131, 2002
S. 139ZZ	ad. No. 9, 1992 am. No. 44, 1996 rep. No. 131, 2002
Division 5	
S. 140	am. No. 121, 1968; No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 20, 2005; No. 34, 2006
S. 144	am. No. 44, 1996
S. 145	rs. No. 12, 1980 am. No. 44, 1996; No. 131, 2002
S. 146	am. No. 44, 1996

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 147	rs. No. 12, 1980
Part VII	
Heading to Part VII	rs. No. 9, 1992
Division 1	
Div. 1 of Part VII	ad. No. 9, 1992
S. 148	am. No. 73, 1987 rs. No. 9, 1992
Division 2	
Div. 2 of Part VII	ad. No. 9, 1992
Subdivision A	
S. 149	ad. No. 9, 1992 am. No. 12, 1980 rs. No. 12, 1980 am. No. 74, 1981; No. 115, 1990 rs. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
S. 149A	ad. No. 115, 1990 rs. No. 9, 1992 am. No. 131, 2002
Subdivision B	
S. 149B	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
S. 149C	ad. No. 9, 1992 am. No. 131, 2002
S. 149D	ad. No. 9, 1992 am. No. 55, 2001; No. 131, 2002
S. 149E	ad. No. 9, 1992 rep. No. 44, 1996
Heading to s. 149F	am. No. 44, 1996
S. 149F	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
S. 149G	ad. No. 9, 1992 am. No. 44, 1996
Heading to s. 149H	am. No. 131, 2002
Ss. 149H, 149J	ad. No. 9, 1992 rs. No. 44, 1996 am. No. 131, 2002
Subdivision C	
S. 149K	ad. No. 9, 1992 am. No. 131, 2002
S. 149L	ad. No. 9, 1992 rep. No. 44, 1996
Ss. 149M, 149N	ad. No. 9, 1992 am. No. 131, 2002
S. 149P	ad. No. 9, 1992 am. No. 131, 2002

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 149Q	ad. No. 9, 1992 rs. No. 131, 2002
Div. 3 of Part VII	ad. No. 9, 1992 rep. No. 131, 2002
S. 149R	ad. No. 9, 1992 am. No. 44, 1996 rep. No. 131, 2002
Ss. 149S–149Z	ad. No. 9, 1992 rep. No. 131, 2002
Ss. 149ZA–149ZC.....	ad. No. 9, 1992 rep. No. 131, 2002
S. 149ZD	ad. No. 9, 1992 am. No. 55, 2001 rep. No. 131, 2002
S. 149ZE	ad. No. 9, 1992 rep. No. 131, 2002
S. 149ZF	ad. No. 9, 1992 am. No. 44, 1996 rep. No. 131, 2002
Ss. 149ZG, 149ZH	ad. No. 9, 1992 rep. No. 131, 2002
S. 149ZI	ad. No. 9, 1992 rep. No. 44, 1996
Ss. 149ZJ–149ZM	ad. No. 9, 1992 rep. No. 131, 2002
S. 150	am. No. 12, 1980; No. 74, 1981; No. 21, 1985; No. 119, 1987 rep. No. 9, 1992
S. 151	am. No. 12, 1980 rep. No. 9, 1992
Division 4	
Heading to Div. 4 of Part VII	ad. No. 9, 1992
S. 152	am. No. 12, 1980 rs. No. 9, 1992
S. 153	am. No. 12, 1980; No. 73, 1987; No. 9, 1992; No. 44, 1996; No. 86, 2002
Note to s. 153(1)	ad. No. 86, 2001
Note to s. 153(2)	ad. No. 86, 2002
Division 5	
Div. 5 of Part VII	ad. No. 9, 1992
S. 153A	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002; No. 8, 2005
S. 153B	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
S. 154	am. No. 12, 1980 rs. No. 9, 1992 am. No. 86, 2002

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part VIII	
Division 1	
S. 154A	ad. No. 115, 1990 rs. No. 44, 1996 am. No. 11, 1997; No. 34, 2006
S. 155	am. No. 12, 1980; No. 21, 1985; No. 119, 1987; No. 115, 1990 rs. No. 44, 1996 am. No. 11, 1997; No. 131, 2002
S. 155A	ad. No. 115, 1990 rs. No. 44, 1996 am. No. 131, 2002
S. 155B	ad. No. 115, 1990 rs. No. 44, 1996
S. 155C	ad. No. 44, 1996 am. No. 11, 1997; No. 34, 2006
Ss. 155D, 155E	ad. No. 44, 1996 am. No. 11, 1997; No. 131, 2002; No. 34, 2006
Ss. 155F, 155G	ad. No. 44, 1996
S. 155H	ad. No. 44, 1996 am. No. 131, 2002; No. 80, 2004
S. 155I	ad. No. 44, 1996
S. 155J	ad. No. 44, 1996 am. No. 24, 2001
S. 155K	ad. No. 34, 2006
S. 156	am. No. 12, 1980; No. 21, 1985; No. 115, 1990 rep. No. 44, 1996
S. 156A	ad. No. 74, 1981 am. No. 44, 1996
S. 157	am. No. 12, 1980; No. 74, 1981; No. 119, 1987; No. 44, 1996
S. 158	am. No. 12, 1980; No. 74, 1981
S. 159	am. No. 12, 1980; No. 119, 1987
S. 160	am. No. 12, 1980 rs. No. 74, 1981
S. 161	am. No. 12, 1980; No. 44, 1996; No. 20, 2005
S. 161A	ad. No. 21, 1985 rs. No. 44, 1996
Division 2	
Heading to s. 161B	rs. No. 44, 1996
S. 161B	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
Heading to s. 162	rs. No. 44, 1996
S. 162	am. No. 12, 1980; No. 9, 1992; No. 44, 1996; No. 131, 2002
S. 163	am. No. 12, 1980 rs. No. 12, 1980 am. No. 44, 1996; No. 11, 1997; No. 8, 2005; No. 34, 2006
Note to s. 163.....	am. No. 80, 2004; No. 34, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 163A	ad. No. 9, 1992 am. No. 44, 1996; No. 8, 2005; No. 34, 2006
S. 164	am. No. 12, 1980 rs. No. 44, 1996 am. No. 131, 2002
S. 165	am. No. 12, 1980; No. 9, 1992; No. 44, 1996
S. 166	rep. No. 74, 1981
S. 167	am. No. 12, 1980; No. 44, 1996
Division 3	
S. 168.....	am. No. 12, 1980; No. 44, 1996; No. 48, 1998; No. 24, 2001
S. 169.....	am. No. 12, 1980; No. 44, 1996; No. 11, 1997; No. 48, 1998
S. 170.....	am. No. 12, 1980; No. 44, 1996
S. 171	am. No. 12, 1980 rs. No. 11, 1997
S. 172	am. No. 12, 1980; No. 74, 1981; No. 129, 1989 rep. No. 11, 1997
S. 173.....	am. No. 11, 1997; No. 24, 2001
S. 174	am. No. 12, 1980; No. 44, 1996
Heading to s. 175	am. No. 11, 1997
S. 175	am. No. 12, 1980; No. 74, 1981; No. 115, 1990; No. 44, 1996 (as am. by No. 11, 1997); No. 11, 1997; No. 24, 2001
S. 176	rs. No. 12, 1980; No. 119, 1987 am. No. 115, 1990; No. 44, 1996
Division 4	
S. 177	am. No. 119, 1987
S. 178	am. No. 44, 1996; No. 131, 2002
S. 179	am. No. 12, 1980; No. 21, 1985; No. 119, 1987; No. 44, 1996
Div. 4A of Part VIII	ad. No. 119, 1987 rep. No. 44, 1996
Ss. 179A–179K	ad. No. 119, 1987 rep. No. 44, 1996
Division 5	
S. 180	am. No. 12, 1980
S. 181	am. No. 12, 1980; No. 74, 1981; No. 9, 1992; No. 44, 1996
S. 181A	ad. No. 131, 2002
S. 182	am. No. 12, 1980; No. 44, 1996; No. 24, 2001
Ss. 183, 184	am. No. 12, 1980; No. 44, 1996
S. 184A	ad. No. 12, 1980 am. No. 44, 1996

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part IX	
Part IX	rep. No. 12, 1980 ad. No. 44, 1996
Division 1	
S. 185	rep. No. 12, 1980 ad. No. 44, 1996 am. No. 131, 2002
Heading to s. 185A(1)	am. No. 131, 2002
Ss. 185A, 185B	ad. No. 44, 1996 am. No. 131, 2002
Division 2	
Heading to s. 185C	am. No. 131, 2002
Ss. 185C–185E	ad. No. 44, 1996 am. No. 131, 2002
S. 185F	ad. No. 44, 1996
S. 185G	ad. No. 44, 1996 am. No. 131, 2002
Division 3	
Ss. 185H, 185I	ad. No. 44, 1996
Ss. 185J, 185K	ad. No. 44, 1996 am. No. 86, 2002
S. 185L	ad. No. 44, 1996
Division 4	
Div. 4 of Part IX	ad. No. 44, 1996
S. 185M	ad. No. 44, 1996 am. No. 131, 2002
Division 5	
S. 185N	ad. No. 44, 1996 am. Nos. 86 and 131, 2002
Ss. 185P, 185Q	ad. No. 44, 1996 am. No. 131, 2002
S. 185QA	ad. No. 86, 2002
S. 185R	ad. No. 44, 1996
S. 185S	ad. No. 44, 1996 am. No. 86, 2002; No. 80, 2004
Division 6	
S. 185T	ad. No. 44, 1996 am. No. 131, 2002
Ss. 185U, 185V	ad. No. 44, 1996
Division 7	
Heading to s. 185W	am. No. 131, 2002
S. 185W	ad. No. 44, 1996 am. No. 131, 2002
Note to s. 185W	rs. No. 131, 2002
S. 185X	ad. No. 44, 1996

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 185Y	ad. No. 44, 1996 am. No. 131, 2002
Note to s. 185Y	rep. No. 131, 2002
S. 185Z	ad. No. 44, 1996
Ss. 185ZA–185ZD	ad. No. 131, 2002
S. 186	rep. No. 12, 1980
Part X	
Heading to Part X.....	rs. No. 80, 2004
Division 1	
S. 187	am. No. 122, 1970; No. 12, 1980; No. 44, 1996; No. 80, 2004
S. 187A	ad. No. 12, 1980 rs. No. 119, 1987
Division 2	
Heading to s. 188	am. No. 44, 1996; No. 80, 2004
S. 188	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 131, 2002; No. 80, 2004; No. 34, 2006
S. 188A	ad. No. 44, 1996 rs. No. 80, 2004
S. 188B	ad. No. 80, 2004 am. No. 34, 2006
Heading to s. 189	rs. No. 44, 1996
S. 189	am. No. 12, 1980; No. 21, 1985; No. 119, 1987; No. 44, 1996; No. 131, 2002; No. 80, 2004
S. 189AAA.....	ad. No. 80, 2004
S. 189AA	ad. No. 44, 1996 am. No. 86, 2002
S. 189AB.....	ad. No. 44, 1996
S. 189AC.....	ad. No. 80, 2004
Heading to s. 189A.....	am. No. 80, 2004
S. 189A	ad. No. 119, 1987 rs. No. 44, 1996 am. No. 80, 2004
S. 189B	ad. No. 119, 1987 rs. No. 44, 1996
Heading to s. 190	am. No. 44, 1996
S. 190	am. No. 12, 1980; No. 74, 1981; No. 119, 1987; No. 44, 1996; No. 86, 2002; No. 80, 2004
S. 190A	ad. No. 80, 2004
S. 191	am. No. 12, 1980; No. 44, 1996
S. 192	am. No. 12, 1980 rs. No. 12, 1980 am. No. 119, 1987 rs. No. 44, 1996 am. No. 80, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 193	rs. No. 12, 1980 am. No. 119, 1987 rep. No. 44, 1996
S. 194	am. No. 12, 1980; No. 119, 1987 rs. No. 44, 1996; No. 80, 2004
S. 194A	ad. No. 80, 2004
S. 195	am. No. 12, 1980; No. 119, 1987; No. 44, 1996
S. 196	rs. No. 44, 1996
S. 197	rep. No. 44, 1996
S. 198	am. No. 12, 1980; No. 119, 1987 rep. No. 44, 1996
S. 199	rep. No. 44, 1996
S. 200	am. No. 119, 1987 rep. No. 44, 1996
Ss. 201–203	am. No. 12, 1980 rep. No. 44, 1996
Heading to s. 204	am. No. 80, 2004
S. 204	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 80, 2004
S. 205	am. No. 12, 1980 rs. No. 12, 1980 am. No. 44, 1996; No. 80, 2004
Heading to s. 205A.....	am. No. 80, 2004
S. 205A	ad. No. 12, 1980 am. No. 44, 1996; No. 80, 2004
Heading to s. 206	am. No. 80, 2004
S. 206	am. No. 12, 1980; No. 44, 1996; No. 80, 2004
S. 207	am. No. 12, 1980; No. 44, 1996; No. 131, 2002; No. 80, 2004
S. 208	am. No. 12, 1980 rs. No. 44, 1996
Heading to s. 209.....	am. No. 80, 2004
S. 209	am. No. 12, 1980; No. 44, 1996; No. 80, 2004
S. 210	am. No. 12, 1980 rs. No. 44, 1996
S. 211	am. No. 12, 1980; No. 21, 1985; No. 115, 1990 rep. No. 44, 1996 ad. No. 80, 2004
S. 212	am. No. 12, 1980 rs. No. 12, 1980; No. 119, 1987 am. No. 115, 1990 rep. No. 44, 1996
S. 212A	ad. No. 12, 1980 rep. No. 44, 1996
S. 212B	ad. No. 12, 1980 am. No. 119, 1987; No. 115, 1990 rep. No. 44, 1996
Ss. 212C–212F	ad. No. 119, 1987 rep. No. 44, 1996

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Division 3	
S. 213	am. No. 12, 1980 rep. No. 80, 2004
S. 214	am. No. 12, 1980; No. 44, 1996 rep. No. 80, 2004
S. 215	rs. No. 44, 1996; No. 80, 2004
Heading to s. 215A.....	am. No. 80, 2004
S. 215A	ad. No. 119, 1987 am. No. 44, 1996; No. 80, 2004
S. 215B	ad. No. 119, 1987 rep. No. 44, 1996
Heading to s. 216	am. No. 80, 2004
S. 216	am. No. 12, 1980; No. 80, 2004
Heading to s. 217	am. No. 80, 2004
S. 217	am. No. 12, 1980 rs. No. 12, 1980 am. No. 44, 1996; No. 80, 2004
Heading to s. 218	am. No. 80, 2004
S. 218.....	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 80, 2004
S. 219.....	am. No. 12, 1980; No. 44, 1996; No. 80, 2004
Heading to s. 220.....	am. No. 80, 2004
S. 220.....	am. No. 12, 1980; No. 44, 1996; No. 80, 2004
Heading to s. 221	am. No. 80, 2004
S. 221	am. No. 122, 1970; No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 80, 2004
S. 221A	ad. No. 80, 2004
S. 222	am. No. 122, 1970; No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 131, 2002 rs. No. 80, 2004
Ss. 222A–222D	ad. No. 80, 2004
S. 223	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 80, 2004
S. 223A	ad. No. 12, 1980 am. No. 119, 1987 rs. No. 44, 1996 am. No. 80, 2004
S. 224	am. No. 12, 1980; No. 44, 1996; No. 131, 2002 rs. No. 80, 2004
S. 224A	ad. No. 12, 1980 am. No. 44, 1996 rs. No. 80, 2004
Heading to s. 225.....	am. No. 80, 2004
S. 225	am. No. 12, 1980; No. 80, 2004
Heading to s. 226.....	am. No. 80, 2004
S. 226	rs. No. 12, 1980 am. No. 119, 1987; No. 44, 1996; No. 131, 2002; No. 80, 2004; No. 34, 2006

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to s. 227	am. No. 80, 2004
S. 227	am. No. 12, 1980; No. 80, 2004
Div. 4 of Part X	rep. No. 80, 2004
S. 228	am. No. 12, 1980; No. 44, 1996 rep. No. 80, 2004
S. 229	am. No. 12, 1980 rs. No. 80, 2004
S. 230	am. No. 12, 1980; No. 44, 1996 rs. No. 80, 2004
S. 231	am. No. 12, 1980; No. 193, 1985; No. 119, 1987; No. 9, 1992; No. 44, 1996 rs. No. 80, 2004
S. 231A	ad. No. 9, 1992 am. No. 86, 2002 rs. No. 80, 2004
S. 232	am. No. 12, 1980; No. 44, 1996 rs. No. 80, 2004
Div. 5 of Part X	rep. No. 80, 2004
S. 233	am. No. 12, 1980; No. 44, 1996 rep. No. 80, 2004
S. 234	am. No. 44, 1996 rep. No. 80, 2004
Ss. 234A, 234B	ad. No. 131, 2002 rep. No. 80, 2004
S. 235	am. No. 12, 1980 rep. No. 80, 2004
S. 236	am. No. 122, 1970; No. 12, 1980 rep. No. 80, 2004
S. 237	am. No. 12, 1980; No. 193, 1985; No. 119, 1987; No. 9, 1992; No. 44, 1996; No. 86, 2002 rep. No. 80, 2004
S. 237AA	ad. No. 9, 1992 am. No. 86, 2002 rep. No. 80, 2004
S. 237A	ad. No. 12, 1980 am. No. 44, 1996 rep. No. 80, 2004
Heading to Div. 6 of Part X	rs. No. 122, 1970 rep. No. 80, 2004
Div. 6 of Part X	rep. No. 80, 2004
S. 238	am. No. 12, 1980; No. 44, 1996 rep. No. 80, 2004
S. 239	am. No. 122, 1970; No. 12, 1980 rep. No. 80, 2004
S. 240	am. No. 12, 1980; No. 44, 1996 rep. No. 80, 2004
Ss. 240A, 240B	ad. No. 131, 2002 rep. No. 80, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 241	am. No. 86, 2002 rep. No. 80, 2004
S. 242	am. No. 122, 1970; No. 12, 1980 rep. No. 80, 2004
S. 243	am. No. 12, 1980; No. 193, 1985; No. 119, 1987; No. 9, 1992; No. 44, 1996; No. 86, 2002 rep. No. 80, 2004
S. 243AA	ad. No. 9, 1992 am. No. 86, 2002 rep. No. 80, 2004
S. 243A	ad. No. 12, 1980 am. No. 44, 1996 rep. No. 80, 2004
Part XI	
S. 244	am. No. 12, 1980; No. 21, 1985; No. 44, 1996
S. 245	am. No. 12, 1980; No. 44, 1996
Heading to s. 246	am. No. 44, 1996
S. 246	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 24, 2001; No. 34, 2006
S. 247	am. No. 122, 1970; No. 119, 1987; No. 44, 1996
S. 247A	ad. No. 12, 1980 am. No. 44, 1996
S. 248	am. No. 12, 1980; No. 119, 1987; No. 9, 1992; No. 44, 1996
S. 248A	ad. No. 12, 1980
S. 249	am. No. 12, 1980; No. 9, 1992; No. 82, 1993; No. 44, 1996; No. 62, 1997; No. 38, 1999
S. 249A	ad. No. 12, 1980; No. 44, 1996
S. 250	am. No. 12, 1980 rs. No. 12, 1980 am. No. 119, 1987; No. 44, 1996
Ss. 251, 252	am. No. 12, 1980; No. 44, 1996
S. 252A	ad. No. 12, 1980 rs. No. 9, 1992 am. No. 44, 1996; No. 8, 2005
Ss. 252B, 252C	ad. No. 9, 1992
S. 253	rep. No. 9, 1992
Part XIA	
Part XIA	ad. No. 122, 1970
S. 253A	ad. No. 122, 1970
S. 253B	ad. No. 122, 1970 rs. No. 12, 1980 am. No. 168, 1986; No. 115, 1990
S. 253C	ad. No. 122, 1970 rs. No. 44, 1996
S. 253D	ad. No. 122, 1970 am. No. 12, 1980 rep. No. 44, 1996

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 253E	ad. No. 122, 1970 am. No. 12, 1980; No. 44, 1996
S. 253F	ad. No. 122, 1970 am. No. 12, 1980 rs. No. 44, 1996
Part XII	
Heading to s. 254	am. No. 8, 2005
S. 254	am. No. 91, 1976; No. 12, 1980; No. 74, 1981; No. 44, 1996; No. 80, 2004; No. 8, 2005
Part XIII	
S. 255	am. No. 12, 1980 rs. No. 12, 1980 am. No. 115, 1990 rs. No. 44, 1996
S. 256	am. No. 12, 1980
S. 257	am. No. 12, 1980; No. 44, 1996; No. 152, 1997
S. 258	am. No. 119, 1987; No. 44, 1996; No. 152, 1997
S. 259	am. No. 12, 1980 rep. No. 44, 1996
S. 260	rs. No. 12, 1980 rep. No. 44, 1996
S. 261	am. No. 12, 1980 rep. No. 12, 1980
S. 262	am. No. 122, 1970; No. 12, 1980; No. 44, 1996; No. 62, 2004
Part XIV	
S. 263	am. No. 122, 1970; No. 12, 1980; No. 44, 1996; No. 137, 2000; No. 80, 2004
S. 263A	ad. No. 122, 1970 am. No. 12, 1980; No. 24, 2001
S. 263B	ad. No. 12, 1980 rep. No. 137, 2000
S. 263C	ad. No. 119, 1987 rs. No. 44, 1996 am. No. 80, 2004
S. 264	am. No. 12, 1980; No. 44, 1996 rep. No. 137, 2000
S. 264A	ad. No. 12, 1980 am. No. 119, 1987; No. 115, 1990; No. 24, 2001
S. 264B	ad. No. 12, 1980 am. No. 119, 1987; No. 115, 1990; No. 44, 1996
S. 264C	ad. No. 12, 1980 am. No. 119, 1987; No. 44, 1996; No. 24, 2001
S. 264D	ad. No. 12, 1980 am. No. 119, 1987
S. 264E	ad. No. 12, 1980 am. No. 119, 1987; No. 24, 2001

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 265	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 24, 2001; No. 131, 2002
Heading to s. 265A	am. No. 131, 2002
S. 265A	ad. No. 119, 1987 am. No. 9, 1992; No. 24, 2001; No. 131, 2002
S. 266	am. No. 12, 1980; No. 44, 1996
S. 267	am. No. 12, 1980 rs. No. 9, 1992 am. No. 44, 1996; No. 80, 2004
S. 267A	ad. No. 9, 1992 rep. No. 137, 2000
S. 267B	ad. No. 9, 1992 am. No. 24, 2001; No. 34, 2006
S. 267C	ad. No. 9, 1992 rep. No. 137, 2000
S. 267D	ad. No. 9, 1992 am. No. 24, 2001
S. 267E	ad. No. 9, 1992 am. No. 80, 2004
S. 267F	ad. No. 9, 1992 am. No. 24, 2001
S. 267G	ad. No. 9, 1992
Heading to s. 268	am. No. 80, 2004
S. 268	am. No. 12, 1980; No. 119, 1987; No. 44, 1996; No. 24, 2001; No. 80, 2004
Note to s. 268(4)	ad. No. 24, 2001
S. 268A	ad. No. 119, 1987 rep. No. 137, 2000
S. 269	am. No. 12, 1980; No. 119, 1987; No. 9, 1992; No. 44, 1996
S. 270	am. No. 12, 1980; No. 44, 1996; No. 80, 2004
S. 271	am. No. 12, 1980; No. 44, 1996
S. 272	rs. No. 12, 1980 am. No. 9, 1992; No. 44, 1996; No. 131, 2002
S. 273	am. No. 12, 1980; No. 44, 1996
S. 274	rep. No. 12, 1980
S. 275	am. No. 44, 1996; No. 80, 2004
Heading to s. 276	am. No. 80, 2004
S. 276	am. No. 12, 1980; No. 44, 1996; No. 80, 2004
S. 277	am. No. 44, 1996
S. 277A	ad. No. 9, 1992

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part XV	
Heading to Part XV	rs. No. 34, 2006
Part XV	rep. No. 44, 1996 ad. No. 11, 1997
S. 278	am. No. 12, 1980; No. 119, 1987 rep. No. 44, 1996 ad. No. 11, 1997 am. No. 34, 2006
S. 279	am. No. 12, 1980 rep. No. 44, 1996 ad. No. 11, 1997 am. No. 34, 2006
S. 280	rep. No. 44, 1996 ad. No. 11, 1997 am. No. 80, 2004
S. 281	am. No. 12, 1980 rep. No. 44, 1996 ad. No. 11, 1997
S. 282	am. No. 12, 1980 rep. No. 44, 1996 ad. No. 11, 1997 am. No. 131, 2002
S. 283	rep. No. 12, 1980 ad. No. 11, 1997 am. No. 131, 2002
S. 284	rep. No. 44, 1996 ad. No. 11, 1997
S. 285	am. No. 12, 1980 rep. No. 44, 1996 ad. No. 11, 1997 am. No. 48, 1998; No. 34, 2006
S. 286	rep. No. 12, 1980 ad. No. 11, 1997
Ss. 287, 288	am. No. 12, 1980 rep. No. 44, 1996
S. 289	rep. No. 44, 1996
Ss. 290–293	am. No. 12, 1980 rep. No. 44, 1996
S. 294	rep. No. 12, 1980
S. 295	am. No. 91, 1976; No. 12, 1980 rep. No. 44, 1996
Ss. 296–298	am. No. 12, 1980 rep. No. 44, 1996
Ss. 299, 300	rep. No. 44, 1996
Part XVI	
Ss. 301, 302	am. No. 80, 2004
S. 302A	ad. No. 82, 1993 am. No. 80, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 302AB	ad. No. 62, 1997 am. No. 80, 2004
S. 302B	ad. No. 44, 1996 am. No. 80, 2004
Heading to s. 303	am. No. 44, 1996
S. 303	am. No. 44, 1996
S. 304A	ad. No. 9, 1992 am. No. 44, 1996; No. 131, 2002
S. 305	am. No. 91, 1976; No. 9, 1992 rs. No. 12, 1980 am. No. 119, 1987; No. 44, 1996; No. 131, 2002; No. 80, 2004
S. 306	am. No. 44, 1996; No. 80, 2004
S. 306A	ad. No. 12, 1980 am. No. 119, 1987; No. 44, 1996
S. 306B	ad. No. 12, 1980 am. No. 74, 1981; No. 21, 1985; No. 119, 1987; No. 115, 1990; No. 44, 1996
S. 306C	ad. No. 12, 1980 rep. No. 74, 1981
S. 308	am. No. 44, 1996
S. 309	am. No. 12, 1980; No. 44, 1996
S. 310	am. No. 12, 1980; No. 143, 1992 rep. No. 44, 1996
S. 311	am. No. 121, 1968; No. 44, 1996; No. 80, 2004
S. 312	am. No. 12, 1980 rs. No. 44, 1996 am. No. 80, 2004
Heading to s. 313	am. No. 44, 1996
S. 313	am. No. 91, 1976; No. 12, 1980 rs. No. 12, 1980 am. No. 44, 1996
S. 314	am. No. 91, 1976 rs. No. 115, 1990 rep. No. 44, 1996
S. 315	am. No. 12, 1980; No. 99, 1988; No. 115, 1990 rs. No. 44, 1996 am. No. 11, 1997; No. 34, 2006
S. 316.....	ad. No. 34, 2006 am. No. 34, 2006
Heading to The Schedules	rep. No. 12, 1980
Heading to First Schedule	rep. No. 12, 1980
Schedule 1	
Heading to Schedule 1	ad. No. 12, 1980
Heading to Second Schedule	rep. No. 12, 1980

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to Schedule 2	ad. No. 12, 1980 rep. No. 44, 1996
Schedule 2	rep. No. 44, 1996
Third, Fourth Schedules	rep. No. 12, 1980

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Application, saving or transitional provisions

Bankruptcy Legislation Amendment Act 1996 (No. 44, 1996)

Schedule 1

441 Items 2 to 5 and 8, 9, 11 and 16

Application

- (1) The new definitions inserted or substituted by items 2 to 5 and 8, 9, 11 and 16 apply to all provisions of the *Bankruptcy Act 1966* applying to bankruptcies and other insolvency administrations that are current on or after the commencement of this Schedule.

Transitional—item 11

- (2) Despite the substitution of the definition of **Registrar** by item 11:
- (a) the Court may still make orders under paragraphs 30(5)(c) and (d) of the *Bankruptcy Act 1966* in relation to a failure to comply with an order, direction or requirement that was given or made by a Registrar in Bankruptcy before this Schedule commenced; and
 - (b) the Court may still extend or abridge, under paragraph 33(1)(c) of the *Bankruptcy Act 1966*, a time that was fixed by a Registrar in Bankruptcy before this Schedule commenced; and
 - (c) the Court or a magistrate may issue a warrant under subsection 264B(1) of the *Bankruptcy Act 1966* for the arrest of a person who failed to attend before, or appear and report to, the Registrar in Bankruptcy before this Schedule commenced.

442 Items 46 and 52

The amendments made by the following items apply in relation to authorities given under section 188 of the *Bankruptcy Act 1966* after this Schedule commences:

- (a) item 46;

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- (b) item 52, so far as it substitutes a new paragraph 12(2)(b) of the *Bankruptcy Act 1966*.

443 Items 89 and 90

The amendments made by items 89 and 90 do not apply in relation to proceedings in bankruptcy that were begun in the Supreme Court of a State or of the Northern Territory before this Schedule commenced.

444 Item 91

The amendment made by item 91 does not apply in relation to proceedings in bankruptcy that were begun in the Supreme Court of a State or of the Northern Territory before this Schedule commenced.

445 Item 101

The amendment made by item 101 does not apply in relation to appeals from any proceedings continued under item 444 in the Supreme Court of a State or of the Northern Territory after this Schedule commenced.

446 Items 108 and 109

The amendments made by items 108 and 109 apply in relation to all acts of bankruptcy committed on or after the commencement of this Schedule.

447 Item 120

The amendment made by item 120:

- (a) applies to the presentation of creditor's petitions after this Schedule commences; and
- (b) does not prevent the continuation of proceedings begun before this Schedule commenced by the presentation of a creditor's petition against a debtor who owed the petitioning creditors one or more debts totalling at least \$1,500 but less than \$2,000.

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448 Items 144 to 150

The amendments made by items 144 to 150 apply to:

- (a) debtor's petitions that were presented, but not accepted or rejected, before this Schedule commenced; and
- (b) debtor's petitions that are presented after this Schedule commences.

449 Item 151

The new sections substituted by item 151 apply to:

- (a) debtor's petitions that were presented, but not accepted or rejected, before this Schedule commenced; and
- (b) debtor's petitions that are presented after this Schedule commences.

450 Items 152 to 158

The amendments made by items 152 to 158 apply to:

- (a) debtor's petitions that were presented, but not accepted or rejected, before this Schedule commenced; and
- (b) debtor's petitions that are presented after this Schedule commences.

451 Item 161

The amendment made by item 161 applies in relation to a meeting held after this Schedule commences, except a meeting:

- (a) notice of which was given before the commencement of this Schedule; or
- (b) continuing a meeting described in paragraph (a) that was adjourned.

452 Item 165

The amendment made by item 165 applies in relation to a meeting held after this Schedule commences, except a meeting:

- (a) notice of which was given before the commencement of this Schedule; or
- (b) continuing a meeting described in paragraph (a) that was adjourned.

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453 Item 182

The new subsection substituted by item 182 applies to debts provable in a bankruptcy that is current on or after the commencement of this Schedule, regardless of when the maintenance agreement or maintenance order under which the debt arose was made.

454 Item 193

The amendment made by item 193 applies to bankruptcies for which the date of the bankruptcy is on or after the commencement of this Schedule.

455 Item 198

The amendment made by item 198 applies to bankruptcies for which the date of the bankruptcy is on or after the commencement of this Schedule.

456 Items 199 to 202

The amendments made by items 199 to 202 apply in relation to bankruptcies current on or after the commencement of this Schedule. However, the amendments:

- (a) do not affect any distribution of a dividend before this Schedule commenced; and
- (b) do not make a trustee liable for any act or omission of the trustee that occurred before this Schedule commenced.

457 Item 208

The new sections inserted by item 208 apply to bankruptcies for which the date of the bankruptcy is on or after the commencement of this Schedule.

458 Items 209 to 221

The amendments made by items 209 to 221 apply to all bankruptcies that are current on or after the day on which this Schedule commences, but do not affect any distributions made before this Schedule commenced.

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459 Item 222

The amendment made by item 222 applies in relation to debtors who are bankrupt when this Schedule commences or who become bankrupt after this Schedule commences. However, the amendment:

- (a) does not affect any distribution of a dividend before this Schedule commenced; and
- (b) does not make a trustee liable for any act or omission of the trustee that occurred before this Schedule commenced.

460 Items 233 to 241

The amendments made by items 233 to 241 apply to all bankruptcies current on or after the commencement of this Schedule.

461 Items 242 to 246

The amendments made by items 242 to 246 apply to all bankruptcies current on or after the commencement of this Schedule.

462 Item 250

The new definition of *contribution assessment period* substituted by item 250 applies to bankruptcies for which the date of the bankruptcy is on or after the commencement of this Schedule.

463 Items 252 to 254

The amendments made by items 252 to 254 apply in relation to all bankruptcies current on or after the commencement of this Schedule. However, the amendments do not affect any assessment made before this Schedule commenced.

464 Items 256 to 258

The amendments made by items 256 to 258 apply in relation to each bankrupt for whom the date of the bankruptcy was on or after the commencement of this Schedule.

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465 Item 259

The amendment made by item 259 applies to all bankruptcies current on or after the commencement of this Schedule.

466 Item 277

The amendment made by item 277 applies to statements given to the Official Receiver after this Schedule commences.

467 Item 282

Despite the amendment made by item 282, the Court may make an order annulling a bankruptcy that resulted from the Registrar in Bankruptcy accepting a debtor's petition.

468 Item 283

The new sections inserted by item 283 apply in relation to:

- (a) applications made after this Schedule commences; and
- (b) persons who were registered trustees immediately before this Schedule commenced; and
- (c) persons who become registered as trustees after this Schedule commences.

469 Items 293 and 425

The amendments made by items 293 and 425 apply to trustees who consent to act as trustee after the commencement of this Schedule.

470 Items 303 to 308

The amendments made by items 303 to 308 apply to all bankruptcies current on or after the commencement of this Schedule.

471 Items 315 and 316

The amendments made by items 315 and 316 apply to a person registered as a trustee on or after the day on which this Schedule commences.

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472 Items 321, 323 and 324

The amendments made by items 321, 323 and 324 apply in relation to authorities given under section 188 after this Schedule commences.

473 Item 332

The section inserted by item 332 applies in relation to authorities signed by debtors on or after the day on which this Schedule commences.

474 Item 333

The amendment made by item 333 applies in relation to an authority under section 188 of the *Bankruptcy Act 1966* that is current on or after the day on which this Schedule commences.

475 Item 334

The new sections inserted by item 334 apply in relation to an authority under section 188 of the *Bankruptcy Act 1966* that is current on or after the day on which this Schedule commences.

476 Item 344

The new section substituted by item 344 applies in relation to a meeting called under an authority under section 188 of the *Bankruptcy Act 1966* that is current on or after the day on which this Schedule commences.

477 Items 345 and 346

The amendments made by items 345 and 346 apply in relation to a meeting held after this Schedule commences, except a meeting:

- (a) notice of which was given before the commencement of this Schedule; or
- (b) continuing a meeting described in paragraph (a) that was adjourned.

478 Item 347

The amendment made by item 347 applies in relation to a meeting held after this Schedule commences, except a meeting:

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- (a) notice of which was given before the commencement of this Schedule; or
- (b) continuing a meeting described in paragraph (a) that was adjourned.

479 Items 348 and 349

The amendments made by items 348 and 349 apply in relation to resolutions and special resolutions at a meeting held after this Schedule commences, except a meeting:

- (a) notice of which was given before the commencement of this Schedule; or
- (b) continuing a meeting described in paragraph (a) that was adjourned.

480 Item 356

The new section substituted by item 356 applies in relation to all persons who are controlling trustees on or after the commencement of this Schedule.

481 Item 360

The amendment made by item 360 applies in relation to resolutions at a meeting held after this Schedule commences, except a meeting:

- (a) notice of which was given before the commencement of this Schedule; or
- (b) continuing a meeting described in paragraph (a) that was adjourned.

482 Items 368 and 369

The amendments made by items 368 and 369 do not apply in relation to a special resolution passed at a meeting:

- (a) called before this Schedule commences; or
- (b) held after this section commences as a continuation of a meeting called before this Schedule commences.

Table A

483 Items 373 and 374

The amendments made by items 373 and 374 apply in relation to a meeting held after this Schedule commences, except a meeting:

- (a) notice of which was given before the commencement of this Schedule; or
- (b) continuing a meeting described in paragraph (a) that was adjourned.

484 Item 375

The amendment made by item 375 applies in relation to a meeting held after this Schedule commences, except a meeting:

- (a) notice of which was given before the commencement of this Schedule; or
- (b) continuing a meeting described in paragraph (a) that was adjourned.

485 Item 382

Despite the amendment made by item 382, proceedings begun before the commencement of this Schedule by presentation of a petition to the Court in relation to one or more debts totalling at least \$1,500 but less than \$2,000 may continue.

486 Item 402

The new section substituted by item 402 applies in relation to debtor's petitions that:

- (a) are presented after this Schedule commences; or
- (b) were presented, but not dealt with by the Registrar in Bankruptcy, before this Schedule commenced.

487 Item 415

The new section substituted by item 415 applies only in relation to section 64D statements given on or after the day this Schedule commences.

488 Item 417

The amendment made by item 417 applies in relation to debtor's petitions that are presented after this Schedule commences.

Table A**489 Item 418**

The amendment made by item 418 applies to statements given to the Official Receiver in relation to debtor's petitions that:

- (a) are presented after this Schedule commences; or
- (b) were presented, but not dealt with by the Registrar in Bankruptcy, before this Schedule commenced.

490 Item 422

The new section inserted by item 422 applies to trust deeds regardless of when they were made.

491 Items 427 and 428

Despite the amendments made by items 427 and 428, an action, suit or proceeding does not lie in respect of a statement made in good faith in a report referred to in subsection 19AA(2), 150(3), 154A(3) or 189A(1) of the *Bankruptcy Act 1966* as in force before this Schedule commenced.

492 Bankruptcy Districts

An area that was a Bankruptcy District because of a proclamation in force immediately before the commencement of this Schedule continues to be a Bankruptcy District as if it had been declared by the Inspector-General by notice in the *Gazette*.

493 Orders made by State and Northern Territory Supreme Courts

The *Bankruptcy Act 1966* applies in relation to an order made at any time by the Supreme Court of a State or of the Northern Territory exercising its jurisdiction in bankruptcy as if the order had been made by the Federal Court of Australia.

494 Examinations being conducted by Registrar in Bankruptcy

An examination that was being conducted by a Registrar in Bankruptcy under section 81 of the *Bankruptcy Act 1966* before this Schedule commenced may be continued by the Registrar, a Deputy Registrar, a District Registrar or a Deputy District

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Registrar of the Federal Court after this Schedule commences, as if he or she had been conducting the examination before this Schedule commenced.

495 Failure to comply with bankruptcy notice issued by Registrar in Bankruptcy

Failure to comply with a bankruptcy notice issued by a Registrar in Bankruptcy before this Schedule commenced is an act of bankruptcy, even if one or both of the following conditions are met:

- (a) the time fixed by the Registrar in Bankruptcy ends after the commencement of this Schedule;
- (b) the bankruptcy notice related to a debt of less than \$2,000.

496 Debtor's petition presented to Registrar in Bankruptcy

The Official Receiver must deal with a debtor's petition that was presented to a Registrar in Bankruptcy before this Schedule commenced, but which the Registrar had not accepted or rejected. In particular, if the Registrar had referred the petition to the Court, but had not received or had not acted on the Court's direction, the Official Receiver must act on the Court's direction.

497 Registration of trustees

Registration of trustees registered previously

- (1) A person who was a registered trustee immediately before this Schedule commenced is taken to be registered as a trustee under section 155C of the *Bankruptcy Act 1966*, without needing to pay a registration fee.

No refund of fees paid previously

- (2) A person who was registered as a trustee immediately before this Schedule commenced is not entitled to the refund of any fees paid in relation to that registration.

Applicants for registration

- (3) If, before the commencement of this Schedule:
 - (a) a person had applied:

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- (i) for a report stating the Official Receiver's opinion about the applicant; or
 - (ii) to be registered as a trustee; and
 - (b) the Court had not decided whether to direct that the applicant be registered or to refuse the application;
- then:
- (c) section 154A, and subsections 155(2), (3), (3A), (3B) and (8), of the *Bankruptcy Act 1966* as in force immediately before the commencement of this Schedule apply in relation to the application; and
 - (d) if the Court directs that the applicant be registered, the Inspector-General must register the applicant under section 155C of the *Bankruptcy Act 1966* without payment of the registration fee indicated in that section.

498 Debts to which debt agreement proposal may relate

A debt agreement proposal can be made under Part IX of the *Bankruptcy Act 1966* whether the debts to which the proposal relates were incurred before or after this Schedule commenced.

499 Remuneration of controlling trustee

A person who was a controlling trustee immediately before the commencement of this Schedule is to continue to be remunerated under the arrangements existing immediately before that commencement.

500 Orders under subsection 254(3)

If, before this Schedule commenced, the Minister received an office copy of an order under subsection 254(3) of the *Bankruptcy Act 1966* but had not paid the amount specified in the order to the person in whose favour the order was made, the Official Receiver must pay the person.

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Bankruptcy Amendment Act 1997 (No. 11, 1997)

Schedule 3

1 Bank accounts and investments under sections 169, 172 and 210

- (1) If:
- (a) immediately before the commencement of this Schedule, a trustee was maintaining an account under:
 - (i) section 169 or 172 of the *Bankruptcy Act 1966* as then in force; or
 - (ii) section 210 of the *Bankruptcy Act 1966* as in force immediately before the commencement of Schedule 1 to the *Bankruptcy Legislation Amendment Act 1996*; and
 - (b) the account does not comply with section 169 of the *Bankruptcy Act 1966* as amended by Schedule 1 to this Act; the trustee must pay the money into an account that complies with that section as so amended as soon as reasonably practicable after the commencement of this Schedule.
- (2) If, immediately before the commencement of this Schedule, a trustee held public securities as an investment under section 172 of the *Bankruptcy Act 1966* as then in force, the trustee must, as soon as reasonably practicable after that commencement:
- (a) convert the securities into money; and
 - (b) pay the money into an account that complies with section 169 of the *Bankruptcy Act 1966* as amended by Schedule 1 to this Act.
- (3) This item does not require a trustee to close a fixed term deposit, or to convert fixed term securities into money, before the term ends.
- (4) In this item, a reference to section 169 or 172 of the *Bankruptcy Act 1966* as in force at a particular time includes a reference to that section as applied by other provisions of that Act as then in force.

2 Transition to realisations charge

- (1) The Governor-General may make regulations dealing with the transition from the fees imposed by old rules 179 and 181 to the

Table A

realisations charge imposed by Part 3 of the *Bankruptcy (Estate Charges) Act 1997*.

- (2) For example, the regulations may provide for:
- (a) the continued application, with specified modifications, of old rule 179 in relation to amounts received or paid by a trustee before the commencement of this Schedule, including, in particular, amounts received or paid before 1 November 1996 (the start of the first charge period); and
 - (b) the crediting or waiver of fees paid or payable under that rule, or that rule as it continues to apply, to the extent that the fees are attributable to amounts received by a trustee on or after 1 November 1996.
- (3) In this item:

crediting means crediting against a liability to pay realisations charge.

old rules 179 and 181 means rules 179 and 181 of the Bankruptcy Rules as in force immediately before the commencement of Schedule 1 to the *Bankruptcy Legislation Amendment Act 1996*.

Financial Sector Reform (Consequential Amendments) Act 1998 (No. 48, 1998)

4 Transitional provisions

Treatment of approvals and authorisations under the Bankruptcy Act 1966

- (2) An approval of a bank, or an authorisation of a person, that is in force immediately before the commencement of item 10 of Schedule 1 for the purposes of the definition of approved bank in subsection 5(1) of the *Bankruptcy Act 1966* as then in force is to be taken, after that commencement, to be an approval of the bank or an authorisation of the person for the purposes of the definition of ADI in subsection 5(1) of that Act as in force immediately after that commencement.

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Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1)
1999 (No. 44, 1999)

Schedule 8

1 Definitions

(1) In this Part:

AFIC means the Australian Financial Institutions Commission.

AFIC Code means any of the following Codes of a State or Territory:

- (a) the AFIC (NSW) Code of New South Wales;
- (b) the AFIC (Victoria) Code of Victoria;
- (c) the AFIC (Queensland) Code of Queensland;
- (d) the AFIC (Western Australia) Code of Western Australia;
- (e) the AFIC (South Australia) Code of South Australia;
- (f) the AFIC (Tasmania) Code of Tasmania;
- (g) the AFIC (ACT) Code of the Australian Capital Territory;
- (h) the AFIC (NT) Code of the Northern Territory.

APRA means the Australian Prudential Regulation Authority.

APRA Act means the *Australian Prudential Regulation Authority Act 1998*.

APRA employee means a person appointed under section 45 of the APRA Act.

ASIC means the Australian Securities and Investments Commission.

FIC body means a body that is a society, or a special services provider, as defined in section 3 of any of the Financial Institutions Codes.

Financial Institutions Code means any of the following Codes of a State or Territory:

- (a) the Financial Institutions (NSW) Code of New South Wales;
- (b) the Financial Institutions (Victoria) Code of Victoria;
- (c) the Financial Institutions (Queensland) Code of Queensland;

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- (d) the Financial Institutions (Western Australia) Code of Western Australia;
- (e) the Financial Institutions (South Australia) Code of South Australia;
- (f) the Financial Institutions (Tasmania) Code of Tasmania;
- (g) the Financial Institutions (ACT) Code of the Australian Capital Territory;
- (h) the Financial Institutions (NT) Code of the Northern Territory.

Friendly Societies Code means any of the following Codes of a State or Territory:

- (a) the Friendly Societies (NSW) Code of New South Wales;
- (b) the Friendly Societies (Victoria) Code of Victoria;
- (c) the Friendly Societies (Queensland) Code of Queensland;
- (d) the Friendly Societies (Western Australia) Code of Western Australia;
- (e) the Friendly Societies (South Australia) Code of South Australia;
- (f) the Friendly Societies (Tasmania) Code of Tasmania;
- (g) the Friendly Societies (ACT) Code of the Australian Capital Territory;
- (h) the Friendly Societies (NT) Code of the Northern Territory.

friendly society means a body that is a society for the purposes of any of the Friendly Societies Codes.

SSA means any of the following:

- (a) the New South Wales Financial Institutions Commission;
- (b) the Victorian Financial Institutions Commission;
- (c) the Queensland Office of Financial Supervision;
- (d) the Western Australian Financial Institutions Authority;
- (e) the South Australian Office of Financial Supervision;
- (f) the Tasmanian Office of Financial Supervision;
- (g) the Registrar of Financial Institutions of the Australian Capital Territory;
- (h) the Territory Supervisory Authority of the Northern Territory.

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State or Territory employee means a person who, immediately before the transfer date, is:

- (a) an officer, employee, or member of the staff of, AFIC or an SSA; or
- (b) the Executive Director of AFIC; or
- (c) the holder of any other statutory office within AFIC or an SSA, other than a statutory office of member (including a Chair or Deputy Chair, however described) of, or of the governing body of, AFIC or an SSA; or
- (d) an officer, employee, or member of the staff of, a State or Territory, or an authority of a State or Territory, whose duties consist of or include assisting AFIC or an SSA in the performance of its functions or the exercise of its powers.

Territory means the Australian Capital Territory or the Northern Territory.

transfer agreement means an agreement entered into:

- (a) by or on behalf of the Treasurer; and
- (b) by or on behalf of a Minister of a State or Territory, or 2 or more such Ministers;

that provides for matters connected with the transfer of staff, assets or liabilities from AFIC or an SSA to APRA or ASIC.

transfer date has the meaning given by section 2 (which is at the front of this Act).

transferring body means a body that, immediately before the transfer date, was:

- (a) an FIC body; or
- (b) a friendly society.

- (2) In this Part, a reference to a transfer agreement determining or specifying a person, thing or other matter includes a reference to a person or persons determining or specifying that person, thing or matter, as permitted by that transfer agreement.

2 Transfer of State or Territory employees to APRA

- (1) A transfer agreement may determine that specified State or Territory employees become APRA employees on a specified date, not being a

Table A

date before the transfer date. In this Division, the date so specified is the *agreed date* in relation to the employees concerned.

Note: Employees may be specified by name, by inclusion in a specified class, or in some other way.

- (2) The agreement has effect accordingly, to the extent that it is within the Commonwealth's legislative power to give the agreement that effect.

3 Terms and conditions of transferred staff

- (1) APRA is to determine the terms and conditions applying to a person who becomes an APRA employee as mentioned in item 2 as if the person had actually been appointed under section 45 of the APRA Act. The terms and conditions of employment must not be less favourable than those that applied to the person immediately before the agreed date.
- (2) The person is entitled to retain, as an APRA employee, all the benefits that had accrued to the person in respect of his or her length of State or Territory service up to the agreed date, as if those benefits had accrued in respect of the person's position as an APRA employee. For this purpose, the person's *State or Territory service* is:
 - (a) the person's service as a State or Territory employee; and
 - (b) the person's other service (if any) that, immediately before the person becoming an APRA employee, counted as service under the terms of that person's employment as a State or Territory employee.
- (3) The person's service as an APRA employee is taken, for all purposes, to have been continuous with the person's service, immediately before the agreed date, as a State or Territory employee.

4 Statement of accrued benefits

- (1) A transfer agreement may determine that APRA is to be given a statement of the benefits to which a person who becomes an APRA employee as mentioned in item 2 has an accrued entitlement in respect of his or her position as a State or Territory employee.
- (2) In any proceedings relating to subitem 3(2), the statement is prima facie evidence of the matters set out in the statement.
- (3) Item 2 has effect in relation to the person even if the statement is not given as required.

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5 Transfer of assets

- (1) A transfer agreement may determine that all or any of the following things happen on a specified date, not being a date before the transfer date:
- (a) specified assets vest in APRA, or in ASIC, without any conveyance, transfer or assignment;
 - (b) specified instruments in relation to specified assets continue to have effect after the assets vest in APRA, or in ASIC, as if specified references in the instruments were references to APRA, or to ASIC, as the case requires;
 - (c) APRA or ASIC becomes the previous owner's successor in law in relation to specified assets immediately after the assets vest in APRA, or in ASIC.

Note: Assets or instruments may be specified by description, by inclusion in a specified class or in some other way.

- (2) The agreement has effect accordingly, to the extent that it is within the Commonwealth's legislative power to give the agreement that effect.
- (3) This item does not prevent assets being transferred to APRA or ASIC otherwise than in accordance with a transfer agreement.
- (4) In this item:
- assets* includes records.

6 Transfer of liabilities

- (1) A transfer agreement may determine that all or any of the following things happen on a specified date, not being a date before the transfer date:
- (a) specified liabilities vest in APRA, or in ASIC;
 - (b) specified instruments in relation to specified liabilities continue to have effect after the liabilities vest in APRA, or in ASIC, as if specified references in the instruments were references to APRA, or to ASIC, as the case requires;
 - (c) APRA or ASIC becomes the previously liable person's successor in law in relation to specified liabilities immediately after the liabilities vest in APRA, or in ASIC.

Note: Liabilities or instruments may be specified by description, by inclusion in a specified class or in some other way.

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- (2) The agreement has effect accordingly, to the extent that it is within the Commonwealth's legislative power to give the agreement that effect.
 - (3) This item does not prevent liabilities being transferred to APRA or ASIC otherwise than in accordance with a transfer agreement.

7 Certain bodies taken to have authorities to carry on banking business

- (1) This item applies to the following bodies:
 - (a) all bodies that were FIC bodies immediately before the transfer date;
 - (b) The Cairns Cooperative Weekly Penny Savings Bank Limited (*CCWPSBL*), but only if a determination under subitem (2) is in force immediately before the transfer date.

Note: The Cairns Cooperative Weekly Penny Savings Bank Limited is a body incorporated under the *Financial Intermediaries Act 1996* of Queensland.

- (2) APRA may, in writing, determine that this item applies to *CCWPSBL*, but only if the Treasurer and the Queensland Minister responsible for the administration of the *Financial Intermediaries Act 1996* of Queensland have agreed that *CCWPSBL* should be covered by the *Banking Act 1959* from the transfer date.
 - (3) On the transfer date, a body to which this item applies is taken to have been granted an authority under subsection 9(3) of the *Banking Act 1959*.
 - (4) APRA may, in writing, determine conditions to which the authority is subject. The determination has effect accordingly.
 - (5) The authority may be dealt with under the *Banking Act 1959* as if it had actually been granted under subsection 9(3) of that Act.
 - (6) Conditions determined under subitem (4) may be dealt with under the *Banking Act 1959* as if they were imposed under subsection 9(4) of that Act.
 - (7) Subsection 9(7) of the *Banking Act 1959* does not apply to:
 - (a) the grant of an authority that is taken to have occurred under subitem (3); or
 - (b) the imposition of conditions on that authority under subitem (4).
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- (8) APRA must give the body written notice of the following:
- (a) the fact that the body is taken, by subitem (3), to have been granted an authority under subsection 9(3) of the *Banking Act 1959*; and
 - (b) the determination under subitem (4) of conditions to which the authority is subject.
- (9) APRA may also give notice of a matter referred to in paragraph (8)(a) or (b) in such other way as APRA considers appropriate.

8 Bodies taken to have consent for use of certain expressions

- (1) A body that, immediately before the transfer date:
- (a) was a society, services corporation or association as defined in section 3 of a Financial Institutions Code; and
 - (b) was trading or carrying on business (within the meaning of section 144 of that Code) under a name or title of which words, abbreviations or symbols covered by paragraph 144(2)(a) of that Code formed part;
- is taken, on the transfer date, to have been granted a consent under section 66 of the *Banking Act 1959* covering the body trading or carrying on business under that name or title. The consent may be dealt with under that Act as if it had actually been granted under section 66 of that Act.
- (2) An exemption in force under subsection 144(4) of a Financial Institutions Code immediately before the transfer date continues to have effect from that date, and may be dealt with, as if it were a consent under section 66 of the *Banking Act 1959*. Any conditions to which the exemption was subject immediately before the transfer date are to be taken, from that date, to be, and may be dealt with as if they were, conditions applying under section 66 of the *Banking Act 1959*.

9 Unclaimed money

- (1) This item applies to each body that is taken by subitem 7(3) to have been granted an authority under subsection 9(3) of the *Banking Act 1959*.
- (2) An amount of money in respect of which notification action has been taken before the transfer date by a body to which this item applies under

Table A

an unclaimed money law is not unclaimed moneys for the purposes of section 69 of the *Banking Act 1959*.

- (3) For the avoidance of doubt, it is declared that, subject to subitem (2), an amount of money that, on the transfer date, satisfies the description of unclaimed moneys in section 69 of the *Banking Act 1959* is unclaimed moneys for the purposes of that section even though, for any reason, the amount was not, immediately before that date, unclaimed money, or unclaimed moneys, within the meaning of an unclaimed money law.
- (4) If, but for this item, a body to which this item applies would be required to deliver a Commonwealth unclaimed money statement on or before the 31 March next following the transfer date, then:
- (a) the body may, but is taken not to be required to, deliver a Commonwealth unclaimed money statement on or before that 31 March; and
 - (b) if the body does not deliver a Commonwealth unclaimed money statement on or before that 31 March—the amounts that would have been included in that statement must (if they are still unclaimed money) be included in the next Commonwealth unclaimed money statement delivered by the body.
- (5) The Treasurer, or an authorized officer (within the meaning of section 69 of the *Banking Act 1959*), may, in relation to a specified body to which this item applies, determine in writing that subsection 69(5) of the *Banking Act 1959* has effect in relation to the first Commonwealth unclaimed money statement delivered by the body after the transfer date as if it required the amount shown in the statement to be paid to the Commonwealth:
- (a) on a specified date or at the end of a specified period; or
 - (b) in accordance with a specified scheme for payment by instalments.
- Note: A body may be specified by name, by inclusion in a specified class or in some other way.
- (6) A person must not, under subitem (5), make a determination that would result in an amount being required to be paid to the Commonwealth more than 5 years after the date on which the amount would otherwise have had to be paid to the Commonwealth.
- (7) A determination under subitem (5) has effect accordingly.

Table A

(8) In this item:

Commonwealth unclaimed money statement means a statement under subsection 69(3) of the *Banking Act 1959*.

notification action means:

- (a) in relation to the unclaimed money law of Victoria, Queensland, South Australia, Tasmania, the Australian Capital Territory or the Northern Territory—enter, or enter particulars of, unclaimed money, or unclaimed moneys, (within the meaning of that law) in a register in accordance with that law; or
- (b) in relation to the unclaimed money law of New South Wales—lodge a return with the Chief Commissioner (within the meaning of that law) relating to unclaimed money (within the meaning of that law) in accordance with that law; or
- (c) in relation to the unclaimed money law of Western Australia—notify the Treasurer of particulars of unclaimed money (within the meaning of that law) in accordance with that law.

unclaimed money law means:

- (a) the *Unclaimed Money Act 1995* of New South Wales;
- (b) the **Unclaimed Moneys Act 1962** of Victoria;
- (c) Part 8 of the *Public Trustee Act 1978* of Queensland;
- (d) the *Unclaimed Money Act 1990* of Western Australia;
- (e) the *Unclaimed Moneys Act 1891* of South Australia;
- (f) the *Unclaimed Moneys Act 1918* of Tasmania;
- (g) the *Unclaimed Moneys Act 1950* of the Australian Capital Territory;
- (h) the *Companies (Unclaimed Assets and Moneys) Act* of the Northern Territory.

Note: For the transitional provisions relating to the operation of the *Financial Sector (Shareholdings) Act 1998*, see the amendment made by item 45 of Schedule 7 to this Act.

22 Regulations may deal with transitional, saving or application matters

(1) The regulations may deal with matters of a transitional, saving or application nature relating to:

Table A

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- (a) the transition from the application of provisions of the replaced legislation to the application of provisions of the *Banking Act 1959*, the *Life Insurance Act 1995*, the *Financial Sector (Transfers of Business) Act 1999*, the *Financial Sector (Shareholdings) Act 1998* or the *Australian Prudential Regulation Authority Act 1998*; or
 - (b) the transition, for The Cairns Cooperative Weekly Penny Savings Bank Limited, from the application of provisions of the *Financial Intermediaries Act 1996* of Queensland to the application of provisions of any of the Acts referred to in paragraph (a); or
 - (c) the amendments and repeals made by the Schedules to this Act.
- (2) Without limiting subitem (1), the regulations may provide for a matter to be dealt with, wholly or partly, in any of the following ways:
- (a) by applying (with or without modifications) to the matter:
 - (i) provisions of a law of the Commonwealth, or of a State or Territory; or
 - (ii) provisions of a repealed or amended law of the Commonwealth, or of a State or Territory, in the form that those provisions took before the repeal or amendment; or
 - (iii) a combination of provisions referred to in subparagraphs (i) and (ii);
 - (b) by otherwise specifying rules for dealing with the matter;
 - (c) by specifying a particular consequence of the matter, or of an outcome of the matter, for the purposes of a law of the Commonwealth.
- (3) Without limiting subitems (1) and (2), the regulations may provide for the continued effect, for the purposes of a provision of a law of the Commonwealth, of a thing done or instrument made, or a class of things done or instruments made, before the transfer date under or for the purposes of a provision of a law of a State or Territory. In the case of an instrument or class of instruments, the regulations may provide for the instrument or instruments to continue to have effect subject to modifications.
- (4) Without limiting subitem (3), regulations providing for the continued effect of things done or instruments made may permit all or any of the
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Table A

following matters to be determined in writing by a specified person, or by a person included in a specified class of persons:

- (a) the identification of a thing done or instrument made, or a class of things done or instruments made, that is to continue to have effect;
 - (b) the purpose for which a thing done or instrument made, or a class of things done or instruments made, is to continue to have effect;
 - (c) any modifications subject to which an instrument made, or a class of instruments made, is to continue to have effect.
- (5) Despite subsection 48(2) of the *Acts Interpretation Act 1901*, regulations for the purposes of this item:
- (a) may be expressed to take effect from a date before the regulations are notified in the *Gazette*; and
 - (b) may provide for a determination of a kind referred to in subitem (4) to take effect from a date before the determination is made (including a date before the regulations are notified in the *Gazette*).
- (6) In this item, a reference to a *law*, whether of the Commonwealth or of a State or Territory, includes a reference to an instrument made under such a law.
- (7) In this item:
- replaced legislation* means:
- (a) the AFIC Codes; and
 - (b) the Financial Institutions Codes; and
 - (c) the Friendly Societies Codes; and
 - (d) the *Australian Financial Institutions Commission Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 21 of the *Australian Financial Institutions Commission Act 1992* of Queensland; and
 - (e) the *Financial Institutions (Queensland) Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 30 of the *Financial Institutions (Queensland) Act 1992* of Queensland; and

Table A

- (f) the **Friendly Societies (Victoria) Act 1996** of Victoria, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in the Schedule to the **Friendly Societies (Victoria) Act 1996** of Victoria; and
- (g) the *Friendly Societies (Western Australia) Act 1999*; and
- (h) any other law of a State or Territory prescribed by the regulations for the purposes of this definition.

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

Schedule 2**418 Transitional—pre-commencement offences**

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
 - (a) an offence committed before the commencement of this item; or
 - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
 - (c) any matter connected with, or arising out of, such proceedings;
 as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
- (b) any or all of those other provisions are repealed by this Schedule; and
- (c) the first-mentioned provision is amended by this Schedule;

Table A

the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

Farm Household Support Amendment Act 2000 (No. 144, 2000)

Schedule 3

7 Transitional provisions

- (1) Paragraph 116(2)(mca) of the *Bankruptcy Act 1966* has effect after the farm help scheme payment commencement day as if the reference in that paragraph to a farm help re-establishment grant included a reference to a restart re-establishment grant.

8 Definitions

In this Schedule:

amended FHS Act means the *Farm Household Support Act 1992* as amended and in force from time to time after the commencement of item 2 of Schedule 1 to the *Farm Household Support Amendment Act 2000*.

restart income support has the meaning given by the *Farm Household Support Act 1992* as in force immediately before the farm help scheme payment commencement day.

restart re-establishment grant has the meaning given by the *Farm Household Support Act 1992* as in force immediately before the farm help scheme payment commencement day.

Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001 (No. 24, 2001)

4 Application of amendments

- (1) Subject to subsection (3), each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after

Table A

the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Family Law Legislation Amendment (Superannuation) Act 2001
(No. 61, 2001)

5 Application of superannuation amendments

- (1) Subject to this section, the superannuation amendments apply to all marriages, including those that were dissolved before the startup time.
- (2) Subject to subsections (3) and (4), the superannuation amendments do not apply to a marriage if a section 79 order, or a section 87 agreement, is in force in relation to the marriage at the startup time.
- (3) If a section 79 order that is in force at the startup time is later set aside under paragraph 79A(1)(a), (b), (c), (d) or (e) of the Family Law Act, then the superannuation amendments apply to the marriage from the time the order is set aside.
- (4) If an approval of a section 87 agreement that is in force at the startup time is later revoked on a ground specified in paragraph 87(8)(a), (c) or (d) of the Family Law Act, then the superannuation amendments apply to the marriage from the time the approval is revoked.
- (5) Part VIIIIB of the Family Law Act does not apply in relation to a financial agreement that was made before the startup time.

Taxation Laws Amendment (Superannuation) Act (No. 2) 2002 (No. 51, 2002)

Schedule 6**2 Application of amendment made by item 1**

The amendment made by item 1 applies to bankruptcies for which the date of the bankruptcy is after the commencement of that item.

Table A

Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002 (No. 86, 2002)

Schedule 4

12 Application—existing proceeds of crime orders

- (1) The amendments of section 82 of the *Bankruptcy Act 1966* made by this Schedule apply, in relation to any bankruptcy for which the date of bankruptcy is not before the commencement of this Schedule, to any orders made under a proceeds of crime law before or after that commencement.
- (2) In applying that section for the purposes of subsection 231(2) of that Act, in relation to any deed of assignment that was not executed before the commencement of this Schedule, that section as so amended applies to any orders made under a proceeds of crime law before or after that commencement.
- (3) In applying that section for the purposes of subsection 237(2) of that Act, in relation to any deed of arrangement that was not executed before the commencement of this Schedule, that section as so amended applies to any orders made under a proceeds of crime law before or after that commencement.
- (4) In applying that section for the purposes of subsection 243(1) of that Act, in relation to any composition that was not accepted before the commencement of this Schedule, that section as so amended applies to any orders made under a proceeds of crime law before or after that commencement.

16 Application—existing bankruptcies

Subdivision B of Division 2 of Part VI of the *Bankruptcy Act 1966* applies, in relation to:

- (a) a proceeds of crime order; or
- (b) an application for a proceeds of crime order;

made after the commencement of this Schedule, to any bankruptcy, even if the date of bankruptcy is before that commencement.

Table A

Bankruptcy Legislation Amendment Act 2002 (No. 131, 2002)

Schedule 1

198 Definitions

In this Part:

Bankruptcy Act means the *Bankruptcy Act 1966*.

commencing date means the date on which this Schedule commenced.

commencing time means the time when this Schedule commenced.

199 Items 4 and 12

The amendments made by items 4 and 12 apply to offences committed at any time, whether before or after the commencing time.

200 Item 7

The amendment made by item 7 applies to conduct occurring after the commencing time.

201 Item 9

An appointment in force under section 16 of the *Bankruptcy Act* immediately before the commencing time continues in effect after the commencing time as if it had been made under that section as amended by this Act.

202 Items 10 and 11

An appointment in force under section 17 of the *Bankruptcy Act* immediately before the commencing time continues in effect after the commencing time as if it had been made under that section as amended by this Act. However, nothing in this item is taken to alter the time when the appointment was made.

203 Items 13, 14, 67, 68, 69, 70, 71, 180, 181 and 182

The amendments made by items 13, 14, 67, 68, 69, 70, 71, 180, 181 and 182 apply to bankruptcies for which the date of the bankruptcy is after the commencing date.

204 Item 15

The amendment made by item 15 applies to statements of affairs that are filed at any time, whether before or after the commencing time.

Table A

205 Items 19, 20, 21 and 22

The amendments made by items 19, 20, 21 and 22 apply to the issue of bankruptcy notices on applications that are made after the commencing time.

206 Items 23, 31, 34, 43, 103, 106, 127, 188 and 189

The amendments made by items 23, 31, 34, 43, 103, 106, 127, 188 and 189 apply to bankruptcies for which the date of the bankruptcy is after the commencing date.

207 Item 24

The amendment made by item 24 applies to any creditor's petition that is presented after the commencing time.

208 Items 28, 29, 41 and 42

The amendments made by items 28, 29, 41 and 42 apply to petitions presented after the commencing time.

209 Items 46, 47, 48, 51, 52 and 53

The amendments made by items 46, 47, 48, 51, 52 and 53 apply to meetings of which notice is given after the commencing time.

210 Item 49

The amendment made by item 49 applies to meetings held after the commencing time.

211 Items 55, 56 and 57

The amendments made by items 55, 56 and 57 apply to proposals lodged after the commencing time under subsection 73(1) of the Bankruptcy Act.

212 Items 58, 174, 175, 177 and 178

- (1) The amendments made by items 58, 174, 175, 177 and 178 apply to compositions, schemes of arrangement and deeds of arrangement that are made after the commencing time.
- (2) For the purposes of this item:
 - (a) a composition or scheme of arrangement is made when it is accepted by the creditors; and

Table A

(b) a deed of arrangement is made when it is executed.

213 Items 59, 60, 61, 62, 63, 64, 65, 66, 72 and 113

The amendments made by items 59, 60, 61, 62, 63, 64, 65, 66, 72 and 113 apply to changes that occur after the commencing time.

214 Items 73, 97, 121 and 142

The amendments made by items 73, 97, 121 and 142 apply in relation to the review of decisions that are made after the commencing time.

215 Items 74 and 76

The amendments made by items 74 and 76 apply to trustee decisions that are made after the commencing time.

216 Item 75

The amendment made by item 75 applies to proofs admitted after the commencing time.

217 Items 77 and 80

The amendments made by items 77 and 80 apply to bankruptcies for which the date of the bankruptcy is after the commencing date.

218 Item 79

The amendment made by item 79 applies to bankruptcy notices issued after the commencing time.

219 Item 81

The amendment made by item 81 applies to all bankruptcies, including those that ended before the commencing time. However, for a bankruptcy that ended before the commencing time, the initial re-vesting time is the beginning of the day that is the sixth anniversary of the commencing day (instead of the sixth anniversary of the day on which the bankrupt was discharged).

220 Items 86, 87, 88, 89, 90, 91, 92, 93, 94, 95 and 96

The amendments made by items 86, 87, 88, 89, 90, 91, 92, 93, 94, 95 and 96 apply to contribution assessment periods that begin after the commencing date.

Table A

221 Items 99, 100 and 126

The amendments made by items 99, 100 and 126 apply in relation to the review of decisions that are made after the commencing time.

222 Items 101, 183, 184 and 185

Despite the amendments made by items 101, 183, 184 and 185:

- (a) Division 4C of Part VI of the Bankruptcy Act continues to have effect:
 - (i) in relation to permissions granted under that Division before the commencing time; and
 - (ii) in relation to applications that were made to the Court under that Division before the commencing time; and
 - (iii) in relation to permissions granted after the commencing time on applications referred to in subparagraph (ii); and
- (b) paragraph 272(c) of the Bankruptcy Act does not apply to anything done by a bankrupt in accordance with a permission referred to in paragraph (a) of this item.

223 Items 107, 108, 109, 110, 111, 112, 114, 115, 116, 117, 118, 119, 120, 122, 123 and 125

The amendments made by items 107, 108, 109, 110, 111, 112, 114, 115, 116, 117, 118, 119, 120, 122, 123 and 125 apply to objections filed after the commencing time.

224 Item 128

The amendment made by item 128 applies to annulments after the commencing time, including annulments of bankruptcies for which the date of bankruptcy is before the commencing time.

225 Item 129

The amendment made by item 129 applies to petitions presented after the commencing time.

226 Items 131 and 132

The amendments made by items 131 and 132 apply to registration applications made after the commencing time.

Table A

227 Items 133 and 134

The amendments made by items 133 and 134 apply to extensions of registration with an expiry date that is at least 3 months after the commencing date.

228 Items 138 and 139

The amendments made by items 138 and 139 apply where the trustee is appointed after the commencing time.

229 Item 143

The amendment made by item 143 applies to all bankruptcies (including those for which the date of the bankruptcy is before the commencing date).

230 Items 144, 145, 146, 147, 148, 149, 151, 153, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166 and 167

- (1) The amendments made by items 144, 145, 146, 147, 148, 149, 151, 153, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166 and 167 apply to debt agreements that are in force at the commencing time and to debt agreements made after the commencing time.
- (2) Things that were done before the commencing time by, or in relation to, the Official Trustee under Part IX of the Bankruptcy Act are to be treated as if they had been done by, or in relation to, the Official Receiver.

231 Item 150

The amendment made by item 150 applies to debt agreement proposals that are given after the commencing time under subsection 185C(1) of the Bankruptcy Act.

232 Item 154

The amendment made by item 154 applies to debt agreement proposals that are given after the commencing time under subsection 185C(1) of the Bankruptcy Act.

233 Item 169

The amendment made by item 169 applies to authorities that are signed after the commencing time.

Table A

234 Item 170

The amendment made by item 170 applies in cases where the control ends after the commencing time.

235 Item 179

The amendment made by item 179 applies to debts contracted after the commencing time.

236 Item 186

The amendment made by item 186 applies to applications made after the commencing time.

237 Item 187

The amendment made by item 187 applies in cases where the application for remission is made to the Inspector-General after the commencing time.

Bankruptcy Legislation Amendment Act 2004 (No. 80, 2004)

Schedule 1

212 Transitional—pre-commencement deeds and compositions

- (1) For the purposes of this item, if a deed of assignment or a deed of arrangement was executed by a debtor and a trustee under Part X of the *Bankruptcy Act 1966* before the commencement of this item, the deed is a ***pre-commencement deed***.
- (2) For the purposes of this item, if a composition was accepted before the commencement of this item by a special resolution of a meeting of creditors under section 204 of the *Bankruptcy Act 1966*, the composition is a ***pre-commencement composition***.
- (3) Despite the repeals and amendments made by Parts 1 and 2 of this Schedule:
 - (a) the *Bankruptcy Act 1966* and regulations under that Act; and
 - (b) the Acts amended by Part 2 of this Schedule;continue to apply, in relation to:

Table A

- (c) a pre-commencement deed; and
- (d) a pre-commencement composition; and
- (e) any matter connected with, or arising out of:
 - (i) a pre-commencement deed; or
 - (ii) a pre-commencement composition;

as if those repeals had not happened and those amendments had not been made.

213 Transitional—pre-commencement authorities

- (1) For the purposes of this item, if:
- (a) an authority given by a debtor under section 188 of the *Bankruptcy Act 1966* became effective before the commencement of this item; and
 - (b) as at the commencement of this item, none of the following had happened:
 - (i) the execution by the debtor and the trustee of a deed of assignment under Part X of the *Bankruptcy Act 1966*;
 - (ii) the execution by the debtor and the trustee of a deed of arrangement under Part X of the *Bankruptcy Act 1966*;
 - (iii) the acceptance of a composition by a special resolution of a meeting of the debtor's creditors under section 204 of the *Bankruptcy Act 1966*;

the authority is a *pre-commencement authority*.

- (2) Despite the repeals and amendments made by Parts 1 and 2 of this Schedule:
- (a) the *Bankruptcy Act 1966* and regulations under that Act; and
 - (b) the Acts amended by Part 2 of this Schedule;
- continue to apply, in relation to:
- (c) a pre-commencement authority; and
 - (d) the control of the debtor's property following a pre-commencement authority becoming effective; and
 - (e) a meeting of the debtor's creditors called under a pre-commencement authority; and
 - (f) whichever of the following is applicable:
 - (i) a deed of assignment executed after the commencement of this item by the debtor and the trustee under Part X of

Table A

the *Bankruptcy Act 1966* in accordance with a special resolution of such a meeting;

- (ii) a deed of arrangement executed after the commencement of this item by the debtor and the trustee under Part X of the *Bankruptcy Act 1966* in accordance with a special resolution of such a meeting;
- (iii) a composition accepted after the commencement of this item by a special resolution of such a meeting; and
- (g) any other matter connected with, or arising out of:
 - (i) a pre-commencement authority; or
 - (ii) a deed of assignment mentioned in subparagraph (f)(i); or
 - (iii) a deed of arrangement mentioned in subparagraph (f)(ii); or
 - (iv) a composition mentioned in subparagraph (f)(iii);

as if those repeals had not happened and those amendments had not been made.

214 Application—statements of affairs

- (1) The amendment made by item 4 of this Schedule, in so far as it relates to subsection 54(1) or (2) of the *Bankruptcy Act 1966*, applies to a statement filed after the commencement of this item.
- (2) The amendment made by item 4 of this Schedule, in so far as it relates to paragraph 55(2)(b), 56B(3)(a) or (b), 56F(1)(a) or (b) or 57(2)(a) or (b) of the *Bankruptcy Act 1966*, applies in relation to a statement that accompanies a petition presented after the commencement of this item.
- (3) The amendment made by item 4 of this Schedule, in so far as it relates to section 185D of the *Bankruptcy Act 1966*, applies to a statement given after the commencement of this item.

215 Transitional—regulations

- (1) The regulations may make provision for matters of a transitional nature arising from the amendments made by Parts 1 and 2 of this Schedule.
- (2) The Governor-General may make regulations for the purposes of subitem (1).

Table A**Schedule 2****11 Application—notification of proposals**

The amendment made by item 4 applies to a proposal lodged with a trustee after the commencement of this item.

12 Transitional—annulments

(1) For the purposes of this item, if a composition or scheme of arrangement under Division 6 of Part IV of the *Bankruptcy Act 1966* was annulled before the commencement of this item, the annulment is a *pre-commencement annulment*.

(2) For the purposes of this item, if:

- (a) an application is made before the commencement of this item under subsection 75(4) of the *Bankruptcy Act 1966* for the annulment of a composition or scheme of arrangement; and
- (b) as at the commencement of this item, proceedings in relation to that application have not been finally determined;

the application is a *pre-commencement annulment application*.

(3) Despite the repeals and amendments made by items 1, 2, 3, 7, 8, 9 and 10 of this Schedule and item 41 of Schedule 1, the *Bankruptcy Act 1966* and regulations under that Act continue to apply, in relation to:

- (a) a pre-commencement annulment; and
- (b) a pre-commencement annulment application; and
- (c) an annulment that results from a pre-commencement annulment application;

as if those repeals had not happened and those amendments had not been made.

13 Application—proposals for compositions or schemes of arrangement

The amendments made by items 5 and 6 of this Schedule apply in relation to a bankrupt's proposal for a composition or scheme of arrangement unless a copy of the trustee's report on the proposal was sent to a creditor before the commencement of this item.

Table A

Schedule 5

3 Application of amendments

The amendments made by this Schedule apply in relation to a trustee if, after the commencement of this item, the bankrupt tells the trustee, or the trustee otherwise finds out, that a person is a creditor of the bankrupt.

Schedule 6

4 Application of amendments

- (1) The amendment made by item 1 applies to a bankruptcy notice issued after the commencement of this item.
- (2) The amendment made by item 3 applies to a warrant issued after the commencement of this item.

Schedule 7

3 Validation of acts

Past acts

- (1) For the purposes of this item, a ***past act*** is an act or thing that was done on either or both of the following assumptions:
 - (a) the assumption that the commencing date defined in item 198 of Schedule 1 to the *Bankruptcy Legislation Amendment Act 2002* was the date on which that Schedule commenced;
 - (b) the assumption that the commencing time defined in item 198 of Schedule 1 to the *Bankruptcy Legislation Amendment Act 2002* was the time when that Schedule commenced.

Validation of past acts

- (2) To avoid doubt, past acts are as valid, and are taken always to have been as valid, as they would have been if:
 - (a) the commencing date defined in item 198 of Schedule 1 to the *Bankruptcy Legislation Amendment Act 2002* had been the date on which that Schedule commenced; and

Table A

- (b) the commencing time defined in item 198 of Schedule 1 to the *Bankruptcy Legislation Amendment Act 2002* had been the time when that Schedule commenced.

Note: Schedule 1 to the *Bankruptcy Legislation Amendment Act 2002* commenced on 5 May 2003.

Financial Framework Legislation Amendment Act 2005 (No. 8, 2005)

4 Saving of matters in Part 2 of Schedule 1

(1) If:

- (a) a decision or action is taken or another thing is made, given or done; and
- (b) the thing is taken, made, given or done under a provision of a Part 2 Act that had effect immediately before the commencement of this Act;

then the thing has the corresponding effect, for the purposes of the Part 2 Act as amended by this Act, as if it had been taken, made, given or done under the Part 2 Act as so amended.

(2) In this section:

Part 2 Act means an Act that is amended by an item in Part 2 of Schedule 1.

Schedule 1**496 Saving provision—Finance Minister’s determinations**

If a determination under subsection 20(1) of the *Financial Management and Accountability Act 1997* is in force immediately before the commencement of this item, the determination continues in force as if it were made under subsection 20(1) of that Act as amended by this Act.

Table A

Bankruptcy and Family Law Legislation Amendment Act 2005 (No. 20, 2005)

Schedule 2

5 Application

Paragraph 139ZIC(2)(a) of the *Bankruptcy Act 1966* as amended by this Schedule applies in relation to a bankrupt who is liable to pay a contribution, whether the liability arose before, at or after the commencement of this item.

Schedule 3

2 Application of amendment

The amendment made by item 1 applies to all bankruptcies current on or after the commencement of this item.

Schedule 4

3 Application of amendments

The amendments made by this Schedule apply in relation to financial agreements (within the meaning of the *Family Law Act 1975*) entered into after the commencement of this item.

Bankruptcy Legislation Amendment (Anti-avoidance) Act 2006 (No. 33, 2006)

Schedule 1

30 Application of amendments

- (1) The amendment made by item 2 applies in relation to an attendance under section 77C of the *Bankruptcy Act 1966* that occurs on or after the commencement of this item.
- (2) The amendment made by item 3 applies in relation to an examination under section 81 of the *Bankruptcy Act 1966* that occurs on or after the commencement of this item.
- (3) The amendments made by items 6 to 15 apply to a transfer of property made on or after the commencement of this item.

Table A

- (4) The amendments made by items 1, 4 and 5 and 16 to 29 apply in relation to an examinable period that commences on or after the commencement of this item.

Bankruptcy Legislation Amendment (Fees and Charges) Act 2006
(No. 34, 2006)

Schedule 1**3 Application of amendment of paragraph 154A(3)(b)**

The amendment of paragraph 154A(3)(b) of the *Bankruptcy Act 1966* made by this Part applies to applications made on or after 1 July 2006 under section 154A of the *Bankruptcy Act 1966*.

5 Application of amendment of paragraph 155C(1)(b)

The amendment of paragraph 155C(1)(b) of the *Bankruptcy Act 1966* made by this Part applies to registrations resulting from applications made on or after 1 July 2006 under section 154A of the *Bankruptcy Act 1966*.

9 Application of amendments of section 155D

The amendments of section 155D of the *Bankruptcy Act 1966* made by this Part apply to extensions under that section resulting from applications made on or after 1 July 2006 as described in that section.

13 Application of amendments of section 163

The amendments of section 163 of the *Bankruptcy Act 1966* made by this Part apply to remuneration of the Official Trustee for work arising from any of the following events happening on or after 1 July 2006:

- (a) the making of a direction under section 50 of that Act;
- (b) a person becoming bankrupt;
- (c) lodgment of a proposal for a composition or scheme of arrangement under section 73 of that Act;
- (d) the giving of a proposal for a debt agreement under section 185C of that Act;
- (e) signature of an authority under section 188 of that Act;
- (f) the making of an order for the Official Trustee to act as the trustee of an estate.

Table A

15 Application of amendment of section 163A

The amendment of section 163A of the *Bankruptcy Act 1966* made by this Part applies to the fee for the exercise of a power at the request of a trustee made on or after 1 July 2006.

18 Saving regulations providing for charging and payment of fees

- (1) This item explains the effect of the amendment of paragraph 315(2)(j) of the *Bankruptcy Act 1966* made by this Part on regulations that:
 - (a) were in force just before 1 July 2006; and
 - (b) provided for the charging or payment of fees in relation to things described in that paragraph.

- (2) The amendment affects the regulations only so far as they provided for the setting of amounts of fees other than fees mentioned in paragraph 81(17)(b).

Note: The amendment causes the regulations to cease setting the amounts of fees (other than fees mentioned in paragraph 81(17)(b)) on 1 July 2006.

- (3) To avoid doubt, the amendment does not affect the regulations so far as they provide for other aspects of the charging and payment of fees.

Schedule 3

4 Transitional provision

- (1) Regulations that were in force for the purposes of paragraph 155E(3)(a) of the *Bankruptcy Act 1966* just before the commencement of the amendment of section 155E of that Act made by this Part have effect as if they had been made for the purposes of subsection 155E(3) of that Act as amended by this Part.
- (2) This item does not prevent the amendment or repeal of those regulations by regulations under the *Bankruptcy Act 1966*.

Schedule 4

8 Saving

The repeal and substitution of subsection 77C(1) of the *Bankruptcy Act 1966* by this Schedule does not affect:

Table A

- (a) a requirement under that subsection involving a notice given before the repeal; or
- (b) an authorisation of an officer to exercise powers under paragraph 77C(1)(b) of that Act that was given before the repeal.

Table B

Table B

Modifications

Bankruptcy Regulations 1996

**Schedule 2 Modifications under
section 76A of the Act —
meetings of creditors under
Division 6 of Part IV of the Act**
(regulation 4.19)

1AA Subsection 64A (2)

substitute

- (2) Notice of a meeting:
 - (a) for the first meeting of creditors — must be published in a manner approved by the Inspector-General; and
 - (b) for any other meeting of creditors — must be given in a manner specified in the regulations.

1AB After subsection 64A (2)

insert

- (3) The notice of the first meeting of creditors must include any matter approved by the Inspector-General.
- (4) For the purposes of paragraph (2) (a) and without limiting the power of the Inspector-General under that paragraph, the Inspector-General may:
 - (a) approve, as the manner of publication of the notice of the first meeting of creditors, publication on a website; and
 - (b) specify in the approval:
 - (i) the website where the notice must be published; and

Table B

- (ii) any conditions relating to the approval.

Example

The Inspector-General may specify:

- (a) the format in which the notice is to be made available; and
- (b) the period of time for which the notice must remain on the website; and
- (c) whether related documents are to be made available for downloading from the website or in hard copy.

- (5) An approval made by the Inspector-General for the purposes of paragraph (2) (a) or subsection (3) must be published on the Insolvency and Trustee Service Australia's website.

1AC After section 64A

insert

64AA Immunity from civil actions and proceedings

- (1) A civil action or proceeding does not lie against a person who operates a website, specified in an approval for the purposes of paragraph 64A (2) (a) or subsection 64A (3), in respect of a publication of a notice of the first meeting of creditors (or a notice that appears to be a notice of the first meeting of creditors) if the publication was made in good faith and without negligence.
- (2) Nothing in this section affects by implication any other ground of defence.

1 Section 64B (Certain matters to be included in notice of meeting)

1.1 Add at the end:

- '(6) The trustee must attach to the notice:
- (a) the documents referred to in subsection 73 (2); and
 - (b) if the meeting is the first meeting of creditors held during the administration of the estate — a copy of:
 - (i) the bankrupt's statement of affairs; or
 - (ii) a summary of that statement.'

Table B

1B After paragraph 64D (aa)

insert

- (ab) whether the creditor, in relation to the debtor, is a related entity; and

2 Section 64E (Notice about voting by proxy)

2.1 Omit the section, substitute:

‘64E Notice — proxy voting and voting on bankrupt’s proposal

- ‘(1) The trustee must attach to the notice a form for use in:
- (a) appointing a proxy; and
 - (b) expressing under subsection 73 (5) the creditor’s assent to, or dissent from, the bankrupt’s proposal.
- ‘(2) The notice must tell the creditors that if a creditor wishes to appoint a person to represent the creditor at the meeting as the creditor’s proxy, the creditor must complete the form of appointment of proxy and either:
- (a) arrange for the proxy to give the completed form to the trustee before the meeting; or
 - (b) send the completed form with the statement given by the creditor to the trustee in accordance with section 64D.
- ‘(3) The notice must tell creditors that if a creditor wishes to use the form to express his or her assent to or dissent from the bankrupt’s proposal, the creditor must arrange for the form to be given to the trustee before the meeting.’.

3 Section 64G (Agenda to be set out in notice of meeting)

3.1 Paragraph 64G (g):

Omit the paragraph, substitute:

- ‘(g) consideration of the bankrupt’s proposals for a composition or scheme of arrangement;’.

3.2 Paragraph 64G (k):

Table B

Omit the paragraph, substitute:

- ‘(k) proposal of:
- (i) a special resolution accepting the bankrupt’s proposal for a composition or a scheme of arrangement; or
 - (ii) any other relevant motion;’.

4 Section 64R (Tabling of bankrupt’s statement of affairs)

4.1 Omit the section, substitute:

‘64R Provision of bankrupt’s statement of affairs, bankrupt’s proposal and trustee’s report

- ‘(1) The President must then ask whether each creditor, or representative of a creditor, at the meeting has with him or her a copy of:
- (a) the bankrupt’s proposal; and
 - (b) the trustee’s report on the proposal.
- ‘(2) If the meeting is the first meeting of the creditors, the President must also ask each creditor or representative whether the creditor or representative has a copy of the bankrupt’s statement of affairs with him or her.
- ‘(3) If a creditor or representative indicates that he or she does not have a copy of the proposal, the report or the statement of affairs with him or her, the trustee must give the creditor or representative, as soon as practicable, a copy of the proposal, report or statement, as the case requires.
- ‘(4) If the trustee cannot give a creditor or representative a copy of the proposal, report or statement of affairs within a reasonable time, the meeting is to be adjourned to a time and place decided by the meeting.
- ‘(5) In this section, a reference to a statement of affairs is taken to include a reference to a summary of such a statement.’.

5 Section 64S (Statements and questions)

5.1 Subsection 64S (1)

Table B

Omit the subsection, substitute:

- ‘(1) The President must then invite the bankrupt to make a statement outlining his or her proposal to the meeting.
- ‘(1A) The President must then ask the trustee to comment on his or her report on the bankrupt’s proposal.’.

6 Section 64T (Motions)

6.1 Omit the section, substitute:

‘64T Motions

- ‘(1) The President must then call for a motion for a special resolution to approve the bankrupt’s proposal for a composition or scheme of arrangement.
- ‘(2) If a motion is:
 - (a) not proposed; or
 - (b) proposed but not passed;the President may close the meeting.’.

7 Section 64U (Remuneration of registered trustee)

7.1 Subsection 64U (1)

Omit the subsection, substitute:

- ‘(1) If:
 - (a) a special resolution, accepting the bankrupt’s proposal, has been passed at the meeting; and
 - (b) a registered trustee has consented to be the trustee of the composition or scheme of arrangement; and
 - (c) the President has told the creditors and representatives at the meeting that provision for remuneration of the trustee may be included in the instrument setting out the terms of the composition or scheme;the President must then ask the trustee of the composition or scheme of arrangement to state the basis on which the trustee wishes to be remunerated.’.

7.2. Subsection 64U (8):

Table B

Omit the subsection, substitute:

‘(8) If:

- (a) a special resolution, accepting the bankrupt’s proposal, has been passed at the meeting; and
- (b) the trustee of the bankruptcy is a registered trustee;

the President must ask the trustee to lay before the meeting a statement of the amount of remuneration drawn by the trustee from the funds of the bankrupt’s estate before the meeting was held.

‘(9) The trustee must comply with the President’s request.’.

8 Section 64V (Appointment of committee of inspection)

8.1 Omit the section.

9 Section 64W (Other business)

9.1 Omit the section.

10 Section 64X (Next meeting)

10.1 Omit the section.

10A Before subsection 64Y (1)

insert

(1A) The trustee may adjourn a meeting to undertake further investigations, in relation to the proposal for the composition or scheme of arrangement, that the trustee considers necessary.

(1B) The creditors attending the meeting may, by special resolution, revoke the trustee’s decision to adjourn the meeting.

11 Section 64ZB (Manner of voting)

11.1 After subsection 64ZB (1), insert:

‘(1A) A creditor may, in a written vote given to the trustee at least 2 clear days (not including a Saturday, a Sunday or a public holiday) before the meeting is held, vote on a

Table B

special resolution to accept a proposal by a bankrupt for a composition or scheme of arrangement.’.

11A After subsection 64ZC (5)

insert

(5A) An instrument appointing a proxy must include the following statements:

- (a) a statement disclosing whether or not the proxy has received, or will receive, a financial incentive to vote in a particular way:
 - (i) on a particular matter or matters that may arise at a meeting to which the proxy relates; or
 - (ii) on a particular motion or motions that may be proposed at a meeting to which the proxy relates;
- (b) a statement disclosing whether or not the creditor has received, or will receive, a financial incentive:
 - (i) to appoint the proxy; or
 - (ii) to direct the proxy as to the manner in which the proxy is to vote on a particular matter or matters that may arise, or on a particular motion or motions that may be proposed, at a meeting to which the proxy relates;
- (c) if the proxy or creditor has received, or will receive, a financial incentive in relation to a matter mentioned in paragraph (a) or (b) — a statement specifying the amount of financial incentive paid or to be paid and the name of the person who paid, or is to pay, the financial incentive.

12 Section 64ZE (Joint bankruptcies)

12.1 Omit the section.

**Schedule 3 Paragraph 109 (1) (a) of the
Act — order of payment of
first priority debts**

(regulation 6.01)

1. Realisations charges payable under an Act, and fees payable under regulation 16.14
- 1A. If the Official Trustee transfers the administration of the bankruptcy to a registered trustee — the remuneration and expenses payable to the Official Trustee under regulations 16.07 and 16.08A
2. Expenses reasonably incurred by or on behalf of the trustee:
 - (a) in protecting all or part of the bankrupt's assets; or
 - (b) in carrying on, in accordance with the Act, a business of the bankrupt; or
 - (c) by way of an advance made to the trustee of the bankrupt's estate for payment of properly incurred expenses of the estate for any proper purpose (other than remuneration of the trustee)
3. Other fees, costs, charges and expenses payable by the trustee in administering the bankrupt's estate
4. Where:
 - (a) a creditor has deposited an amount in accordance with an order made under section 50 of the Act; and
 - (b) the amount, or part of the amount, has been used for meeting the expenses referred to in that regulation; the amount, or part of the amount, that has been so used
5. The taxed costs of the petitioning creditor, the administrator of the estate of a deceased person or the applicant under Part X of the Act for a sequestration order and, if a petitioning creditor under Part X of the Act also applied for an order under Division 5 or 6 of Part IX of the Act, any taxed costs of the creditor in respect of the application*
6. The trustee's lawful remuneration
7. Where the creditors, or a majority of them, have approved payment of out-of-pocket expenses incurred by a member of

Table B

the committee of inspection — those expenses, to the extent that the trustee of the bankrupt's estate allows them as being fair and reasonable

8. Costs of any audit carried out under section 175 of the Act

**Note* For the extended application of item 5, see subregulation 6.01 (2).

**Schedule 5 Modifications under
section 185A of the Act —
meetings to consider
proposals relating to debt
agreements**

(regulation 9.01)

1 Section 63A (Definitions):

- 1.1 Subsection 63A (1) (definition of *joint bankruptcy*):
Omit the definition.
- 1.2 Subsection 63A (1) (definition of *meeting*):
Omit all the words after ‘creditors’ (first occurring).
- 1.3 Subsection 63A (1) (definition of *minutes secretary*):
Omit the definition.

2 Section 63B (Trustee’s representative)

- 2.1 After subsection 63B (1), insert:
‘(1A) For the purposes of subsection (1), the trustee may, by
signed writing, delegate the trustee’s power to conduct
meetings to a particular person or to a class of persons.’.

3 Section 64 (Trustee to convene meetings)

- 3.1 Omit the section, substitute:

‘64. Notice of meeting called under section 185A
‘(1) If the trustee calls a meeting of affected creditors to
consider a proposal relating to a debt agreement, the
trustee must give at least 5 working days’ notice of the
proposed meeting to the affected creditors known to the
trustee.

Table B

- ‘(2) The notice must set out the date on which, and time and place at which, the meeting is to be held.
- ‘(3) An affected creditor who receives notice of a meeting may give notice to the trustee, so that the notice is received by the trustee at least 2 working days before the date of the meeting, that the time or place of the meeting is not convenient to the affected creditor.
- ‘(4) If the trustee receives notice that the time, date or place of a proposed meeting is not convenient to a majority of the affected creditors, the trustee must:
 - (a) immediately notify the affected creditors to whom notice of the proposed meeting has been given that the meeting has been postponed; and
 - (b) at the same time, or as soon as practicable afterwards, give notice to the affected creditors known to the trustee of a proposed meeting at another time or place, or both.
- ‘(5) Where the trustee gives a notice under paragraph (4) (b):
 - (a) the trustee must comply with subsection (1); and
 - (b) subsections (2) and (3) apply in relation to the notice.
- ‘(6) Notice under this section may be given:
 - (a) in any case — in writing or by electronic transmission; or
 - (b) in the case of notice under subsection (3) or paragraph (4) (a) — orally (in person or by telephone).’.

**4 Section 64A (Persons to whom notice of meeting is
to be given)**

4.1 Omit the section, substitute:

‘64A. References to ‘notice’

In the following provisions of this Subdivision, a reference to a notice is taken to be a reference to a notice under subsection 64 (1) or paragraph 64 (4) (b).’.

Table B

5 of Section 64B (Certain matters to be included in notice of meeting)

5.1 Subsections 64B (3) and (4):

Omit the subsections, substitute:

‘(3) The notice must include:

- (a) a statement of the purpose of the meeting; and
- (b) a summary of the debt agreement proposal, variation proposal or termination proposal, as the case requires.’.

6 Section 64G (Agenda to be set out in notice of meeting)

6.1 Omit the section, substitute:

‘64G. Agenda

The trustee must make a written agenda available to each of the affected creditors at the meeting.’.

7 Section 64K (Opening of meeting)

7.1 Subsection 64K (1):

Omit all the words after ‘meeting’.

8 Section 64L (Appointment of minutes secretary)

8.1 Omit the section, substitute:

‘64L Proceedings to be recorded

The trustee must ensure that an accurate record in writing is made of the proceedings (including voting) at the meeting.’.

Table B

9 Section 64N (Quorum)

9.1 Subsection 64N (7):

After '63B (1)', insert 'or (1A)'.

10 Section 64P (Election of person to preside at meeting)

10.1 Omit the section.

11 Section 64Q (Whether holding of meeting is convenient to majority of creditors)

11.1 Omit the section.

12 Section 64R (Tabling of bankrupt's statement of affairs)

12.1 Subsection 64R (1):

Omit all the words from and including 'the President', substitute 'the trustee must:

- (a) lay the debtor's statement of affairs and debt agreement proposal before the meeting; and
- (b) explain the proposal to the affected creditors at the meeting.'

12.2 Subsection 64R (2):

Omit 'statement of affairs,' substitute 'statement of affairs, or a summary of it, and the debt agreement proposal,'.

13 Section 64S (Statements and questions)

13.1 Omit 'President' (wherever occurring), substitute 'trustee'.

14 Section 64T (Motions)

14.1 Omit 'President', substitute 'trustee'.

Table B

15 Section 64U (Remuneration of registered trustee)

15.1 Omit the section, substitute:

‘64U Remuneration of trustee

Remuneration to the trustee or other person is payable only in accordance with the debt agreement.’.

16 Section 64V (Appointment of committee of inspection)

16.1 Omit the section.

17 Section 64W (Other business)

17.1 Omit the section.

18 Section 64X (Next meeting)

18.1 Omit the section.

19 Section 64Y (Adjournment of meeting)

19.1 Paragraph 64Y (1) (b):

Omit the paragraph, substitute:

‘(b) without limiting the application of paragraph (a), any matters required to be dealt with at the original meeting and not dealt with are to be dealt with at the adjourned meeting.’.

19.2 Subsection 64Y (2):

Omit ‘64A (2).’, substitute ‘64 (1).’.

20 Section 64Z (Duties of minutes secretary)

20.1 Omit the section.

Table B

21 Section 64ZA (Entitlement to vote)

21.1 Paragraph 64ZA (1) (a):

Omit the paragraph.

21.2 Subsection 64ZA (7):

Omit the subsection.

22 Section 64ZB (Manner of voting)

22.1 Subsection 64ZB (4):

Omit 'trustee, the President or the minutes secretary.', substitute 'trustee.'

22.2 Subparagraphs 64ZB (7) (b) (i), (ii) and (v):

Omit 'President', substitute 'trustee'.

**Schedule 6 Modifications in relation to
Part X of the Act**

(regulations 10.01, 10.05, 10.07, 10.08 and 10.13)

**Part 1 Modifications of Part X of the Act — joint
debtors****1 Section 187A***omit*

This Part

insert

(1) This Part

2 Section 187A*insert*

- (2) In the application of this Part (other than subsection 187 (1A)) to joint debtors, whether partners or not, an expression specified in one of the following rules of interpretation applies to the extent that the context reasonably permits:
- (a) ‘a debtor’ is to be read as ‘joint debtors’;
 - (b) ‘the debtor’ is to be read as ‘the joint debtors’;
 - (c) ‘the debtor’s’ is to be read as ‘the joint debtors’;
 - (d) if used in relation to a debtor:
 - (i) ‘he or she’ is to be read as ‘they’; and
 - (ii) ‘his or her’ is to be read as ‘their’; and
 - (iii) ‘him or her’ is to be read as ‘them’; and
 - (iv) a noun or verb in the singular form is to be read as being in the plural form.
- (3) Subsection (2) applies, subject to any specific modifications of this Part by the *Bankruptcy Regulations 1996*.

Table B

- (4) To the extent that the context reasonably permits, a reference (by operation of subsection (2)) to joint debtors includes a reference to any of the joint debtors.
- (5) A reference to the affairs, or examinable affairs, of a debtor includes a reference to the separate affairs, or separate examinable affairs, of a joint debtor.

3 Subsection 188 (1)

omit

A debtor

insert

If each joint debtor is a person

4 Subsection 188 (1)

before

may sign

insert

the joint debtors

5 Subsections 188 (2AA) and (2AB)

omit

the debtor

insert

each joint debtor

6 Subsection 188 (2C)

omit the second occurrence of

the debtor

insert

each joint debtor

Table B

- 7 Subsection 188 (2D)**
omit the second occurrence of
the debtor
insert
each joint debtor
- 8 Subsection 188 (4)**
before
debtor
insert
joint
- 9 Subsection 188 (5)**
omit
the District in which the
insert
the District in which each joint
- 10 Paragraphs 188A (2) (a) and (c)**
omit
the debtor's
insert
each joint debtor's
- 11 Paragraph 188A (2) (e)**
omit
the debtor
insert
each joint debtor
-

Table B

12 Paragraph 188A (2) (I)

omit

the debtor

insert

each joint debtor

13 Subsection 189AB (1)

omit

- (1) When the debtor's property becomes subject to control under this Division, the debtor's property is charged with:

insert

- (1) When the property of joint debtors becomes charged under this Division, the charges specified in subsection (1A) are created with respect to:

14 After subsection 189AB (1)

insert

- (1A) The charges are:

- (a) a charge over the joint property of the joint debtors; and
- (b) a separate charge over the separate property of each joint debtor.

15 Subsection 189AB (2)

omit

the charge is not affected

insert

none of the charges is affected

16 Subsections 189AB (3) and (4)

omit

The charge

Table B*insert*

Each charge

17 Paragraph 189A (1) (a)*substitute*

- (a) summarising and commenting on the information about:
- (i) the joint estates of the joint debtors; and
 - (ii) the separate estate of each joint debtor;
- that is available to the controlling trustee; and

Part 2 Modifications of Division 5 of Part IV of the Act — meetings called under authorities under section 188 of the Act

1 Subsection 63A (1), definition of *joint bankruptcy*, subparagraph (d) (ii)*omit*

jointly.

insert

jointly; or

2 Subsection 63A (1), definition of *joint bankruptcy*, after paragraph (d)*insert*

- (e) the situation arising out of the signing, by joint debtors for the purposes of section 188, of a joint authority or separate authorities for the administration of their joint estate.

3 Subsection 64A (2)*substitute*

- (2) Notice of a meeting must:

Table B

- (a) be given in a manner specified in the regulations; and
- (b) be published in:
 - (i) a national daily newspaper that circulates throughout Australia; and
 - (ii) a regional daily newspaper of the State or Territory in which the debtor resides.

3 Subsection 64A (2)

substitute

- (2) Notice of a meeting:
 - (a) for the first meeting of creditors — must be published in a manner approved by the Inspector-General; and
 - (b) for any other meeting of creditors — must be given in a manner specified in the regulations.

3A After subsection 64A (2)

insert

- (3) The notice of the first meeting of creditors must include any matter approved by the Inspector-General.
- (4) For the purposes of paragraph (2) (a) and without limiting the power of the Inspector-General under that paragraph, the Inspector-General may:
 - (a) approve, as the manner of publication of the notice of the first meeting of creditors, publication on a website; and
 - (b) specify in the approval:
 - (i) the website where the notice must be published; and
 - (ii) any conditions relating to the approval.

Example

The Inspector-General may specify:

- (a) the format in which the notice is to be made available; and
- (b) the period of time for which the notice must remain on the website; and
- (c) whether related documents are to be made available for downloading from the website or in hard copy.

Table B

- (5) An approval made by the Inspector-General for the purposes of paragraph (2) (a) or subsection (3) must be published on the Insolvency and Trustee Service Australia's website.

3B After section 64A

insert

64AA Immunity from civil actions and proceedings

- (1) A civil action or proceeding does not lie against a person who operates a website, specified in an approval for the purposes of paragraph 64A (2) (a) or subsection 64A (3), in respect of a publication of a notice of the first meeting of creditors (or a notice that appears to be a notice of the first meeting of creditors) if the publication was made in good faith and without negligence.
- (2) Nothing in this section affects by implication any other ground of defence.

4 After subsection 64B (5)

insert

- (6) If the meeting is the first meeting of creditors called under an authority given under section 188, the notice must state that an information sheet about Part X, dealing with the following matters, may be obtained from the Insolvency and Trustee Service Australia:
- (a) meetings under Part X;
 - (b) controlling trustees;
 - (c) the administration of an authority under section 188;
 - (d) the application of Part X to an authority under section 188;
 - (e) personal insolvency agreements;
 - (f) the rights of creditors under Part X.

Table B

5 After paragraph 64D (aa)

insert

- (ab) whether the creditor, in relation to the debtor, is a related entity; and

6 Paragraph 64G (g)

substitute

- (g) if the meeting is the first meeting — tabling of the following documents:
- (i) the statement of affairs, and the proposal for dealing with them, required by subsection 188 (2C) or (2D);
 - (ii) the report by the controlling trustee required by section 189A;
 - (iii) the written statement by the controlling trustee required by section 189B;

7 Section 64P, heading

substitute

64P Controlling trustee to preside at meeting under section 188

8 Subsections 64P (1) and (2)

substitute

- (1) Subject to subsection (2), the controlling trustee must preside at a meeting called under an authority under section 188.
- (2) The creditors and their representatives may:
- (a) vote to remove the controlling trustee as President; and
 - (b) nominate another person to preside at the meeting.

9 Subsection 64P (6)

omit each mention of
the trustee

Table B*insert*

the controlling trustee

10 Subsection 64P (7)*omit*

the trustee

insert

the controlling trustee

11 Subsection 64R (1)*substitute*

- (1) If the meeting is the first meeting, the President must then request the controlling trustee to lay before the meeting the documents specified in paragraph 64G (g), and the controlling trustee must comply with the request.

12 Subsection 64R (2)*omit*

the statement of affairs,

insert

those documents,

13 Subsection 64U (1)*substitute*

- (1) At the first meeting called under an authority under section 188 that is attended by:
- (a) the controlling trustee; or
 - (b) if the creditors have passed a special resolution under paragraph 204 (1) (b) — the trustee of a personal insolvency agreement;
- the President must ask the trustee to state the basis on which he or she wishes to be remunerated.

Table B

14 Before subsection 64Y (1)

insert

- (1A) The controlling trustee may adjourn a meeting to undertake further investigations, in relation to the controlling trusteeship, that the controlling trustee considers necessary.
- (1B) The creditors attending the meeting may, by special resolution, revoke the trustee's decision to adjourn the meeting.

15 After subsection 64ZC (5)

insert

- (5A) An instrument appointing a proxy must include the following statements:
 - (a) a statement disclosing whether or not the proxy has received, or will receive, a financial incentive to vote in a particular way:
 - (i) on a particular matter or matters that may arise at a meeting to which the proxy relates; or
 - (ii) on a particular motion or motions that may be proposed at a meeting to which the proxy relates;
 - (b) a statement disclosing whether or not the creditor has received, or will receive, a financial incentive:
 - (i) to appoint the proxy; or
 - (ii) to direct the proxy as to the manner in which the proxy is to vote on a particular matter or matters that may arise, or on a particular motion or motions that may be proposed, at a meeting to which the proxy relates;
 - (c) if the proxy or creditor has received, or will receive, a financial incentive in relation to a matter mentioned in paragraph (a) or (b) — a statement specifying the amount of financial incentive paid or to be paid and the name of the person who paid, or is to pay, the financial incentive.

Table B**16 After subsection 64ZE (2)***insert*

- (3) This section applies in relation to a personal insolvency agreement only if:
- (a) a joint estate forms part of the property that is to be dealt with under the agreement; and
 - (b) the agreement does not specifically provide for distribution of the joint estate.

**Part 3 Modifications of Part VIII of the Act —
controlling trustees and trustees of
personal insolvency agreements**

1 Before Part VIII, Division 1*insert in Part VIII***Division 1A Interpretation****154AA Interpretation**

In this Part, in its application to Part X, a reference to a registered trustee includes a reference to a controlling trustee and a trustee of a personal insolvency agreement.

2 Section 156A*omit***3 Subsection 157 (1)***substitute*

- (1) If:
- (a) the Official Trustee is:
 - (i) under section 188 or 192, the controlling trustee in relation to a debtor; or

Table B

- (ii) under Part X, the trustee of a personal insolvency agreement; and
 - (b) the creditors wish to appoint, in place of the Official Trustee:
 - (i) a registered trustee or a solicitor as the controlling trustee; or
 - (ii) a registered trustee as the trustee of the personal insolvency agreement;
- the creditors may do so by resolution at a meeting of creditors.

4 Section 158

substitute

158 Appointment of more than 1 controlling trustee

The creditors may appoint 2 or more controlling trustees jointly, or jointly and severally.

5 Section 159

omit

6 Section 160

substitute

160 Vacancy in position of trustee — Official Trustee to act

If at any time there is no controlling trustee in relation to a debtor, or no trustee of a personal insolvency agreement under Part X, the Official Trustee is to act as the trustee.

7 After subsection 161 (1)

insert

- (1A) This section does not apply in relation to a trustee of a personal insolvency agreement.

Table B**8 Subsection 173 (1)***substitute*

- (1) A controlling trustee who has consented to exercise powers given by an authority under section 188 must keep such accounts and records as are necessary to exhibit a full and correct account of the debtor's affairs and must permit a creditor:
- (a) to inspect, at all reasonable times, either personally or by an agent, the accounts and records relating to the controlling trusteeship; and
 - (b) to take a copy of those accounts and records.

Penalty: 5 penalty units.

9 Section 180*omit*

trustee of an estate.

insert

trustee, other than controlling trustee, under Part X.

10 Section 181*substitute***181 Removal of trustee**

The creditors may, by resolution, at a meeting of which at least 7 days notice has been given, remove a controlling trustee or the trustee of a personal insolvency agreement and may, at that meeting or a later meeting, appoint another trustee to replace the removed trustee.

11 Subsection 181A (1)*substitute*

- (1) The current controlling trustee or the current trustee of a personal insolvency agreement may, with the written consent

Table B

of another trustee (either a registered trustee or the Official Trustee), nominate the other trustee as the new trustee.

12 Subsection 181A (4)

substitute

- (4) If no creditor lodges a written notice of objection with the current trustee at least 2 days before the specified date, the new trustee replaces the current trustee on the date specified in the notice.

Part 4 Modifications of Division 1 of Part V of the Act — debtors whose property is subject to control under Division 2 of Part X of the Act

1 Section 77F

substitute

77F Allowances and expenses to be paid out of debtor's property subject to control under Division 2 of Part X

If the evidence that a person gives, or the books that a person produces, under section 77C, relate to matters concerning the property of a debtor that is subject to control under Division 2 of Part X, any amount payable to the person under section 77D or 77E is to be paid out of that property.

2 Subsection 81 (1)

substitute

- (1) Where a person (in this section called the *relevant person*) becomes a debtor whose property is subject to control under Division 2 of Part X, the Court or a Registrar may at any time (whether before or after control over that property has ended), on the application of:

Table B

- (a) a person (in this section called a *creditor*) who has or had a debt that would be provable if the debtor were a bankrupt;
- (b) the controlling trustee; or
- (c) the Official Receiver;
- summon the relevant person for examination in relation to the property that is subject to control under Division 2 of Part X.

**Part 5 Modification under subsection 231 (1) of
the Act — personal insolvency
agreements**

1 Section 77F

substitute

**77F Allowances and expenses to be paid out of debtor's
property subject to personal insolvency agreement**

If the evidence that a person gives, or the books that a person produces, under section 77C, relate to matters concerning the property of a debtor that is subject to a personal insolvency agreement, any amount payable to the person under section 77D or 77E is to be paid out of that property.

**Part 6 Modifications under subsection 231 (3) of
the Act — personal insolvency
agreements**

1 Subsection 113 (1)

omit

presentation of a petition on which, or by virtue of the presentation of which, a person became a bankrupt,

insert

making of a sequestration order,

Table B

2 Subsection 113 (1)

omit

or, in the case of a debtor's petition, the presentation of the petition

3 After subsection 133 (13)

insert

- (14) This section does not apply in relation to a personal insolvency agreement.

4 After paragraph 134 (1) (b)

insert

- (ba) carry on a business of the debtor in accordance with an authorisation given under subsection (5);

5 After subsection 134 (4)

insert

- (5) If a personal insolvency agreement provides for the business of the debtor to be assigned to the trustee, the agreement may:
- (a) authorise the trustee to carry on a business of a debtor; and
 - (b) specify the period during which, and the conditions (if any) subject to which, the trustee may carry on the business.
- (6) The creditors may vary or terminate an authority under subsection (5) by passing a special resolution to that effect at a meeting called for the purpose.
- (7) This section extends only in relation to property of the debtor that is subject to the personal insolvency agreement.

Table B

6 Subsection 136 (1)

omit

Where any property of the bankrupt is subject to a mortgage,

insert

Where any property of the debtor that is subject to the personal insolvency agreement is also subject to a mortgage,

7 Subsection 137 (1)

omit

Where goods of a bankrupt

insert

Where goods of a debtor that are subject to a personal insolvency agreement

8 Paragraphs 138 (1) (a) and (b)

substitute

(a) the property of a debtor that is subject to a personal insolvency agreement includes rights in respect of industrial property; and

(b) the debtor is liable to pay royalties or a share of profits to a person in respect of those rights;

9 Paragraph 138 (1) (c)

omit

the bankrupt;

insert

the debtor;

Table B

10 Paragraph 138 (1) (d)

omit

the bankrupt

insert

the debtor

11 Paragraphs 139 (1) (a) and (b)

substitute

(a) the trustee has seized or disposed of any goods in the possession or on the premises of a debtor that are subject to a personal insolvency agreement without notice of any claim by any person in respect of those goods; and

(b) the goods were not, at the date of execution of the personal insolvency agreement, the property of the debtor;

12 Subsection 139 (2)

omit everything after

in respect of property

insert

that is subject to the personal insolvency agreement, being rates, land tax or municipal or other statutory charges that fall due on or after the date of execution of the personal insolvency agreement, except to the extent, if any, of the rents and profits received by the trustee in respect of that property on or after the date of execution of the personal insolvency agreement.

13 Subsection 139 (3)

substitute

(3) Where the trustee of a personal insolvency agreement carries on a business previously carried on by the debtor, the trustee is not personally liable for any payment in respect of long service leave or extended leave:

Table B

- (a) for which the debtor was liable; or
- (b) to which a person employed by the trustee in his or her capacity as trustee of the personal insolvency agreement, or the legal personal representative of such a person, becomes entitled after the date of execution of the personal insolvency agreement.

14 Subsection 139 (4)*omit*

trustee of the estate of a bankrupt

insert

trustee of a personal insolvency agreement

15 Section 139ZJ*omit*

In this Subdivision:

insert

- (1) In this Subdivision:

16 Section 139ZJ*insert*

- (2) In sections 139ZK, 139ZL and 139ZP, a reference to a bankrupt is to be read as a reference to a debtor.
- (3) In subsection (2):
debtor means a person who has executed a personal insolvency agreement.

17 Paragraphs 139ZK (1) (e) and (f)*omit*

bankruptcy,

Table B

insert

personal insolvency agreement,

18 Subsection 139ZL (1)

omit everything before paragraph (a), insert

- (1) If a debtor is liable to pay a specified amount of his or her income to the trustee in accordance with a personal insolvency agreement, the Official Receiver:

19 Subsection 139ZL (1)

omit

make the contribution.

insert

pay that amount.

20 Paragraphs 139ZL (3) (a) and (b)

omit

the contribution

insert

the amount of income

21 Subsection 139ZQ (1)

omit

bankrupt under Division 3,

insert

personal insolvency agreement because of the application of any of sections 120 to 125,

22 Subsection 139ZR (3)

omit

Division 3.

Table B

insert

any of sections 120 to 125.

**Part 7 Modification under subsection 231 (5) of
the Act — trustees of personal
insolvency agreements**

1 Subsection 173 (1)

substitute

- (1) The trustee of a personal insolvency agreement must keep such accounts and records as are necessary to exhibit a full and correct account of the administration of the agreement and must permit a creditor of the debtor:
- (a) to inspect, at all reasonable times, either personally or by an agent, the accounts and records relating to the personal insolvency agreement; and
 - (b) to take a copy of those accounts and records.

Penalty: 5 penalty units.

Table B

**Schedule 7 Modifications under Part XI of
the Act — administration of
estates of deceased persons**
(regulation 11.02)

1 Section 49 (Change of petitioners):

1.1 Omit 'debtor', substitute 'deceased debtor's estate'.

**2 Section 50 (Taking control of debtor's property
before sequestration)**

2.1 Subsection 50 (1):

Omit 'debtor, but before the debtor becomes', substitute 'debtor who dies after presentation of a creditor's petition but before becoming'.

2.2 Paragraph 50 (1) (a):

Omit 'debtor's property;', substitute 'deceased debtor's estate;'.

2.3 Paragraph 50 (1) (b):

Omit 'property.', substitute 'estate.'.

2.4 Paragraph 50 (1A) (c):

Omit 'debtor', substitute 'deceased debtor's legal personal representative'.

2.5 Subsection 50 (1B):

Omit 'debtor's property', insert 'deceased debtor's estate'.

2.6 Subsection 50 (2):

Omit 'debtor' (first occurring), substitute 'legal personal representative of the deceased debtor'.

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2.7 Subsection 50 (2):

Before 'debtor' (second and third occurring), insert 'deceased debtor'.

2.8 Subsection 50 (3):

Omit 'debtor and the debtor's', substitute 'deceased debtor and the debtor's'.

2.9 Subsection 50 (4):

Before 'debtor' (twice occurring) and 'debtor's', insert 'deceased'.

2.10 Paragraph 50 (5) (a):

Omit 'a sequestration order had been made against the debtor', insert 'an order had been made for the administration of the estate of the deceased debtor'.

2.11 Paragraph 50 (5) (c):

Omit 'debtor's bankruptcy if a sequestration', substitute 'administration of the deceased debtor's estate if an'.

2.12 Section 50:

Add at the end:

'(6) In this section:

legal personal representative, in relation to a deceased debtor, means:

- (a) the executor under the deceased debtor's will; or
- (b) the administrator under letters of administration or court order;

of the deceased debtor's estate, or a part of that estate.'

3 Section 63A (Definitions)

3. Insert the following definition:

'*legal personal representative*, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or

Table B

(b) the administrator under letters of administration or court order;

of the deceased person's estate, or a part of that estate;'

4 be Section 64A (Persons to whom notice of meeting to be given)

4.1 Paragraph 64A (1) (a):

Omit 'the bankrupt has told the trustee,', substitute 'before his or her death the deceased person had told the trustee,'.

5 of Section 64B (Certain matters to be included in notice of meeting)

5.1 Subsection 64B (1):

Before 'place', insert 'former'.

6 meeting) Section 64G (Agenda to be set out in notice of meeting)

6.1 Paragraphs 64G (a) and (i):

Omit 'bankrupt;', substitute 'legal personal representative of the deceased person;,'.

7 Section 64J (Preparation of attendance record)

7.1 Subsection 64J (3):

Omit 'bankrupt', substitute 'legal personal representative of the deceased person'.

8 Section 64K (Opening of meeting)

8.1 Subsection 64K (2):

Omit 'bankrupt' (first occurring), substitute 'legal personal representative of the deceased person'.

Table B

8.2 Subsections 64K (2):

Omit 'the bankrupt.' (second occurring), substitute 'the legal personal representative.'

8.3 Subsections 64K (3) and (6):

Omit 'the bankrupt' (wherever occurring), substitute 'the legal personal representative'.

9 Section 64L (Appointment of minutes secretary)

9.1 Subsection 64L (2):

Omit 'bankrupt', substitute 'legal personal representative of the deceased person'.

10 Section 64P (Election of person to preside at meeting)

10.1 Subsection 64P (2):

Omit 'bankrupt', substitute 'legal personal representative of the deceased person'.

11 Section 64S (Statements and questions)

11.1 Subsection 64S (2):

Omit 'bankrupt' (first occurring), substitute 'legal personal representative of the deceased person'.

11.2 Subsection 64S (2):

Omit 'the bankrupt.' (second occurring), substitute 'the legal personal representative.'

11.3 Subsection 64S (3):

Omit 'bankrupt', substitute 'legal personal representative'.

12 Section 64Z (Duties of minutes secretary)

12.1 Paragraph 64Z (5) (d):

Omit 'bankrupt,' substitute 'legal personal representative of the deceased person,'.

Table B

13 Section 64ZC (Appointment of proxies)

13.1 Subsection 64ZC (6):

Omit 'bankrupt' (first occurring), substitute 'legal personal representative of the deceased person'.

13.2 Subsection 64ZC (6):

Omit 'the bankrupt' (second occurring), substitute 'the legal personal representative'.

14 Section 73 (Composition or arrangement)

14.1 Subsection 73 (1):

Omit 'a bankrupt', substitute 'the legal personal representative of a deceased person'.

14.2 Subsection 73 (1):

Omit 'his or her' (wherever occurring), substitute 'the deceased person's'.

14.3 Subsection 73 (2A):

Omit 'bankrupt's', substitute 'deceased person's'.

14.4 Subsection 73 (3):

Omit 'bankrupt', substitute 'legal person representative'.

14.5 Section 73:

Add at the end:

'(6) In this section:

legal personal representative, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order;

of the deceased person's estate, or a part of that estate.'

Table B**15 Section 74 (Annulment of bankruptcy)**

15.1 Omit the section, substitute:

‘74. Annulment of administration

- ‘(1) A special resolution under subsection 73 (4) takes effect on the date on which it is passed to annul the administration of the estate to which it relates.
- ‘(2) As soon as practicable after that date the trustee of the estate must give to the Official Receiver a certificate, signed by the trustee, of the following matters:
 - (a) the name of the estate;
 - (b) the number of the administration;
 - (c) the terms and date of the special resolution.
- ‘(3) The Official Receiver must enter those matters in the official records.’.

16 Section 75 (Effect of composition or scheme of arrangement)

16. Subsection 75 (2):

Omit the subsection.

16.2 Subparagraphs 75 (4) (b) (i), (ii), (iii) and (iv):

Omit the subparagraphs, substitute:

- ‘(i) the creditors or the estate of the deceased person will suffer injustice or undue delay if the composition or scheme of arrangement proceeds; or
- (ii) the approval of the creditors resulted from a misrepresentation by the legal personal representative; or
- (iii) it is desirable that the deceased person’s:
 - (A) affairs be investigated; or
 - (B) estate be administered;under this Act; or

Table B

- (iv) it is likely that the creditors will receive a greater dividend if the estate is again administered under this Act;’.

16.3 Subsection 75 (4):

Omit ‘trustee’, substitute ‘trustee, the legal personal representative’.

16.4 Subsection 75 (6), (7) and (8):

Omit the subsections, substitute:

‘(6) In this section:

legal personal representative, in relation to a deceased person, means:

- (a) the executor under the deceased person’s will; or
- (b) the administrator under letters of administration or court order;

of the deceased person’s estate, or a part of that estate.’

17 Section 81 (Discovery of bankrupt’s property etc)

17.1 Subsection 81 (1):

Omit the subsection, substitute:

‘(1) At any time during or after the administration under Part XI of the estate of a deceased person (in this section called *the relevant person*), the Court may, on the application of:

- (a) a person (in this section called a *creditor*) who has or had a debt provable in the administration; or
- (b) the trustee of the estate; or
- (c) the Official Receiver;

summon an examinable person in relation to the estate for examination in relation to the administration.

‘(1AA) For the purposes of subsection (1):

examinable person, in relation to an estate of the relevant person, means:

- (a) a person who is believed to be indebted to the estate; or
- (b) a person who may be able to give information the relevant person or the examinable affairs of the relevant person; or

Table B

- (c) a person who has possession of books that may relate to:
 - (i) the relevant person; or
 - (ii) the examinable affairs of the relevant person; or
 - (iii) the estate; or
 - (d) the executor under the relevant person's will; or
 - (e) the administrator under letters of administration or court order;
- of the relevant person's estate, or a part of that estate.'.

17.2 Subsection 81 (1B):

Omit paragraph (b), substitute:

- '(b) relate to:
- (i) the relevant person; or
 - (ii) the examinable affairs of the relevant person; or
 - (iii) the estate.'

17.3 Subsection 81 (11AA):

Omit the subsection.

17.4 Subsection 81 (12):

Before 'relevant person' (first occurring), insert 'estate of the'.

17.5 Subsection 81 (14):

Omit 'person, other than the relevant person,', substitute 'person'.

18 Section 82 (Debts provable in bankruptcy)

18.1 Subsection 82 (1):

Omit all the words from and including 'a bankrupt' to the end, substitute 'the estate of a deceased person was subject at the date of the order for the administration of the estate, or to which the estate may become subject because of an obligation incurred before that date, are provable in the administration of the estate.'.

18.2 Subsection 82 (1A):

Omit 'bankrupt under a maintenance agreement or maintenance order before the date of the bankruptcy.',

Table B

substitute 'by the deceased person under a maintenance agreement or maintenance order during the person's lifetime and before the date of the order for the administration of the person's estate.'

18.3 Paragraph 82 (8) (b):

Omit 'discharge of the bankrupt;', substitute 'end of the administration of the deceased person's estate;'

19 Section 87 (Deduction of discounts)

19.1 Omit 'debtor had not become a bankrupt.', substitute 'estate had not become subject to administration under Part XI.'

20 Section 88 (Apportionment to principal and interest of payments made before bankruptcy)

20.1 Omit 'by a debtor to a creditor before the debtor became a bankrupt', substitute:

'to a creditor by:

- (a) the deceased person before his or her death; or
- (b) the deceased person's estate before the date of the order for the administration of the estate;'

21 Section 95 (Proof in respect of distinct contracts)

21.1 Omit 'person was, at the time when he or she became a bankrupt;', substitute 'deceased person whose estate is being administered under Part XI was, at the date of his or her death,'.

22 Section 104 (Appeal against decision of trustee in respect of proof)

22.1 Subsection 104 (1):

omit

bankrupt

Table B*insert*

legal personal representative of the bankrupt

22.2 After subsection 104 (1):

insert

‘(1A) An application may be made under subsection (1) on the grounds that the proof was wrongly admitted.’

22.2 After subsection 104 (3):

insert

‘(4) In this section:

legal personal representative, for a deceased person, means:

- (a) the executor under the deceased person’s will; or
- (b) the administrator under letters of administration or court order;

of the deceased person’s estate, or a part of that estate.’

23 Section 109 (Priority payments)

23.1 Paragraph 109 (1) (a):

After ‘petitioning creditor’, insert ‘or the trustee of the deceased person’s estate’.

23.2 Paragraph 109 (1) (b):

Omit the paragraph.

24 Section 109A (Debts due to employees)

24.1 Subsection 109A (1):

Omit the subsection, substitute:

‘Where:

- (a) a contract of employment with a person who has since died and whose estate is being administered under Part XI was subsisting immediately before the date of the person’s death; or
- (b) a contract of employment with the trustee, in his or her capacity as trustee, of an estate that is being administered

Table B

under Part XI was subsisting immediately before the date of the order for the administration;

the employee under the contract is, whether or not the employee is a person referred to in subsection (2), entitled to payment under section 109 as if the employee's employment had been terminated:

- (c) where paragraph (a) applies:
 - (i) by the person; and
 - (ii) on the date; mentioned in that paragraph; or
- (d) where paragraph (b) applies:
 - (i) by the trustee; and
 - (ii) on the date; mentioned in that paragraph.'.

24.2 Subsection 109A (2):

After 'trustee (twice occurring), insert 'or legal personal representative'.

24.3 After subsection 109A (2), insert:

'(2A) In subsection (2):

legal personal representative, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order;

of the deceased person's estate, or a part of that estate.'.

25 Section 110 (Application of estates of joint debtors)

25.1 Omit the section.

26 Section 114 (Payment of liabilities etc incurred under terminated deed etc)

26.1 Omit 'becomes a bankrupt', substitute 'dies, and his or her estate becomes subject to administration under Part XI,'.

Table B**27 Section 116 (Property divisible among creditors)**

27.1 After subsection 116 (1), insert:

‘(1A) In the application of this section to Part XI, a reference in subsection (1) to the discharge of a bankrupt is taken to be a reference to the termination of the administration, under that Part, of the estate of the deceased person.’.

27.2 Paragraphs 116 (2) (c) and (ca):

Omit the paragraph.

27.3 Paragraph 116 (2) (g):

Omit the paragraph, substitute:

‘(g) any right of the estate of the deceased person to recover damages or compensation:

(i) for personal injury (including injury resulting in death) or wrong done to the deceased person in his or her lifetime; or

(ii) for personal injury (including injury resulting in death) or wrong done to the spouse or a member of the family of the deceased person (whether the injury or wrong was done before or after the death of the deceased person);

‘(h) any damages or compensation recovered by the deceased person in his or her lifetime, or by the estate of the deceased person, in respect of an injury or wrong specified in subparagraph (g) (i) or (ii);’.

27.4 Subsection 116 (2B):

Omit ‘(c) or (ca),’.

27.5 Subsection 116 (2C):

Omit the subsection.

28 Section 117 (Policies of insurance against liabilities to third parties)

28.1 Paragraph 117 (1) (b):

Table B

Omit '(whether before or after he or she became a bankrupt);', substitute 'at any time;'.

29 of Section 118 (Execution by creditor against property of debtor who becomes a bankrupt etc)

29.1 Paragraph 118 (1) (i) (a):

Omit 'the presentation of a petition, or after the presentation of a petition, against a', substitute 'the making of an order under Part XI, or after the making of such an order, for the administration of the estate of a deceased'.

29.2 Subparagraph 118 (1) (a) (ii):

Omit 'and'.

29.3 Paragraph 118 (1) (b):

Omit the paragraph.

29.4 Subsections 118 (1), (3) and (4):

Omit 'bankrupt' (wherever occurring), substitute 'debtor'.

29.5 Subsection 118 (3):

Omit 'bankruptcy', substitute 'administration of the estate'.

29.6 Paragraph 118 (9) (a):

Omit 'the presentation of a petition, or after the presentation of a petition, against a', substitute 'the making of an order under Part XI, or after the making of such an order, for the administration of the estate of a deceased'.

29.7 Subsection 118 (9):

Omit 'in the bankruptcy.', substitute 'of the estate.'.

29.8 Subsection 118 (10):

Omit 'debtor,' (twice occurring), substitute 'deceased person's estate'.

29.9 Paragraphs 118 (11) (a) and (b):

Omit 'who, after the sale, becomes a bankrupt;', substitute 'who dies and whose estate becomes, or of a deceased person's

Table B

estate that becomes, after the sale, subject to an administration order under Part XI;’.

29.10 Subsection 118 (11):

Omit ‘of the bankrupt’.

30 Section 119 (Duties of sheriff after receiving notice of presentation of petition etc)

30.1 Subsection 119 (1):

Omit ‘against a debtor’, substitute ‘for an order for the administration of a deceased person’s estate’.

30.2 Paragraphs 119 (1) (a) and (b):

Omit ‘debtor’ (wherever occurring), substitute ‘estate’.

30.3 Subsection 119 (2):

Omit ‘the reference to the Court of a debtor’s petition against a debtor’, substitute ‘the presentation to the Court of a petition by a person administering the estate of a deceased person for an order for the administration of the estate’.

30.4 Paragraphs 119 (2) (a) and (b):

Omit ‘debtor’ (wherever occurring), substitute ‘estate’.

30.5 Subsection 119 (3):

Omit ‘a creditor’s petition against a debtor has been given under subsection (1) to a sheriff or notice of the reference to the Court of a debtor’s petition against a debtor has been given under subsection’, substitute ‘a petition has been given under subsection (1) or’.

30.6 Subsection 119 (3):

Omit ‘the debtor’ (wherever occurring), substitute ‘the estate’.

30.7 Subsection 119 (4):

Omit ‘against a debtor’, substitute ‘for an order for the administration of a deceased person’s estate’.

30.8 Paragraphs 119 (4) (a) and (b):

Omit ‘debtor’ (wherever occurring), substitute ‘estate’.

Table B

30.9 Subsection 119 (5):

Omit 'the reference to the Court of a debtor's petition against a debtor', substitute 'the presentation to the Court of a petition by a person administering the estate of a deceased person for an order for the administration of the estate'.

30.10 Paragraphs 119 (5) (a) and (b):

Omit 'debtor' (wherever occurring), substitute 'estate'.

30.11 Subsection 119 (6):

Omit 'against a debtor', substitute 'for an order for the administration of a deceased person's estate'.

30.12 Subsection 119 (6):

Omit 'the debtor' (wherever occurring), substitute 'the estate'.

30.13 Subsection 119 (7):

Omit 'a debtor', substitute 'a deceased person's estate'.

30.14 Subsection 119 (7):

Omit 'the debtor becomes a bankrupt', substitute 'the estate is administered under Part XI'.

31 of Section 119A (Duties of sheriff after receiving notice of bankruptcy etc)

31.1 Subsection 119A (1):

Omit 'has become a bankrupt', substitute 'has died, and his or her estate has become subject to administration under Part XI,'.

31.2 Subparagraph 119A (1) (a) (i):

Omit 'bankrupt', substitute 'estate'.

31.3 Subparagraph 119A (1) (a) (ii):

Omit 'bankrupt' (first occurring), substitute 'estate'.

31.4 Subparagraph 119A (1) (a) (ii):

Omit 'bankrupt became a bankrupt,' (twice occurring), substitute 'debtor died,'.

Table B

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- 31.5 Subparagraph 119A (1) (a) (ii):
Omit 'bankrupt' (third occurring), substitute 'debtor or estate'.
- 31.6 Subparagraph 119A (1) (a) (iii):
Omit 'bankrupt;', substitute 'estate;'.
- 31.7 Subparagraph 119A (1) (b) (i):
Omit 'the bankrupt' (first and third occurring), substitute 'the estate'.
- 31.8 Subparagraphs 119A (1) (b) (i) and (ii):
Omit 'bankrupt became a bankrupt;', substitute 'debtor died;'.
- 31.9 Subparagraph 119A (1) (b) (ii):
Omit 'to the bankrupt;', substitute 'to the estate;'.
- 31.10 Subsection 119A (5):
Omit the subsection.
- 31.11 Paragraph 119A (6) (a):
Omit 'bankrupt', substitute 'deceased person'.
- 31.12 Paragraph 119A (6) (b):
Omit 'bankrupt', substitute 'estate'.
- 31.13 Subsection 119A (7):
Omit 'a bankrupt', substitute 'the estate of a deceased person'.

32 Section 122 (Avoidance of preferences)

- 32.1 Subsection 122 (1):
Omit 'insolvent (the *debtor*)', substitute 'insolvent and who subsequently dies (the *deceased debtor*)'.
- 32.2 Subsection 122 (1):
Omit 'in the debtor's bankruptcy', substitute 'of the deceased debtor's estate being administered under Part XI'.
- 32.3 Paragraph 122 (1) (b):
Omit the paragraph (including the table), substitute:
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‘(b) was made in the period beginning 6 months before the presentation of the petition for an order for the administration of the estate and ending immediately before the date of the order.’.

32.4 Subsection 122 (1A):

Omit ‘debtor’, substitute ‘deceased debtor before his or her death’.

32.5 Paragraphs 122 (1A) (a) and (b):

Before ‘debtor’, insert ‘deceased’.

32.6 Paragraph 122 (1A) (b):

Before ‘debtor’s’, insert ‘deceased’.

32.7 Paragraph 122 (2) (b):

After ‘debtor’, insert ‘or the estate of the deceased debtor’.

32.8 Subsection 122 (4A):

After ‘debtor’ (twice occurring), insert ‘or the estate of the deceased debtor’.

33 Section 123 (Protection of certain transfers of property against relation back etc)

33.1 Subsection 123 (1):

Omit ‘becomes a bankrupt:’, substitute ‘has died, and his or her estate has become subject to administration under Part XI.’.

33.2 Paragraphs 123 (1) (a), (b) and (c):

After ‘debtor’ insert ‘before he or she died’.

33.3 Paragraph 123 (1) (e):

Omit ‘before the day on which the debtor became a bankrupt;’, substitute ‘on or before the day on which the debtor died;’.

33.4 Subsection 123 (4):

Before ‘debtor’, insert ‘deceased’.

33.5 Subsection 123 (4):

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Omit 'became a bankrupt', substitute 'died'.

33.6 Subsection 123 (6):

Omit 'a debtor becomes', substitute 'a deceased debtor before his or her death became'.

33.7 Subsection 123 (6):

Before 'debtor' (second and third occurring), insert 'deceased'.

34 Section 124 (Protection of certain payments to bankrupt etc)

34.1 Subsection 124 (1):

Omit 'becomes, or has become, a bankrupt', substitute 'has died, and his or her estate has become subject to administration under Part XI'.

34.2 Paragraph 124 (1) (a):

After 'made', insert 'on or'.

34.3 Paragraph 124 (1) (a):

Omit 'becomes a bankrupt', substitute 'dies'.

34.4 Paragraph 124 (1) (b):

Omit 'on or'.

34.5 Paragraph 124 (1) (b):

Omit 'became a bankrupt', substitute 'died'.

35 Section 125 (Certain accounts of undischarged bankrupt)

35.1 Subsection 125 (1):

Omit 'an undischarged bankrupt', substitute 'deceased and that his or her estate is being administered under Part XI'.

36 Section 126 (Dealings with undischarged bankrupt in respect of after-acquired property)

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36.1 Omit the section.

37 Section 127 (Limitation of time for making of claims by trustee etc)

37.1 After subsection 127 (1), insert:

‘(1A) In the application of Part XI to this section, the reference in subsection (1) to the date on which a person became bankrupt is taken to be a reference to the date on which administration of a deceased person’s estate commenced.’.

38 Section 134 (Powers exercisable at discretion of trustee)

38.1 Paragraph 134 (1) (m):

Omit ‘the bankrupt: (first occurring), substitute ‘the legal personal representative of a deceased person:’.

38.2 Subparagraph 134 (1) (m) (i):

Omit ‘the bankrupt;’, substitute ‘the estate of the deceased person;’.

38.3 Subparagraph 134 (1) (m) (ii):

Omit ‘bankrupt’s’ (twice occurring), substitute ‘estate’s’.

38.4 Subparagraph 134 (1) (m) (iii):

Omit ‘bankrupt;’, substitute ‘estate’.

38.5 Paragraph 134 (1) (m):

Omit ‘bankrupt’s services, make such allowance to the bankrupt’, substitute ‘services of the legal personal representative of the deceased person, pay such remuneration to him or her’.

38.6 Paragraphs 134 (1) (n) and (o):

Omit ‘the bankrupt’, substitute ‘the estate of the deceased person’.

38.7 After subsection 134 (1), insert:

‘(1AA) In subsection (1):

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legal personal representative, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order;

of the deceased person's estate, or a part of that estate.'

38.7 Subsection 134 (1A):

Omit 'An allowance made to the bankrupt', substitute 'Remuneration paid to the legal personal representative of a deceased person'.

39 Section 134 (Powers exercisable at discretion of trustee)

39.1 Paragraphs 134 (1) (b) and (c):

Omit 'the bankrupt;', substitute 'the estate of the deceased person;'

39.2 Paragraph 134 (1) (ma):

Omit the paragraph, substitute:

- '(j) pay such remuneration out of the estate of the deceased person as he or she thinks fit to the legal personal representative of the deceased person.'

39.3 Section 134:

Add at the end:

'(5) In this section:

legal personal representative, for a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order;

of the deceased person's estate, or a part of that estate.'

40 of Section 138 (Limitation on trustee's power in respect of copyright, patents etc)

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40.1 Paragraph 138 (1) (a):

Omit 'bankrupt', substitute 'estate of a deceased person'.

40.2 Paragraphs 138 (1) (b), (c) and (d):

Omit 'bankrupt', substitute 'estate'.

41 to Section 139ZL (Official Receiver may require persons to make payments)

41.1 Subsection 139ZL (6):

Omit 'bankrupt', substitute 'legal personal representative of the deceased person'.

41.2 After subsection 139ZL (6), insert:

'(6A) In subsection (6):

legal personal representative, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order;

of the deceased person's estate, or a part of that estate.'

42 Section 139ZQ (Official Receiver may require payment)

42.1 Subsection 139ZQ (5):

Omit 'bankrupt', substitute 'legal personal representative of the deceased person'.

42.2 After subsection 139ZQ (5), insert:

'(5A) In subsection (5):

legal personal representative, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order;

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of the deceased person's estate, or a part of that estate.'

43 Section 143 (Provision to be made for creditors residing at a distance etc)

43.1 Paragraph 143 (a):

Omit 'bankrupt's statement of', substitute 'statement of a deceased person's'.

44 Section 146 (Distribution of dividends where bankrupt fails to file statement of affairs)

44.1 Omit 'a bankrupt', substitute 'the legal personal representative of a deceased person'.

44.2 Omit 'his or her affairs' (twice occurring), substitute 'the deceased person's affairs'.

44.3 Omit 'bankrupt' (second occurring), substitute 'legal personal representative'.

45 Section 156A (Consent to act as trustee)

45.1 Paragraph 156A (1) (a):

Before 'debtor' (first occurring), insert 'deceased'.

45.2 Paragraphs 156A (1) (a) and (3) (a):

Omit 'debtor becomes a bankrupt;', substitute 'deceased debtor's estate is administered under Part XI;'.

45.3 Paragraph 156A (3) (a):

Omit 'estate of the bankrupt;', substitute 'estate;'.

46 Section 161B (Trustee's remuneration — minimum entitlement)

46.1 Subsection 161B (2):

Omit the subsection.

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47 Section 162 (Trustee's remuneration — general)

47.1 Subsection 162 (3):

Omit 'bankrupt' (second occurring), substitute 'legal personal representative of the deceased person'.

47.2 After subsection 162 (3), insert:

'(3A) In subsection (3):

legal personal representative, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order;

of the deceased person's estate, or a part of that estate.'

48 Section 170 (Trustee to give Official Receiver and bankrupt information etc)

48.1 Subsection 170 (2):

Omit the subsection, substitute:

'(2) At the request of the legal personal representative of the deceased person, the trustee must give to the legal personal representative information reasonably required by the legal personal representative concerning the affairs of the deceased person.

'(3) In subsection (2):

legal personal representative, in relation to a deceased person, means:

- (a) the executor under the deceased person's will; or
- (b) the administrator under letters of administration or court order;

of the deceased person's estate, or a part of that estate.'