

Committee Secretary
Senate Legal and Constitutional Committee
Parliament House
Canberra ACT 2600 - by email

I appeared before the inquiry on 28 January 2010 for the IPA. The Committee asked me about comparative dollar threshold figures for bankruptcy petitions in other related jurisdictions – NZ, Canada, UK etc.

On discussing this afterwards with the Attorney-General's Department, it was considered that it was better placed to quickly find out those figures. AGD has kindly copied me the information it provided to the Committee, as below.

I am happy to rely on AGD's information and trust that this satisfies the request made of the IPA by the Committee.

What is the minimum amount for a creditor's petition in other comparable jurisdictions?

Direct comparisons between individual aspects of different jurisdictions' personal insolvency systems are problematic. The consequences for bankrupts are different in the jurisdictions mentioned below, particularly in relation to the standard period of bankruptcy (which is much shorter in most of them) and the public record of bankruptcy (which is not permanent in most of them).

In Canada, under section 43(1) of the Bankruptcy and Insolvency Act (RS 1985, c. B-3) one or more creditors may file in court an application for a bankruptcy order against a debtor if it is alleged in the application that the debt or debts owing to the applicant creditor or creditors amount to CAD 1,000 (approximately AUD 1,500).

In the USA, a debtor can be made involuntarily bankrupt by his or her creditors. Under section 303 of USC 11, if a debtor has twelve or more creditors, an involuntary petition requires at least three creditors who are owed a minimum of USD 10,000 (approximately AUD 11,230) in total. If there are fewer than twelve creditors, only one creditor owed at least USD 10,000 is required.

In New Zealand, under section 13 of the Insolvency Act 2006, a creditor may apply for a debtor to be adjudicated bankrupt if the debtor owes the creditor NZD 1,000 or more (approximately AUD 790) or, if two or more creditors join in the application, the debtor owes a total of NZD 10,000 or more to those creditors between them.

In England and Wales, the minimum amount for a creditor's petition is GBP 750 (approximately AUD 1,360) in unsecured debt. In Scotland a creditor can ask a sheriff to award bankruptcy against a debtor if they are owed at least GBP 3,000 (approximately AUD 5,430). Also in Scotland creditors can file a joint petition asking the sheriff to award bankruptcy against a debtor if collectively they are owed at least GBP 3,000.

Regards

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