



Bronwyn Bishop MP

Chairman

House of Representatives Standing Committee on
Legal and Constitutional Affairs

MEDIA RELEASE

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Bishop announces Inquiry into proposed changes to bankruptcy laws

Chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs, Bronwyn Bishop today announced that the proposed changes to bankruptcy laws aimed at stopping bankrupts from using existing legislation to continually evade debts will be examined by the Committee.

“The Attorney-General has referred an exposure draft of the *Bankruptcy Legislation Amendment (Anti-Avoidance and Other Measures) Bill 2004* to the committee for inquiry and report by 16 July 2004”, Mrs Bishop said.

The amendments proposed by the draft bill are aimed at preventing high income professionals using bankruptcy as a means to avoid their taxation and other obligations. In particular, the amendments will provide creditors with improved access to assets, which are substantively those of the bankrupt but held in the names of other entities (such as the bankrupt’s spouse or another family member).

Mrs Bishop said the amendments had been developed following a Joint Taskforce Report on the Use of Bankruptcy and Family Law Schemes to Avoid Payment of Tax. She said that the taskforce consisted of officers from the Attorney-General’s Department, Insolvency and Trustee Service Australia, the Australian Taxation Office and Treasury.

The taskforce had identified the problem of a small but significant number of high-income debtors, typically high earning fee-for-service professionals, who use bankruptcy to avoid paying their taxation and other debts. These debtors have the ability to pay their debts, but instead fund a lifestyle made possible only through the non-payment of debts and the build up of assets in the names of related parties.

The taskforce made a number of key recommendations including amendments to the *Bankruptcy Act 1966* and the *Family Law Act 1975*.

Under its terms of reference, the committee will consider whether the provision of the draft bill address the problems identified in the taskforce report, namely:

- (a) high income earners using bankruptcy to avoid paying debts that they can afford to pay, while continuing to enjoy a lifestyle made possible through the build up of assets in the names of third parties;
- (b) the uncertainty arising from the interaction between family law and bankruptcy;
- (c) the inadequacy of the current income contributions scheme in circumstances where a bankrupt chooses not to comply, and;
- (d) the use of financial agreements to defeat the claims of creditors.

Submissions to the inquiry close on 18 June this year, with the committee due to report to the parliament by 16 July.

Inquiry contact:

Committee secretary Gillian Gould (02) 6277 2358, email laca.reps@aph.gov.au or visit the committee website at: www.aph.gov.au/house/committee/laca/bankruptcy

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The taskforce report is available on: <http://www.itsa.gov.au/dir228/itsaweb.nsf/docindex/reform->