



**Senator the Hon Amanda Stoker**

Assistant Minister to the Attorney-General  
Assistant Minister for Industrial Relations  
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MS21-000744

Senator the Hon Concetta Fierravanti-Wells  
Chair  
Senate Standing Committee for the Scrutiny of Delegated Legislation  
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Dear Senator *Connie,*

Thank you for your letter of 24 June 2021 regarding the concerns of the Senate Standing Committee for the Scrutiny of Delegated Legislation (the Committee) about Schedules 2-4 of the *Bankruptcy Regulations 2021* (the Regulations). I appreciate the time you have taken to bring these matters to my attention.

In the letter, the Committee has requested my advice about:

- why it would not be appropriate to provide for a three-year repeal date for the provisions of the Regulations which modify the operation of the *Bankruptcy Act 1966* (the Bankruptcy Act); and the *Fringe Benefits Tax Assessment Act 1986* (the FBTA Act) and
- whether a targeted review can be undertaken of the legislative framework underpinning the regulation of Australia's personal insolvency system which specifically addresses the appropriate balance between including measures on the face of the primary legislation and the regulations.

Noting the Committee's continuing concerns about Schedules 2-4 of the Regulations, the Government will undertake a targeted review with a view to addressing the Committee's concerns regarding Schedules 2-4 of the Regulations amending or modifying primary legislation. The targeted review will:

- assess whether the modifying provisions currently prescribed in Schedules 2-4 of the Regulations are more appropriately contained within primary legislation, and
- should this be the case, identify the appropriate legislative vehicle through which any appropriate changes can be progressed.

The targeted review will commence in 2022 with the Government informing the Committee of its outcome by 1 April 2023, which is two years after the commencement of Schedules 2-4 of the Regulations. A 2022 commencement of the targeted review is influenced by the Government's current priorities relating to the personal insolvency system.

As the Committee may be aware, the Government undertook public consultation in the first half of 2021 into the personal insolvency system and the impacts of COVID-19. As I'm sure the Committee would agree, work associated with ensuring policy settings respond appropriately to current challenges facing Australians is of paramount importance.

It is the Government's view that the approach outlined above removes the need to provide a three year repeal date for Schedule 2-4 of the Regulations. The timeframe of the targeted review will enable the Government to progress any necessary amendments to the Bankruptcy Act in a timely manner which accords with the Committee's wishes. Given the current environment associated with COVID-19 and the possibility of future reforms responding to the pandemic, the Government is of the view that applying a three year repeal date to Schedules 2-4 of the Regulations would place unnecessary uncertainty and pressure on the personal insolvency system.

Thank you again for bringing your concerns to the Government's attention. I trust this information is of assistance to the Committee.

Yours sincerely

**Senator the Hon Amanda Stoker**