

CHAPTER 1

Introduction

1.1 On 29 October 2009, the Senate referred the provisions of the Bankruptcy Legislation Amendment Bill 2009 (Bill) to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 2 February 2010. On 2 February 2010, the Senate agreed to extend the reporting date to 23 February 2010.

Purpose of the Bill

1.2 The Bill was introduced in the House of Representatives on 28 October 2009 by the Attorney-General, the Hon. Robert McClelland MP. The Bill amends the *Bankruptcy Act 1966* (Act) and aims to:

- provide a more streamlined process for fixing trustee remuneration and a more transparent process for reviewing that remuneration;
- strengthen the penalties for some offences and ensure these align with the penalties for similar offences;
- remove the outdated concept of 'bankruptcy districts' to provide more flexibility in personal insolvency administration;
- increase the minimum debt for a creditor's petition to reflect changes in the economic environment;
- increase the stay period that follows a declaration of intent to file a debtor's petition to allow debtors to better assess their options; and
- increase the debt, income and asset tests thresholds for debt agreements to ensure the thresholds keep pace with increasing wages and the increasing availability of credit.¹

1.3 According to the Replacement Explanatory Memorandum (REM), the primary purpose of the Bill is to modernise the national personal insolvency scheme and to make it more efficient. In particular, the Bill includes amendments which recognise that the majority of bankruptcies relate to consumer debts and involve bankrupts with relatively few assets and little income.²

1 Replacement Explanatory Memorandum, p. 1.

2 Replacement Explanatory Memorandum, p. 2.

Conduct of the inquiry

1.4 The committee advertised the inquiry in *The Australian* newspaper on 18 November 2009, 2 December 2009, 9 December 2009 and 27 January 2010. Details of the inquiry, the Bill and associated documents were placed on the committee's website. The committee also wrote to 30 organisations and individuals, inviting submissions by 25 November 2009.

1.5 The committee received 15 submissions which are listed at Appendix 1. Submissions were placed on the committee's website for ease of access by the public.

1.6 The committee held a public hearing in Sydney on 28 January 2010. A list of witnesses who appeared at the hearing is at Appendix 2, and copies of the Hansard transcript are available through the internet at <http://www.aph.gov.au/hansard>.

Acknowledgement

1.7 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearings.

Scope of the report

1.8 Chapter 2 provides a brief outline of the key provisions of the Bill, and Chapter 3 discusses the key issues raised in submissions and evidence.

Note on references

1.9 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.