



Bankruptcy (Estate Charges) Amendment Act 2001

No. 158, 2001



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**An Act to amend the *Bankruptcy (Estate Charges)
Act 1997*, and for related purposes**

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An Act to amend the *Bankruptcy (Estate Charges) Act 1997*, and for related purposes

[Assented to 1 October 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Bankruptcy (Estate Charges)
Amendment Act 2001*.

2 Commencement

This Act commences at the same time as section 1 of the
Bankruptcy Legislation Amendment Act 2001.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments and transitional provisions

Part 1—Amendments

Bankruptcy (Estate Charges) Act 1997

1 Subsection 4(1) (definition of *charge period*)

Repeal the definition, substitute:

charge period means a period of 6 months commencing on 1 January or 1 July.

2 After subsection 5(1)

Insert:

- (1A) No charge is payable by a trustee in respect of an account for a charge period if the amount of that charge would be less than \$10, or a higher amount prescribed by the regulations.

3 Subsection 5(4)

Omit “21 days”, substitute “35 days”.

4 After paragraph 6(1)(a)

Insert:

- (aa) is the trustee of a composition or scheme of arrangement under Division 6 of Part IV of the *Bankruptcy Act 1966*; or

5 After subsection 6(1)

Insert:

- (1A) No charge is payable by a trustee for a charge period in respect of a particular estate, deed, composition or debtor (as the case requires) if the amount of that charge would be less than \$10, or a higher amount prescribed by the regulations.

6 Subsection 6(3)

Omit “21 days”, substitute “35 days”.

7 After section 6

Insert:

6A Charge not payable on estate surplus

(1) If:

- (a) the trustee receives an amount in respect of a bankrupt's estate; and
- (b) as a result of receiving the amount, the trustee becomes able to pay off all the bankrupt's debts;

then the following amounts are not taken into account in determining the amount on which charge is payable:

- (c) any excess of the received amount over the amount needed to pay off all the bankrupt's debts;
- (d) any amount later received by the trustee in respect of the estate.

(2) In this section:

bankrupt's debts has the same meaning as in subsection 153A(6) of the *Bankruptcy Act 1966*.

8 After section 7

Insert:

7A Certain amounts treated as being received by trustee

For the purposes of this Part, an amount is treated as received by the trustee if it is applied or dealt with on behalf of the trustee, or in accordance with the trustee's directions.

9 At the end of the Act

Add:

Part 4—Miscellaneous

9 Regulations

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.

Part 2—Transitional provisions

10 Definitions

In this Part:

commencing time means the time when this Act commences.

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

11 Item 1

- (1) If this Act commences during an old charge period ending on 30 April, then:
 - (a) that charge period is extended until 30 June; and
 - (b) the amendment made by item 1 applies from 1 July following that 30 June.
- (2) If this Act commences during an old charge period ending on 31 October, then:
 - (a) that charge period is extended until 31 December; and
 - (b) the amendment made by item 1 applies from 1 January following that 31 December.
- (3) In this item:

old charge period means a charge period within the meaning of the Estate Charges Act (ignoring the amendment made by item 1).

12 Items 2 and 5

The amendments made by items 2 and 5 apply to charge periods that end after the commencing time.

13 Items 3 and 6

The amendments made by items 3 and 6 apply to charge periods that end after the commencing time.

14 Item 4

The amendment made by item 4 applies to compositions and schemes of arrangement that are accepted by creditors after the commencing time.

15 Item 7

The amendment made by item 7 applies to amounts received after the commencing time.

16 Item 8

The amendment made by item 8 applies to amounts that are applied or dealt with after the commencing time.

*[Minister's second reading speech made in—
House of Representatives on 7 June 2001
Senate on 20 September 2001]*

(106/01)