

Bankruptcy Amendment Regulations 2000 (No. 1) 2000 No. 140

EXPLANATORY STATEMENT

Statutory Rules 2000 No. 140

Issued by authority of the Minister for Justice and Customs

Bankruptcy Act 1966

Bankruptcy Amendment Regulations 2000 (No. 1)

The *Bankruptcy Act 1966* (the Act) is enacted in exercise of the Parliament's power under section 51 (xvii) of the Constitution to make laws in relation to bankruptcy.

Subsection 315(1) of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 315(2)(j)(i) of the Act provides for Regulations to be made for the charging and payment of fees in relation to proceedings under the Act. Section 163 of the Act provides that the Official Trustee, a body corporate established under the Act to administer insolvent estates where no other trustee is appointed, is to be remunerated as prescribed by the regulations.

The Bankruptcy Regulations (the Regulations) prescribe fees payable to the Official Trustee by way of remuneration for services provided in relation to the administration of personal insolvencies. (regulation 16.07); and fees payable to the Insolvency and Trustee Service Australia for the taxation of bills of costs for the remuneration of registered trustees and other persons for work undertaken in relation to the administration of personal insolvencies (subregulation 16.12(2)). Both these services are taxable supplies for the purposes of the A New Tax System (Goods and Services) Act 1999.

The purpose of the Bankruptcy Amendment Regulations (the Amendment Regulations) is to amend the Regulations to permit these fees to be increased by the amount applicable to GST for Government agencies, currently 8.4%. The 8.4% increase provided for in the Amendment Regulations takes account of the reductions in costs arising from removal of wholesale sales tax and other embedded savings and is consistent with Australian Competition and Consumer Commission (**ACCC**) Pricing Guidelines. It is also consistent with Commonwealth Agency Pricing Guidelines.

The Amendment Regulations specify that fees payable under regulation 16.07 or subregulation 16.12(2) of the Bankruptcy Regulations are to be increased by an amount equal to 8.4% of those fees to obtain the price of the taxable supply within the meaning of the A New Tax System (Goods and Services) Act 1999.

Details of the amendment are set out in the Attachment.

Attachment

Bankruptcy Amendment Regulations 2000 (No. 1)

Regulation 1 - Name of Regulations Regulation 1 names the amending regulations the *Bankruptcy Amendment Regulations 2000 (No. 1)*.

Regulation 2 - Commencement

Regulation 2 specifies that the Bankruptcy Amendment Regulations will commence on 1 July 2000.

Regulation 3

Regulation 3 provides that Schedule 1 amends the Bankruptcy Regulations.

Schedule 1 Amendments

The following amendments to the Bankruptcy Regulations are made in Schedule 1:

Regulation 1.01

The amendment corrects a drafting omission, replacing the reference to the Bankruptcy Regulations with a reference to the Bankruptcy Regulations 1996.

Subregulation 16.07(9)

The amendment omits the cross-reference to regulation 8.12 of the Bankruptcy Regulations (Prescribed Remuneration of the Official Trustee) in the note following this subregulation because the note is being placed after subregulation 16.07(10).

After subregulation 16.07(9)

The amendment inserts a new subregulation (10) after subregulation 16.07(9) of the Bankruptcy Regulations. The new subregulation provides for an increase of the fees provided for in subregulations 16.07(1), (2), (3), (7) or (8) by an amount equal to 8.4%, this being the price of the taxable supply within the meaning of *A New Tax System (Goods and Services) Act 1999*.

A note is inserted after new subregulation (10) making a cross-reference to subregulation 8.12 (Prescribed Remuneration of the Official Trustee).

After subregulation 16.12(4)

The amendment inserts a new subregulation (5) after subregulation 16.12(4). The new subregulation provides for the increase of the fees mentioned in subregulation (2) by an amount equal to 8.4%, this being the price of the taxable supply within the meaning of *A New Tax System (Goods and Services) Act 1999*.