

EXPLANATORY STATEMENT

Subject - *Insolvency Law Reform Act 2016*

Insolvency Law Reform (Transitional Provisions) Regulation 2016

The *Insolvency Law Reform Act 2016* (the 'Act') amends corporate and personal insolvency laws in Australia.

Item 178 of Schedule 1 to the Act provides that the Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any savings and application provisions) related to the amendments and repeals made by Schedule 1 to the Act.

The purpose of the *Insolvency Law Reform (Transitional Provisions) Regulation 2016* (the 'Regulation') is to amend the Act to delay commencement of certain aspects of the Insolvency Practice Schedule (Bankruptcy) until 1 September 2017.

Details of the Regulation are set out in the Attachment.

The Regulation is an instrument for the purposes of the *Legislation Act 2003*.

The Regulation has been informed by public consultation on a proposals paper outlining the contents of the legislative instrument released in 2015 and on a draft of the instrument in 2016. As a result of industry feedback following the passage of the Amending Act, the Australian Government agreed to the partial delay of the commencement of the Amending Act to ensure an efficient transition to the new obligations. In particular, the delay will allow for the development and dissemination of insolvency firm software used by the majority of the industry.

The Regulation will commence on the day that the amending Act commences (which will be 1 March 2017).

Authority: Item 178 of Schedule 1 to the
Insolvency Law Reform Act 2016

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Insolvency Law Reform (Transitional Provisions) Regulation 2016

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Insolvency Law Reform (Transitional Provisions) Regulation 2016* is to amend the *Insolvency Law Reform Act 2016* (the ‘Act’) to delay commencement of certain parts of the Act to 1 September 2017.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Details of the *Insolvency Law Reform (Transitional Provisions) Regulation 2016*

This Attachment sets out further details of the *Insolvency Law Reform (Transitional Provisions) Regulation 2016* (the ‘Regulation’). All references are to the Regulation unless otherwise stated.

Part 1 – Preliminary

Section 1 – Name of Regulation

This section will provide that the title of the Regulation is the *Insolvency Law Reform (Transitional Provisions) Regulation 2016*.

Section 2 – Commencement

This section will provide that the Regulation will commence on the day that Schedule 1 to the *Insolvency Law Reform Act 2016* (the ‘Act’).

Section 3 – Authority

This section will provide that the Regulation is made under the authority of item 178 of Schedule 1 to the Act.

Part 2—Transition to Part 3 of the Insolvency Practice Schedule (Bankruptcy)

Section 4 – Application provisions and modifications relating to Part 3

Subsection 4(1) will amend Divisions 3 and 5 (other than item 169) of Part 3 of the Insolvency Practice Schedule (Bankruptcy) so that the commencement day will be 1 September 2017.

Subsection 4(2) will provide that Schedule 1 to the Regulation will modify Divisions 1 and 3 of Part 3 of the Insolvency Practice Schedule (Bankruptcy).

Section 5 – Application of certain consequential amendments relating to the enactment of the Insolvency Practice Schedule (Bankruptcy)

Section 5 will provide that the items listed in this section will apply to administrations of regulated debtors’ estates on and after 1 September 2017.

Schedule 1—Transition to Part 3 of the Insolvency Practice Schedule (Bankruptcy)

Amendments to the Insolvency Law Reform Act 2016

Items 1, 3, 5, 6, 9-17

These items will amend items and subitems in Schedule 1 to the Act to reflect the delayed commencement of certain provisions to 1 September 2017.

Item 2

Item 2 will amend item 118 of Schedule 1 to the Act so that, where a committee has already been convened but the matter has not dealt with before commencement, these matters can be dealt with under provisions of the old Act.

Item 4

Item 3 will amend item 127 of Schedule 1 to the Act to reflect the delayed commencement of the Application of Part 3 of the Insolvency Practice Schedule (Bankruptcy) to 1 September 2017.

Items 7 and 8

These items will amend subitems in Schedule 1 to the Act to reflect the delayed commencement of certain provisions to 1 September 2017 to remove references to '2017-18' and '2017' and instead refer to '2018-19' and '2018'.