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The Treasury
bankruptcy@treasury.gov.au
Submitted via Consultation Hub

Reforms to the bankruptcy system

Thank you for the opportunity to comment on reforms to the bankruptcy system. We offer this short submission on behalf of the following organisations in support of the draft amendments:

- Financial Rights Legal Centre
- Mob Strong Debt Help
- Consumer Action Law Centre
- Redfern Legal Centre
- Care Inc
- Economic Abuse Reference Group

We have long supported simple, commonsense reforms to the bankruptcy. Being forced into bankruptcy can have severe and unfair consequences, including relationship conflict and breakdown, deterioration of mental health and homelessness. The changes being proposed in the draft *Treasury Laws Amendment (Regulatory Reform and Other Measures) Bill 2026: Personal Insolvency Amendments* will go a long way to addressing many of these consequences at a time of increasing financial stress.

Schedule 1, item 1, paragraph 5(1), definition of 'statutory minimum' in the Bankruptcy Act 1966

Increasing the statutory minimum to $20,000 is a welcome reform, and we expect it will address some of the more egregious examples of misuse of bankruptcy as a debt collection tactic we have seen.

Subsection 5(1) (paragraphs (a) and (b) of the definition of 13 statutory period)

We support the increase of the bankruptcy notice period to 28 days. It remains our view that a longer period of 60 days would be more appropriate for the reasons set out in past consultations on bankruptcy reform.[1] 28 days remains a very short period of time for a debtor to seek advice and support to address these consequential notices, which can particularly impact people living in remote areas for whom delivery of notices can be subject to delay. However, any increase to the time period will be of significant help to many Australians in this difficult situation.

Schedule 1, item 7, s304B of the Bankruptcy Act 1966

We support the indexation of the statutory minimum as well as the safeguard to prevent the statutory minimum falling below the revised statutory minimum of $20,000. The latter will provide greater certainty to both debtors and creditors.

Repeal of Schedule 1, item 3, paragraphs 40(1)(ha) and (hb)

We support the removal of the application or acceptance of a debt agreement as an act of bankruptcy. The ongoing stigma of bankruptcy continues to divert people away from the safety of regulated debt agreements (or in some cases, an appropriate bankruptcy). It has had the unfortunate effect of making informal debt arrangements more attractive, given they are not a formal act of bankruptcy. We have many examples of these arrangements placing debtors into a worse financial position. We hope this reform will simultaneously reduce the stigma of entering debt agreements where they are the best option for a debtor, and make unprotected informal debt arrangements less attractive to people in difficult financial situations.

The Minimal Asset Procedure should be progressed

Consumer representatives remain supportive of further reform to the bankruptcy system in Australia and urge the Minister and Treasury to continue to progress the concept of a Minimal Asset Procedure. This procedure would provide a shorter discharge period for people with low debts and low assets, to facilitate a faster return to economic productivity.

[1] See for example, Joint consumer submission to the Attorney General's Department Personal Insolvency Discussion Paper, September 2023

Urgent reform of the National Personal Insolvency Index is needed

Similarly, we urge the Minister and the Treasury to prioritise reform to the National Personal Insolvency Index (**NPII**). While we consider a 7-year listing post-discharge period the wrong policy decision given the misalignment with the broader credit reporting framework, the current permanence of NPII listings continues to be a punitive and outdated model that should be rectified as a priority.

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission, please do not hesitate to contact Financial Rights on (02) 9212 4216.

Kind Regards,



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About Financial Rights

Financial Rights Legal Centre is a specialist legal centre providing free financial counselling, legal advice and representation to anyone suffering financial stress, particularly in the areas of consumer credit, banking, debt, recovery and insurance.

We focus on assisting low-income, marginalised or disadvantaged people who need help to solve complex problems and gain greater financial freedom. We also use our experience helping individuals to argue for improved consumer protection laws and a fairer financial services marketplace.