



Debt Recovery Update

November 2009

As a creditor, you face many potential issues. The single most important issue however is the effective collection of your debts and the legal options and avenues you have available to you.

When amendments to legislation regarding debt recovery are proposed, it is important that you are aware of what is happening and how the amendments may impact your business. This update covers recent proposed amendments to the Bankruptcy Act and what they may mean to you as a creditor. For more information please do not hesitate to contact the team at C&G Collect, Coleman & Greig's specialised debt recovery service.

>>Debt Recovery Options limited by Bankruptcy Reform

Are you a creditor contemplating bankruptcy action against a debtor?

If so, the proposed amendments to the Bankruptcy Act 1966 will affect you.

The Bankruptcy Legislation Amendment Bill 2009 ('the Bill') was released to the public for consultation on 25 August 2009. The media release from the Attorney General's department declared that the aim of the amendment is to 'modernise personal insolvency arrangements by recognising...majority of bankruptcies relate to consumer debts...".

If the changes are passed as law, they will not be retrospective and will apply to bankruptcy actions on and from the commencement date.

>>How will the changes affect you as a creditor?

Amongst a number of technical changes proposed, the most prominent ones that will affect creditors are the following:

1. The minimum amount for which a creditor can petition the court for a debtor's bankruptcy is to be raised from \$2,000 to \$10,000.

If you have a judgment of less than \$10,000, your recovery options will be limited. You will need to use other means to enforce your judgment such as a garnishee order or writ of execution.

2. The time period in which all creditor action is stayed, pending the debtor filing a Declaration of Intent to File a Debtor's Petition, will be increased from 7 to 28 days.

You will need to wait a longer period to proceed with enforcement action while a debtor decides whether to proceed to file his or her own bankruptcy petition.

3. The income, asset and debt thresholds for people to enter into Personal Insolvency Agreements will be increased.

There may be a greater number of debtors entering into personal insolvency agreements as a means of avoiding bankruptcy. Creditors will have a wait to see if any agreement proposed is accepted by creditors and whether debtors ultimately adhere to it.

If you require any further information on how these proposed changes may affect you please do not hesitate to contact C&G Collect, Coleman & Greig's specialised debt recovery team on ph: 02 9635 6422.