

# **Bankruptcy Amendment Regulations 2000 (No. 2) 2000 No. 220**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 2000 No. 220**

Issued by the Authority of the Minister for Justice and Customs

*Bankruptcy Act 1966*

Bankruptcy Amendment Regulations 2000 (No. 2)

The *Bankruptcy Act 1966* (the Act) is enacted in exercise of the Parliament's power under section 5 1 (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.

Section 41 of the Act provides that an Official Receiver may issue a bankruptcy notice on the application of a creditor. Subsection 41(2) provides that the notice must be in accordance with the form prescribed by the regulations. Regulations 4.02 prescribes that the form of the bankruptcy notice is set out in Schedule 1 Form 1 of the regulations.

The purpose of the Bankruptcy Amendment Regulations (the Amendment Regulations) is to amend the Bankruptcy Notice so that references to the Federal Court will include references to the Federal Magistrates Service. The Federal Magistrates Service (FMS), commenced operation on 1 July 2000, and has concurrent jurisdiction with the Federal Court in bankruptcy matters. It is therefore, proposed that the regulations commence on this date. This commencement date complies with the requirements of sub section 48(2) of the *Acts Interpretation Act* that as the amendments confer a benefit on applicants.

Further, paragraph 10 of the Bankruptcy Notice is to be deleted. It allowed for the address and telephone number of the relevant Federal Court Registry to be inserted for the benefit of the debtor , although this was not a statutory requirement. This information will still be readily available to debtors but will no longer be part of the form.

Details of the amendments are set out in the Attachment.

## **Attachment**

Bankruptcy Amendment Regulations 2000 (No. 2)

Regulation 1 - Name of Regulations Regulation 1 names the amending regulations the *Bankruptcy Amendment Regulations 2000 (No. 2)*

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:

### *Item 1*

The amendment removes Schedule 1, heading, and substitutes a new heading Schedule 1 Forms. It is a formal amendment to correct a formal error in the previous heading.

### *Item 2*

The amendment omits the reference to the Federal Court from Schedule 1, Form 1, subparagraph 5(b) and inserts the reference to Court (that is, the Federal Court of Australia or the Federal Magistrates Court).

### *Item 3*

The amendment omits all mention of the Federal Court of Australia in Schedule 1, Form 1, paragraph 6 and inserts a reference to Court.

### *Item 4*

The amendment omits the reference to, that Court in Schedule 1, Form 1, paragraph 6 and replaces it with a reference to the Court.

### *Item 5*

The amendment omits the reference to the Federal Court of Australia in Schedule 1, Form 1, paragraph 7 and inserts a reference to Court.

### *Item 6*

The amendment omits the reference to Federal Court Registry in Schedule 1, Form 1, paragraph 8 and inserts a reference to Court.

### *Item 7*

The amendment omits Schedule 1, Form 1, paragraph 10.