

## **Higher Education Contributions Scheme (HECS) debts – Amendments to the *Bankruptcy Act 1966*.**

Effective from 7 June 2001:

- HECS debts related to the pre-bankruptcy period (ie before the date of bankruptcy) are provable in bankruptcy; and
- HECS debts related to the post-bankruptcy period (ie after the date of bankruptcy) are not provable.

These bankruptcy amendments were introduced by the [Higher Education Funding Amendment Bill 2001](#) (HEFA Bill) which, among other measures, inserted s 106YA into the [Higher Education Funding Act 1988](#) (HEF Act). That Act deals with the Higher Education Contribution Scheme (HECS) where a person incurs debts (known in the HEF Act as an accumulated debt or a semester debt) to the Commonwealth by undertaking courses of higher education. Repayment of the debt begins when such a person's income reaches a certain threshold amount and the Australian Taxation Office issues an assessment (known in the HEF Act as an assessment debt).

HECS debts related to the pre-bankruptcy period comprise the pre-bankruptcy part of the bankrupt's accumulated HECS debt and the unpaid part of the semester debts incurred before bankruptcy. These provable debts will not be extinguished on discharge from bankruptcy. The assessment debt is provable and will be extinguished.

Sections 82 and 153 of the Bankruptcy Act will contain notes to advise that those sections are affected by s 106YA of the HEF Act.

Please note that the HEFA Bill was introduced into the House of Representatives on 7 June 2001 and the amendments take effect from that date (rather than on enactment).

Those HECS debtors who have recently declared their intention to petition for bankruptcy under s 54A of the Bankruptcy Act and whose declaration is accepted by the Official Receiver on or before 7 June 2001 will not be affected by these amendments if their date of bankruptcy is within the period of six days following introduction of the HEFA Bill.

Dr David Kemp, the Minister for Education, Training and Youth Affairs issued a media release on the bankruptcy amendments on 7 June 2001 and it is available from <http://www.dest.gov.au/archive/ministers/kemp.htm>. The HEFA Bill is available from <http://www.aph.gov.au/hansard/hansreps.htm>.

Office of the Inspector-General in Bankruptcy  
Canberra  
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