

Parliamentary Joint Committee on Corporations and Financial Services

Corporate Insolvency in Australia

Attorney-General's Department

Hearing date: 13 December 2022

Question date: 22 December 2022

Deborah O'Neill asked the following question:

3. At present, the corporate insolvency regime sits within Treasury while the personal bankruptcy regime is administered by the Attorney General's portfolio.
- Can you please provide the committee with the historical context of how this came to be?
 - Does this delegation of responsibilities pose difficulties for the administration of the respective regimes?
 - Are there particular benefits arising from these arrangements?

The response to the question is as follows:

Question a.

The current administrative arrangements for the corporate and personal insolvency regimes commenced in 1996. Administrative Arrangement Orders signed on 11 March 1996 and 23 April 1996 record the transfer of responsibility for the matters 'business law and practice,' 'corporate and securities law' and 'insolvency' from the Attorney-General's Department to the Department of the Treasury (the Treasury). 'Bankruptcy' remained with the Attorney-General's Department.

In 1996, these Administrative Arrangement Orders also transferred responsibility for the *Corporations Act 1989* (except to the extent administered by the Attorney-General's Department) from the Attorney-General's Department to the the Treasury. Australia's current corporate restructuring and insolvency framework is set out in the *Corporations Act 2001* (and related subordinate legislation), which replaced the *Corporations Act 1989*.

The Treasury's 1996-97 Annual Report¹ states the Business Law Division relocated to the Treasury to facilitate the development of corporate law within a wider economic framework, with corporate insolvency matters situated within the Treasury's Business Law sub-programme.²

Questions b. and c.

Questions about any difficulties or benefits arising from the separate administration of the corporate and personal insolvency regimes should be directed to the regulators, being the Australian Securities and Investment Commission (ASIC) for corporate insolvency, and the Australian Financial Securities Agency (AFSA) for personal insolvency.

¹ Pages 3-4

² Portfolio budget statements for the Treasury Portfolio in 1996-97