STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS

Report on the Review of the Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill (Bill No. 40 of 2025)

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TABLE OF CONTENTS

CHAIRPERSON'S FOREWORD 3
COMMITTEE COMPOSITION 5
1.0 INTRODUCTION 7
1.1 Background 7
1.2 Procedure and Program 7
1.3 Committee Remit 7
2.0 PERSONAL INSOLVENCY BILL (BILL NO. 40 of 2025) 8
2.1 Introduction 8
3.0 COMMITTEE'S DELIBERATION AND ANALYSIS OF THE BILL 9
3.1 Initial Reading of the Bill and Deliberation by the Committee 9
3.3 In-depth Analysis of the Clauses of the Bill 12
3.5 Submission received via public consultation 19
3.6 Outcome of review of the Bill 18
4.0 Conclusion 24

CHAIRPERSON'S FOREWORD



I am pleased to present the Committee's review of the Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill 2025 (Bill No. 40 of 2025). This Bill represents a significant reform of Fiji's personal insolvency framework and introduces a modern, balanced, and humane approach to addressing financial distress among individuals and small entrepreneurs.

The Bill was referred to the Committee for scrutiny in accordance with the Standing Orders of Parliament. In carrying out its mandate, the Committee carefully examined the provisions of the Bill and considered whether the proposed legislative framework adequately addresses the challenges faced by debtors while maintaining fairness to creditors. The Committee notes that the Bill seeks to achieve important public policy objectives by providing relief to honest but unfortunate debtors facing unsustainable financial obligations, while ensuring that creditors retain fair opportunities for debt recovery.

The Bill also promotes entrepreneurship and economic participation by introducing practical debt restructuring and rehabilitation pathways that enable financially distressed individuals to recover and re-engage productively in the economy, rather than face permanent financial exclusion. A notable feature of the Bill is its graduated approach to insolvency through the introduction of debt protection moratoriums, debt restructuring arrangements, debt rehabilitation orders and a modernised bankruptcy process, providing debtors with solutions proportionate to their circumstances.

The Committee welcomes provisions that protect essential household assets, reasonable income and Fiji National Provident Fund savings, thereby safeguarding the dignity and welfare of affected individuals and their families. The Bill further strengthens transparency and accountability through the establishment of a Personal Insolvency Register and clear obligations imposed on debtors, insolvency practitioners and creditors. The inclusion of enforcement mechanisms also serves to deter abuse of the insolvency system and maintain public confidence in its administration.

Overall, the Committee is of the view that the Bill is a progressive and timely reform that aligns Fiji's insolvency regime with contemporary international practices while remaining responsive to Fiji's economic and social realities. It provides greater certainty, fairness and efficiency in the management of personal insolvency and contributes to broader goals of financial inclusion, economic resilience and entrepreneurial development.

While the Committee has recommended several amendments to improve the clarity, consistency and operational effectiveness of the Bill, it is satisfied that the legislation provides

an appropriate and comprehensive framework for the administration of personal insolvency, financial rehabilitation and entrepreneurial rescue in Fiji.

I wish to express my sincere appreciation to the Honourable Members of the Standing Committee on Justice, Law and Human Rights for their diligence, constructive engagement and valuable contributions throughout the review process: Hon. Faiyaz Koya (Deputy Chairperson), Hon. Jone Usamate, Hon. Ratu Josaia Niudamu, Hon. Sachida Nand and Hon. Ratu Isikeli Tuiwailevu. I also acknowledge the stakeholders and members of the public who contributed to the Committee's deliberations through their submissions and participation in the consultation process.

On behalf of the Committee, I commend this report and the **Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill 2025 (Bill No. 40 of 2025)** to Parliament and respectfully seek the support of all Honourable Members for this important legislative reform.



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HON. RATU RAKUITA VAKALALABURE
CHAIRPERSON

COMMITTEE COMPOSITION

The Standing Committee on Justice, Law and Human Rights (**'Committee'**) is established under Section 70 of the ***Constitution of the Republic of Fiji*** and Standing Order 109 of the ***Standing Orders of the Parliament of the Republic of Fiji***. The Committee consists of the following Members:



Hon. Ratu Rakuita Vakalalabure
(Chairperson)



Hon. Faiyaz Koya
(Deputy Chairperson)



Hon. Jone Usamate
(Member)



Hon. Sachida Nand
(Member)



Hon. Ratu Isikeli Tuiwailevu
(Member)



Hon. Ratu Josaia Niudamu
(Member)

COMMITTEE SECRETARIAT

Supporting the Committee in its work is a group of dedicated Parliament Officers who make-up the Committee Secretariat and are appointed and delegated by the Secretary-General to Parliament pursuant to Standing Order 15 (3)(*i*). The Secretariat team is made of the following Parliament officers:

- Mr. Jackson Cakacaka – Senior Committee Clerk
- Ms. Alumita Cabealawa – Deputy Committee Clerk
- Mr. Jeke Rokotuiloma – Assistant Committee Clerk

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1.0 INTRODUCTION

1.1 Background

The Standing Committee on Justice, Law and Human Rights, referred to as the ("**Committee**"), was assigned the for review on 4th December 2025. The Bill was referred to the Committee in accordance with SO 51 which tasked the Committee with the examination of the Bill and the responsibility to report on its findings in a subsequent Parliament Sitting.

1.2 Procedure and Program

The Committee has conducted a thorough review of the **Personal Insolvency Bill** (**Bill No. 40 of 2025**). This report outlines the findings, observations, and recommendations of the Committee regarding the Bill.

The Committee examined the Bill in detail, reviewing each clause and engaging in deliberations. Following this, the Committee invited the relevant stakeholder to provide a briefing on the objectives and intentions behind the proposed legislation. To ensure transparency and inclusivity, the Committee then opened the process to public participation by calling for submissions from citizens and other stakeholders, which was advertised through Parliament's official social media platforms.

The Committee was mindful of the provisions on Standing Order 111(1)(a) and ensured that its meetings were open to the public and the media, except during such deliberations and discussions to develop and finalise the Committee's observations and this Report.

1.3 Committee Remit

The Standing Committee on Justice, Law, and Human Rights, in accordance with Standing Order 109 of Parliament's Standing Orders, is tasked with several duties. As outlined in Standing Order 110, these include scrutinizing each Bill referred to it by Parliament and review any subordinate legislation presented in Parliament that falls under its purview.

2.0 PERSONAL INSOLVENCY BILL (BILL NO. 40 of 2025)

2.1 Introduction

The Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill 2025 (**'Bill'**) represents a comprehensive modernisation of the personal insolvency law of Fiji, replacing the outdated Bankruptcy Act 1944 (**'Act'**), a colonial-era law largely based on an English law passed over a hundred years ago, and updating the law in line with contemporary international best practices.

To achieve the above, the Bill aims to promote economic activity and to reduce the economic and social costs of insolvency by introducing the 'fresh start' principle. This idea provides that, by discharging unpayable debt, insolvency law can offer relief to honest individual debtors from the burden of over-indebtedness, permitting such debtors to return to economic productivity and social participation.

The Bill also seeks aims to encourage entrepreneurship in Fiji and to support the rehabilitation and rescue of micro, small, and medium enterprises, including sole proprietorships, partnerships and other unincorporated businesses, by restructuring the debts of viable businesses and offering a second chance to honest entrepreneurs. By ensuring that current financial problems do not trap individuals in debt indefinitely, the Bill aims to reduce the stigma and finality of financial failure. In these ways, the Bill aims to both stimulate economic growth, and safeguard individuals and the wider economy from future economic shocks and crises.

The Bill supports credit markets by adopting simplified and streamlined procedures to ensure efficient debt repayment in cases where this is possible. An effective bankruptcy process allows for the swift resolution of cases involving non-viable unincorporated businesses and partnerships. Situations of insolvency can result in losses of value and wasted costs when individual creditors compete with one another to claim the limited available assets and income of the debtor for each creditor's individual benefit.

The Bill aims to enhance predictability and efficiency and in so doing reduce this unnecessary loss of value by encouraging creditors to cooperate in producing outcomes beneficial to the interests of creditors, and to the public interest.

3.0 COMMITTEE'S DELIBERATION AND ANALYSIS OF THE BILL

3.1 Initial Reading of the Bill and Deliberation by the Committee

The Committee had extensive discussions on the provisions of the Bill and resolved that it be prudent to firstly hear the views of the public specifically the stakeholders on this very important, proposed legislation. The public consultation would then allow the Committee to gauge the public's perspective on the Bill before deliberating further, whilst also bearing in mind the requirements as set down by Parliament in referring the Bill to the Committee.

3.2 Bill Summary

By way of consensus, the Committee agreed that it would be prudent to include the necessary issues that the proposed law intends to address. This would readily give the reader of this Report with the aforementioned information regarding the Bill, which is summarized below;

Part 1 of the Bill includes the long and short titles of the new legislation, as well as setting out definitions and objectives. Clause 3 contains a non-exhaustive list of objectives, which is intended to assist in the reading and interpretation of the new legislation.

Part 2 of the Bill establishes a set of key principles that are used and applied repeatedly across the range of personal insolvency procedures. This Part ensures that a consistent approach is taken to important concepts, which provides transparency and predictability while also assisting in addressing an important challenge for modern personal insolvency systems, sorting each case into an appropriate procedure by including provisions which provide for the following:

(a) establishing the concepts of unfair preferences and undervalued transactions;

(b) giving insolvency officials powers to reverse unfair preferences and undervalued transactions, so as to restore the availability of relevant assets or funds for the benefit of creditors as a whole;

(c) protecting a minimum debtor income and provide that certain essential property of the debtor will not be available to creditors in a debtor's bankruptcy or Debt Restructuring Arrangement. Such property and income are also not considered for the purposes of calculating the debtor's eligibility for the 'no income, no assets' Debt Rehabilitation Order. The categories of protected property include property necessary for the debtor's trade or profession, necessary household items, contributions and entitlements under the Fiji National Provident Fund, a tenancy under a short-term rental accommodation agreement, and property held on trust for others;

(d) establishing certain categories of preferential debts which largely mirror those already contained in the Companies Act 2015. These include a year's worth of tax debts

and government rents, amounts payable to employees and amounts due in respect of pension contributions; and

(e) establishing a range of non-exclusive obligations applicable across insolvency procedures, including responsibilities to provide financial information to insolvency officials, to inform insolvency officials of any important changes in the debtor's financial circumstances, and to inform any potential lenders of the debtor's participation in an insolvency procedure. Consequences for non-compliance with these obligations include the potential suspension or termination of an insolvency procedure without debt discharge.

Part 3 of the Bill provides for Debt Protection Moratorium, which is a temporary stay of debt collection activity, to offer the debtor necessary time to work out the most appropriate insolvency option. The wide-ranging nature of the moratorium is balanced by its short-term duration. In this way it is the only provision of the Bill that restricts secured creditors' rights, but such restriction is strictly time limited. On the expiry of the 60-day period without a solution having been reached, enforcement activity can resume against the debtor. Safeguards are established to allow creditors to object to the making of a Debt Moratorium Order in the event of debtor misconduct or unfair prejudice to a creditor.

Part 4 of the Bill introduces the concept of Debt Restructuring Agreement ('DRA'). The DRA procedure allows a debtor, with the assistance of an intermediary, to negotiate a flexible repayment and restructuring plan with the debtor's creditors, in satisfaction of the debtor's outstanding liabilities. The DRA procedure is built on principles of negotiation and the agreement of creditors – a proposal becomes a DRA only when a majority of creditors have voted in favour. The approved arrangement is confirmed by court order, at which point creditors must observe its terms and cannot take individual debt collection action. While most terms of an arrangement are decided by the parties themselves through negotiation, certain mandatory terms must be included - for example, the maximum duration of a debt repayment plan must not exceed three years in 'normal' cases and five years in 'high value' cases. On the completion of such a repayment plan, the debtor's remaining included debts are discharged.

Part 5 of the Bill establishes the Debt Rehabilitation Order procedure which is a streamlined procedure for providing a rapid route to discharge for low-value cases in which there are no resources available for distribution to creditors. Eligibility conditions limit access to the procedure to debtors with low levels of debts, income and property. A Debt Rehabilitation Order suspends most creditor debt collection activity for a period of 12 months, at which point the debtor's included debts are discharged (provided that the debtor complies with all relevant obligations). The order does not, however, affect the rights of secured creditors.

Part 6 of the Bill establishes a modernised bankruptcy procedure, which applies to both individual debtors and partnerships. Bankruptcy can be initiated via a debtor's own application, or via a creditor's petition. A creditor's petition is possible only where a creditor is owed a debt of at least $5,000, and where the debtor's surplus income and unprotected property exceed the eligibility limits of the Debt Rehabilitation Order procedure. On presentation of a bankruptcy notice to a debtor, the debtor will have a period of 28 days in which to respond, before a creditor's petition may be made.

Where a court makes a Bankruptcy Order, the Official Receiver (or a Deputy Official Receiver) immediately assumes the role of bankruptcy trustee, though creditors can appoint a private party as bankruptcy trustee if they so choose. On the making of a Bankruptcy Order, all unprotected property of the debtor vests in the Trustee (including any such property acquired by the debtor after commencement), who will distribute such property for the benefit of creditors. Most creditors are prevented from taking enforcement action against the debtor by a stay of proceedings. Secured creditors remain entitled to enforce their security but must give notice of such actions to the bankruptcy trustee. Where a debtor has surplus income, a Debt Repayment Order or Agreement can be made to require payments from the debtor's income to creditors. In cases in which the debtor has complied with relevant criteria, the debtor is discharged from bankruptcy and released from included debts on the expiry of a period of three years or, in 'high value' cases, five years.

Part 7 of the Bill outlines the jurisdiction, powers, and procedures of the courts in handling personal insolvency matters. It covers how judges may exercise powers, appeals processes, consolidation of petitions, and the ability of courts to stay or continue proceedings. It also includes provisions for regulation-making, rules, fees, and evidentiary matters such as affidavits and certificates. Essentially, it establishes the legal framework and authority of the courts in administering insolvency cases.

Part 8 of the Bill establishes a range of offences applicable to debtors participating in personal insolvency procedures. It specifies offences such as providing false information, fraudulent disposal of property, failure to comply with obligations, concealment of records, and fraudulent credit practices. It also sets out penalties, trial procedures, and evidentiary rules for prosecuting insolvency-related misconduct. The aim is to safeguard the integrity of the insolvency system by deterring fraud and non-compliance.

Part 9 of the Bill provides for the establishment and maintenance of a Personal Insolvency Register ('Register'). The Register will maintain information about debtors participating in insolvency procedures, to be used for purposes including the administration of the insolvency system and the undertaking of creditworthiness assessments by lenders. To balance the need for accurate information of this type with the aim of minimising the stigma of insolvency, access to the register is limited to only those persons who will search it for specified legitimate purposes. Information regarding a debtor will be removed from the Register on the debtor's discharge from an insolvency procedure.

Part 10 of the Bill repeals the Act and includes necessary transitional provisions and consequential amendments.

3.3 In-depth Analysis of the Clauses of the Bill

The Committee then held extensive discussions on the Clauses and identified certain provisions that merit proper consideration. These discussions resulted in the identification of a few issues, which the Committee placed as priority issues to be further discussed and deliberated on with the drafters.

Based on the initial reading of the clauses, the main issues noted from these discussions are as follows:

No.	Clause(s)	Issues
1.	**Clause 3 (5) (b) (ii)**	The Committee sought clarification noting this may be a grammatical error whereby 'case' will be replaced with '*cause*'.
2.	***Clause 31 (8) (c)***	The Committee flagged this provision for further clarification.
3.	***Clause 51 (8)***	The Committee flagged a spelling error in this provision highlighting that 'dept' should be corrected to '*debt*'
4.	***Clause 52 (3***	The Committee flagged a spelling error in this provision highlighting that 'dept' should be corrected to '*debt*' and raised concerns on the sentence structure and recommended its clarification.
5.	***Clause 53 (5)***	The Committee flagged this provision for further clarification.
6.	***Clause 53 (9) (b)***	The Committee flagged an error in this provision, recommending that '*a'* be replaced with '*as'*
7.	***Clause 54 (2) (c)***	The Committee flagged an error in this provision noting that 'based on' is repeated and recommended deleting the repeated phrase.
8.	***Clause 67 (1) (b) and (c)***	The Committee recommended deleting the 'must' at the beginning of each of these provisions, noting that 'must' has already been introduced in the opening clause and is unnecessary to be repeated throughout the provision.
9.	***Clause 74, heading***	The Committee flagged this for clarification noting that 'bankrupt' is incorrectly used in the sentence and should be corrected to 'bankruptcy'
10.	***Clause 79 (3) (b)***	The Committee flagged this provision for further clarification.

11.	***Clause 80 (e)***	The Committee flagged this provision for further clarification.
12.	***Clause 98 (4)***	The Committee flagged the grammatical error in this provision noting that it should read as 'books and papers'
13.	**Clause 99 (3)**	The Committee flagged the phrase 'where is it is' for correction by the drafters.
14.	***Clause 99 (4) (b)***	The Committee flagged this provision for clarification.
15.	***Clause 99 (6)***	The Committee flagged this provision for clarification as the sentence lacks clarity.
16.	***Clause 99 (9)***	The Committee flagged this provision for clarification as the sentence lacks clarity.
17.	***Clause 100 (6)***	The Committee flagged the grammatical error in this provision proposing that 'any' be replaced with 'a'
18.	***Clause 100(7)***	The Committee flagged this provision for clarification as the sentence lacks clarity.
19.	**Clause 101 (1) (a)**	The Committee flagged the use of the term 'superintend' for clarification.
20.	**Clause 102 (4) (b) (ii)**	The Committee noted the phrase 'may prove in the bankruptcy' lacks clarity and flagged it for further clarification.
21.	***Clause108 (f) and (g)***	The Committee flagged these provisions noting that it is wordy and for clarity recommended the provisions be re-drafted for readability.
22.	**Clause 112 (1)**	The Committee noted the phrase 'such person's' lacks clarity and flagged it for further clarification.
23.	***Clause 113 (3) (b)***	The Committee noted the phrase 'acquires food title' lacks clarity and flagged it for further clarification.
24.	***Clause 114***	The Committee noted that the use of the term 'Sheriff' is inconsistent throughout the provisions, highlighting that in some instances the "S" is capitalised while in others it appears in lowercase. The Committee therefore recommended that the terminology be standardised for consistency.
25.	***Clause 114 (2) (b) (iii)***	The Committee noted the phrase 'fiscal's' lacks clarity and flagged it for further clarification.

26.	**Clause 118 (1)**	The Committee noted the grammatical error in this provision and recommended deletion of the repeated word '*to'*
27.	***Clause 119 (1)***	The Committee noted the phrase 'as can' lacks clarity and flagged it for further clarification.
28.	***Clause 119 (4) (b)***	The Committee recommended that the numbering of letter "B" be corrected to lowercase for consistency with the formatting of the provision.
29.	***Clause 126 (3) (b)***	The Committee corrected the numbering of the sub-section noting that it should be 'b' and not 'a'
30.	**Clause 135 (1)**	The Committee corrected the grammatical error in this provision noting that 'F' in finance should be capitalised to read as 'Finance'.
31.	***Clause 137***	The Committee flagged this provision for clarification as the sentence lacks clarity.
32.	***Clause 140***	The Committee flagged the term 'joinder' and seeks clarity on its meaning in this context.
33.	***Clause 144 (7) (b)***	The Committee flagged the phrase 'being taken by them' and seeks clarity and its meaning in this context.
34.	***Clause 147 (4)***	The Committee flagged the term 'viva voce', noting that it is a Latin phrase and should be in italics.
35.	***Clause 159***	The Committee flagged the grammatical error noting that 'depose' is incorrectly used in this provision.
36.	***Clause 161(1) (a)***	The Committee flagged this provision for clarification as the sentence lacks clarity.
37.	***Clause 163 (2)***	The Committee flagged the term 'vitiates' for clarification.
38.	***Clause 165 (c)***	The Committee sought clarification on the reference to "Committee" in this provision, noting that it is unclear which specific committee is being referred to.

39.	***Clause 171 (1) (h)***	The Committee flagged the spelling error in this provision highlighting that 'hehabilitation' should be corrected to "rehabilitation"

3.4 Areas of Similarity

The Committee undertook a comparative analysis of the Bill against the insolvency regimes of Australia, India, and New Zealand to identify common legislative principles and key procedural differences. This comparative review assisted the Committee in its scrutiny and assessment of the Bill.

Areas of Similarity Area of Insolvency Law	Fiji — Bill No. 40 of 2025	Australia — Bankruptcy Act 1966	India — IBC 2016, Part III	New Zealand — Insolvency Act 2006
1. "Fresh start" rationale	s.3 objectives: relieve the honest debtor from oppressive indebtedness; permit a fresh start; encourage entrepreneurship.	No express objects clause, but Pt VII discharge provisions embody the same release-and-rehabilitation policy, as reflected in AFSA/Treasury guidance.	Pt III, Ch II is expressly named the 'Fresh Start Process'; overall Code objective includes balancing debtor relief with creditor recovery.	s.7 frames bankruptcy's legal consequences; s.8 signals statutory alternatives geared to rehabilitating the debtor.
2. Dual entry pathway into bankruptcy	Debtor application (ss.59–62) and creditor petition (ss.63–68), each with distinct eligibility criteria.	Debtor's petition and creditor's petition/sequestration order (Pt IV), each with distinct conditions.	Debtor application (s.94, Ch III) and creditor or debtor application for bankruptcy (s.121, Ch IV).	Debtor's application (s.45) and creditor's application for adjudication (s.13).
3. Statutory minimum debt before a creditor may force bankruptcy	Creditor petition requires a debt of at least $5,000 (s.66); may be varied by regulation.	'Statutory minimum' currently $10,000, indexed by regulation (s.5, s.44).	Part III applies where default is not less than Rs 1,000, which the Central Government may raise to a maximum of Rs 1 lakh by notification (s.78).	Creditor may apply where the debt is $1,000 or more (s.13).

Area of Insolvency Law	Fiji — Bill No. 40 of 2025	Australia — Bankruptcy Act 1966	India — IBC 2016, Part III	New Zealand — Insolvency Act 2006
4. Formal, creditor-approved alternative to full bankruptcy	Debt Restructuring Arrangement (Pt 4) — creditor-voted repayment/restructuring plan, confirmed by court, binding on all creditors.	Debt Agreements (Pt IX) and Personal Insolvency Agreements (Pt X) — creditor-voted composition, binding once accepted/executed.	Insolvency Resolution Process (Pt III, Ch III) — creditor-approved repayment plan negotiated through a resolution professional.	Proposal (Pt 5, Subpt 2) — court-approved composition/scheme negotiated with creditors.
5. Automatic, time-limited discharge	Discharge is non-discretionary once the statutory period expires and no application to contest is made (s.121).	Bankrupt 'is discharged… by force of' s.149 at the end of the statutory period, without need for a court order.	Adjudicating Authority passes a discharge order once the trustee applies at the statutory milestone (ss.92, 119, 138).	'Automatic discharge' is the section heading itself (s.290); no application by the bankrupt is required.
6. Certain debts survive discharge	Excluded debts (s.8) and fraud/other excepted liabilities are not released on discharge (s.121(10)).	s.153 excludes debts incurred by fraud, court fines/bail bonds, and (subject to court order) maintenance liabilities.	Excluded debts include fines, negligence damages, maintenance and student loans (s.79(15)); fraud debts survive discharge (s.139).	Debts incurred by fraud or fraudulent breach of trust are not released on discharge (s.377A and equivalent provisions).
7. Vesting of estate and automatic stay	All unprotected property vests in the bankruptcy trustee; a stay of proceedings applies from commencement (ss.70–71, 95).	Property of the bankrupt vests in the trustee (Pt VI); legal process against the debtor is generally stayed.	A moratorium on legal proceedings commences on admission of the application; the estate is administered by the bankruptcy trustee (s.85, Ch V).	Bankrupt's property vests in the Official Assignee on adjudication; court proceedings are halted (ss.76, 101).

Area of Insolvency Law	Fiji — Bill No. 40 of 2025	Australia — Bankruptcy Act 1966	India — IBC 2016, Part III	New Zealand — Insolvency Act 2006
8. Public administering official and public register	Official Receiver (Ministry-appointed, court officer) administers the system; Personal Insolvency Register maintained (Pt 9).	Australian Financial Security Authority / Official Trustee in Bankruptcy administer the system; National Personal Insolvency Index is maintained.	Insolvency and Bankruptcy Board of India regulates the profession; a public register is maintained under s.196.	Official Assignee (Insolvency and Trustee Service) administers the system; public registers of bankrupts are maintained (e.g., s.62).
9. Statutory offences for debtor misconduct	Pt 8 criminalises false information, fraudulent disposal of property, and non-compliance with debtor obligations.	Pt XIV criminalises non-disclosure, concealment of property, and related misconduct.	Pt III, Ch VII (ss.184–187) criminalises false information, concealment and fraudulent dealing with the estate.	Pt 6 (ss.417–433) criminalises offences by the bankrupt in relation to debts, property, records and the Assignee.
10. Priority ranking of certain debts	Preferential debts (tax, government rent, wages, FNPF contributions) rank ahead of ordinary unsecured debts (s.10).	Priority payment provisions in Pt VI rank employee entitlements ahead of ordinary unsecured claims.	s.178 ranks bankruptcy costs, then workmen's dues/secured debts, then other employee dues, then government dues, ahead of unsecured debts.	ss.274–279 give priority to specified preferential payments, including to employees, ahead of general creditors.

3.5 Submission received via public consultation

Submissions received during the public consultation were considered and deliberated on extensively with a summary below

Ministry of Justice

The Ministry of Justice presented the proposed *Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill*, a legislative reform initiative developed with the support of international experts and development partners. The Bill seeks to modernise Fiji's personal insolvency framework by establishing a rehabilitation-focused regime that facilitates financial recovery for individuals, entrepreneurs and micro, small and medium-sized enterprises (MSMEs), while maintaining appropriate protections for creditors. The proposed framework introduces mechanisms for debt restructuring, debt protection orders, moratoria, repayment arrangements and debt discharge, with the objective of promoting financial rehabilitation, preserving economic participation and encouraging entrepreneurial activity.

The Bill provides a structured and balanced approach to insolvency by safeguarding essential income-generating assets, increasing the threshold for creditor-initiated bankruptcy applications, and enhancing the equitable treatment of creditors through provisions governing the distribution of assets and the prevention of unfair preferences.

The proposed role of the Consumer Council of Fiji in facilitating debt restructuring negotiations is intended to support the early resolution of financial difficulties before formal bankruptcy proceedings arise. Issues relating to the interpretation of provisions on unfair preferences, undervalued transactions and discharge from bankruptcy were discussed, with further review proposed to ensure clarity and certainty in their application.

Overall, the Bill establishes a modern insolvency regime aimed at promoting financial rehabilitation, supporting economic resilience and entrepreneurship, and balancing the interests of debtors and creditors.

3.6 Sustainable Development Goals Analysis

The Committee, in its SDG analysis of the Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill 2026, noted that the Bill contributes to several Sustainable Development Goals by promoting financial rehabilitation, economic inclusion, entrepreneurship, and social protection for individuals experiencing financial distress. The Bill's emphasis on providing a "fresh start" for honest debtors, facilitating debt restructuring, and supporting the recovery of small businesses aligns with international principles of sustainable and inclusive economic development.

SDG 1 – No Poverty
The Bill assists individuals facing severe financial hardship by providing mechanisms for debt relief, rehabilitation, and protection from overwhelming indebtedness, thereby reducing the risk of long-term poverty and social exclusion.

SDG 8 – Decent Work and Economic Growth
The Bill encourages entrepreneurship and economic participation by enabling financially distressed individuals and micro, small and medium enterprises (MSMEs) to restructure debts and continue productive economic activities rather than face permanent financial exclusion.

SDG 9 – Industry, Innovation and Infrastructure
By supporting entrepreneurial rescue and business continuity, the Bill strengthens the resilience of small businesses and promotes a more supportive environment for innovation and enterprise development.

SDG 10 – Reduced Inequalities
The Bill promotes equitable access to financial rehabilitation processes and safeguards essential assets and income, ensuring that vulnerable individuals are not disproportionately disadvantaged by financial difficulties.

SDG 16 – Peace, Justice and Strong Institutions
The establishment of a Personal Insolvency Register, clear regulatory oversight, transparent procedures, and accountability measures enhances access to justice and strengthens confidence in the administration of insolvency matters.

3.6 Outcome of Review

The outcomes of the review are reflected in the revisions to the proposed by the Committee to Parliament. We are firmly aware that the revisions made maintain the spirit of the intent of the original bill, whilst making improvements in key areas that have been highlighted in this report.

Clause	Recommended Amendments	Amendments
31(5)(b)(ii)	Replace "case" with "cause", subject to confirmation of legislative intent.	31(5)(b)(ii) ~~case~~cause unfair prejudice to any other creditor; or
31(8)(c)	Redraft or clarify provision to improve legal certainty.	(c) rely on an insolvency-related term of the agreement for the supply of the good or service, except with the prior, written consent of the personal insolvency administrator.
Clause 51 (8)	Replace "dept" with "debt".	(8) On the hearing of an application to object to the ~~dept~~debt ~~order~~ rehabilitation order, if the court finds that the grounds referred to in subsection (3) have not been established, the court must
Clause 52 (3)	Replace "dept" with "debt" and revise sentence structure for clarity.	(3) The grounds on which an objection to ~~dept~~debt rehabilitation order must be based include the following—
Clause 53(5)	Review and clarify the wording and intended effect of the provision.	(5) The court must provide notice to the debtor, creditors, and Official Receiver of the hearing of the application to terminate ~~to~~ the ~~o~~Order, in such manner as may be prescribed by regulations.
Clause 53(9)(b)	Replace "a" with "as".	(9) (b) provide for the termination of the debt rehabilitation order to take effect on such terms and at such time ~~a~~as the court may specify
54(2)(c)	Delete the repeated phrase "based on".	*(c)* be based on ~~based on~~ grounds referred to in subsection (3).
67(1)(b)	Delete "must" at the beginning of the provision.	(b) ~~must~~ state the consequences of non-compliance with the notice; and
67(1)(c)	Delete "must" at the beginning of the provision.	*(c)* ~~must~~ be served on the debtor in Fiji, or with the court's permission, outside Fiji.
74 (Heading)	Replace "bankrupt" with "bankruptcy".	Public examination of bankruptcy in exceptional cases
79(3)(b)	Drafter to review and clarify the wording and intended application.	If the bankruptcy trustee is not the Official Receiver, the trustee must hand over, and let the Official Receiver inspect, the bankruptcy books and records the Official Receiver

80(e)	Drafter to review and clarify the wording and intended effect.	If the estate includes a right or option (for example, an option to buy property), the bankruptcy trustee may spend money or take on liabilities to use it and obtain property for creditors
98(4)	Correct the phrase to read "books and papers."	*(4)* If, after a Bankruptcy Order has been made, the court is satisfied that any property comprised in the bankruptcy estate, or any books relating to the bankruptcy estate are concealed in any premises not belonging to the bankrupt debtor, it may issue a warrant authorising any police officer or officer of the court to assist the bankruptcy trustee to search those premises for the property or books and papers.
99(3)	Amend to correct the phrase.	A court, where ~~is~~ it is satisfied that the bankruptcy trustee has not acted with unreasonable delay, may extend beyond 12 months the period within which the bankruptcy trustee may give notice and disclaim onerous property under subsection (1).
99(4)(b)	Drafter to clarify the intend of the provision.	The intent of this provision is where notice is given to disclaim onerous property, the disclaimer frees the bankruptcy trustee from personal liability for the disclaimed property, going back to the date the property vested in the trustee
99(6)	Redraft for clarity and precision.	~~(6) Any person sustaining loss or damage in consequence of the operation of a disclaimer under this section is deemed to be a creditor of the bankrupt debtor to the extent of the loss or damage and accordingly may prove for the loss or damage as a debt provable in the bankruptcy~~A person who suffers loss or damage due to a disclaimer under this section is considered as a creditor for that loss and may prove for it in the bankruptcy.
99(9)	Drafter to clarify the provision.	A bankruptcy trustee can disclaim a lease only after serving a copy of the disclaimer on every under-lessee and mortgagee, and then only if either no one has applied under section 100 for the lease to be vested in them, or the court has allowed the disclaimer to take effect.
100(6)	Replace "any" with "a."	An order under this section vesting property in any person need not be completed by ~~any~~a conveyance, assignment or transfer.
100(7)	Drafter to clarify the provision.	For a disclaimed lease, the court can vest it in an under-lessee or mortgagee only if that person takes on the lease obligations. Either they take the bankrupt's full obligations as at the date of filing, or, if the court thinks fit, only the obligations they would have had if the lease had been assigned to them.
101(1)(a)	Provide clarification on the term.	"Superintend" means to supervise or oversee. For clarity, we suggest to use "supervise" instead.

102(4)(b)(ii)	Drafter to clarify the phrase.	This provision is to cater for instances where bankruptcy has been declared, and certain items were under an agreement or hire purchase. In such instance, a creditor may hand the goods over to the trustee and then claim in the bankruptcy, as a creditor, for what is still owed under the agreement after crediting the value of the goods.
108(f) and (g)	Redraft for readability and clarity.	f) ~~provide for security to be provided for the discharge of any obligation imposed by or arising under the order, for such an obligation to be charged on any property and for the security or charge to have the same priority as a security or charge released or discharged, in whole or in part, under the transaction~~ provide for security for any obligation under the order, and for that obligation to be charged on property with the same priority as any security or charge that the transaction released or discharged; and g) ~~provide for the extent to which any person whose property is vested by the order in the bankruptcy trustee, or on whom obligations are imposed by the order, is to be able to prove in the Bankruptcy for debts or other liabilities which arose from, or were released or discharged, in whole or in part, under or by, the transaction~~ provide for the extent a person whose property is vested in the trustee by the order, or who is made subject to obligations by it, may prove in the bankruptcy for debts or liabilities arising from, or released or discharged by, the transaction.
112(1)	Drafter to clarify the intended provision.	"Such person's" means the person in business who makes the assignment, so the book debts assigned are that person's own, not the other party's.
113(3)(b)	Drafter to clarify the phrase.	Typographical error, "food" to be replaced with "good".
114	Standardize usage throughout the provision.	114.—(1) This section applies to an execution process against property of a bankrupt debtor that was levied but not completed within the meaning of section 113 at least 180 days before commencement of the Bankruptcy. Notwithstanding any other enactment, subject to subsection and unless the court orders otherwise on the application of the execution creditor, the ~~S~~sheriff must, as soon as practicable after (a) deliver to the bankruptcy trustee any property of the bankrupt debtor that is in or comes into the ~~S~~sheriff's possession or custody or under the ~~S~~sheriff's control as a result of the execution process; and *(b)* cause the bankruptcy trustee to be paid—e bankruptcy commences— any proceeds of realisation of property of the bankrupt debtor under the execution process;

		any money of the bankrupt debtor received or seized under the execution process; and any money paid to avoid seizure or sale of property of the bankrupt debtor under the execution process, (~~iii~~iv)are in or come into the ~~Fiscal's~~sherriff's possession or custody or under the ~~fiscal's~~sheriff's control; or (~~iv~~v) are paid into court and have not already been paid out. The sheriff may retain or cause to be retained— from property delivered under subsection (~~1~~2)*(a)*, the property of a value that the sheriff may reasonably determine to represent the costs of the execution process or attachment, as the case may be, incurred by the sheriff; or from proceeds or money paid under subsection (~~1~~2)*(b)*, the costs of the execution process or attachment, as the case may be, incurred by the sheriff.
114(2)(b)(iii)	The phrase "fiscal's" lacks clarity.	*(b)* cause the bankruptcy trustee to be paid—e bankruptcy commences— any proceeds of realisation of property of the bankrupt debtor under the execution process. any money of the bankrupt debtor received or seized under the execution process; and any money paid to avoid seizure or sale of property of the bankrupt debtor under the execution process, (~~iii~~iv)are in or come into the ~~Fiscal's~~sherriff's possession or custody or under the ~~fiscal's~~sheriff's control; or (~~iv~~v) are paid into court and have not already been paid out.
118(1)	Delete the duplicated word "to."	.—~~(1)~~ No action for dividend lies against the bankruptcy trustee but, if the bankruptcy trustee refuses to pay any dividend, the court may, if it thinks fit, order such trustee to ~~to~~—
119(1)	Drafter to clarify the phrase.	When the bankruptcy trustee has realised all of the bankruptcy estate, or so much thereof ~~as can~~, in the opinion of the bankruptcy trustee, be realised without needlessly protracting the trusteeship, such trustee must give notice, in accordance with such manner as may be prescribed by regulations, either—
119(4)(b)	Change "B" to lowercase "b."	*(~~B~~b)* if the bankruptcy trustee intends to declare a final dividend, declare and distribute that dividend without regard to the claim of any person in respect of a debt not already proved in the ~~B~~bankruptcy.
126(3)(b)	Correct subsection to "(b)" instead of "(a)."	The court may only revoke a discharge under this section if the court is satisfied that— the discharge was obtained through the fraud of the debtor; or

		(~~a~~b) the debtor knowingly and fraudulently failed to disclose income or property to the Official Receiver, where
135(1)	Capitalize to read "Finance."	(1) Whenever the cash balance standing to the credit of the bankruptcy estates account exceeds the amount which in the opinion of the Official Receiver is required for the time being to answer demands in respect of bankruptcy estates, the Official Receiver may place the same or any part thereof on fixed deposit with such bank as the ~~M~~ministry responsible for ~~of~~ finance may from time to time direct.
137	Clarify or redraft the provision.	137. Where ~~there is more than one respondent than one to a bankruptcy petition, the court may dismiss the petition as to one or more of them, without prejudice to the effect of the petition against any other respondent~~a bankruptcy petition names several respondents, the court may dismiss it against some respondents while it is continued against the remaining respondents.
140 144(7)(b)	Drafter to clarify the phrase. Clarify the intended meaning.	"Joinder" means adding someone as a party to a case. The other joint contractors can sue or be sued on the contract without the bankrupt being made a party. However, for clarity we suggest deleting "the joinder". 140. Where a bankrupt debtor is a joint contractor with any other person or persons, such person or persons may sue or be sued in respect of the contract without the ~~joinder of the~~ bankrupt debtor. Applies where the debtor is about to move the goods to stop the Official Receiver or trustee taking possession of them.
147(4)	Italicize viva voce.	(4) Subject to rules, the court may in any matter take the whole or any part of the evidence either *viva voce*, or by interrogatories, or upon affidavit, or, out of Fiji, by commission.
159	Correct the grammatical error.	In the case of the death of the bankrupt debtor, or of a witness whose evidence has been received by the court in any proceeding under the provisions of this Act, the deposition of the deceased person, purporting to be sealed with the seal of the court, or a copy of it, may be admitted as evidence of the matters deposed to.
161(1)(a)	Clarify or redraft the provision.	When a time limit runs from a date or event, that day is not counted. Counting starts the next day.
163(2)	Drafter to provide clarification on the identified term.	(2)No defect or irregularity in the appointment or election of a bankruptcy trustee or member of a Creditors' Committee ~~vitiates~~ invalidates any act done by such person in good faith.

165(c)	Drafter to specify which committee is being referred to.	It means a committee of a person of unsound mind (someone appointed to manage that person's affairs), not the creditors' committee under section 81. For clarity, we suggest to delete "by his committee or" (c)a person of unsound mind may act by ~~his committee or~~ the appointed manager of his or her estate.
171(1)(h)	Correct "hehabilitation" to "rehabilitation."	(h) avoiding the termination or conversion of a debt ~~here~~habilitation order;

Drafting-level Observations

PROVISION	OBSERVATION	AMMENDMENT
Section 76	Section 76 is in the table of clauses and cross-referred to, but its text is not printed.	*Appointment of trustees* **76.**—(1) It is possible for creditors to appoint, by a resolution of a majority in value of creditors, some fit person other than the Official Receiver as bankruptcy trustee. (2) A person is deemed not fit to act as bankruptcy trustee where such person has been previously removed from the office of bankruptcy trustee for misconduct or neglect of duty. (3) Matters relating to the authorisation, by the Minister or other government body, of a person or class of persons, to perform the functions of bankruptcy trustee under this Part may be prescribed by regulations. (4) On an application to court by a creditor of the bankrupt debtor, the court must confirm the appointment of the bankruptcy trustee unless the court considers that— *(a)* the appointment has not been made ~~in~~ by a majority in value of the creditors voting; *(b)* the person appointed is not fit to act as trustee; *(c)* the person does not satisfy such qualifications as may be prescribed by regulations; or *(d)* the relationship between the person and the bankrupt debtor, the property of the bankrupt debtor, or the creditor makes it difficult for the person to act with impartiality and in furtherance of the goals of the bankruptcy process. (5) On approving an application for the appointment of a person as bankruptcy trustee under subsection (4), the court must issue a certificate confirming this person's appointment. (6) The appointment of a bankruptcy trustee must take effect as from the date of the certificate.

4.0 CONCLUSION

As outlined in this report, the Committee conducted a comprehensive review of the *Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill*, including extensive public consultations and engagement with relevant stakeholders and independent legal experts from the Solicitor-General's Office. These deliberations informed a range of proposed amendments aimed at strengthening the Bill, improving its clarity, and ensuring its effective implementation.

Upon completion of its review, the Committee is satisfied that the proposed amendments enhance the clarity, effectiveness and practical operation of the legislation and are adequate to achieve the objectives of the *Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill*. The Committee considers that the Bill establishes a modern and progressive insolvency framework that promotes financial rehabilitation, supports entrepreneurship, facilitates the recovery of individuals and businesses experiencing financial distress, and balances the interests of debtors and creditors.

Accordingly, the Committee, through this report, commends the **Personal Insolvency, Financial Rehabilitation and Entrepreneurial Rescue Bill** (Bill No. 40 of 2026), as amended, to Parliament for consideration and approval.

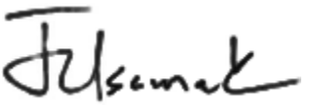
MEMBERS SIGNATURE



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Hon. Ratu Rakuita Vakalalabure
(Chairperson)



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Hon. Faiyaz Koya
(Deputy Chairperson)



…….
Hon. Jone Usamate
(Member)



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Hon. Ratu Josaia Niudamu
(Member)



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Hon. Sachida Nand
(Member)



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Hon. Ratu Isikeli Tuiwailevu
(Member)

DATE:02/11/2026