



NOTICE TO DEBTORS CONTEMPLATING BANKRUPTCY

Filing for bankruptcy is an important decision and it is recommended that you seek independent advice before proceeding.

In addition to any advice you obtain, you must read and understand certain information about bankruptcy and its alternatives which is in the Prescribed Information booklet. If you have not received this booklet, it is available from any ITSA office or can be downloaded from our website at www.itsa.gov.au.

Further information and instructions for completing this form are contained overleaf. If you do not understand a particular question or require further information about bankruptcy or other alternatives please contact ITSA. ITSA can provide you with information on bankruptcy and its alternatives. ITSA cannot give you advice on whether bankruptcy is suitable for your individual circumstances. Call 1300 364 785 OR visit www.itsa.gov.au

*The Official Receiver **may not accept your petition** for bankruptcy if the Official Receiver is of the view that you could pay all your debts within a reasonable time AND either*

- (a) you have previously been bankrupt 3 or more times or once in the last 5 years; or*
- (b) you are unwilling to pay one or more creditors or creditors in general.*

If you are dissatisfied with the Official Receiver's decision not to accept your Debtor's Petition in these circumstances, you may appeal the decision to the Administrative Appeals Tribunal.

If you **do not speak English**, an Interpreting Service is available for the cost of a local call from anywhere in Australia - phone 131 450

Things to check before lodging your papers

Debtor's Petition form - have you:

- Answered all questions

Statement of Affairs form – have you:

- Answered all questions
- Made sure that all your creditors' names, addresses, account numbers and amounts owed are filled in and legible at Questions 38 & 40. We need this information so that ITSA can write to your creditors and let them know about your bankruptcy.

Page 19 of the Prescribed Information booklet – have you:

- Signed and dated this acknowledgement and attached it to your papers

Lodging your bankruptcy papers:

Please lodge all papers, either by mail or in person, with your closest ITSA office **within 14 days** from the date you signed your Statement of Affairs. ITSA addresses are listed on the back of the Prescribed Information booklet or visit www.itsa.gov.au or call 1300 364 785.

Important Information and Instructions

How to apply for bankruptcy

Documents required

1. You need to complete 3 documents to petition for bankruptcy:
 - a. Debtor's Petition, Form 6
 - b. Statement of Affairs, Form 3 (Parts A, B, C, D & E)
 - c. Prescribed Information acknowledgement (page 19)

*Note: If you have arranged for a Registered Trustee to administer your estate, your trustee must complete a **Consent to Act as Trustee form** (available with your trustee or from ITSA's website) and this needs to be lodged with your forms.*

Completing the documents

2. Use a **black or blue pen** to complete the form.
3. **All questions must be answered** if they do not apply to you, you should indicate this by writing N/A (Not applicable)
4. If there is **not enough space** for you to answer a question either:
 - a. Copy the page, provide further details and attach it to this document; or
 - b. Provide any additional information on the "Notes" page of the Statement of Affairs.
5. You need to **file** the forms with the ITSA office in your state **within 14 days of signing**.
6. Your **date of discharge** from bankruptcy is determined from the date your forms are accepted for filing at ITSA.
7. Providing **false and / or misleading information** in a material particular is an offence under the Bankruptcy Act 1966 and **penalties** apply on conviction. Your period of bankruptcy can be extended in certain circumstances.

How the information is used

8. The **information that you provide** on the Debtor's Petition and Statement of Affairs forms is collected under, and for the purposes of the Bankruptcy Act 1966 and Bankruptcy Regulations.
 - a. A copy of these forms will be provided to the trustee of your estate, who will use the information in them to administer your estate.
 - b. The information you provide (except Part A of the Statement of Affairs which records certain personal details) is available for public inspection
 - c. The information may be used for the purpose of investigating offences committed under the Bankruptcy Act or other legislation.
9. Some of the information will be recorded on the **National Personal Insolvency Index** ("NPII") which is a permanent **public record**. It records personal information including the type of administration, your name (including previous names and aliases), your address, date of birth and occupation. **Credit rating organisations** have access to the NPII therefore presenting a Debtor's Petition may affect your ability to obtain credit.

Related Creditors

10. If any of your creditors are related to you, the relationship must be disclosed at Questions 38 & 40 of the Statement of Affairs. Related creditors include:
 - i. your relatives, which include:
 - a your spouse (includes de facto spouse),
 - b your or your spouse's parent/s and lineal ancestor/s and their respective spouses,
 - c your or your spouse's children or lineal descendants and their respective spouses,
 - d your or your spouse's brother or sister and their respective spouses,
 - e your or your spouse's uncle, aunt, nephew or niece and their respective spouses,
 - ii. a member of a partnership in which you or any of your relatives are a member.

Example: You owe \$1,000 to your accountant. Your brother is a business partner of your accountant in a car dealership business. Then your accountant is a related creditor.
 - iii. a beneficiary or a trustee of a trust that is connected to you or your relatives (A trust is connected to you if any of your relatives is either a trustee or a beneficiary of that trust)

Example: You owe \$1,000 to ABC Family Trust. Your son is a beneficiary of the trust. This would make the trustee of ABC Family Trust a related creditor, even though you may not be a beneficiary or trustee of this trust.
 - iv. a director of a company that is connected to you or your relatives (A company is connected to you if any of your relatives are directors of that company)

Example: You owe \$1,000 to your financial consultant, Mr Joe Bloggs who is a director of XYZ Pty Ltd. Your nephew also happens to be a director of the same company. This makes Mr Joe Bloggs a related creditor even though he is not your relative.
 - v. a company in which any of your relatives is a director

Example: You owe ABC Pty Ltd \$1,000. Your father in law is a director of this company. This would make ABC Pty Ltd a related creditor.
 - vi. a company that is related to the company above (Company A is related to another Company B if it is owned by Company B, or owns Company B, or both Company A and Company B are owned by a common Company C)

Example: You owe ABC Pty Ltd \$1,000. Your father in law is a director of DEF Pty Ltd which owns ABC Pty Ltd. This would make ABC Pty Ltd a related creditor.