

SECTION 139S CONTRIBUTION PAYABLE BY BANKRUPT

139S The contribution that a bankrupt is liable to pay in respect of a contribution assessment period is the amount worked out in accordance with the formula:

$$\frac{\text{Assessed income} - \text{Actual income threshold amount}}{2}$$

where:

“Assessed income” means the amount assessed by the trustee to be the income that the bankrupt is likely to derive, or derived, during the contribution assessment period;

“Actual income threshold amount” means the actual income threshold amount assessed by the trustee to be applicable in relation to the bankrupt when the assessment is made.

History

S 139S inserted by No 9 of 1992, s 25.

SECTION 139T DETERMINATION OF HIGHER INCOME THRESHOLD IN CASE OF HARSHIP

139T(1) [Application by bankrupt for hardship determination] If:

- (a) the trustee has made an assessment of a contribution that a bankrupt is liable to pay to the trustee for a contribution assessment period; and
- (b) the bankrupt considers that, if required to pay that contribution, he or she will suffer hardship for a reason or reasons set out in subsection (2);

the bankrupt may apply in writing to the trustee for the making of a determination under this section for that period.

139T(2) [Reasons justifying hardship] The reasons are as follows:

- (a) the bankrupt or a dependant of the bankrupt suffers from an illness or disability that requires on-going medical attention and the supply of medicines and the bankrupt is required to meet a substantial portion of the costs of that medical attention or those medicines from his or her income;
- (b) the bankrupt is required to make payments from his or her income to meet the cost of child day-care to enable the bankrupt to continue in employment or other work;
- (c) the bankrupt is living in rented accommodation that is not provided by:
 - i. the Commonwealth, a State or Territory; or
 - ii. an authority of the Commonwealth, a State or a Territory; or
 - iii. a local government authority;

and the bankrupt is required to pay the cost of that accommodation wholly or mainly from his or her income;

- (d) the bankrupt incurs substantial expense in travelling to and from the bankrupt's place of employment or other work, whether by public transport or otherwise;
- (e) the spouse of the bankrupt, or another person residing with the bankrupt, who ordinarily contributes to the costs of maintaining the bankrupt's household has become unable to contribute to those costs because of unemployment, illness or injury;
- (f) any other reason prescribed by the regulations.

139T(3) [Evidence required] The trustee must not make a determination under this section unless the bankrupt provides satisfactory evidence of the bankrupt's income and expenses, and any other matters on which the bankrupt relies to establish the reasons for the application.

139T(4) [Trustee to decide no later than 30 days] The trustee must decide the application as soon as practicable, and in any event not later than 30 days after the day on which the application is received.

139T(5) [After 30 days refusal assumed] If the trustee does not make a decision on the application within that period of 30 days, the trustee is taken to have made a decision at the end of that period refusing the application.

139T(6) [Making the determination] If the trustee is satisfied that the bankrupt will suffer hardship if required to pay the contribution, the trustee may determine that, for the purposes of the application of section 139S in relation to the bankrupt in respect of the contribution assessment period, the actual income threshold amount that was applicable in relation to the bankrupt when the assessment was made is taken to have been increased to such amount as the trustee determines.

139T(7) [Refusing the application] If the trustee is not satisfied that the bankrupt will suffer hardship if required to pay the contribution, the trustee must refuse the application.

139T(8) [Assessment of bankrupt's income and contribution] If the trustee makes a determination under subsection (6), the trustee must make such assessment under section 139W as is necessary to give effect to the determination.

139T(9) [Trustee must give bankrupt written notice] The trustee must give written notice to the bankrupt:

- (a) setting out the trustee's decision on the application; and
- (b) referring to the evidence or other material on which the decision was based; and
- (c) giving the reasons for the decision.

139T(10) [Notice must include review option] The notice must include a statement to the effect that the bankrupt may request the Inspector-General to review the decision.

139T(11) [Absence of review information] A contravention of subsection (10) in relation to a decision does not affect the validity of the decision.

139T(12) [Review] The trustee's decision under this section is reviewable under Subdivision G in the same way as an assessment made by the trustee.

History

S 139T substituted by No 131 of 2002, s 3 and Sch 1 items 91 and 220 applicable to contribution assessment periods that begin after 18 December 2002.
S 139T formerly read:

“OFFICIAL RECEIVER MAY VARY CONTRIBUTION IF BANKRUPT SUFFERS HARDSHIP”

139T(1) If:

- (a) the trustee has made an assessment of a contribution income; that a bankrupt is liable to pay to the trustee in respect of a contribution assessment period; and
- (b) the bankrupt considers that, if required to pay that contribution, he or she will suffer hardship for a reason or reasons set in subsection (2)

the bankrupt may apply in writing to the Official Receiver for making of a determination under this section in respect of that period.

[S 139T(1) inserted by No 9 of 1992, s 25.]

reasons for which an application may be made under subsection (1) are as follows:

- (a) the bankrupt or a dependant of the bankrupt suffers from an illness or disability that requires on-going medical attention and the supply of medicines and the bankrupt is required to meet a substantial proportion of the costs of that medical attention or those medicines from his or her income;

- (b) the bankrupt is required to make payments from his or her income to meet the cost of child day-care to enable the bankrupt to continue in employment or other work;
- (c) is living in rented accommodation not provided by, or by an authority of, the Commonwealth, a State or a Territory, or by a local government authority and the bankrupt is required to pay the cost of that accommodation wholly or mainly from his or her income;
- (d) the bankrupt incurs substantial expense in travelling to and from the bankrupt's place of employment or other work, whether by public transport or otherwise;
- (e) the spouse of the bankrupt, or another person residing with the bankrupt, who ordinarily contributes to the costs of maintaining the bankrupt's household has become the unable to contribute to, those costs because of unemployment, illness or injury;
- (f) any other reason prescribed by the regulations.

[S 139T(2) inserted by No 9 of 1992, s 25; amended by 44 of 1996 Sch 1, Pt 1(255).]

No 139T(2) The Official Receiver must not make a determination under this section unless the bankrupt provides satisfactory evidence of the bankrupt's income and expenses, and other matters on which the bankrupt relies to establish the reasons for the application.

[S 139T(3) inserted by No 9 of 1992, s 25.]