

THE IMPACT OF BECOMING BANKRUPT

Period of Bankruptcy

The standard period of Bankruptcy is three years from the date of filing a Statement of Affairs. In certain circumstances this may be extended to a period of five or eight years if the Bankrupt fails to do what the law requires.

Application for Credit whilst Bankrupt

During the period of bankruptcy it is up to the finance company/institution as to whether it is prepared to extend credit to the Bankrupt.

The Bankrupt, under the law must disclose their bankruptcy when applying for more than \$4,370 (indexed) in credit.

Property that will be realised by The Trustee

A Bankruptcy Trustee is able to realise the Bankrupt's divisible property for the benefit of Creditors.

Under the Bankruptcy Act, property includes the following:

- * Anything of monetary value belonging to the Bankrupt at the date of bankruptcy.

- * The Bankrupt's interest in the family home, land, money in bank accounts, motor vehicles exceeding \$6,500 (indexed) in value, stocks and shares,

antiques and other personal property of saleable value are included as property vesting with the Trustee.

- * Assets which are vested in the bankrupt before they are discharged from bankruptcy. This includes such things as lottery wins, deceased estates and other assets.

Property that a Bankrupt may keep

Property that a bankrupt may keep includes;

- * necessary household furnishings
- * Personal effects (i.e. clothes, etc)
- * Tools of trade (up to a limit)
- * Life insurance & superannuation policies (up to a limit)
- * Motor vehicle worth up to \$6,500 (indexed)

Compulsory Contributions under Bankruptcy

If the Bankrupt earns above a set amount, they must make regular compulsory payments (called contributions) to the Estate, for the benefit of their creditors.

In order to work out the contribution amount the Bankruptcy Trustee would take the following into account:

- * Monies received from the Bankrupt's employment
- * The value of any other benefits, e.g. the private use of a motor vehicle or subsidised housing
- * The amount of income tax payable
- * The number of the bankrupt's dependants.

THE EFFECT OF BANKRUPTCY ON THE BANKRUPT'S EMPLOYMENT

Bankruptcy may prevent a bankrupt from obtaining or keeping employment in certain occupations, e.g. it may prevent the bankrupt from holding various licenses or permits.

An employer will not normally be notified of an employees bankruptcy unless they are a creditor, or you have failed to pay your compulsory contributions to your Bankruptcy Trustee.

Operating a Business

A bankrupt is still permitted to operate a business whilst bankrupt, but is not allowed to manage a company.

If the bankrupt is trading under an assumed name or business name, either as sole trader or in partnership they must disclose to all parties with whom they have business dealings their status of bankruptcy.

Under the Corporations Act, a bankrupt cannot be a director of a company or be involved in its management, without the permission of the Court.

Other General Requirements

The bankrupt must deliver all books and records that are in their possession, which relate to any of their financial affairs.

The bankrupt must attend meetings of creditors whenever the trustee requires.