



February 2008

# Bankruptcy

## Essential forms and information

### IF YOU DECIDE TO APPLY FOR BANKRUPTCY

1. Complete the Debtor's Petition form.
2. Complete the Statement of Affairs form.
3. Send or take the completed forms within 28 days of signing to your nearest ITSA office.

Note: If you have arranged for a registered trustee to administer your estate you must ask your trustee to complete a *Consent to Act as Trustee form* and lodge it along with your Debtor's Petition and Statement of Affairs. If a completed *Consent to Act as Trustee form* is not lodged with your application, the Official Trustee (ITSA) will act as your trustee or arrange with your creditors to appoint a Registered Trustee.

(DO NOT USE THIS SET OF FORMS IF YOU HAVE ALREADY BEEN MADE BANKRUPT UNDER A SEQUESTRATION ORDER)

### INSTRUCTIONS FOR COMPLETING THE FORMS

1. Use a black or blue pen.
2. Answer all questions. If they do not apply to you, please write 'N/A' (Not applicable).
3. If there is not enough space for you to answer a question, provide additional information on the Additional Notes page (page 2) of the Statement of Affairs.
4. If any of your creditors are related to you, you must disclose this fact at questions 38 and 40 of the Statement of Affairs form. A related creditor includes any creditor who is your relative or your spouse's relative. It also includes any businesses, companies or trusts in which you, your spouse or your respective relatives may have an interest, for example:
  - i. You owe ABC Plumbers \$1 000. Your spouse's nephew and one of his friends own this business. This makes ABC Plumbers a related creditor and you need to disclose this on your Statement of Affairs.
  - ii. You owe XYZ Pty Ltd \$500. XYZ Pty Ltd is owned by another company in which your son is a director. This makes XYZ a related creditor even though your son may not be a director of XYZ Pty Ltd.
5. Some questions on the forms require you to provide supporting documentation. Please ensure that you attach these documents. A document checklist is provided on page 20 of the Statement of Affairs form. You are not required to attach invoices for every debt that you owe.
6. **Providing false and / or misleading information is an offence under the Bankruptcy Act and penalties apply on conviction. Your period of bankruptcy can be extended in certain circumstances.**

## INFORMATION AND ASSISTANCE

If you do not understand a particular question or require further information about bankruptcy or other alternatives, please contact ITSA on 1300 364 785. ITSA cannot give you advice on whether bankruptcy is suitable for your individual circumstances.

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.

## HOW YOUR INFORMATION IS USED

The information you provide on these forms is collected under, and for the purposes of, the Bankruptcy Act.

1. 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.
2. The information you provide (except Part A of the Statement of Affairs) is available for public inspection.
3. The information may be used for the purpose of investigating offences committed under the Bankruptcy Act or other legislation.
4. Some of the information will be recorded on the National Personal Insolvency Index (NPII) which is a 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. The Inspector-General is also permitted to enter into arrangements to provide NPII information to other third parties.

## CAN YOUR APPLICATION FOR BANKRUPTCY BE REJECTED?

Yes it can, if the Official Receiver (ITSA) is of the view that you can pay all your debts within a reasonable time AND either

- you have previously been bankrupt 3 or more times, or once in the last 5 years, or
- 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 you may appeal the decision to the Administrative Appeals Tribunal (AAT).