



## TEMPORARY DEBT PROTECTION FORM

By completing this form you are applying for temporary relief from your personal debts. Your unsecured creditors will not be able to take enforcement actions against you for six months. The six month period begins when your application is accepted by AFSA.

### DECLARATION OF INTENTION TO PRESENT A DEBTOR'S PETITION SUSPENSION OF CREDITOR ENFORCEMENT

*Bankruptcy Act 1966 Section 54A*

#### Privacy

The information you are required to provide on this form is collected under, and for the purposes of, the *Bankruptcy Act 1966* or related legislation. The Australian Financial Security Authority has a privacy policy at [afsa.gov.au/privacy](https://afsa.gov.au/privacy) that provides information regarding the collection, storage, use and disclosure of personal information, including how you may: (i) access your personal information; (ii) seek to have that information corrected; and (iii) complain if you feel your privacy has been breached, along with information on how your complaint will be dealt with.

#### Relevant information

- For a period of six months beginning on the day this application is accepted, your creditors, the bailiff or sheriff will be restrained from taking action to recover your unsecured debts - such as seizing your assets or garnisheeing your wages. But secured creditors may still repossess any assets over which they hold security (such as a car under finance).
- This will give you time to consider all your options and discuss alternative arrangements with your creditors.
- If you have not made arrangements with your creditors by the end of the six month period, you do not have to voluntarily proceed to bankruptcy but a creditor can use the fact that you have lodged this form to apply to the court to make you bankrupt.
- If, having considered all your options, you determine that bankruptcy is your best option, you may lodge a Debtor's Petition with the Official Receiver at any time during or after the six month period. AFSA may give the information you provide on this form to any trustee administering your estate should you become bankrupt.

### PRESCRIBED INFORMATION

You must read the following information before completing the form and signing the declaration.

#### Your options to deal with unmanageable debt

**Talk to your creditors:** some creditors could give you more time to pay, agree to renegotiate repayments or accept a smaller payment to settle the debt. Some creditors have hardship provisions which you can use to vary the terms of your contract. You should call your creditors and ask about their hardship provisions.

**Lodge a Declaration of Intention to Present a Debtor's Petition (DOI):** this stops your creditors, the bailiff or sheriff taking action to recover unsecured debts for a period of six months. You could use that time to speak to your creditors, consider other options or seek advice. It is an act of bankruptcy for a debtor to present a DOI to the Official Receiver. A creditor can subsequently use the fact that you have lodged a DOI to apply to the court to make you bankrupt.

**Propose and enter a debt agreement (DA):** a debt agreement is a legally binding arrangement between you and your creditors which must be accepted by the majority of your creditors. The agreement is administered by a debt agreement administrator who will charge a fee. Your debts, assets and income must be under certain limits\* to propose a DA. You can offer to pay your creditors by instalments or in a lump sum which may be less than the full amount of your debts. You will be released from debts covered by the agreement once you have completed all obligations and payments in your agreement. Your name will be on the public register (NP11) forever and on a commercial credit record for up to 5 years, or longer in some circumstances. See the paragraph 'Your ability to obtain credit and certain services may be affected' at the bottom of this page for additional information and obligations.

**Propose and enter a personal insolvency agreement (PIA):** a PIA is also a legally binding arrangement between you and your creditors which must be accepted by a majority of your creditors. The PIA must be administered by a trustee who will charge a fee. There are no debt, asset or income limits. You can offer to pay your creditors by instalments or in a lump sum which may be less than the full amount of your debts. You will be released from debts covered by the agreement once you have completed all obligations and payments in your agreement. Your name will be on the public register (NP11) forever and on a commercial credit record for up to 5 years, or longer in some circumstances.

**Sources of further information:** you can ask for help from a financial counselling service, registered trustee, registered debt agreement administrator, lawyer or an accountant. They will talk to you about your options and may speak to creditors on your behalf.

You can get more information about the above options or sources of financial guidance by contacting AFSA on 1300 364 785 or by visiting [www.afsa.gov.au](https://www.afsa.gov.au).

## Consequences of proceeding with a petition for bankruptcy

**A trustee will administer your bankruptcy:** you may ask a registered trustee to administer your bankruptcy. If you do not choose a trustee, AFSA may ask a registered trustee to become your trustee, otherwise the Official Trustee (AFSA) will become your trustee. Your creditors can change your trustee. You must assist your trustee at all times. You must immediately notify your trustee in writing of any change in your personal circumstances (including name, address or income). Your trustee can extend the 3 year period of bankruptcy to 5 or 8 years under certain circumstances. Usually a trustee will take a fee for administering your bankruptcy out of the assets or income they recover.

**Your assets may be sold:** you will be able to keep ordinary household goods, tools (up to a certain value)\* used to earn an income and vehicles (up to a certain value)\* but other assets - including your house - can be sold by your trustee. You cannot conceal, remove or dispose of any property inside or outside Australia. If you do, you may be subject to criminal prosecution.

**Your income, employment and business may be affected:** if your income exceeds a set limit\*, you may be required to make contributions from your income. You cannot be a director of and/or manage a company. Some professional/licensing bodies may restrict or prevent you from continuing in that trade or profession. You may not be able to hold certain public positions. If you are in business and trade under a business name different to your own, you must tell everyone you deal with that you are bankrupt. If you don't, you may be subject to criminal prosecution.

**You may not be released from all debts:** you are released from most of your unsecured debts (eg credit cards, personal loans, store cards) once you are discharged from bankruptcy. Some types of debts are not covered by bankruptcy (eg debts incurred by fraud, penalties/fines and child support debts) and you have to continue paying those debts. If a debt is secured against an asset (eg mortgage on a house or a car) and you do not maintain repayments, that creditor can repossess and sell the asset; however the shortfall, if any, will be covered by bankruptcy.

**Your ability to travel overseas will be affected:** you will not be able to travel overseas without the written permission of your trustee and you may be asked to surrender your passport to your trustee. If your bankruptcy is administered by the Official Trustee, you will be required to pay an overseas travel application fee.

**Your name will be on the public register (NPII) forever:** it will also be recorded on a commercial credit record for up to 5 years, or longer in some circumstances.

**Your ability to obtain credit and certain services may be affected:** you may find it hard to borrow money and buy things on credit. You may find it hard to rent and get electricity, water or a telephone connected without paying a bond. Some banks may not let you operate an account or may restrict how you can use your account. If you obtain credit of \$3,000 or more\* then you must tell the credit provider that you are bankrupt. If you enter into a hire purchase agreement or a contract for the hiring or leasing of any goods whereby the amount is or totals \$3,000 or more\* then you must tell the seller or the property owner that you are bankrupt. If you obtain goods and services by giving a bill of exchange, cheque or promissory note whereby the amount is or totals \$3,000 or more\* then you must tell the supplier of the goods or services that you are bankrupt. If you obtain goods and services by promising to pay an amount of \$3,000 or more\* then you must tell the supplier of the goods or services that you are bankrupt. If you obtain money or payment of \$3,000 or more\* by promising to supply goods or render services, you must tell the purchaser that you are bankrupt. If you don't disclose your bankruptcy in these circumstances, you may be liable to criminal prosecution.

\*This is an indexable amount and therefore increases periodically (see s304A of the Bankruptcy Act). For the current limits and monetary amounts see Indexed Amounts at [www.afsa.gov.au](http://www.afsa.gov.au) or call AFSA on 1300 364 785 for a copy.

### Contact Details

Title	Given name/s	Surname
<input type="text"/>	<input type="text"/>	<input type="text"/>

Other names used by you in the past 10 years

Title	Given name/s	Surname
<input type="text"/>	<input type="text"/>	<input type="text"/>

Title	Given name/s	Surname
<input type="text"/>	<input type="text"/>	<input type="text"/>

Home number	Fax number	Work number	Mobile number
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Email address

Address	Postcode
<input type="text"/>	<input type="text"/>

Current occupation	Date of birth (DD/MM/YYYY)
<input type="text"/>	<input type="text"/>

## Your Financial Affairs

Total annual income (before tax) (\$)

Number of dependants (the number of people who live with you and are dependent on you for economic support)

Income source (tick and provide details where applicable)

<input type="checkbox"/>	Wages/ salary	Employer name	<input type="text"/>
<input type="checkbox"/>	Government benefits/ pensions	Type of benefits	<input type="text"/>
<input type="checkbox"/>	Business/ self employed	Name of business/ company	<input type="text"/>
<input type="checkbox"/>	Any other source	Please specify	<input type="text"/>

## Secured Assets (assets over which a creditor holds security eg a house property with a mortgage).

The listed creditors will be notified of acceptance of this application. It is important that you list all of your creditors. Please copy this page if you have more than 4 secured creditors

Description of asset (eg 2005 Commodore)	Name, postal address and reference number of the secured creditor (eg ABC Finance 123 Finance St. Sydney NSW 2000 Ref. No: 12345678)	Estimated value in \$ (eg \$10,000)	Amount owing in \$ (eg \$7,000)	Is this creditor related to you?	Is there any joint owner of the asset?
Vehicle				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
Real estate				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
Other				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
Other				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>

**Other Assets (tick and provide details wherever applicable).**

Type of asset	Estimated value in \$	Is there any joint owner of the asset?
<input type="checkbox"/> Cash		Yes <input type="checkbox"/>
<input type="checkbox"/> Funds in bank accounts		Yes <input type="checkbox"/>
<input type="checkbox"/> Money owed to you		Yes <input type="checkbox"/>
<input type="checkbox"/> Shares		Yes <input type="checkbox"/>
<input type="checkbox"/> Investments		Yes <input type="checkbox"/>
<input type="checkbox"/> Vehicle		Yes <input type="checkbox"/>
<input type="checkbox"/> Business assets		Yes <input type="checkbox"/>
<input type="checkbox"/> Other (please list below)		Yes <input type="checkbox"/>

**Unsecured Creditors (for example credit cards, unpaid bills, loans from friends and relatives).**

- List all creditors that have not already been listed under "Secured Assets" section.
- The listed creditors will be notified of acceptance of this application. It is important that you list all of your creditors.
- Please copy this page if you have more than 12 unsecured creditors.
- You must disclose if a creditor is related to you.

**Tax debts: If you owe a debt to the Australian Taxation Office, when listing this debt below please do not enter your Tax File Number (TFN)**

Creditor type (eg credit card)	Creditor's name and address	Reference number	Amount owing in \$	Is this creditor related to you?	Is this a joint debt?
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>
				Yes <input type="checkbox"/>	Yes <input type="checkbox"/>

**Confirmation to Sheriff or Paymaster**

If you want confirmation of the acceptance of this application emailed to either the Sheriff or Paymaster please provide their contact details below.

**First person**

Contact name

Organisation

Address

Email address

Reference number

### Second person

Contact name

Organisation

Address

Email Address or fax number

Reference number

### Authority to Act

If you would like to authorise a person (financial counsellor, accountant, solicitor etc) to talk with creditors on your behalf, the authorised person should sign the statement below.

Title

Given name/s

Surname

Business address

Postcode

Work number

Fax number

Email address

What is the relationship of the authorised person to the debtor?

Financial counsellor

Registered trustee

Solicitor

Accountant

Debt agreement administrator

Other (please describe)

### Declaration of the Authorised Person

I agree to act on behalf of the above named debtor and understand that my contact details will be provided to the creditors listed herein to facilitate negotiations on the debtor's behalf.

Signature of authorised person

Date (DD/MM/YYYY)

**Declaration of the Debtor Pursuant to s54A**

I declare that, to my knowledge, the information contained in this form is true and correct. I also consent to the person authorised on page 6 of this form to talk with creditors on my behalf.

A person must not give a declaration that the person knows to be false: Penalty imprisonment for 12 months s267.

Signature of debtor

Date (DD/MM/YYYY)

**Declaration of person who assisted with completion of form (to be completed if assistance provided to debtor to complete form)**

I declare that before this form was completed, I carefully read to/interpreted for the person named above the prescribed information and the questions on this form or [where the person is physically incapacitated] satisfied myself that the person had read and understood the information and questions. The responses provided in this form are those of the person named above.

Signature of the person assisting

Date (DD/MM/YYYY)

Full Name and address of the assisting person

Reason the debtor required your assistance

Accepted by the Official Receiver when endorsed below

**Office Use Only**