Chapter 13: Alternatives to bankruptcy checklist

Updated: 15 April 2025

Note: This checklist is only a guide. Find the most recent indexed amounts on the AFSA website, as these are updated regularly. It is the responsibility of the worker using the list to ensure that the information provided to clients is comprehensive, accurate and up-to-date.

Interactive PDF

Click the button above to open an interactive PDF version of this form. To save any information you complete on the form you will first need to download and save a copy of the form onto your computer.

Client Name:

Date:

Worker:

File no:

Informal Debt Agreement with Creditor

Advantages

- Not a formal type of debt agreement so more flexible and less formalities required
- Can enable effective repayment through reduction of debt amount, extension of time, instalment or payment plan

Disadvantages

- If using a third party to negotiate, may be required to pay fees.
- Agreement may not be enforceable in a Court, depending on the nature of the contract.
- Creditor may nevertheless seek bankruptcy meaning time spent negotiating this agreement is moot.

Declaration of Intention (Temporary Debt Protection)

Advantages

- 21 days breathing space
- Don't have to pay fee
- Doesn't necessarily have to proceed to bankruptcy (but can lead to Creditor's Petition)
- Pauses court enforcement (garnishee, sheriff seizure of goods on writ)
- Gives time to negotiate with creditors or get advice
- No NPII or credit report listing

Disadvantages

- Declaring Intention is an act of bankruptcy (which can lead to Creditor's Petition)
- Need to complete mini-statement of affairs
- Gives a point in time snapshot of debtor's affairs for future reference by Trustee if debtor does go bankrupt eventually

Debt Agreement

Requirements to enter a debt agreement

- Must be insolvent
- Must earn less than $108,176.25 (15 April 2025)
- Unsecured debts less than $144,235.00 (15 April 2025)
- Assets (equity only) less than $288,470.00 (15 April 2025)
- Must have had no bankruptcy, Debt Agreement or PIA in last 10 years

Advantages

- Will be released from interest (from the date of the Debt Agreement) and sometimes part of principal debts if agreement completed
- May keep home and other unprotected assets that would not be protected in bankruptcy
- Can remain a director of a company (can't if bankrupt or in PIA)
- Can hold key personnel role under Aged Care Act (can't if bankrupt or in PIA)
- Challenges to antecedent transactions don't apply (undervalue transactions, transfers to defeat creditors etc.)
- Future acquired property will not usually be affected (gifts, winnings, inheritances)
- No restrictions on overseas travel

Disadvantages

- Substantial fees upfront and ongoing

- No refunds if not accepted or not completed
- Entering a debt agreement is an act of bankruptcy (can lead to Creditor's Petition)
- Listed on NPII forever
- Listed on credit report for at least 5 years
- Many similar consequences to bankruptcy including impact on ability to get credit, access to services, insurance and potential impact on some forms of employment
- Can (and often does) last longer than bankruptcy
- Can cause hardship (will have to pay in accordance with agreement even if not earning enough to be required to pay contributions under bankruptcy)
- Secured creditors can still sieze and sell any assets held as security if you are behind in repayments
- Difficult to change when circumstances change – variation process similar to setting up agreement in the first place
- Not suitable for Centrelink recipients
- Serious non-completion risk (all advantages lost if not completed and bankruptcy likely)

Personal Insolvency Agreement (PIA)

Requirements to enter a PIA

- Must be insolvent
- Must have a connection to Australia
- Must have had no other PIAs in the previous six months

Advantages

- Will be released from interest and often part of debts if completed
- Home and other assets may be able to be retained (depending on agreement)
- Challenges to antecedent transactions may not apply (depending on agreement)
- Business may be able to keep trading
- Future acquired property will not usually be affected (gifts, winnings, inheritances)
- No restrictions on overseas travel

Disadvantages

- Very substantial fees (minimum $10,000 – $15,000)
- No refunds if not accepted or completed
- Entering a PIA is an act of bankruptcy (can lead to Creditor's Petition)
- Listed on NPII forever
- Listed on credit report for at least 5 years
- Cannot remain a director of a company (until agreement obligations completed in full)

- Rights of secured creditors remain – they can repossess assets if default in payments
- Many similar consequences to bankruptcy including impact on ability to get credit, access to services, insurance and potential impact on some forms of employment
- Non-completion risk – bankruptcy likely