



May 2008

Discharge

WHAT IS DISCHARGE?

It means your bankruptcy has ended and you are no longer bankrupt.

WHEN WILL I BE DISCHARGED FROM BANKRUPTCY?

If you became bankrupt because you presented your own petition, you will be discharged automatically three years and one day after you filed that petition and the Statement of Affairs with ITSA.

If one of your creditors made you bankrupt, you will be discharged automatically three years and one day after your completed Statement of Affairs is filed with ITSA. It is important to lodge your Statement of Affairs with ITSA promptly as any delay can mean you will be bankrupt longer than three years.

In some cases, you can be bankrupt for longer than three years. This happens when your trustee lodges an objection to your discharge with ITSA.

DO I HAVE TO APPLY FOR DISCHARGE?

There is no need to apply for discharge. However, you can get confirmation of your discharge from bankruptcy by:

- asking your trustee, or
- searching the public record, the National Personal Insolvency Index (NPII), which is maintained by ITSA and obtaining an extract which shows your date of discharge. There is a fee for this service.

WHAT HAPPENS AFTER DISCHARGE?

Your name will appear on the public record (NPII) forever as a discharged bankrupt. Credit reporting organisations also keep a record of bankruptcies. These records are kept for a limited period even after you have been discharged. You can contact them to:

- confirm that they have updated your credit file to show that you are now discharged
- find out how long they will show the record of your bankruptcy on your credit file.

WHAT ARE MY LEGAL OBLIGATIONS AFTER DISCHARGE?

The administration of your bankruptcy may continue after you are discharged. Your trustee may not have finalised investigations or the sale of assets, or you may still have income contributions to pay.

- You must assist your trustee to finalise the administration of your bankruptcy.
- You must advise your trustee of any change of address or financial circumstances if requested to do so.
- You must pay outstanding income contributions.

WHAT DEBTS DO I HAVE TO PAY AFTER I AM DISCHARGED?

If you had any of the following types of debts you may have to continue paying them even after your discharge:

- penalties and fines imposed by a court
- damages claims from accidents (eg car accidents) unless, before bankruptcy, the sum of damages has been fixed by a court judgment or you have a written agreement with the other party
- child support debts
- maintenance debts
- student HELP debts and student loans (contact the Australian Taxation Office if you need more information)
- debts incurred by fraud.

WHAT ABOUT MY ASSETS?

Any assets that you acquired before or during your bankruptcy can still be sold by your trustee up to a specified period. These are not automatically returned to you after your discharge.

CAN I BE BANKRUPT FOR MORE THAN THREE YEARS?

Your bankruptcy may be extended to five or eight years if your trustee lodges an objection to your discharge with ITSA.

Your trustee may lodge an objection on a number of grounds, such as your failure to:

- provide information to, and assist, your trustee
- disclose to your trustee all income
- pay assessed income contributions
- explain how money was spent, or
- reveal all assets and creditors.

More than one objection can be lodged.

You may request a review of an objection by the Inspector-General. A written request for review must be lodged within 60 days of you being notified of the objection. Contact ITSA for further information about reviews of objections.