



December 2010

ITSA Enforcement

ITSA Enforcement is responsible for conducting criminal investigations into all Bankruptcy Act offences.

This investigative responsibility includes: assessing incidents of alleged fraud that are referred from Trustees, creditors and members of the community; investigating those allegations; preparing briefs of evidence for prosecution by the Commonwealth Director of Public Prosecutions; and referring certain types of offences to relevant state and federal police bodies, or other investigative agencies for investigation and appropriate follow-up action.

ITSA Enforcement Investigators carry out criminal investigations and initiate prosecutions in every State and Territory within Australia.

Entering into bankruptcy or a debt agreement is serious, and failure to comply with the conditions of your insolvency may subject you to criminal prosecution.

As a bankrupt:

- you will be bankrupt for a minimum of 3 years from the date that your Statement of Affairs is filed with ITSA. The 3 year bankruptcy period does not commence until you file your Statement of Affairs with ITSA.

Failing to file your Statement of Affairs will result in you remaining bankrupt indefinitely and can also expose you to criminal prosecution.

- you are required to co-operate with your Trustee. If you fail to comply with the conditions of your bankruptcy, your Trustee may extend your period of bankruptcy by filing an objection to your discharge.

An objection can extend your bankruptcy period from 3 years to either 5 or 8 years.

- you have an on-going legal obligation to assist your Trustee.

This may include disclosing information, completing paperwork and providing books, records or other documentation about your examinable affairs.

- you might have to pay income contributions to your Trustee to pay off your debt to your creditors, if you earn an income that is over a prescribed amount*.

You must tell your Trustee of any changes to your income.

*For set limits & prescribed amounts see "Indexed Amounts" at www.itsa.gov.au or ask ITSA for a copy.

As a bankrupt or a person subject to a debt agreement, serious penalties apply if:

- you sign a declaration which is false/misleading
- you are in business and trade under a business name different to your own name, and you fail to tell everyone you deal with that you are bankrupt or a person subject to a debt agreement
- you, either alone or with another person:
 - apply for credit or a loan above a set limit*, and you fail to tell the credit or loan provider that you are bankrupt or a person subject to a debt agreement
 - buy something by cheque, enter into a hire purchase, lease or hire agreement that is worth more than a set limit*, and you fail to tell the seller or lease provider that you are bankrupt or a person subject to a debt agreement
 - obtain goods or services over the set limit*, and you fail to tell the provider that you are bankrupt or a person subject to a debt agreement
 - obtain an amount or amounts over the set limit* by promising to supply goods or services, and you fail to notify the payee that you are bankrupt or a person subject to a debt agreement.

* For set limits & prescribed amounts see "Indexed Amounts" at www.itsa.gov.au or ask ITSA for a copy.

As a bankrupt, serious penalties also apply if:

- you provide your Trustee with false/misleading information regarding your examinable affairs
- you fail to immediately notify your Trustee in writing of any change of name, residential address or contact details
- you travel overseas without the written permission of your Trustee. If you attempt to travel overseas without your Trustee's permission you may be arrested. You must also surrender your passport to your Trustee if requested to do so
- you conceal, remove or dispose of any property – either prior to becoming bankrupt or after you have become bankrupt (whether in or outside of Australia) that could be used to pay your creditors
- you refuse or fail to comply with a direction from your Trustee to deliver to the Trustee property in your possession that is all or part of your property.

You should contact your Trustee directly if you have any questions or concerns about your own bankruptcy.

If you require information about ITSA Enforcement or the *Bankruptcy Act 1966* offence provisions, contact ITSA Enforcement by calling (free call) 1300 364 785 or send an email to fraud.enquiries@itsa.gov.au